REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PROCTER & GAMBLE ASIA PTE. LTD.,
Petitioner,

CTA EB NO. 1140
(CTA Case No. 8192)

-versus-

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas,
and
Ringpis-Liban, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

AUG 24 2015

11:50 a.m.

x- -x

DECISION

RINGPIS-LIBAN, J.

Before the Court En Banc is a Petition for Review[1] filed by petitioner Procter & Gamble Asia Pte. Ltd. ("P & G") under Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals seeking nullification of the Decision[2] dated April 17, 2013 (Assailed Decision) and Resolution[3] dated March 3, 2014 (Assailed Resolution), both promulgated by the Special Second

[1] Rollo, pp. 16-28, with annexes.
[2] Rollo, pp. 78-111, with Annex A.
[3] Rollo, pp. 38-46.

Division of this Court in CTA Case No. 8192 entitled "*Procter & Gamble Asia Pte. Ltd. vs. Commissioner of Internal Revenue*" which denied petitioner's claim for refund or issuance of a tax credit certificate in the amount of P57,759,533.68, representing its alleged unutilized input value-added tax (VAT) attributable to zero-rated sales covering the taxable period of January 1, 2009 to June 30, 2009.

THE FACTS

The relevant antecedents stated in the assailed Decision are as follows:

> Petitioner is a foreign corporation duly organized and existing under the laws of Singapore and is maintaining Regional Operating Headquarters in the Philippines at the 18th Floor, Petron Megaplaza, 358 Sen. Gil Puyat Avenue, Makati City, in accordance with the Certificate of Registration and License S.E.C. Reg. No. A199913443 issued by the Securities and Exchange Commission (SEC) on January 23, 2001. It is authorized by the SEC to provide management, marketing, technical and financial advisory, and other qualified services to its related companies and other qualified services to its related companies or affiliates. It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, with Taxpayer's Identification Number (TIN) 203-684-973-000 as evidenced by its Certification of Registration OCN 9C000071787.
>
> Respondent is the duly appointed Commissioner of Internal Revenue, with the authority to act as such, including the power to decide, approve and grant claims for issuance of a tax credit certificate or refund of overpaid internal revenue taxes as provided by law. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.
>
> Petitioner renders services to its affiliates in the Philippines and abroad pursuant to Service Agreements with said affiliates. Under these Service Agreements, petitioner provides the Service Recipients (petitioner's affiliates) accounting and financial reporting services, employee services, purchases, business solution, workplace services, and other services. The affiliates to whom petitioner rendered services for the period January 1, 2009 to June 30, 2009 are engaged in business conducted outside the Philippines and remitted the corresponding foreign currency payment for all services rendered as stipulated in the Service Agreements.

Petitioner filed its original and amended Monthly and Quarterly VAT Returns for the taxable period January 2009 to June 2009 on the following dates:

Exhibit	Period Covered	Date of Filing
"C"	January 2009	February 19, 2009
"D"	February 2009	March 20, 2009
"E"	January to March 2009	April 21, 2009
"F"	April 2009	May 20, 2009
"G"	May 2009	June 17, 2009
"H"	April to June 2009	July 23, 2009
"I"	April to June 2009 (1st Amended Return)	August 20, 2009
"J"	April to June 2009 (2nd Amended Return)	April 26, 2009
"K"	July 2009	August 20, 2009
"L"	August 2009	September 19, 2009
"M"	July to September 2009	October 22, 2009
"N"	July to September 2009 (Amended Return)	April 26, 2010

On June 24, 2010, petitioner filed an administrative claim dated June 21, 2010 with the BIR Revenue District Office No. 49-North Makati for the refund or issuance of a tax credit certificate in the aggregate amount of P57,759,533.68 representing unutilized input VAT attributable to its zero-rated sales covering the period of January to June 2009.

Due to respondent's inaction, petitioner filed with this Court a Petition for Review on November 19, 2010, praying for the refund or issuance of a tax credit certificate in the aggregate unutilized input VAT for the period of January to June 2009.

Respondent CIR filed her Answer[4] dated January 10, 2011, and interposed as her Special and Affirmative Defenses that: petitioner's alleged claim for issuance of a tax credit certificate is still subject to administrative routinary investigation/examination by the respondent's Bureau; petitioner's claim for refund or issuance of tax credit certificate in the amount of P57, 759, 533.68, as alleged unutilized input VAT attributable to its zero-rated sales of goods and services for the period covering January 1, 2009 to June 30, 2009 were not fully substantiated by proper documents, such as sales invoices, official receipts and others; petitioner's sale of goods and services to various alleged clients/affiliates do not qualify as zero-rated VAT; the amount subject of the claim for refund of petitioner does not pertain in full to its input VAT

[4] Docket, CTA Case No. 8192, pp. 152-154.

attributable to its zero-rated sales of goods and services for the period covering to Section 113 and 237 of the 1997 Tax Code; petitioner failed to comply with the conditions/requirements under Section 112(A)(B)(C) of the 1997 Tax Code; and, it is incumbent upon petitioner to show that it has complied with the provisions under Section 204 (c) in relation to Section 229 of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund.

In the Joint Stipulation of Facts and Issues[5], the parties agreed that the issues to be resolved by the Court are as follows:

> 1) Whether or not petitioner's sales of services to affiliates abroad which are paid for in acceptable foreign currency and accounted for in accordance with the rules of the Bangko Sentral ng Pilipinas (BSP) are zero-rated for VAT purposes under Section 108(B)(2) of the 1997 Tax Code;
> 2) Whether or not the refundable input VAT in the amount of P57,759,533.68 for the period January 1 to June 30, 2009 was carried over or applied to any output tax liability for the said period or in the succeeding taxable months or quarters;
> 3) Whether or not the refundable input VAT in the amount of P57,759,533.68 for the period January 1 to June 30, 2009 being claimed by the petitioner as unutilized input VAT for said period pertains in full to its zero-rated sales of services for the said period;
> 4) Whether or not petitioner complied with the substantiation requirements prescribed under the 1997 Tax Code, as amended and pertinent Revenue Regulations; and
> 5) Whether or not petitioner is entitled to its claim for refund or tax credit in the amount of P57,759,533.68 for the period January 1 to June 30, 2009 as alleged unutilized input VAT paid on goods and services attributable to its zero-rated sales for the said period."

After trial on the merits wherein both parties presented their respective evidence, and upon the parties' submission of their respective memoranda, the case was submitted for decision.

On April 17, 2013 and March 3, 2014, the Court in Division rendered the questioned Decision and Resolution.

Aggrieved, petitioner filed before the Court *En Banc* this Petition for Review[6].

---

[5] Filed by the parties on April 29, 2011.
[6] Rollo p.16-28.

In the Resolution[7] dated May 28, 2014, respondent CIR was directed by the Court *En Banc* to file her comment in this case.

As per Records Verification Report of the Judicial Records Division dated July 3, 2014[8], respondent CIR failed to file her comment on the Petition for Review.

On July 30, 2014, the Court *En Banc* issued a Resolution[9] ordering the parties to submit their respective memoranda within thirty days from notice. P & G filed its Memorandum on September 11, 2014. Respondent CIR filed on September 10, 2014[10] a Motion for Extension of Time to File Memorandum.

In the Resolution dated September 23, 2014, the Court granted respondent's Motion for Extension of Time to File Memorandum. Respondent was granted a final and non-extendible period of fifteen (15) days from September 11, 2014 or until September 26, 2014 within which to file her Memorandum. On September 26, 2014, respondent filed her Memorandum. Thereafter, the case was deemed submitted for decision[11].

ISSUES

Petitioner raised the following issues in its Memorandum:

1. Whether petitioner complied with the requirements of Section 113(B)(2)(a) of the NIRC of 1997 as amended considering that the official receipts issued by its service providers have reference on the face of said official receipts to the corresponding invoices paid that show VAT separately.
2. Whether petitioner should be faulted for the acts of its service provider indicating the VAT separately in the corresponding sales invoices but not in the official receipts issued by the latter.
3. Whether the NIRC of 1997 as amended provides that if the VAT was not indicated separately in the official receipts, though indicated separately in the corresponding invoices, the input tax cannot be credited against output tax or cannot be refunded in case of zero-rated sales.
4. Whether the provision of the Tax Code on the refund of input VAT on zero sales should be liberally construed in favor of petitioner considering that it is actually an incentive to foreign investments in the Philippines.

---

[7] Ibid p. 121-122.
[8] Ibid. p. 268.
[9] Ibid. pp. 270-271.
[10] Ibid. pp. 283-284.
[11] Resolution dated October 23, 2014.

The principal issue in this case is whether or not petitioner is entitled to its claimed refund in the total aggregate amount of P57,759,533.68, as alleged unutilized input VAT attributable to its zero-rated sales of goods and services for the quarters ended March 31, 2009 and June 30, 2009.

PETITIONER'S ARGUMENTS

The instant Petition for Review was based mainly on P & G's argument that the amount of input tax was already shown and stated separately in the invoices corresponding to the official receipts issued by Hewlett-Packard Phils. Corporation. Hence, there was substantial compliance with the requirement of showing separately the VAT under Section 113(B)(2)(a) of the NIRC of 1997, as amended.

RESPONDENT'S ARGUMENTS

On the other hand, the CIR argues that petitioner's documentary evidence in support of its unutilized input VAT claim attributable to its zero-rated sale of goods and services failed to comply with the invoicing requirements under Section 113(A) of the 1997 Tax Code in relation to Sections 110 (A) and 237 of the same Code, and Section 4.113-1 of Revenue Regulations No. 16-2005, as well as, under Revenue Memorandum Circular (RMC) No. 42-2003.

RULING OF THE COURT EN BANC

The Petition for Review before the Court in Division was anchored on petitioner's claim for tax refund in Sections 110 (B) and 112 (A) of the NIRC of 1997, as amended. Pursuant to Section 112(A), and as enumerated by the Supreme Court in the case of *San Roque Power Corporation vs. Commissioner of Internal Revenue*[12], in order to be entitled to a refund or issuance of tax credit certificate of input VAT paid, petitioner must prove the following:

1. the taxpayer is VAT-registered;
2. the taxpayer is engaged in zero-rated or effectively zero-rated sales;
3. the input taxes are due or paid;
4. the input taxes are not transitional input taxes;
5. the input taxes have not been applied against output taxes during and in the succeeding quarters;
6. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales;

[12] G.R. No. 180345, November 25, 2009.

7. 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 have been duly accounted for in accordance with BSP rules and regulations;
8. 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 attributed to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and
9. the claim is filed within two years after the close of the taxable quarter when such sales were made.

The instant case involves input VAT on zero-rated sales incurred from January 1, 2009 to June 30, 2009. Hence, the close of the taxable quarters for the two periods are March 31, 2009 and June 30, 2009 respectively. Counting from said dates, P & G has until March 31, 2011 and June 30, 2011, respectively, within which to file its administrative claim for refund. As found in the records of the case, P & G filed an administrative claim for refund before the BIR on June 24, 2010. Thus, the 120-day period commenced to run from June 24, 2010 until October 22, 2010, the last day for the Commissioner of the BIR to decide the administrative claim. On November 19, 2010[13], petitioner filed a Petition for Review before the Court in Division. Thus, the filing of the administrative claim for refund before the BIR and the Petition for Review before the Court in Division both fell within the prescriptive period allowed by law.

After a careful review of P & G's and respondent's arguments and the records of the case, the Court *En Banc* finds that the issues raised by P & G have been exhaustively discussed and resolved by the Court in Division in the assailed Decision and Resolution.

The pertinent portions of the Decision and Resolution are quoted below:

"As reflected in the Returns, petitioner's input VAT for the two quarters that ended March 31, 2009 and June 30, 2009 amounted to P121,936,102.68, broken down as follows:

Quarter Ended	Amount of Deferred Input VAT on Capital Goods Exceeding ₱1M from the Previous Quarter Per Return	Amount of Input VAT on Current Purchases Per Return	Amount of Deferred Input VAT on Capital Goods Exceeding ₱1M to be Carried-over to Succeeding Period Per Return	Amount of Input VAT Per Return
	(A)	(B)	(C)	(A)+ (B)-(C)

[13] Docket, CTA Case No. 8192, pp. 4-16..

March 31, 2009	₱ 2,728,815.84	₱ 61,394,095.86	₱ 2,321,430.63	₱ 61,801,481.07
June 30, 2009	2,321,430.63	59,474,984.49	1,661,793.51	60,134,621.61
Total	**₱ 5,050,246.47**	**₱ 120,869,080.35**	**₱ 3,983,224.14**	**₱ 121,936,102.68**

Out of the reported input VAT of P121,936,102.68, petitioner is claiming the refund of P57,759,533.68 allegedly attributable to its zero-rated sales for the same period computed as follows:

Quarter Ended	Amount of Local Sales Per Returns	Amount of Zero-rated Sales Per Returns	Total Sales Per Returns	Percentage of Zero-rated Sales to Total Sales	Amount of Input VAT Per Returns	Amount of Input VAT Attributable to Zero-rated Sales
Mar. 31, 2009	₱280,780,971.88	₱ 618,552,369.95	₱ 899,333,341.83	68.7790%	₱ 61,801,481.07	₱42,506,433.16
June 30, 2009	254,023,769.83	745,864,854.95	999,888,624.78	74.5948%	60,134,621.61	44,857,296.82
	₱534,804,741.71	₱1,364,417,224.90	₱ 1,899,221,966.61		₱121,936,102.68	₱87,363,729.98
Less:	Amount of Input VAT Attributable to Zero-rated Sales Applied Against Remaining Output VAT Liability on Local Sales					
	Amount of Output VAT Liability on Local Sales (₱534,804,741.71 x 12%)				₱ 64,176,569.00	
	Less: Amount of Input VAT Attributable to Local Sales (₱121,936,102.68 less ₱87,363,729.98)				34,572,372.70	29,604,196.30
Difference-Amount of Unutilized and/or Unapplied Input VAT Claimed for Refund or for the issuance of TCC						**₱57,759,533.68**

Anent the first requisite, petitioner alleges that its sale of services to its affiliates abroad is subject to zero percent (0%) VAT pursuant to Section 108 (B)(2) of the NIRC of 1997, as amended, xxx

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

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

This Court finds that petitioner has complied with all of the requisites.

Petitioner is duly registered with the BIR as a VAT taxpayer and the services it performs in the Philippines, through its regional headquarters, like accounting and financial reporting services, employee services, purchasing services, business intelligence services, information technology business solution, workplace services and other services, are not in the same category as "processing, manufacturing or repacking of goods."

For the said services, petitioner received payments in the amount of US$27,833,666.04 with the peso equivalent of P1,364,417,224.90, which was duly accounted for in accordance with the rules and regulations of the BSP as evidenced by the Certifications and Inward Remittances and the Bank Statements issued by Citibank, N.A., Philippine Branch, and duly affirmed by the testimony of Citibank's representative, Ms. Teresita Sugay, the BIR-registered Debit/Credit Memos and the VAT zero-rated official receipts.

This Court also finds that petitioner has sufficiently established that it rendered services to its non-resident affiliates which were not registered corporations in the Philippines and were not doing business in the country as evidenced by SEC Certificates of Non- Registration, Service Agreements, affidavits executed by the respective officers of petitioner's affiliates abroad with attached proof of business registrations of the affiliates duly authenticated by consuls of the Republic of the Philippines, and Subsidiaries Report, which can be accessed at the United States Securities and Exchange Commission website.

Based on the foregoing, petitioner has sufficiently proven that it had VAT zero-rated sales in the amount of P1,364,417,224.90 for the period covering January 1, 2009 to June 30, 2009.

Consequently, this Court will discuss the amount of excess input VAT attributable thereto.

In support of its reported input VAT of P121,936,102.68, petitioner presented various invoices, official receipts and other documents that were all examined by the Court-commissioned Independent CPA. In her Report dated October 28, 2011, the Independent CPA noted that the following input taxes amounting to P11,263,057.40 may be disallowed from petitioner's claim:

Nature of Exception	Exhibit NNNN Annex	Jan. 1, 2009 to Mar. 31, 2009	Apr. 1, 2009 to June 30, 2009	Total
Domestic urchase of goods supported by original copies of VAT invoices not in the name of the Company	15	₱ 25,136.88	-	₱ 25,136.88
Domestic purchase of goods supported by Non-VAT invoices	16	7,564.29	-	7,564.29
Domestic purchase of goods supported by original copies of Payment Request Form	17	-	₱ 24,176.48	24,176.48
Domestic purchase of goods supported by original copy of Payment Request Form not in the name of the Company	18	-	1,193.14	1,193.14
Domestic purchase of goods supported by VAT invoices without TIN	19	4,757.14	4,100.31	8,857.45
Domestic purchase of goods supported by original copies of Statement of Accounts	20	32,322.86	16,297.03	48,619.89
Domestic purchase of goods supported by original copy of Tax invoice	21	-	12,758.68	12,758.68
Domestic purchase of services supported by original copy of VAT OR with "Not Valid for Input Tax" stamp	22	4,203.97	-	4,203.97
Domestic purchase of services supported by original copies of VAT ORs with improper VAT bases	23	135,326.16	-	135,326.16
Domestic purchase of services supported by original copies of VAT ORs not in the Company's name	24	99,247.84	-	99,247.84
Domestic purchase of services supported by original copies of VAT ORs not in the Company's address	25	255,359.57	109,540.49	364,900.06
Domestic purchase of services supported by Provisional OR in the name of the Company	26	-	14,773.72	14,773.72
Do mestic purchase of services supported by Provisional OR not in the Company's name	27	167,545.48	-	167,545.48
Overstatement in input VAT claimed on domestic purchases of capital goods with aggregate acquisition cost of more than ₱1Million in a calendar month	28	20,471.72	20,471.72	40,943.43
Domestic purchase of goods supported by original copies of VAT invoices not dated within the period of claim	29	3,828.06	3,828.06	7,656.12
Domestic purchase of services supported by original copies of VAT ORs dated within 7 days after the period of claim	30	-	6,066,240.59	6,066,240.59
Domestic purchase of services supported by original copies of VAT ORs dated beyond 7 days after the period of claim	31	-	111,035.31	111,035.31
Domestic purchase of goods without supporting documents	32	1,928.63	368,803.32	370,731.95
Domestic purchase of goods not dated within the period of claim and without supporting documents	33	1,597.11	-	1,597.11
Domestic purchase of services without VAT ORs	34	3,680,526.81	70,022.04	3,750,548.85
Total		**₱4,439,816.52**	**₱6,823,240.89**	**₱11,263,057.40**

This Court finds the disallowance of the P11,263,057.40 input VAT to be in order because the corresponding invoices, receipts and other documents did not meet the substantiation requirements under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation

to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations (RR) No. 16-05.

Aside from the Independent CPA's recommended disallowance of P11,263,057.40, the following input VAT in the amount of P98,298,633.06 should be denied for reasons stated below:

Nature of Exception	Jan. 1, 2009 to Mar. 31, 2009	Apr. 1, 2009 to June 30, 2009	Total
Domestic purchases of services supported by VAT Invoices instead of VAT ORs as required under Section 113(A)(2) of the NIRC of 1997, as amended	₱ 8,160.00	₱ 300,779.89	₱ 308,939.89
Domestic purchases of goods/services supported by Invoices/ORs but VAT not separately shown in violation of Section 113(B)(2)(a) of the NIRC of 1997, as amended	51,605,406.27	43,508,230.35	95,113,636.62
Purchases of services supported by printed BIR Form No. 1600 without corresponding proof of payment in violation of Section 4.114-2(b)(3) of RR No. 16-05	1,828,000.02	1,048,056.53	2,876,056.55
Total	**₱53,441,566.29**	**₱44,857,066.77**	**₱98,298,633.06**

From the total reported input VAT of P121,936,102.68, only the amount of P12,374,412.22 is properly substantiated by VAT invoices or official receipts.

In the Motion for Reconsideration[14], P & G was able to establish that it actually paid VAT in the amount of P2,876,056.58 on its purchases of services from non-residents. Thus, in the Resolution on the Motion for Reconsideration, the Court in Division ruled as follows:

> "Since the input VAT of P84,156,997.45, subject of petitioner's Motion for Reconsideration, pertains to its domestic purchases of services from Hewlett-Packard Phils. Corporation, the same must be supported by VAT official receipts which must contain all the information required under Section 113 (B) of the NIRC of 1997, including the separate indication of the amount of VAT. However, considering that the official receipts issued by Hewlett-Packard Phils. Corporation to petitioner did not separately show the amount of VAT, the disallowance of the claimed input VAT of P84,156,997.45 shall remain. Contrary to petitioner's position, the separate indication of the VAT in the sales invoices corresponding to the official receipts issued by Hewlett-Packard Phils. Corporation cannot be considered sufficient compliance of the law. To reiterate, an invoice and an official receipt cannot be used interchangeably as evidence to prove a particular transaction."

[14] Filed on May 8, 2013.

xxx xxx xxx

However, the allowance of petitioner's claimed input VAT of P2,876,056.55, petitioner still has no enough excess input VAT that may be the proper subject of a claim for refund/tax credit certificate under Section 112(A) of the NIRC of 1997, as amended. Petitioner's output tax liability in the amount of P64,176,569.00 is still a lot higher than the recommended valid input VAT of P15,250,468.77, as shown below[15]:

Output Tax Liability		₱ 64,176,569.00
Less: Input Tax		
Valid Input Tax per assailed Decision	₱ 12,374,412.22	
Add: Reconsidered Input Tax	2,876,056.55	15,250,468.77
Output Tax Still Due		**₱ 48,926,100.23**

Petitioner P & G, being engaged in the sale or exchange of services in the Philippines, is VATable on its gross receipts pursuant to Section 108 of the NIRC of 1997, as amended, thus its transactions must be supported by VAT official receipts.

In the case of *Kepco Phils. Corporation vs. Commissioner of Internal Revenue*,[16] the Supreme Court distinguished a VAT invoice from a VAT receipt. Thus:

"Under the law, a *VAT invoice* is necessary for every sale, barter or exchange of goods or properties, while a *VAT official receipt* properly pertains to every lease of goods or properties, and for every sale, barter or exchange of services. In *Commissioner of Internal Revenue vs. Manila Mining Corporation*, the Court distinguished an invoice from a receipt, thus:

> "A 'sales or commercial invoice' is a written account of goods sold or services rendered indicating the prices charged therefor or a list by whatever name it is known which is used in the ordinary course of business evidencing sale and transfer or agreement to sell or transfer goods and services.
>
> A 'receipt' on the other hand is a written acknowledgment of the fact of payment in money or other settlement between seller and buyer of goods, debtor or creditor, or person rendering services and client or customer.

[15] Resolution on Motion for Reconsideration, Rollo p. 46.
[16] G.R. No. 181858, November 24, 2010, citing *CIR vs. Manila Mining Corporation*, G.R> No. 153204, August 31, 2005.

> **In other words, the VAT invoice is the seller's best proof of the sale of the goods or services to the buyer while the VAT receipt is the buyer's best evidence of the payment of goods or services received from the seller. Even though VAT invoices and receipts are normally issued by the supplier/seller alone, the said invoices and receipts, taken collectively, are necessary to substantiate the actual amount or quantity of goods sold and their selling price *(proof of transaction)*, and the best means to prove the input VAT payments *(proof of payment)*. Hence, VAT invoice and VAT receipt should not be confused as referring to one and the same thing. Certainly, neither does the law intend the two to be used alternatively.**
>
> While it is true that the Court of Tax Appeals is not strictly governed by technical rules of evidence, the invoicing and substantiation requirements must, nevertheless, be followed because it is the only way to determine the veracity of Kepco's claim." *(Emphasis supplied)*

Therefore, P & G's assertion that the separate indication of VAT in the sales invoice corresponding to the official receipts issued by Hewlett-Packard Phils. Corporation can be sufficient compliance of the law, finds no merit in fact and in law. Moreover, P & G cannot blame its service provider in the issuance of the receipts, because it is the taxpayer's (P & G) liability as far as the tax code is concerned.

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[17]

The burden in claiming tax refund rests upon the taxpayer. In this case, petitioner failed to discharge the necessary burden of proof.

There being no new matters or issues raised in the Petition for Review before the Court *En Banc* and there being no reversible error committed by the Court in Division, hence, the Court *En Banc* finds no cogent reason to disturb the assailed Decision and Resolution.

WHEREFORE, premises considered, the Petition for Review is hereby **DENIED for lack of merit.** Accordingly, the Decision dated April 17, 2013 and Resolution dated May 3, 2014 are hereby affirmed *in toto.*

---

[17] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue,* G.R. No. 159490, February 18, 2008.

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

CERTIFICATION

Pursuant to Section 13 of 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