Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

CORAL BAY NICKEL CORPORATION,
Respondent.

CTA EB No. 1133
(CTA Case No. 8252)

Present:

DEL ROSARIO, *PJ*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, and
RINGPIS-LIBAN, *JJ*.

Promulgated:

JAN 07 2015
3:15 p.m.

x---x

DECISION

CASTAÑEDA, JR., *J*.:

We decide in this Petition for Review challenging the September 12, 2013 decision[1] and February 14, 2014 amended decision[2] of the Court of Tax Appeals-First Division (Court in Division) in CTA Case No. 8252, entitled *Coral Bay Nickel Corporation -versus- Commissioner of Internal Revenue*. The Court in Division arrived at the following dispositions:

Decision dated September 12, 2013:

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[1] Penned by Presiding Justice Roman G. Del Rosario and concurred in by Associate Justices Erlinda P. Uy and Cielito N. Mindaro-Grulla. *Rollo*, pp. 25-47.
[2] Id. at 48-57.

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of P12,895,935.44, representing petitioner's unutilized excess input VAT attributable to its zero-rated sales for taxable year 2009.
>
> **SO ORDERED**.[3]

Amended Decision dated February 14, 2014:

> **WHEREFORE**, premises considered, petitioner's Motion for Partial Reconsideration is **PARTIALLY GRANTED**, while respondent's Motion for Partial Reconsideration is **DENIED** for lack of merit. Accordingly, the assailed Decision promulgated on September 12, 2013 is **MODIFIED**. Respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **P14,561,726.17,** representing petitioner's unutilized input Value Added Tax attributable to its zero-rated sales for taxable year 2009.
>
> **SO ORDERED**.[4]

The Facts

The facts as synthesized by the Court in Division and culled from the records are as follows:

> [Respondent] Coral Bay Nickel Corporation is a domestic corporation duly registered with the Securities and Exchange Commission (SEC), with principal office address at Barangay Rio Tuba, Bataraza, Palawan. It is a VAT-registered entity as evidenced by its Bureau of Internal Revenue (BIR) Certificate of Registration No. OCN 8RC0000019300 VAT and Taxpayer's Identification Number (TIN) 005-961-540-000. Petitioner is also registered with the Philippine Economic Zone Authority (PEZA) pursuant to its PEZA Registration Certificate No. 02-072 dated December 27, 2002.
>
> [Petitioner] is the Commissioner of Internal Revenue, duly appointed and empowered to perform the duties of her

[3] Id. at 47.
[4] Id. at 56.

office, including, among others, the duty to act on and approve claims for refund or tax credit as provided by law. She holds office at the BIR National Office Building, Diliman, Quezon City.

Pursuant to [respondent's] registration agreement with PEZA, it is engaged in the manufacture of nickel/cobalt mixed sulfide at Rio Tuba Export Processing Zone. [Respondent] claims that in accordance with PEZA certification No. 2009-255, it is entitled to tax incentives such as Income Tax Holiday; tax and duty-free importation of merchandise which include raw materials, capital equipment, machineries and spare parts; exemption from wharfage dues and export tax; VAT zero-rating of local purchases subject to compliance with BIR and PEZA requirements; and exemption from payment of any and all local government imposts, fees, licenses or taxes except real estate tax.

On September 1, 2004, [respondent] entered into an Off-Take Agreement with Sumitomo Metal Mining Co., Ltd., a Japanese corporation, for the export of nickel cobalt mixed sulfide.

[Respondent] alleges that during taxable year of 2009, it exported nickel cobalt mixed sulfide that are considered VAT zero-rated sales. As a result thereof, [respondent] did not incur any output VAT with which to offset its accumulated input VAT from its domestic purchases of taxable goods and services rendered and used outside the Rio Tuba Export Processing Zone.

On November 26, 2010, [respondent] filed its application for tax refund or issuance of TCC for the unutilized input VAT in the amount of P16,669,786.14 with the Large Taxpayer's Excise Audit Division II of the BIR.

Claiming that [petitioner] failed to act on its administrative claim for refund, [respondent] filed the instant Petition for Review [before the Court in Division] on March 31, 2011.

On May 26, 2011, [petitioner] filed her answer stating the following special and affirmative defenses:

> 4. [Respondent's] alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau of Internal Revenue (BIR.). *Je*

5. [Respondent] is not entitled to refund or tax credit in the amount of P16,669,786.14 representing alleged unutilized input tax because it failed to submit all necessary and relevant documents pertaining to the above-mentioned amount with [petitioner] in the administrative claim for refund or tax credit of excess input tax attributable to zero-rated sales.

6. In an administrative claim for refund or tax credit of input taxes attributable to zero-rated sales, a VAT registered person must submit complete documents to support its application for refund pursuant to Section 112 (D) of the National Internal Revenue Code (NIRC) of 1997. Otherwise, there will be no sufficient compliance with the filing of an administrative claim for refund, which is a condition sine qua non prior to the filing of judicial claim.

7. To support its claim, it is imperative for [respondent] to prove and present the following:

a. The registration requirements of a value-added taxpayer in compliance with Section 6(a) and (b) of Revenue Regulations No. 6-97 in relation to Section 4.107-a (a) of Revenue Regulations No. 7-95, and Section 236 of the National Internal Revenue Code of 1997 (NIRC of 1997);

b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT in compliance with the provisions of Sections 113 and 114 of the NIRC of 1997;

c. Proof of compliance with the prescribed checklist of requirements to be submitted involving claim for VAT refund pursuant to Revenue Memorandum Order No. 53-98. It is worthy of emphasis that Section 112 (D) of the NIRC of 1997 requires the submission of complete documents in support of the application filed with the Bureau of Internal Revenue before the 120-day audit period shall apply, and before the taxpayer could avail of judicial remedies as provided for in the law. Hence, [respondent's] failure to submit proof of compliance with the above-stated requirements warrants immediate dismissal of the petition for review.

d. That the input taxes of P16,669,786.14 allegedly paid by [respondent] on its domestic purchases of non-capital goods and services, services rendered by non-residents and importation of non-capital goods for the period of 2009 were attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over in the succeeding taxable quarter or quarters;

e. That [respondent's] administrative claim for tax credit or refund of unutilized input tax (VAT) was filed within two (2) year(s) after the close of the taxable quarter when the sales were made in accordance with Sections 112 (A) and (D) of the NIRC of 1997;

f. The judicial claim was filed within the period prescribed in Section 112 (D) of the NIRC of 1997;

h. That [respondent's] domestic purchases of goods and services were made in the course of its trade or business, properly supported by VAT invoices and/or official receipts and other documents, such as subsidiary purchase journal showing that it actually paid VAT in accordance with Sections 110 (A) (2) and 113 of the NIRC of 1997, and in pursuance to Section 4.104-5 (a) and (b) of Revenue Regulations No. 7-95 (RE:

Substantiation of Claims for Input Tax Credit);

i. The requirements as enumerated under Section 4-104-2 of Revenue Regulations No. 7-95 (RE: Persons who can avail of the Input Tax Credits).

8. The case of Ang Tibay vs. Court of Industrial Relations(,) GR No. L-46496, states the primary rights which must be respected even in an administrative proceeding:

(1) **The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof.** In the language of Chief Hughes, in *Morgan v. U.S.,* 304 U.S. 1, 58 S. Ct. 773, 999, 82 Law. ed. 1129, 'the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play.'

(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal *must consider* the evidence presented (Chief Justice Hughes in Morgan v. U.S. 298 U.S. 468, 56 S. Ct. 906, 80 law. ed. 1288.). In the language of this court in *Edwards vs. McCoy,* 22 Phil. 598, 'the right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.'

(3) 'While the duty to deliberate does not impose the obligation to decide right, it does not imply a necessity which cannot be disregarded, namely, that of having something to support it is a nullity, a place

when directly attached.' (Edwards vs. McCoy, *supra.*) This principle emanates from the more fundamental is contrary to the vesting of unlimited power anywhere. Law is both a grant and a limitation upon power *(sic)*.

(4) Not only must there be some evidence to support a finding or conclusion (City of Manila vs. Agustin, G.R. No. 45844, promulgated November 29, 1937, XXXVI O.G. 1335), **but the evidence must be 'substantial.'** (Washington, Virginia and Maryland Coach Co. v. national labor Relations Board, 301 U.S. 142, 147, 57 S. Ct. 648, 650, 81 Law. ed. 965.) It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.' (Appalachian Electric Power v. National Labor Relations Board 4 Cir., 93 F. 2d 985, 989; National Labor Relations Board v. Thompson Products, 6 Cir., 97 F. 2d 13, 15; Ballston-Stillwater Knitting Co. v. National Labor Relations Board, 2 Cir., 98 F. 2d 758, 760.). . . The statute provides that 'the rules of evidence prevailing in courts of law and equity shall not be controlling.' The obvious purpose of this and similar provisions is to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would be deemed incompetent inn *(sic)* judicial proceedings would not invalidate the administrative order. (Interstate Commerce Commission v. Baird, 194 U.S. 25, 44, 24 S. Ct. 563, 568, 48 Law. ed. 860; Interstate Commerce Commission v. Louisville and Nashville R. Co., 227 U.S. 88, 93 33 S. Ct. 185, 187, 57 Law. ed. 431; United States v. Abilene and Southern Ry. Co. S. Ct. 220, 225, 74 Law. ed. 624.) But this assurance of a desirable flexibility in administrative procedure does not go far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated

hearsay or rumor does not constitute substantial evidence (Consolidated Edison Co. v. National Labor Relations Board, 59 S. Ct. 206, 83 Law. ed. No. 4, Adv. Op., p. 131.)'

(5) **The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected.** (Interstate Commerce Commission vs. L. & N. R. Co., 227 U.S. 88, 33 S. Ct. 185, 57 Law. ed. 431.) **Only by confining the administrative tribunal to the evidence disclosed to the parties, can the latter be protected in their right to know and meet the case against them.** It should not, however, detract from their duty actively (*sic*) to see that the law is enforced, and for that purpose, to use the authorized legal methods of securing evidence and informing itself of facts material and relevant to the controversy. Boards of inquiry may be appointed for the purpose of investigating and determining the facts in any given case, but their report and decision are only advisory. (Section 9, Commonwealth Act No. 103.) The Court of Industrial Relations may refer any industrial or agricultural dispute or any matter under its consideration or advisement to a local board of inquiry, a provincial fiscal. *(sic)* a justice of the peace or any public official in any part of the Philippines for investigation, report and recommendation, and may delegate to such board or public official such powers and functions as the said Court of Industrial Relations may deem necessary, but such delegation shall not affect the exercise of the Court itself of any of its powers. (Section 10, *ibid.*)

(6) The Court of Industrial Relations or any of its judges, therefore, must act on its or his own independent consideration of

> the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. It may be that the volume of work is such that it is literally Relations *(sic)* personally to decide all controversies coming before them. In the United States the difficulty is solved with the enactment of statutory authority authorizing examiners or other subordinates to render final decision, with the right to appeal to board or commission, but in our case there is no such statutory authority.
>
> (7) The Court of Industrial Relations should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decision rendered. The performance of this duty is inseparable from the authority conferred upon it. (Emphasis supplied)

[Respondent] is mandated to present evidence to support its administrative claim and such evidence will be used as basis for the decision of the quasi-judicial body. If there is lack of evidence, then the decision will probably be contrary to [respondent]. Only the evidence presented will be reviewed by the quasi-judicial body. An administrative claim is meant to expedite the proceedings where all the relevant evidence is presented.

9. Furthermore, in an action for refund the burden of proof is on the taxpayer to establish its right to refund and failure to sustain the burden is fatal to the claim for refund/credit. This is so because exemptions from taxation are highly disfavored in law and he who claims exemption must be able to justify his claim by the clearest grant of organic or statutory law. An exemption from the common burden cannot be permitted to exist upon vague implications (**Asiatic Petroleum Co. vs Llanes, 49 Phil. 466 cited in** Jr

Collector of Internal Revenue v Manila Jockey Club, Inc., 98 Phil. 670)."

A Notice of Pre-Trial Conference was issued by the Court on May 27, 2011, informing the parties that a pre-trial conference is set on July 7, 2011.

[Petitioner] filed her Pre-Trial Brief on June 10, 2011; while [respondent] filed its Pre-Trial Brief on August 1, 2011. Thereafter, the parties filed their Joint Stipulation of Facts and Issues on August 22, 2011; which the Court approved via Resolution dated August 25, 2011.

On August 22, 2011, [petitioner] filed a Motion to Admit Attached Answer, claiming that due to heavy workload and inadvertence, [petitioner] failed to include page 2 in her previous Answer. She prayed that the Memorandum attached to her Motion be admitted. [Respondent] filed an Opposition (To [Petitioner's] Motion to Admit Attached Answer) on September 6, 2011, arguing that the pre-trial has already been terminated; that defenses not raised in the Answer are already deemed waived; that [petitioner] did not file her Motion within the prescribed period as provided for by law; and that said Motion was not based on a valid and reasonable ground. In its September 8, 2011 Resolution, the Court declared [respondent's] Opposition moot and reiterated the August 25, 2011 Resolution noting [petitioner's] Motion to Admit Attached Answer.

[Respondent] filed a Motion to Avail the Provisions of Rule 13 of the Revised Rules of the Court of Tax Appeals on September 19, 2011, praying for the Court to commission Mr. Henry Tan of SGV & Co. as an Independent Certified Public Accountant (CPA). During the hearing on October 3, 2011, the Court granted [respondent's] motion and directed the Independent CPA to submit his report within thirty (30) days. On November 2, 2011, the Independent CPA submitted his report in compliance with the Court's Order.

On November 28, 2012, [respondent] filed its Formal Offer of Evidence, offering Exhibits "A" to "QQ-11-A", inclusive of sub-markings. In response, [petitioner] filed her Comment (To [Respondent's] Formal Offer of Evidence) on December 4, 2012, stating that she has no objection to the admission of said exhibits, except Exhibits "A" and "V" for being mere photocopies. The Court issued a Resolution on January 9, 2013, admitting most of the exhibits offered and denying

Exhibits "A" and "V" for failure to present the original copies for comparison; Exhibits "WW-91" to "WW-92" for not being found in the records; and Exhibits "L-4-1" to "L-4-6" for not being identified during the trial.

Subsequently, [respondent] filed a Motion for Partial Reconsideration (On [Respondent's] Formal Offer of Evidence) of the denied exhibits, reasoning that Exhibit "V" has been proven as a secondary evidence through a witness' judicial affidavit; that Exhibits "L-4-1" to "L-4-6" are actually described as Exhibits "L^4-1" to "L^4-6"; and submitting the Certified True Copy of Exhibit "A". Having no objection from [petitioner] despite being given the opportunity to do so, the Court during its February 11, 2013 hearing granted [respondent's] Motion and admitted the previously denied exhibits. Furthermore, counsel for [petitioner] manifested that she has no witness to present. Accordingly, the Court ordered both parties to submit within thirty (30) days their respective Memoranda.

The case was submitted for decision on May 7, 2013, after noting [petitioner's] Memorandum filed on March 5, 2013 and [respondent's] Memorandum filed on May 2, 2013.

On the issue of whether the respondent is entitled to refund or the issuance of tax credit certificate on its unutilized input VAT attributable to its zero-rated sales for the period January 1, 2009 to December 31, 2009 amounting to ₱ 16,669,786.14, the Court in Division ruled that both the administrative and judicial claims satisfied the 120+30-day period requirement under Section 112 of the 1997 National Internal Revenue Code, as amended (NIRC, as amended). However, the amount of refund prayed for was reduced to ₱12,895,935.44.[5]

Both parties moved to reconsider the above decision. On February 14, 2014, the Court in Division partially amended its decision by modifying the amount of refund of which the respondent is entitled from ₱12,895,935.44 to ₱14,561,726.17.[6]

Aggrieved, petitioner sought this present recourse.[7] On May 27, 2014, the Court ordered the respondent to file its Comment on the petition within ten (10) days from receipt.[8] On June 16, 2014, respondent filed its "Comment/Opposition (To Petitioner's Petition for Review dated 21 March 2014)."[9] Considering their respective arguments, the Court gave due course to the petition and accordingly directed both

[5] Id. at 25.
[6] Id. at 48-57.
[7] Id. at 7-21.
[8] Id. at 62-63.
[9] Id. at 64-71.

petitioner and respondent to submit their simultaneous memoranda within a non-extendible period of thirty (30) days.[10]

With respondent's memorandum dated September 22, 2014[11] and in conjunction with petitioner's manifestation that she is adopting the arguments raised in her petition as her memorandum for this case,[12] the Court considered this case submitted for decision on October 16, 2014.[13]

The Issue

Petitioner submits her lone assignment of error, to wit:

> **The Honorable Court erred in partially granting the refund of the reduced amount of P14,561,726.17 allegedly representing unutilized VAT input taxes related to zero rated sales corresponding to the period January 1, 2009 to December 31, 2009.**

The Court's Ruling

In support of the issue presented, petitioner maintains that respondent is not entitled to a refund for failure to submit complete documents in accordance with Section 112(C) of the NIRC, as amended. Respondent fell short of the documentary requirements listed under Revenue Memorandum Order (RMO) No. 53-98 and such requirement is pursuant to petitioner's power to interpret the provisions of the Tax Code under Section 4 of the NIRC, as amended.

Petitioner further cited our ruling in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*,[14] where we held that submission of incomplete documents renders the refund claim premature. Petitioner concludes that for respondent's failure to satisfy the documentary requirements under RMO No. 53-98, the 120-day period has yet to run. This in effect strips the Court of jurisdiction over this case.

Finally for respondent's failure to exhaust its administrative remedy, petitioner was effectively deprived of its opportunity to examine and evaluate the refund claim.

Conversely, respondent contends that in *Commissioner of Internal Revenue v. First Express Pawnshop Company*,[15] the Supreme Court explicitly held that the

[10] Id. at 74-75.
[11] Id. at 87-98.
[12] Id. at 76-78.
[13] Id. at 101-102.
[14] CTA EB No. 776, October 11, 2012.
[15] G.R. Nos. 172045-46, June 16, 2009, 589 SCRA 253.

term "relevant supporting documents" should be understood as those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. Respondent added that the Bureau of Internal Revenue will only inform the taxpayer to submit additional documents and that the BIR cannot dictate what type of supporting documents that should be submitted.

Respondent's stance is well-taken.

Section 112 of the NIRC, as amended provides the procedure for the refund of unutilized input VAT attributable to zero-rated or effectively zero-rated sales before this Court:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> x x x x
>
> (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 date of submission of complete documents in support of the application filed** in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or for 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 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**. (With emphasis)

By its very terms, the Commissioner of Internal Revenue (CIR) has "120 days, from the date of the submission of complete documents in support of its application [for tax refund/credit]," within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the Court of Tax Appeals within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to the Court of Tax Appeals within 30 days.[16] *ge*

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[16] *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.,* G.R. No. 184823, October 6, 2010, 632 SCRA 422.

To determine the concept of "complete documents" by analogy, the phrase "relevant supporting documents" as explained by the Supreme Court in *Commissioner of Internal Revenue v. First Express Pawnshop Company, Inc.*[17] is *apropos*:

> The term "relevant supporting documents" should be understood as **those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer**. **The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit**. (With emphasis)

Further, our ruling in *Team Sual Corporation (formerly: Mirant Sual Corporation) v. Commissioner of Internal Revenue, and Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*[18] likewise construed the term "complete documents" under Section 112 of the NIRC, as amended, thus:

> Accordingly, the term 'complete documents' under Section 112(D) of the NIRC of 1997, as amended should be understood as those documents necessary to support the application for refund or tax credit certificate as determined by the taxpayer. **Thus, should the taxpayer decide to submit only certain documents, or should the taxpayer fail, or opted not, to submit any document at all, in support of its application for refund or tax credit certificate under Section 112 of the NIRC of 1997, it is reasonable and logical to conclude that the reckoning date of the 120-day period thereunder, should be reckoned from the filing of the said application**. (Emphasis supplied)

As gleaned from the foregoing, it is certain that the submission of supporting documents lies within the sound discretion of the taxpayer for it is in the best position, being the affected party x x x to determine which documents are necessary and essential to garner a favorable decision.[19] Besides, given that petitioner never requested for submission of additional documents, the presumption is that complete

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[17] *Supra* at note 15, pp. 275-276.
[18] CTA EB Nos. 649 & 651, Resolution dated March 21, 2012.
[19] *Commissioner of Internal Revenue v. Solidbank Corporation (now: First Metro Investment Corp.)*, CTA EB No. 114, February 22, 2007.

documents had been submitted by respondent when it filed its administrative claims for tax refund.[20]

Neither can this Court sustain petitioner's claim that respondent's non-compliance with RMO No. 53-98 as amended by RMO No. 16-2007 will render its refund claim premature. For one, the law does not recognize the documents listed in the said RMOs the supporting documents required from claimants seeking refund of excess or unutilized input taxes attributable to zero-rated sales.[21] As held in *Commissioner of Internal Revenue v. Visayas Geothermal Power Company*:[22]

> Otherwise stated, a taxpayer seeking for a refund or issuance of a tax credit certificate of unutilized input VAT payments directly attributable to zero-rated or effectively zero-rated sales must satisfy the following requisites:
>
> 1. There must be zero-rated or effectively zero-rated sales;
> 2. The input taxes were incurred or paid;
> 3. Such input VAT payments are directly attributable to zero-rated or effectively zero-rated sales;
> 4. The input VAT payments were not applied against any output VAT liability; and
> 5. The claim for refund or tax credit was filed within the two-year prescriptive period.
>
> Indubitably, **the law does not require the taxpayer to submit the documents prescribed by RMO 53-98 and the VAT registration requirements under Revenue Regulations ("R.R.") 6-97, in relation to Section 4.107-1 (a) of R.R. 7-95, and Section 236 of the 1997 NIRC, as amended, as a pre-condition to the claim for refund of unutilized input VAT payments**. (With emphasis)

Validating respondent's administrative claim in accordance with Section 112 of the NIRC as amended, the 120-day period should be reckoned from November 26, 2010. Counting 120 days from the latter date, petitioner has until March 26, 2011 to act on the refund claim. Since the claim remained unacted, respondent opted to elevate the matter before the Court within the 30-day period set by law on March 31, 2011.

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[20] *Commissioner of Internal Revenue v. San Roque Power Corporation*, CTA EB No. 1004, July 2, 2014.
[21] *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, CTA EB No. 1072, April 28, 2014.
[22] CTA EB No. 282, November 20, 2007.

Clearly, the Court in Division did not err in ruling that respondent's judicial claim for refund for the four quarters of 2009 was timely filed within the 120+30 day period required under Section 112(C) of the NIRC, as amended.

WHEREFORE, the petition is **DENIED** for lack of merit. The September 12, 2013 Decision and February 14, 2014 Amended Decision of the Court in Division in CTA Case No. 8252 are **AFFIRMED**.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *en banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice