REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

REMA TIP TOP PHILIPPINES, INC., *Petitioner,*

-versus-

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

CTA CASE NO. 9794

Members:
UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
JAN 24 2022
11:30 a.m.

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DECISION

RINGPIS-LIBAN, J.

THE CASE

The *Petition for Review* prays that the Court render judgment ordering respondent to refund petitioner the amount of ₱1,377,618.64, allegedly representing input value added tax (VAT) attributable or properly allocated to zero-rated sales made in the 4th quarter of the taxable year 2015.[1]

THE PARTIES

Petitioner Rema Tip Top Philippines, Inc. is a domestic corporation duly organized and existing under Philippine laws.[2] It is registered with the Bureau of Internal Revenue (BIR) under Taxpayer Identification Number (TIN) 008-042-655-000, with address at Unit 502 Richmonde Plaza, Ortigas, San Miguel Ave., Brgy. San Antonio, Ortigas Center, Pasig.[3]

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[1] Summary of the Case, Pre-Trial Order dated November 5, 2018, Docket – Vol. 3, p. 1063; and Summary of the Case, Amended Pre-Trial Order dated March 4, 2019, Docket – Vol. 3, p. 1317.
[2] Exhibits "P-17" and "P-17-a", Docket – Vol. 3, pp. 1416 to 1447.
[3] Exhibit "P-15", Docket – Vol. 3, p. 1409.

Respondent is the Commissioner of Internal Revenue, who is the officer duly appointed and empowered by law to act on claims for refund or credit, with office address at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On December 27, 2017, petitioner filed its *Application for Tax Credits / Refunds* (BIR Form No. 1914), with Revenue District Office (RDO) No. 43 in the amount of ₱1,377,618.64, for the period from October 1, 2015 to December 31, 2015, pursuant to Section 112(A) of the Tax Code.[5]

Subsequently, on March 2, 2018, petitioner received a *Notice of Denial for VAT Refund / Credit* of even date issued by Revenue District Officer Rufo B. Ranario,[6] informing petitioner that the claim for refund on input tax allowable on local purchases and importation is denied for failure to comply with some of the requirements listed under Annex "A" of Revenue Memorandum Circular (RMC) No. 54-2014: (1) Certified true copy of Audited Financial Statements; (2) Schedule of zero-rated sales with complete details; (3) Certified true copy of import entry and internal revenue declarations duly validated by bank with official receipt (OR); and (4) Certified true copy of Bureau of Customs (BOC) receipts.

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review* on April 2, 2018.[7]

On June 11, 2018, respondent filed his *Answer*.[8]

The Pre-Trial Conference was set and held on September 18, 2018.[9] Petitioner's *Pre-Trial Brief* and *Respondent's Pre-Trial Brief* were both filed on September 17, 2018.[10]

On October 3, 2018, the parties presented their *Joint Stipulation of Facts and Issues*.[11] The Pre-Trial Order was subsequently issued on November 5, 2018.[12]

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[4] Par. 1.01, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. 3, p. 1044.
[5] Exhibits "P-1" and "P-1-A", Docket – Vol. 3, p. 1373.
[6] Exhibit "P-36", Docket – Vol. 3, p. 1457.
[7] Docket – Vol. 1, pp. 10 to 38.
[8] Docket – Vol. 2, pp. 995 to 999.
[9] *Notice of Pre-Trial Conference* dated June 21, 2018, Docket – Vol. 3, pp. 1002 to 1003; Minutes of the hearing held on, and Order dated, September 18, 2018, Docket – Vol. 3, pp. 1041 and 1043, respectively.
[10] Docket – Vol. 3, pp. 1008 to 1035, and 1038 to 1040, respectively.
[11] Docket – Vol. 3, pp. 1044 to 1057.

Respondent transmitted the *BIR Records* for this case on November 6, 2018.[13]

Petitioner posted a *Motion for Correction of Pre-Trial Order* on November 12, 2018.[14] Respondent failed to file his comment thereon.[15] In the Resolution dated February 22, 2019,[16] the Court granted the said *Motion for Correction* and ordered the amendment of the Pre-Trial Order dated November 5, 2018. Thus, the Amended Pre-Trial Order was issued on March 4, 2019.[17]

During trial, petitioner presented documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Ms. Jennilyn U. Gaanan,[18] a Director, Treasurer, and Chief Financial Officer of petitioner; and (2) Ms. Ma. Theresa Romey Dela Roca,[19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

The ICPA's *Report* was submitted on February 4, 2019.[21]

Petitioner filed its *Formal Offer of Documentary Exhibits* on April 4, 2019.[22] Respondent, however, failed to file his comment thereon.[23] In the Resolution dated June 26, 2019,[24] the Court admitted petitioner's exhibits, *except* for: (1) Exhibit "P-2", for failure of the document formally offered and identified, to correspond with the document actually marked; and (2) Exhibits "P-8" and "P-8-1", for failure to present originals for comparison.

Petitioner filed its *Motion* on July 12, 2019,[25] praying that the original printout of BIR Payment (BIR Form 0605) for Annual Registration Fee for 2015 of petitioner, attached and marked as "Exhibit P-2" be admitted as evidence for the purposes for which it is being offered. Respondent failed to file his comment on the said *Motion*.[26] In the Resolution dated December 13,

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[12] Docket – Vol. 3, pp. 1063 to 1069.
[13] Docket – Vol. 3, p. 1078.
[14] Docket – Vol. 3, pp. 1086 to 1088.
[15] Per Records Verification Report dated January 28, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. 3, p. 1218.
[16] Docket – Vol. 3, pp. 1274 to 1275.
[17] Docket – Vol. 3, pp. 1317 to 1323.
[18] Exhibit "P-41", Docket – Vol. 3, pp. 1128 to 1149; Minutes of the hearing held on, and Order dated, January 24, 2019, Docket – Vol. 3, pp. 1216 to 1217.
[19] Exhibit "P-50", Docket – Vol. 3, pp. 1279 to 1307; Minutes of the hearing held on and Order dated, March 5, 2019, Docket – Vol. 3, pp. 1324, and 1326 to 1327, respectively.
[20] *Oath of Commission* dated December 4, 2018, Docket – Vol. III, p. 1113; Minutes of the hearing held on, and Order dated, December 4, 2018, Docket – Vol. III, pp. 1112, and 1114 to 1115, respectively.
[21] Exhibit "P-42", Docket – Vol. 3, pp. 1220 to 1240.
[22] Docket – Vol. 3, pp. 1351 to 1370.
[23] Per Records Verification Report dated May 3, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. 3, p. 1498.
[24] Resolution dated June 26, 2019, Docket – Vol. 4, pp. 1501 to 1503.
[25] Docket – Vol. 4, pp. 1521 to 1524.
[26] Per Records Verification Report dated September 20, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. 4, p. 1543.

2019,[27] the Court granted petitioner's *Motion* and accordingly admitted Exhibit "P-2".

On October 6, 2020, respondent posted a *Manifestation*,[28] whereby his counsel waived the right to present witness in this case, and in line therewith, averred that the case be submitted for resolution. Correspondingly, in its Resolution dated October 13, 2020,[29] the Court cancelled the presentation of respondent's evidence, and granted the parties thirty (30) days from notice to file their respective memorandum.

Petitioner's *Memorandum* was posted on December 9, 2020.[30] Respondent, however, failed to file his memorandum.[31]

On January 15, 2021, this case was deemed submitted for decision.[32]

THE ISSUES RAISED BY THE PARTIES

The parties have agreed that the issues to be resolved by this Court are as follows:

> "2.01. Whether or not the Honorable Court of Tax Appeals has jurisdiction over the case.
>
> 2.02. Whether or not Petitioner is entitled to a refund of Input VAT attributable or properly allocated to zero-rated sales made in the fourth quarter of taxable year 2015 in the aggregate amount of **One Million Three Hundred Seventy-Seven Thousand Six Hundred Eighteen and 64/100 Pesos (₱1,377,618.64)** pursuant to Section 112 of National Internal Revenue Code of 1997."[33]

Petitioner's arguments:

Petitioner argues that it is entitled to a refund of input VAT attributable to zero-rated sales made in the 4th quarter of taxable year 2015, based on the following grounds: (a) the instant petition was filed within the reglementary period under Section 112(C) of the Tax Code; (b) under Section 106(A)(2)(a)(5)

[27] Docket – Vol. 4, pp. 1545 to 1546.
[28] Docket – Vol. 4, pp. 1553 to 1554.
[29] Docket – Vol. 4, p. 1557 to 1558.
[30] Docket – Vol. 4, pp. 1559 to 1590.
[31] Per Records Verification Report dated January 12, 2021 issued by the Judicial Records Division of this Court, Docket – Vol. 4, p. 1596.
[32] Resolution dated January 15, 2021, Docket – Vol. 4, p. 1598
[33] Statement of the Issues, JSFI, Docket – Vol. 3, pp. 1044 to 1045.

of the Tax Code, sales by a VAT-registered taxpayer to enterprises registered with the Philippine Economic Zone Authority (PEZA) or the Board of Investments (BOI) are subject to zero-rated VAT; and (c) petitioner has complied with the requirements for the claim for refund under Section 112(A) of the Tax Code.

Additionally, petitioner contends that in any case, the purpose of the submission of the documents is to allow respondent to determine whether it is entitled to a refund; that it is the taxpayer who has the right and the burden of proving any and all documents that would support his claim for tax credit or refund; and that as long as the requisites to be entitled to a tax credit certificate or refund of excess input VAT attributable to zero-rated sales are present, such application should be granted.

Respondent's counter-arguments:

Respondent counter-argues that there is no valid claim for refund due to the non-submission of complete documents under RMC No. 54-2014, and in the absence of a valid claim for refund, there is nothing for the respondent to act on, and consequently, there is also nothing to appeal before the Court; that the *Petition for Review* was filed out of time; that assuming *arguendo* that there is a valid claim for refund, it is imperative for the petitioner to prove its compliance with the requirements for tax credit/refund of unutilized input VAT under the National Internal Revenue Code (NIRC) of 1997, as amended; that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the exemption; and that petitioner failed to sufficiently prove and demonstrate that the subject tax was erroneously or illegally collected.

THE COURT'S RULING

Requisites under the law for the refund or issuance of tax credit certificate of input VAT

Pursuant to the provisions of Section 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 9337[34], jurisprudence has laid down certain requisites which must be complied with by the taxpayer-applicant to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

[34] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

As to the timeliness of the filing of the administrative and judicial claims:

1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[35]
2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 120 days from the date of submission of complete documents in support of the application, the judicial claim must be filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[36]

With reference to the taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;[37]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[38]
5. for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (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;[39]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[40]
7. the input taxes are due or paid;[41]
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;[42] and

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[35] *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.

[36] *Steag State Power, Inc. (Formerly State Power Development Corporation) vs.Commissioner of Internal Revenue,* G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue,* G.R. No. 168950, January 14, 2015.

[37] *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.*, supra.

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

[42] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[43]

Relative thereto, 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.[44] Thus, it behooves petitioner to show compliance with each of the foregoing requisites. As a corollary, the absence of any of the said requisites is a valid ground to deny the refund claim.

Petitioner's administrative and judicial claims were 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. Thus, petitioner's last day for filing of its administrative claim for the 4th quarter of 2015 fell on **December 31, 2017**.

Records show that petitioner filed its *Application for Tax Credits / Refunds* (BIR Form No. 1914) on **December 27, 2017**.[45] Hence, petitioner complied with the said *first* requisite.

The *second* requisite is to the effect that in case of full or partial denial of the refund claim rendered within a period of one hundred twenty (120) 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.

Notably, respondent is deemed to have acted on petitioner's administrative claim within the said one hundred twenty (120)-day period from December 27, 2017 (which should have ended on April 27, 2018), when the BIR, Revenue District Officer Rufo B. Ranario, issued *Notice of Denial for VAT Refund / Credit* dated **March 2, 2018**. Considering that petitioner received the

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[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.*, supra.

[44] *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.

[45] Exhibits "P-1" and "P-1-A", Docket – Vol. 3, p. 1373.

said *Notice* on the date it was issued,[46] the former had until **May 27, 2018,** within which to appeal the same.

The present *Petition for Review* was filed on **April 2, 2018.**[47] Therefore, the Court has jurisdiction over the present case.

Petitioner is a VAT-registered person.

As for its compliance with the *third requisite,* petitioner has fulfilled the same by presenting its BIR Certificate of Registration No. OCN 3RC0000758904 with TIN 008-042-655-000, indicating that it is liable to VAT, among other taxes.[48]

Petitioner had zero-rated sales or effectively zero-rated sales during the 4th quarter of 2015.

The *fourth* and *fifth* requisites require that the taxpayer is engaged in zero-rated or effectively zero-rated sales and for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the Tax Code, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations.

In its amended Quarterly VAT Return[49] for the 4th quarter of 2015, petitioner reported total sales/receipts in the amount of ₱18,861,067.96, which included zero-rated sales/receipts in the amount of ₱14,548,005.68, as follows:

Vatable Sales/Receipts	₱ 4,313,062.28
Zero-Rated Sales/Receipts	**14,548,005.68**
Total Sales/Receipts	₱ 18,861,067.96

Petitioner claims that the bulk of its reported zero-rated sales is composed of sales to enterprises registered with PEZA and BOI; and the rest thereof are sales made to non-resident foreign corporations (NRFC) in foreign currency, and in exchange for transportation equipment.[50]

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[46] Par. 3.09, *Petition for Review*, Docket – Vol. I, p. 13; Annex "A", *Petition for Review*, Docket – Vol. I, pp. 30 to 31; Q&A Nos. 23 to 26, Exhibit "P-453", Docket – Vol. II, pp. 608 to 609.
[47] Docket – Vol. 1, pp. 10 to 38.
[48] Exhibit "P-15", Docket – Vol. 3, p. 1409.
[49] Exhibit "P-3", Docket – Vol. 3, pp. 1382 to 1383.
[50] Refer to No. 31A, Exhibit "P-50", Docket – Vol. 3, p. 1292.

In her Report, the Court-commissioned ICPA, Ms. Ma. Theresa R. Dela Roca of Dela Roca & Associates, CPAs, accounted petitioner's total zero-rated sales in the amount of ₱14,548,005.68, as follows:[51]

Zero-rated Sales	Amount
Sales to BOI-registered entity	₱ 44,855.96
Sales to PEZA-registered entities	13,792,692.39[52]
Sales to NRFC	170,091.17[53]
Net gain on the exchange of a transportation equipment[54]	540,366.16
Total	**₱14,548,005.68**

Sales of goods and services to entities registered with PEZA and BOI whose products are 100% exported

Petitioner maintains that its sales of goods and services to entities registered with PEZA and BOI during the 4th quarter of 2015 are subject to zero percent (0%) VAT, pursuant to Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended.

Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended, states:

> "SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* –
>
> (A) *Rate and Base of Tax.* – xxx
>
> xxx xxx xxx
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* - The term '**export sales**' means:
>
> xxx xxx xxx

[51] Table IX of No. 14, Exhibit "P-42", Docket – Vol. 3, p. 1233.

[52]

Coral Bay Nickel Corporation	₱ 920,197.48
Taganito HPAL Nickel Corporation	12,872,494.91
Total sales to PEZA-registered entities	**₱13,792,692.39**

[53]

Evonik Methionine Sea Pty Ltd	₱122,008.10
Tip Top Japan, Inc.	3,100.35
Veolia Water Technologies Deutschland	44,982.72
Total sales to NRFC	**₱170,091.17**

[54] No. 17, Exhibit "P-42", Docket – Vol. 3, p. 1234.

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(5) **Those considered export sales under** Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and **other special laws**; and

xxx xxx xxx

(c) **Sales to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate." *(Boldfacing supplied)*

Relative thereto, the applicable provision of law on petitioner's sale of services to PEZA registered entities is Section 108(B)(3) of the NIRC of 1997, as amended, which provides as follows:

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

(A) *Rate and Base of Tax.* – xxx

xxx xxx xxx

(B) *Transactions Subject to Zero Percent (0%) Rate.* - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

xxx xxx xxx

(3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate;** *(Boldfacing supplied)*

Relative thereto, Sections 4.106-5(a)(5) and 4.108-5(b)(3) of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 4-2007, also provide:

"**SEC. 4.106-5.** ***Zero-Rated Sales of Goods or Properties***. – xxx

The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) ***Export sales.*** – '*Export Sales*' shall mean:

xxx xxx xxx

(5) Transactions considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

'Considered export sales under Executive Order No. 226' shall mean the Philippine port F.O.B. value determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer, or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same; *Provided*, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents; *Provided, further*, That *pursuant to EO 226 and other special laws*, even without actual exportation, the following shall be considered constructively exported: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) **sales to export processing zones *pursuant to Republic Act (RA) Nos. 7916, as amended, 7903, 7922 and other similar export processing zones*;** (3) *sale to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority pursuant to RA 7227*; (4) sales to registered export traders operating bonded trading warehouses supplying raw materials in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC); (5) sales to diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not.

For purposes of zero-rating, the export sales of registered export traders shall include commission income. The exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee: and ***Provided, finally*, that sales of goods, properties or services made by a VAT-registered supplier to a BOI-registered manufacturer/producer whose products are 100% exported are considered export sales. A certification to this effect must be issued by the Board of Investment (BOI) which shall be good for one year unless subsequently re-issued by the BOI**.

xxx xxx xxx

(c) *Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement"* – Sales of goods or property to persons or entities who are tax-exempt under special laws, *e.g.* sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority (SBMA) pursuant to R.A. No. 7227, **sales to enterprises duly registered and accredited with the Philippine Economic Zone Authority (PEZA)** or international agreements to which the Philippines is signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., **shall be effectively subject to VAT at zero-rate.**" *(Emphases added)*

"**SEC. 4.108-5. *Zero-Rated Sale of Services*.** –

xxx xxx xxx

(b) Transactions Subject to Zero Percent (0%) VAT Rate. - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

xxx xxx xxx

(3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate;**" *(Boldfacing supplied)*

One of the special laws mentioned in the above provision, which specifically applies to this case, is RA No. 7916, as amended by RA No. 8748, otherwise known as *"The Special Economic Zone Act of 1995"*. Sections 8 and 24 thereof respectively provide as follows:

"SECTION 8. *ECOZONE to be Operated and Managed as Separate Customs Territory.* – **The ECOZONE shall be managed and operated by the PEZA as separate customs territory.**

The PEZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the Department of Trade and Industry and/or the Department of Finance." *(Emphases supplied)*

"SECTION 24. *Exemption from National and Local Taxes.* – Except for real property taxes on land owned by developers, **no taxes, local and national, shall be imposed on business**

> **establishments operating within the ECOZONE.** xxx."
> *(Emphases supplied)*

Since the Ecozone is viewed as a foreign territory by legal fiction, sales of goods and services made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within an Ecozone are considered exports to a foreign country subject to 0% VAT. This was elucidated by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Toshiba Information Equipment (Phils.), Inc.,*[55] to wit:

> "This Court agrees, however, **that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities**, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, **because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory.**
>
> xxx An ECOZONE or a Special Economic Zone has been described as —
>
> xxx [S]elected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.
>
> The national territory of the Philippines outside of the proclaimed borders of the ECOZONE shall be referred to as the Customs Territory.
>
> Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the ECOZONES as a separate customs territory; thus, creating the fiction that the ECOZONE is a foreign territory. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.

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[55] G.R. No. 150154, August 9, 2005.

Given the preceding discussion, what would be the VAT implication of sales made by a supplier from the Customs Territory to an ECOZONE enterprise?

The Philippine VAT system adheres to the Cross Border Doctrine, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, actual export of goods and services from the Philippines to a foreign country must be free of VAT; while, those destined for use or consumption within the Philippines shall be imposed with ten percent (10%) VAT.[56] *(Emphases added)*

On the other hand, pursuant to Revenue Memorandum Order (RMO) No. 9-2000,[57] sales of goods, properties or services made by a VAT-registered supplier to a BOI registered entity whose products are 100% exported shall be accorded automatic VAT zero-rating, subject to the following reportorial and documentary requirements, prescribed under Section 3 thereof, *viz*:

"SECTION.3. *Sales of goods, properties or services made by a VAT registered supplier to a BOI registered exporter shall be accorded automatic zero-rating, i.e., without necessity of applying for and securing approval of the application for zero-rating as provided in Revenue Regulations No.7-95, subject to the following conditions*:

(1) The supplier must be VAT-registered;

(2) The BOI-registered buyer must likewise be VAT-registered;

(3) The buyer must be a BOI-registered manufacturer/producer whose products are 100% exported. For this purpose, a Certification to this effect must be issued by the Board of Investments (BOI) and which certification shall be good for one year unless subsequently re-issued by the BOI;

(4) **The BOI-registered buyer shall furnish each of its suppliers with a copy of the aforementioned BOI Certification which shall serve as authority for the supplier to avail of the benefits of zero-rating for its sales to said BOI-registered buyers**; and

[56] Now at 12% VAT rate.
[57] SUBJECT: Tax Treatment of Sales of Goods, Properties and Services Made by VAT-registered Suppliers to BOI-registered Manufacturers-Exporters With 100% Export Sales.

(5) The VAT-registered supplier shall issue for each sale to BOI-registered manufacturer/exporters a duly registered VAT invoice with the words 'zero-rated' stamped thereon in compliance with Sec. 4.108-1(5) of Revenue Regulations No. 7-95. The supplier must likewise indicate in the VAT-invoice the name and BOI-registry number of the buyer." *(Emphasis added)*

Based on the foregoing, sales of goods and services by a VAT-registered taxpayer, such as petitioner, to entities located in the ECOZONEs, as well as to BOI-registered entities whose products are 100% exported, are considered "*export sales*" subject to VAT zero-rating pursuant to Sections 106(A)(2)(a)(5) and 108(B)(3) of the NIRC of 1997, as amended, and as implemented by Sections 4.106-5(a)(5) and 4.108-5 of RR No. 16-2005, as amended.

A. Sales to BOI-registered entity.

Petitioner avers that its sales to FCF Minerals Corp., an enterprise registered with the BOI and whose products are 100% exported are subject to 0% VAT, pursuant to Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended, in relation with Section 4.106-5 of RR No. 16-2005 and Section 3 of RMO No. 9-2000.

As extracted from petitioner's *Schedule of Sales*,[58] the zero-rated sales in the amount of ₱44,855.96, as detailed below, pertains to its sales of goods to FCF Minerals Corp.:

Customer Name	Sales Invoice (SI)		Amount	Exhibit
	No.	Date		
FCF Minerals Corp.	1022	November 2, 2015	₱ 38,308.00	"P-953"
FCF Minerals Corp.	1040	December 1, 2015	6,547.96	"P-964"
Total			**₱44,855.96**	

However, as ascertained by the ICPA, the petitioner was unable to secure an original copy or a certified true copy but obtained only a photocopy of the BOI Certification[59] for FCF Minerals Corp. as support for zero-rating.[60]

Examination of petitioner's formally offered exhibits disclosed that the same was among those denied[61] admission by the Court through Resolution[62] dated June 26, 2019.

[58] Annex A, Exhibit "P-42-2", Docket – Vol. 3, pp. 1466 to 1467.
[59] Exhibits "P-8" to "P-8-1", Docket – Vol. 3, pp. 1395 to 1397; "P-906" to "P-906-B".
[60] No. 13, Exhibit "P-42", Docket – Vol. 3, p. 1233.
[61] Exhibits "P-8" to "P-8-1", Docket – Vol. 3, pp. 1395 to 1397.
[62] Par. 2, Docket - Vol. 4, pp. 1501-1503.

Moreover, further perusal of the **denied** BOI Certificate shows that the exported sales of FCF Minerals Corp. pertains to its sales for the year 2014 which was prior to the period of claim despite its validity for the year 2015.[63]

Hence, the whole amount of ₱44,855.96 pertaining to its sales without BOI Certification to the effect that FCF Minerals Corp. is a BOI-registered entity whose products are 100% exported for the 4th quarter of 2015, shall be denied VAT zero-rating.

B. Sales to PEZA-registered entities.

To prove that its clients are duly registered with the PEZA, petitioner submitted various Certifications issued by the said agency. Listed below are the clients of petitioner for the 4th quarter of 2015, with the corresponding proof of VAT zero-rating:

Name of Client	Proof of VAT zero-rating	Exhibit[64]	Certification Period
Coral Bay Nickel Corporation (CBNC)	Certificate No. 2015-1214	"P-9", "P-9-A", and "P-9-B"	for the year 2015
Taganito HPAL Nickel Corporation (THPAL)	Certificate No. 2015-0414	"P-10"	for the year 2015

Accordingly, petitioner's sales to the aforementioned entities for the 4th quarter of 2015 qualify for VAT zero-rating pursuant to Sections 106(A)(2)(a)(5) and 108(B)(3) of the NIRC of 1997, as amended, provided that the same are properly supported by VAT zero-rated SIs [for sales of goods] and official receipts (ORs) [for sales of services] in accordance with Section 113(A) and (B) of the NIRC of 1997, as amended, which provides:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

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[63] Exhibits "P-8-1", Docket – Vol. 3, pp. 1396 to 1397; "P-906-A" to "P-906-B".
[64] Docket – Vol. 3, pp. 1398 to 1402.

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term **'VAT-exempt sale'** shall be written or printed prominently on the invoice or receipt;

(c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and

(4) In the case of sales in the amount of One thousand pesos (₱1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client."

The foregoing provisions are further implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended, which are all quoted hereunder:

"SEC. 4.113-1. *Invoicing Requirements.* —

(A) A VAT-registered person shall issue: —

(1) A VAT invoice for every sale, barter or exchange of goods or properties; and

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or official receipts. Said documents shall be considered as a 'VAT Invoice' or 'VAT official receipt'. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) *Information contained in VAT invoice or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;

(c) If the sale is subject to zero percent (0%) VAT, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) In the case of sales in the amount of one thousand pesos (₱1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section."

In addition to the above requirements, the SIs and ORs must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238 of the NIRC of 1997, as amended, *viz.*:

"SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sale or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: xxx

xxx xxx xxx

SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner."

To prove compliance with the VAT invoicing requirements under the aforementioned law and regulations, petitioner submitted various SIs 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*,[65] as follows: N

[65] Annex A, Exhibit "P-42-2", Docket – Vol. 3, pp. 1466 to 1467.

Name of Customer	SI			Exhibit
	No.	Date	Amount	
Coral Bay Nickel Corporation	0900	October 12, 2015	₱ 400,000.00	"P-934"
Coral Bay Nickel Corporation	0907	October 21, 2015	27,890.80	"P-940"
Coral Bay Nickel Corporation	1002	October 26, 2015	37,029.30	"P-941"
Coral Bay Nickel Corporation	1003	October 26, 2015	24,045.00	"P-942"
Coral Bay Nickel Corporation	1013	October 29, 2015	184,368.00	"P-946"
Coral Bay Nickel Corporation	1039	December 1, 2015	102,111.10	"P-963"
Coral Bay Nickel Corporation	1050	December 18, 2015	44,625.28	"P-973"
Coral Bay Nickel Corporation	1052	December 19, 2015	100,128.00	"P-974"
Taganito Hpal Nickel Corporation	0825	August 28, 2015	840,000.00	"P-912"
Taganito Hpal Nickel Corporation	0848	September 14, 2015	1,538,311.93	"P-913"
Taganito Hpal Nickel Corporation	0850	September 14, 2015	1,150,000.00	"P-914"
Taganito Hpal Nickel Corporation	0875	October 12, 2015	1,477,292.73	"P-918"
Taganito Hpal Nickel Corporation	0884	October 19, 2015	1,352,376.25	"P-924"
Taganito Hpal Nickel Corporation	0891	October 15, 2015	814,514.00	"P-929"
Taganito Hpal Nickel Corporation	0892 to 0895	October 13, 2015	3,212,318.00	"P-930" to "P-930-C"
Taganito Hpal Nickel Corporation	1030	November 23, 2015	587,682.00	"P-956"
Taganito Hpal Nickel Corporation	BS 0008	November 5, 2015	1,900,000.00	"P-975"
TOTAL			**₱13,792,692.39**	

Upon examination of the submitted sales invoices in support of petitioner's sales of goods and services to PEZA-registered entities, the amount of ₱11,470,298.91, as detailed below, shall be denied VAT zero-rating due to the following reasons:

Name of Customer	SI			Exhibit
	No.	Date	Amount	
Sales of services not supported by VAT OR; SI dated prior to period of claim				
Taganito Hpal Nickel Corporation	0825	August 28, 2015	₱ 840,000.00	"P-912"
Taganito Hpal Nickel Corporation	0848	September 14, 2015	1,538,311.93	"P-913"
Taganito Hpal Nickel Corporation	0850	September 14, 2015	1,150,000.00	"P-914"
Sale of goods/services supported by unreadable SIs				
Taganito Hpal Nickel Corporation	0892-0895	October 13, 2015	3,212,318.00	"P-930" to "P-930 C"
Sale of services not supported by VAT OR				

N

Taganito Hpal Nickel Corporation	0875	October 12, 2015	1,477,292.73	"P-918"
Taganito Hpal Nickel Corporation	0884	October 19, 2015	1,352,376.25	"P-924"
Taganito Hpal Nickel Corporation	BS 0008	November 5, 2015	1,900,000.00	"P-975"
Total Zero-rated Sales Not Properly Substantiated			**₱11,470,298.91**	

Thus, out of the zero-rated sales to PEZA-registered entities in the total amount of ₱13,792,692.39, only the amount of ₱2,322,393.48,[66] qualify for VAT zero-rating pursuant to Section 106(A)(2)(a)(5) of the 1997 NIRC, in relation to Sec. 4.106-5(c) of RR No. 16-2005.

C. Sales to NRFC.

Petitioner states that for sales to NRFC, one of the requirements to qualify as zero-rated sale is that the payments by or collections from these NRFC pertaining to the sale should be made in foreign currency.[67]

Pertinent to the determination of whether the sale of services to NRFC qualify for VAT zero-rating, Section 108(B)(2) of the NIRC of 1997, as amended, states:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);"

[66] ₱13,792,692.39 less ₱11,470,298.91.
[67] No. 15, Exhibit "P-42", Docket – Vol. 3, p. 1233.

Based on the foregoing provision, certain essential elements must be present in order for a sale or supply of services to be subject to VAT rate of 0% under Section 108(B)(2) of the NIRC of 1997, as amended, to wit:

1. The recipient of the services is a foreign corporation, and the said corporation is doing business outside the Philippines, or is a nonresident person not engaged in business who is outside the Philippines when the services were performed;[68]

2. The services fall under any of the categories under Section 108(B)(2),[69] or simply, the services rendered should be other than "processing, manufacturing or repacking goods";[70]

3. The services must be performed in the Philippines[71] by a VAT-registered person; and

4. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.[72]

Relative to the *first* essential element, to prove that its clients are NRFC for purposes of VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended, petitioner must establish that: (1) the client was established under the laws of a foreign country; and, (2) it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these requirements to establish that the clients are foreign corporations AND are not doing business in the Philippines.[73]

Thus, petitioner must submit for each NRFC client, at the very least, **both**: (1) the SEC Certificate of Non-Registration of Corporation/Partnership; **and** (2) Proof of Certificate/Articles of Foreign Incorporation/Association showing the state/province/country where the entity was organized.[74]

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[68] *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 190102, July 11,2012.

[69] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.

[70] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra.

[71] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[72] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[73] *Commissioner of Internal Revenue vs. Deutsche Knowledge Services Pte. Ltd.*, G.R. No. 234445, July 15, 2020.

[74] *Id.*

The SEC Certificate of Non-Registration shows that the foreign client is not engaged in trade or business in the Philippines. On the other hand, the Certificate/Articles of Foreign Incorporation/Association proves that the client was established under the laws of a foreign country. Together, these two (2) documents prove the two (2) conditions necessary to establish the NRFC status of a client.

Upon review of the records, it is shown that petitioner failed to present the two (2) required documents to prove the NRFC status of its foreign clients. Thus, petitioner failed to comply with the *first* essential element.

With regard to the *second* essential element, no evidence was presented by petitioner to prove that the services it rendered fall under any of the categories under Section 108(B)(2). As such, petitioner failed to comply with the *second* essential element as it was not able to establish that the services it provided to its clients are not in the same category as *"processing, manufacturing or repacking of goods"*.

Neither did petitioner show proof that the purported services rendered were performed in the Philippines. As such, the *third* essential element was also not complied with.

As regards the *fourth* essential element, petitioner presented bank statements from HSBC, payment advice and an email[75] purportedly showing the foreign currency remittances of its clients to petitioner.

Section 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A)(2), (B)(1) and (2)(c) of RR No. 16-2005, provides that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties and for every sale, barter or exchange of services, issue BIR-registered VAT official receipt. Pursuant thereto, the foreign currency payments referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must be supported by BIR-registered VAT zero-rated official receipts.

In the instant case, the alleged sales of services to NRFC were either supported by VAT zero-rated OR, but dated outside the period of claim, or not supported by VAT zero-rated ORs in violation with Section 113(A)(2) of the NIRC of 1997, as amended, in relation to Section 4.113-1(A)(2) of RR No. 16-2005. As such, it cannot be verified whether the purported foreign currency remittances actually pertain to the alleged zero-rated sales of services. Thus, petitioner, likewise, failed to comply with the *fourth* essential element that the

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[75] Exhibits "P-1085" to "P-1087".

services were paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

Considering the foregoing, petitioner fell short of establishing that the amount of ₱170,091.17 declared sales of services to NRFC[76] for the 4th quarter of 2015, as detailed below, qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended:

Name of Customer	Reference	Date	Amount	Exhibit
Evonik Methionine Sea Pty Ltd.	SI No. 0883	October 13, 2015	₱ 122,008.10	"P-923"
Tip Top Japan Inc.	SI No. 1038	December 1, 2015	3,100.35	"P-962"
Veolia Water Technologies Deutschland	OR No. 1012	January 18, 2016	44,982.72	"P-977"
		TOTAL	**₱170,091.17**	

D. Net gain on the exchange of a transportation equipment

The ICPA's verification disclosed that the alleged zero-rated sale in the amount of ₱540,366.16 pertains to the net gain on the exchange of a transportation equipment with Mr. Joseph Antonio Tomas Cruz.[77]

As correctly pointed out by the ICPA, the nature of the sale or exchange transaction in the amount of ₱540,366.16 does not qualify as a zero-rated sale.[78]

In sum, out of the total reported zero-rated sales of ₱14,548,005.68, only the sales of goods to PEZA-registered entities in the amount of ₱2,322,393.48, as computed below, qualify for VAT zero-rating for the 4th quarter of taxable year 2015:

Zero-rated Sales	Per Return	Disallowance	Valid Zero-Rated Sales
Sales to BOI-registered entity	₱ 44,855.96	₱ 44,855.96	₱ -
Sales to PEZA-registered entities	13,792,692.39	11,470,298.91	2,322,393.48
Sales to NRFC	170,091.17	170,091.17	-
Net gain on the exchange of a transportation equipment	540,366.16	540,366.16	-
Total	**₱14,548,005.68**	**₱12,225,612.20**	**₱2,322,393.48**

Thus, for purposes of the *fourth* requisite, the Court finds that petitioner had VAT zero-rated sales, but only in the said amount of ₱2,322,393.48 for the 4th quarter of taxable year 2015.

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[76] Table IX of No. 14, Exhibit "P-42", Docket – Vol. 3, p. 1233.
[77] No. 17, Exhibit "P-42", Docket – Vol. 3, p. 1234; Exhibits "P-978" to "P-978-C".
[78] No. 18, Exhibit "P-42", Docket – Vol. 3, p. 1234.

As for the *fifth* requisite, which is to the effect that petitioner must prove that the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations under **Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2)**, all of the NIRC of 1997, as amended, since the legal basis for petitioner's zero-rated sales of ₱2,322,393.48 is **Section 106(A)(2)(a)(5)** of the NIRC of 1997, as amended, the instant case need not comply with the said *fifth* requisite. In this connection, while petitioner alleges that it has sales of services to certain NRFC, the Court need **not** determine whether there was compliance with the same *fifth* requisite, since it was not duly proven, as above shown, that the said sales of services qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

Having found that petitioner had valid zero-rated sales *only* in the total amount of ₱2,322,393.48 for the subject period of claim, the Court shall proceed to determine whether petitioner complied with the following remaining requisites:

a. <u>sixth requisite</u>: the input taxes are not transitional input taxes;
b. <u>seventh requisite</u>: the input taxes are due or paid;
c. <u>eighth requisite</u>: 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 attributed to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and
d. <u>ninth requisite</u>: the input taxes have not been applied against output taxes during and in the succeeding quarters.

The input VAT being claimed do not appear to be transitional input taxes

The claimed input taxes do *not* appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended, to wit:

"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 acquisitions 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.[79] Since there is no showing that the claimed input taxes are transitional input taxes, petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

Not all of the input VAT being claimed are due or paid.

The *seventh* requisite for the successful prosecution of an input VAT refund claim is to the effect that the input VAT being refunded should be due or paid. The fulfillment of this requisite is fully dependent on the compliance with the invoicing and substantiation requirements under the law, as earlier quoted.

Petitioner submitted various invoices, ORs and importation documents[80] to support the payment of input taxes. Said documents were examined by the ICPA in order to verify petitioner's compliance with the said substantiation and invoicing requirements.

For the 4th quarter of taxable year 2015, petitioner claims a total amount of ₱1,574,758.55 allowable input VAT arising from its domestic purchases and importation of goods other than capital goods, and domestic purchases of services. Summarized below are petitioner's domestic purchases and importation of goods other than capital goods and domestic purchases of services in the total amount of ₱13,122,987.83, and the corresponding input taxes, for the 4th quarter of taxable year 2015 in the total amount of ₱1,574,758.55:

	Amount of Purchases and Importations	**Amount of Input VAT**
Domestic Purchases of Goods Other than Capital Goods (Line 21E/F)	₱ 88,373.65	₱ 10,604.84
Importation of Goods Other than Capital Goods (Line 21G/H)	882,569.15	105,908.30
Domestic Purchase of Services (Line 21I/J)	671,889.72	80,626.77

[79] *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 158885 and 170680, April 2, 2008.
[80] Exhibits "P-100" to "P-880" and submarkings.

Others (Line 21 N/O)	11,480,155.31	1,377,618.64[81]
Total	**₱13,122,987.83**	**₱1,574,758.55**

Petitioner claims that out of the total domestic purchases and importation of goods other than capital goods, and domestic purchases of services in the total amount of ₱13,122,987.83, with corresponding input VAT in the amount of ₱1,574,758.55, domestic purchases and importations as reflected in "Others (Line 21 N/0)" of the Quarterly VAT Return for the 4th quarter of taxable year 2015 in the total amount of ₱11,480,155.31, with corresponding input VAT amount of ₱1,377,618.64 should be granted for refund.

Domestic purchases and importation of goods other than capital goods, and domestic purchase of services in the total amount of ₱11,480,155.31, with corresponding input VAT of ₱1,377,618.64 as reported in "Others (Line 21 N/0)" in the Quarterly VAT Return for the 4th quarter of taxable year 2015 was determined by petitioner[82] to be composed of purchases **directly attributable** to zero-rated sales, and purchases **allocable** to zero-rated sales, as follows:

4th Quarter of 2015	Purchases	Input VAT
Allocated to Zero-Rated Sales	₱11,244,780.48	₱1,349,373.66
Directly Attributable to Zero-Rated Sales	235,374.83	28,244.98
Total attributable or allocated to Zero-Rated Sales	**₱11,480,155.31**	**₱1,377,618.64**

However, upon verification by the Court, it is found that petitioner failed to prove that certain domestic purchases and importation of goods other than capital goods, and domestic purchase of services in the total amount of ₱235,374.83, with corresponding input VAT amount of ₱28,244.98, were "*directly attributable*" to zero-rated sales made during the 4th quarter of taxable year 2015. Thus, the Court is constrained to consider the whole amount of ₱13,122,987.83 as petitioner's total domestic purchases and importation of goods other than capital goods, and domestic purchase of services, with corresponding input VAT amount of ₱1,574,758.55, subject to proportional allocation between VATable, VAT-exempt and VAT zero-rated sales pursuant to Section 112(A) of the NIRC of 1997, as amended, as will be determined momentarily.

Of the total amount of ₱1,574,758.55 input VAT arising from domestic purchases and importation of goods other than capital goods, and domestic purchases of services subject to allocation, the ICPA was only able to vouch input VAT in the amount of ₱1,556,546.94, as shown below:

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[81] No figures reported in the Quarterly VAT Return for the 4th quarter of TY 2015. Amounts were computed by the undersigned.

[82] Paragraphs 17 and 18, *Petition for Review*, Docket – Vol. 1, pp. 18 to 19.

Input VAT on vouched purchases	₱ 375,410.94[83]
Input VAT on importations	1,181,136.00[84]
Total vouched input VAT on purchases and importations by the ICPA	₱1,556,546.94
Less: Reported input VAT on domestic purchases and importations	1,574,758.55
Unaccounted input VAT	₱ 18,211.61

Therefore, the unaccounted input VAT amounting to ₱18,211.61, which were not supported with VAT ORs or invoices, shall be disallowed for failure to substantiate the same.

As per ICPA's Schedules of Vouched Purchases[85] and Importations[86], out of the ₱1,556,546.94 total vouched purchases and importations, the input VAT in the amount of ₱33,546.05 shall be disallowed for failure to meet the invoicing requirements under Sections 110(A), 113(A) and (B), and 237 of the NIRC of 1997, 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 by the Court as follows:

Exhibit	Date[87]	Payee	Amount of Purchases/ Importations	Amount of input VAT
I. Input VAT on domestic Purchases of Goods and Services				
1. Supported by out of period OR, collection receipts, cash slip or service invoice				
"P-728"	09/23/2015	KIMLY MERCHANDISING	₱ 223.25	₱ 26.79
"P-729"	09/26/2015	METRO SURIGAO SHOPPING CENTER	6,014.00	721.68
"P-246"	09/30/2015	KIMLY MERCHANDISING	107.17	12.86
"P-256"	09/28/2015	PHILIPPINE PORTS AUTHORITY	10.67	1.28
"P-103"	07/18/2015	GAC PHILIPPINES INC	20,108.67	2,413.04
		Subtotal	***₱26,463.76***	***₱ 3,175.65***
2. Supported by undated SIs or parking ticket				
"P-798"	NO DATE	SANFORD MARKETING CORPORATION	₱ 442.42	₱ 53.09
"P-358"	NO DATE	KIMHEE REALTY CORPORATION	8.92	1.07
"P-370"	NO DATE	KIMHEE REALTY CORPORATION	8.92	1.07
"P-871"[88]	NO DATE	PETRON	66.09	7.93
"P-458"	NO DATE	CEBU PORT AUTHORITY	8.92	1.07
"P-371"	NO DATE	GOODHOPE HARDWARE	435.75	52.29
		Subtotal	***₱ 971.02***	***₱ 116.52***
3. Supported by documents other than SI or OR				
"P-632"	10/26/2015	RN GASOLINE SERVICE STATION	₱ 133.92	₱ 16.07
"P-287"	10/08/2015	TETRA SALES AND SERVICES INC	17,155.83	2,058.70
"P-320"	10/10/2015	PHIL SPAN ASIA CARRIER CORP	514.17	61.70
"P-247"	10/06/2015	KIMLY MERCHANDISING	2,227.67	267.32

[83] Total "AMOUNT OF INPUT" Column, Annex C, Exhibit "P-42-4", Docket – Vol. 3, p. 1477.
[84] Total "INPUT VAT AMOUNT" Column, Annex D, Exhibit "P-42-5", Docket – Vol. 3, p. 1478.
[85] Annex C, Exhibit "P-42-4", Docket – Vol. 3, pp. 1471 to 1477.
[86] Annex D, Exhibit "P-42-5", Docket – Vol. 3, p. 1478.
[87] Expressed in month/day/year.
[88] Actual exhibit pertains to a different transaction.

"P-321"	10/02/2015	METRO SURIGAO SHOPPING CENTER INC	7,910.92	949.31
"P-857" to "P-857-C"	10/03/2015	SMART COMMUNICATIONS INC	2,043.16	245.18
"P-858" to "P-858-H"	10/03/2015	SMART COMMUNICATIONS INC	4,807.00	576.84
"P-869" to "P-869-C"	10/03/2015	SMART COMMUNICATIONS INC	4,978.33	597.40
"P-860" to "P-860-B"	10/03/2015	SMART COMMUNICATIONS INC	1,071.43	128.57
"P-611"	11/20/2015	D' MOTORISTS PITSTOP, INC.	1,325.58	159.07
"P-619"	11/05/2015	D MICHAEL CO INDUSTRIAL SUPPLY CORP.	1,660.75	199.29
"P-851"	11/18/2015	ZEUGINY ENTERPRISES INC	67.83	8.14
"P-510"	11/23/2015	DIDIPIO COMMUNITY DEVELOPMENT CORPORATION	1,607.17	192.86
"P-854"	11/12/2015	PLDT	30,288.58	3,634.63
"P-861" to "P-861-C"	11/02/2015	SMART COMMUNICATIONS INC	4,464.29	535.71
"P-862" to "P-862-B"	11/02/2015	SMART COMMUNICATIONS INC	714.29	85.71
"P-863"	11/02/2015	SMART COMMUNICATIONS INC	1,718.60	206.23
"P-864"	11/02/2015	SMART COMMUNICATIONS INC	4,978.33	597.40
"P-865"	11/02/2015	SMART COMMUNICATIONS INC	4,945.98	593.52
"P-866"	11/02/2015	SMART COMMUNICATIONS INC	4,464.29	535.71
"P-612"	12/01/2015	RN GASOLINE SERVICE STATION	1,228.42	147.41
		Subtotal	***₱98,306.54***	***₱11,796.77***
4. Supported by SI with stamped "This document is not valid for claiming input taxes."				
"P-211"	10/06/2015	ISIDRA C. OTARA	₱ 223.25	₱ 26.79
"P-537"	11/16/2015	CG & E SHELL SELECT CONVENIENCE STORE	101.75	12.21
		Subtotal	***₱ 325.00***	***₱ 39.00***
5. Supported by photocopy documents only				
"P-172"/ "P-172-A"	10/23/2015	METRO SURIGAO SHOPPING CENTER INC	₱ 5,970.33	₱ 716.44
"P-606"	11/16/2015	TOYOTA SHAW INC	2,592.83	311.14
"P-669"/ "P-669-A"	11/20/2015	METRO SURIGAO SHOPPING CENTER, INC.	8,660.49	1,039.26
"P-680"	11/05/2015	METRO SURIGAO SHOPPING CENTER, INC.	584.83	70.18
"P-681"/ "P-681-A"	11/05/2015	METRO SURIGAO SHOPPING CENTER, INC.	8,266.67	992.00
"P-693"/ "P-693-A"	11/13/2015	METRO SURIGAO SHOPPING CENTER, INC.	6,051.75	726.21
"P-694"	11/04/2015	THE BELLEVUE MANILA	12,053.58	1,446.43
"P-342"/ "P-342-A"	12/12/2015	METRO SURIGAO SHOPPING CENTER	6,612.92	793.55
"P-351"/ "P-351-A"	12/18/2015	METRO SURIGAO SHOPPING CENTER	6,702.17	804.26
"P-350"/ "P-350-A"	12/04/2015	METRO SURIGAO SHOPPING CENTER	7,150.33	858.04
"P-469"	12/05/2015	TOYOTA MANDAUE	780.00	93.60
"P-474"	12/18/2015	UY & DE GUZMAN LAW OFFICE	40,000.00	4,800.00
		Subtotal	***₱105,425.90***	***₱12,651.11***
6. VAT-exempt transactions				
"P-631"	10/23/2015	CCG GRAPHIC DESIGN STUDIO	₱ 55.00	₱ -
"P-766"	10/19/2015	TOP SPRING PURIFIED DRINKING WATER & DIST SERVICES	200.00	-
"P-792"	10/22/2015	TOP SPRING PURIFIED DRINKING WATER & DIST SERVICES	400.00	-

"P-296"	10/21/2015	SAGUISA'S EATERY	120.00	-
"P-120"	10/17/2015	SURIGAO LOCKSMITH	80.00	-
"P-212"	10/15/2015	INQUIRER PUBLICATIONS INC	488.00	-
"P-161"	10/02/2015	KIMPIT DEPO ICE AND WATER STATION	70.00	-
"P-165"	10/23/2015	JJK STORE	135.00	-
"P-563"	11/04/2015	MS FOOD GALLERY	90.00	-
"P-569"	11/04/2015	TOP SPRING PURIFIED DRINKING WATER & DIST SERVICES	400.00	-
"P-638"	11/09/2015	TOP SPRING PURIFIED DRINKING WATER & DIST SERVICES	235.00	-
"P-587"	11/26/2015	TOP SPRING PURIFIED DRINKING WATER & DIST SERVICES	170.00	-
"P-553"	11/16/2015	LUCKY G.M.A. ENTERPRISE	125.00	-
"P-507"	11/17/2015	JHESS AND KHATE ELECTRONICS REPAIR SHOP	140.00	-
"P-658"	11/21/2015	GOODWILL SUBDIVISION 3 HOMEOWNER'S ASSOCIATION, INC.	100.00	-
"P-540"	11/20/2015	KAIL HUGO CAFÉ BOHEMIAN	2,289.00	-
"P-521"	11/21/2015	ASIALINK AUTO SUPPLY	450.00	-
"P-665"	11/24/2015	TAGANITO BAKEHAUZ & GENERAL MERCHANDISE	275.00	-
"P-675"	11/13/2015	MS FOOD GALLERY	205.00	-
"P-708"	11/13/2015	GOODWILL SUBDIVISION 3 HOMEOWNER'S ASSOCIATION, INC.	70.00	-
"P-401"	12/31/2015	SEBY'S ENTERPRISES	350.00	-
"P-448"	12/13/2015	NEW DAYWAN RICE MILL & BASIC FARM PRODUCTS	6,000.00	-
"P-334"	12/19/2015	CHROMIUM DRUG	100.00	-
"P-338"	12/12/2015	JV BULALO & CALDERITA SPECIALTY	740.00	-
"P-344"	12/18/2015	MS FOOD GALLERY	325.00	-
"P-347"	12/08/2015	ENDEE GENERAL MERCHANDISE	426.00	-
"P-354"	12/04/2015	JV BULALO & CALDERITA SPECIALTY	440.00	-
"P-424"	12/01/2015	TOP SPRING PURIFIED DRINKING WATER	335.00	-
"P-475"	12/01/2015	FLOR'S MERCHANDISING	2,300.00	-
"P-425"	12/03/2015	SAVEMORE	540.00	-
"P-365"	12/07/2015	TOP SPRING PURIFIED DRINKING WATER	270.00	-
"P-456"	12/09/2015	TOP SPRING PURIFIED DRINKING WATER	300.00	-
"P-216"	10/08/2015	SANFORD MARKETING CORP	540.00	-
"P-241"	10/14/2015	SANFORD MARKETING CORP	2,825.00	-
"P-467"	12/03/2015	TNT EXPRESS WORLDWIDE	9,600.00	-
"P-439"	12/16/2015	SAVEMORE	540.00	-
"P-414"	12/14/2015	PURIFIED DRINKING	350.00	-
"P-405"	12/03/2015	ANJA GOTOHAN	565.00	-
"P-105"	09/23/2015	BASTIS GRILL AND SEAFOOD RESTAURANT	689.00	-
"P-232"	09/23/2015	SANFORD MARKETING CORP	180.00	-
"P-233"	09/23/2015	SANFORD MARKETING CORP	644.26	-
		Subtotal	***₱ 34,156.26***	***₱ -***
Total-Domestic Purchases of Goods and Services			**₱265,648.48**[89]	**₱ 27,779.05**

[89] Net Amount of Purchases – Not Valid to Claim Input VAT of ₱265,648.44 per Annex C, Exhibit "P-42-4", Docket – Vol. 3, p. 1477; ₱0.04 rounding-off difference.

II. Input VAT on Importations				
1. Supported by photocopy of Informal Import Declaration and Entry/BOC Form No. 38-AT				
"P-877" to "P-877-E"	12/03/2015	HIDROS S P A	₱ 48,058.33	₱ 5,767.00
Total-Importations			**₱48,058.33[90]**	**₱ 5,767.00**
TOTAL			**₱ 313,706.81**	**₱ 33,546.05**

In addition to the above disallowances, the input VAT in the amount of ₱1,290,986.71 shall, likewise, be disallowed for failure to meet the substantiation and invoicing requirements under the aforementioned VAT law and regulations, to wit:

Payee	Reference	Date[91]	Amount of Input VAT	Exhibit
I. Input VAT on Domestic Purchases of Goods and Services				
1. Supported by VAT Invoice/OR wherein the VAT amount is not separately/properly indicated				
QUADRO CORNELIO FOOD VENTURES	1367	08-Oct-15	₱ 39.64	"P-215"
ESPRUTINGKLE GAS AND SERVICE INC	33251	21-Oct-15	202.88	"P-785"
PARKWAY	21550	30-Oct-15	159.19	"P-483"
XENTRIX SOLUTIONS INC	85593	22-Oct-15	1,817.14	"P-308"/ "P-308-A"
CEAL OASIS DEVELOPMENT CORP.	50345	06-Oct-15	101.79	"P-193"
ONE AND ONLY MARKETING	0048	11-Oct-15	48.64	"P-261"
IRON CITY CALTEX	04261	25-Oct-15	187.50	"P-164"
IRON CITY CALTEX	04221	23-Oct-15	186.42	"P-166"
IRON CITY CALTEX	03807	11-Oct-15	182.14	"P-167"
IRON CITY CALTEX	3946	14-Oct-15	189.99	"P-168"
ESPRUTINGKLE GAS AND SERVICE INC	45271	12-Oct-15	10.71	"P-270"
PIPELINE ENTERPRISES	120702	12-Oct-15	18.43	"P-271"
ESPRUTINGKLE GAS AND SERVICE INC	45436	09-Oct-15	205.31	"P-186"
QUADRO CORNELIO FOOD VENTURES	01332	08-Oct-15	17.68	"P-279"
QUADRO CORNELIO FOOD VENTURES	01345	02-Oct-15	59.46	"P-220"
MANDAUE STAR OIL GASOLINE STATION & CONVENIENCE STORE	43121	04-Nov-15	67.50	"P-568"
TYTANS PROPERTIES AND DEVELOPMENT INC.	3550	04-Nov-15	160.71	"P-570"
ESPRUTINGKLE GAS & SERVICE INC.	48459	05-Nov-15	201.01	"P-623"
MCDONALD'S - GOLDEN ARCHES DEVELOPMENT CORPORATION	049711	10-Nov-15	57.00	"P-522"
PYEZA PARTS DEPOT INC.	275515	07-Nov-15	6.43	"P-589"
ESPRUTINGKLE GAS & SERVICE INC.	43305	11-Nov-15	10.29	"P-634"
CHOOKS TO GO	1895008	15-Nov-15	37.50	"P-635"
JETT CONSTRUCTION AND ELECTRICAL	83379	27-Nov-15	151.23	"P-558"
ESPRUTINGKLE GAS & SERVICE INC.	32648	28-Nov-15	107.14	"P-645"
ESPRUTINGKLE GAS & SERVICE INC.	47146	18-Nov-15	10.71	"P-648"

[90] Net Amount of Importations – Not Valid to Claim Input VAT of ₱48,058.33 per Annex D, Exhibit "P-42-5", Docket – Vol. 3, p. 1478.
[91] Expressed in day-month-year.

CONSOLIDATED GLOBAL IMPORTS, INC.	0595	26-Nov-15	96.43	"P-654"
MSD GODSPEED EXHIBITS CORP.	6026	18-Nov-15	72.00	"P-595"
THE HOTEL ANDREA	7780	24-Nov-15	112.50	"P-604"
THE HOTEL ANDREA	11915	25-Nov-15	79.50	"P-605"
OPTIMUS SHELL SERVICE CORPORATION	22348	10-Nov-15	10.71	"P-579"
IRON CITY CALTEX STATION	5230	22-Nov-15	215.16	"P-545"
HONEYLEMON FOODS INC.	9583	22-Nov-15	10.61	"P-544"
PARK WAY	21687	20-Nov-15	187.04	"P-666"
IRON CITY CALTEX STATION	05512	27-Nov-15	124.29	"P-575"
PARK WAY	21763	27-Nov-15	135.65	"P-671"
PARK WAY	21583	05-Nov-15	67.78	"P-683"
IRON CITY CALTEX STATION	4995	16-Nov-15	119.44	"P-548"
PARK WAY	21658	13-Nov-15	150.43	"P-692"
IRON CITY CALTEX STATION	06568	21-Dec-15	107.14	"P-325"
HONEYLEMON FOODS INC	9881	26-Dec-15	10.28	"P-420"
ROSE BAKESHOP	00383	24-Dec-15	20.36	"P-329"
NEW FAMILY DRUG AND GENERAL MERCHANDISE	628320	12-Dec-15	670.18	"P-450"
IRON CITY CALTEX STATION	06254	15-Dec-15	138.21	"P-418"
PARKWAY	21869	17-Dec-15	131.79	"P-332"
IRON CITY CALTEX STATION	06426	17-Dec-15	123.00	"P-333"
IRON CITY CALTEX STATION	00205	19-Dec-15	138.21	"P-335"
NICKEL SALES CENTER	None	12-Dec-15	19.07	"P-337"
IRON CITY CALTEX STATION	None	12-Dec-15	136.93	"P-339"
PARKWAY	22882	12-Dec-15	533.38	"P-340"
PARKWAY	22883	12-Dec-15	198.80	"P-341"
PARKWAY	21881	18-Dec-15	53.68	"P-343"
NEW FAMILY DRUG AND GENERAL MERCHANDISE	621599	04-Dec-15	599.57	"P-451"
IRON CITY CALTEX STATION	05902	05-Dec-15	253.61	"P-345"
IRON CITY CALTEX STATION	05901	05-Dec-15	133.29	"P-346"
IRON CITY CALTEX STATION	05476	09-Dec-15	133.71	"P-348"
IRON CITY CALTEX STATION	05819	03-Dec-15	125.92	"P-352"
PARKWAY	22868	04-Dec-15	561.33	"P-452"
TYTANS PROPERTIES AND DEVELOPMENT	4160	18-Dec-15	42.86	"P-472"
TYTANS PROPERTIES AND DEVELOPMENT	4061	18-Dec-15	176.79	"P-471"
TYTANS PROPERTIES AND DEVELOPMENT	4159	18-Dec-15	37.50	"P-473"
CEBU'S ORIGINAL LECHON BELLY	33579	19-Dec-15	37.50	"P-356"
MJM FILOIL	11230	15-Dec-15	12.32	"P-441"
ESPRUTINGKLE GAS AND SERVICE INC	47719	02-Dec-15	1,043.36	"P-361"
TNT EXPRESS WORLDWIDE	070340	03-Dec-15	310.24	"P-466"
MOREDONE VENTURES	004182	05-Dec-15	637.50	"P-444"
ESPRUTINGKLE GAS AND SERVICE INC	47957	07-Dec-15	202.50	"P-366"
COKALIONG SHIPPING	236850	10-Dec-15	56.25	"P-403"
SKY PACIFIC CATV	430161A	14-Dec-15	133.61	"P-455"
MANDAUE STAR	44893	16-Dec-15	74.36	"P-440"
ESPRUTINGKLE GAS AND SERVICE INC	31111	16-Dec-15	129.64	"P-374"
AEROPHONE	016726	17-Dec-15	107.14	"P-399"
1370 FOODS INC	1417	18-Dec-15	62.68	"P-379"
K AND S HOTEL	16274A	18-Dec-15	176.78	"P-429"
MCDONALDS CEBU	0011221	11-Dec-15	22.50	"P-411"
LAFAYETE, INC	00114	09-Dec-15	21.86	"P-388"
LM GRILL CEBU	3371	11-Dec-15	62.68	"P-389"
KNOXPORT INC	12216	08-Dec-15	10.61	"P-390"
MCDONALDS CEBU	054224	11-Dec-15	32.79	"P-413"
JONAS FOOD CORPORATION	16269	10-Dec-15	10.61	"P-428"
STA. LUCIA EAST SUPERMARKET	175987	10-Dec-15	166.35	"P-465"
MR. KIMBOB CO	4248	11-Dec-15	10.61	"P-445"
MAJOR SHOPPING MANAGEMENT CORP	025800	16-Dec-15	214.29	"P-438"
MCDONALDS CEBU	0120533	03-Dec-15	33.00	"P-416"
CITY CHIX INCORPORATED	11186A	04-Dec-15	30.00	"P-406"
Subtotal			***₱ 13,562.77***	

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2. Supported by VAT Invoice/OR wherein TIN and or address are not indicated, incomplete or unreadable				
CEBU BELMONT INC	00011435	21-Oct-15	₱ 554.19	"P-790"
ACE HARDWARE PHILIPPINES INC	49288	09-Oct-15	7.45	"P-130"
LBC EXPRESS	44027	02-Oct-15	19.82	"P-177"
LBC EXPRESS	20486	06-Oct-15	15.54	"P-181"
LBC EXPRESS	10917	11-Oct-15	19.82	"P-178"
LBC EXPRESS	187034	16-Oct-15	19.29	"P-173"
LBC EXPRESS	033579	16-Oct-15	16.07	"P-856"
LBC EXPRESS	85973	09-Oct-15	15.54	"P-182"
SMART COMMUNICATIONS INC	0196408273	03-Oct-15	535.71	"P-859" to "P-859B"
LBC EXPRESS	21937	14-Oct-15	12.32	"P-846"
LBC EXPRESS, INC.	45097	04-Nov-15	16.07	"P-616"
LBC EXPRESS, INC.	153262	03-Nov-15	19.82	"P-622"
CONCORDE CAR ACCESSORIES	2006395	17-Nov-15	14.97	"P-513"
LBC EXPRESS, INC.	153926	09-Nov-15	19.82	"P-637"
SILICON VALLEY COMPUTER GROUP PHILS., INC.	00141	16-Nov-15	373.93	"P-641"
LBC EXPRESS, INC.	155143	21-Nov-15	17.14	"P-642"
LBC EXPRESS, INC.	155349	23-Nov-15	16.07	"P-643"
LBC EXPRESS, INC.	155748	27-Nov-15	16.07	"P-557"
LBC EXPRESS, INC.	15590	24-Nov-15	19.82	"P-668"
LBC EXPRESS, INC.	45410	15-Nov-15	16.07	"P-685"
PLDT	287920655	12-Nov-15	364.83	"P-484"
LBC EXPRESS, INC.	28788	11-Nov-15	12.32	"P-714"
SMART COMMUNICATIONS INC	0192251871	02-Nov-15	497.03	"P-867"
SMART COMMUNICATIONS INC	0194274790	02-Nov-15	116.13	"P-868"
LBC EXPRESS, INC	46231	21-Dec-15	19.82	"P-324"
CABADBARAN SHELL SERVICE STATION	048795	29-Dec-15	105.31	"P-400"
LBC EXPRESS, INC	11506	15-Dec-15	19.82	"P-431"
LBC EXPRESS, INC	11213	08-Dec-15	16.07	"P-432"
LBC EXPRESS, INC	45882	04-Dec-15	19.82	"P-433"
LBC EXPRESS, INC	157868	17-Dec-15	19.82	"P-434"
LBC EXPRESS, INC	156339	03-Dec-15	19.82	"P-435"
LBC EXPRESS, INC	43414	14-Dec-15	74.89	"P-437"
CEBU AIR INC	3741318	10-Dec-15	175.45	"P-402"
FIRST ASIA REALTY	0012337	11-Dec-15	5.36	"P-446"
PLDT	0291690616	10-Dec-15	364.83	"P-609"
Subtotal			***₱ 3,576.85***	
3. Supported by out of period SI, OR or collection receipt				
D MICHAEL CO INDUSTRIAL SUPPLY CORP.	1999	01-Sep-15	₱18,970.71	"P-515"/ "P-515-A"
GOODHOPE HARDWARE	32791	02-Sep-15	184.29	"P-853"
GOODHOPE HARDWARE	33311	11-Sep-15	110.68	"P-721"
SYT GLASS CENTER INC	4964	18-Sep-15	1,429.20	"P-723"
CEBU MMF GLASS AND ALUMINUM SUPPLY	23480	14-Sep-15	925.99	"P-724"
JASPER GLASS & BUILDERS CORP	11662	16-Sep-15	22.30	"P-725"
ATLANTIC HARDWARE	9247	21-Sep-15	402.15	"P-852"
PUREGOLD PRICE CLUB, INC.	31170	29-Sep-15	226.36	"P-727"
IRON CITY CALTEX STATION	3312	25-Sep-15	186.50	"P-730"
JASPER GLASS & BUILDERS CORP	11661	16-Sep-15	1,296.20	"P-731"
ASYA GLASS PHILIPPINES	20165A	26-Sep-15	66.43	"P-732"
SANFORD MARKETING CORPORATION	12623	23-Sep-15	16.87	"P-733"
SANFORD MARKETING CORPORATION	12651	24-Sep-15	93.46	"P-734"
SANFORD MARKETING CORPORATION	13011	15-Sep-15	11.22	"P-735"
SOUTHERN STAR ALUMINIM	7431	25-Sep-15	9,642.86	"P-737"
GOODHOPE HARDWARE	34024	26-Sep-15	171.43	"P-739"
SANFORD MARKETING CORPORATION	13017	27-Sep-15	24.75	"P-741"
D'EXCEL INTERNATIONAL FORWARDER INC	0161	10-Sep-14	2,887.76	"P-745"
U FREIGHT PHILS	1132415	04-Sep-15	891.17	"P-748"
MANDARIN	4417	30-Sep-15	96.32	"P-749"

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GRACEHILL ECONOSUITES	5280	23-Sep-15	160.71	"P-106"
DALES FOOD HAUS	20970	30-Sep-15	78.75	"P-107"
TRI OKTO SHELL GASOLINE STATION	10526	22-Sep-15	107.14	"P-291"/ "P-292"
JOLLY U. ZAPATA	22012	23-Sep-15	168.80	"P-119"
WILCON DEPOT BUILDERS DEPOT INC	44257	29-Sep-15	429.04	"P-303"
WILCON DEPOT BUILDERS DEPOT INC	44317	30-Sep-15	1,433.08	"P-304"
PRUDENTIAL CUSTOMS BROKERAGE SERVICES INC	268792	28-Sep-15	17.57	"P-198"
TORN SI	16797	30-Sep-15	320.89	"P-284"
BRENT OIL CORP	290171	26-Sep-15	176.81	"P-144"
XPRESSFILL STATION SUCAT BRANCH	24298	04-Sep-15	53.57	"P-155"
XPRESSFILL STATION SUCAT BRANCH	25147	18-Sep-15	214.30	" P-156"
XPRESSFILL STATION SUCAT BRANCH	25206	22-Sep-15	123.25	"P-157"
D MICHAEL CO INDUSTRIAL SUPPLY CORP	1888	01-Sep-15	13,312.57	"P-315"
CITI HARDWARE BACOLOD INC	128022	30-Sep-15	57.86	"P-160"
NEW SURIGAO PAINTHAUS AND AUTO PARTS GEN MDSE	5741	30-Sep-15	26.79	"P-257"
CITRA METRO MANILA TOLLWAYS CORP.	29332	28-Sep-15	214.29	"P-197"
CITRA METRO MANILA TOLLWAYS CORP.	2879896	16-Sep-15	214.29	" P-194"
ESPRUTINGKLE GAS AND SERVICE INC	None	04-Sep-15	10.72	"P-184"
7-ELEVEN	unreadable	04-Sep-15	4.71	"P-183"
ESPRUTINGKLE GAS AND SERVICE INC	41915	29-Sep-15	10.71	"P-278"
ESPRUTINGKLE GAS AND SERVICE INC	none	29-Sep-15	203.57	"P-188"
QUADRO CORNELIO FOOD VENTURES	1329	28-Sep-15	17.68	"P-286"
SUPER SHOPPING MARKET INC	13018	28-Sep-15	36.96	"P-285"
SANFORD MARKETING CORP	12683	29-Sep-15	24.11	"P-224"
SANFORD MARKETING CORP	12684	29-Sep-15	18.80	"P-225"
SANFORD MARKETING CORP	12692	30-Sep-15	302.68	"P-221"
SANFORD MARKETING CORP	12698	30-Sep-15	50.49	"P-222"
SANFORD MARKETING CORP	12693	30-Sep-15	16.77	"P-223"
CEBU PORT AUTHORITY	6324726	03-Jun-15	1,261.59	"P-104"
DMC	1805	18-Jul-15	7,164.64	"P-744"/ "P-744-A"
OFFICE BASICS CORPORATION	23953	22-Jul-15	143.57	"P-108"
OFFICE BASICS CORPORATION	23455	04-Jul-15	991.61	"P-109"
PRIMERA CLASE GAS STATION INC	64471	30-Jul-15	214.30	"P-113"
AM PHIL FOOD CONCEPTS INC	17007	25-Aug-15	645.77	"P-100"
U FREIGHT PHILIPPINES INC	66957	24-Aug-15	518.25	"P-112"/ "P-112-A"
U FREIGHT PHILIPPINES INC	1130867	10-Aug-15	10,074.34	"P-114"
TRI OKTO SHELL GASOLINE STATION	9996	26-Aug-15	128.58	"P-293"/ "P-294"
XPRESSFILL STATION SUCAT BRANCH	29157	07-Aug-15	166.81	"P-158"
XPRESSFILL STATION SUCAT BRANCH	23461	24-Aug-15	144.65	"P-159"
XPRESSFILL STATION SUCAT BRANCH	23516	28-Aug-15	116.79	"P-154"
CITRA METRO MANILA TOLLWAYS CORPORATION	2774929	28-Aug-15	214.29	"P-196"
Subtotal			***₱ 77,248.75***	
4. Supported by documents other than SI or OR				
METRO SURIGAO SHOPPING CENTER, INC.	7381	30-Oct-15	₱ 989.48	"P-719"/ "P-719-A"
WILCON BUILDERS DEPOT INC	42656	15-Oct-15	41.71	"P-751"
WILCON BUILDERS DEPOT INC	25818	23-Oct-15	77.25	"P-808"

CITRA METRO MANILA TOLLWAYS CORP.	3072069	27-Oct-15	214.29	"P-505"
PHILIPPINE LONG DISTANCE TELEPHONE COMPANY	284225739	05-Oct-15	706.09	"P-110"
CEBU BELMONT INC	95426	06-Oct-15	235.69	"P-111"
BELMONTH HARDWARE DEPOT	127605	12-Oct-15	419.57	"P-117"
CEBU BELMONT INC	10616	12-Oct-15	267.00	"P-118"
OFFICE WAREHOUSE INC.	130931	22-Oct-15	341.79	"P-259"
OFFICE WAREHOUSE INC.	201839	13-Oct-15	74.46	"P-242"
OCTAGON COMPUTER SUPERSTORE	48133	17-Oct-15	556.07	"P-272"
SHOPPING CENTER INC	96988	02-Oct-15	831.01	"P-122"
OCTAGON COMPUTER SUPERSTORE	47940	06-Oct-15	741.43	"P-273"
METRO SUPERMARKET BANILAD	36317	04-Oct-15	63.92	"P-252"
CUBIX OFFICE INC	15681	09-Oct-15	30.21	"P-200"
PROTON MICROSYSTEMS	324900	07-Oct-15	2,673.21	"P-274"
ABACUS BOOK AND CARD CORP	2133162	02-Oct-15	115.93	"P-152"
RICHMONDE HOTEL	758827	30-Oct-15	8.04	"P-267"
METRO SURIGAO SHOPPING CENTER INC	7263	17-Oct-15	819.66	"P-322" to "P-322-B"
CITRA METRO MANILA TOLLWAYS CORP.	271131	20-Oct-15	9.00	"P-189"
SOUTH LUZON TOLWAY	342375	20-Oct-15	1.29	"P-190"
SOUTH LUZON TOLWAY	271857	20-Oct-15	14.25	"P-191"
CITRA METRO MANILA TOLLWAYS CORP.	232363	16-Oct-15	14.25	"P-253"
SOUTH LUZON TOLLWAY CORPORATION	305010	16-Oct-15	1.61	"P-254"
CITRA METRO MANILA TOLLWAYS CORP.	34625	19-Oct-15	214.29	"P-195"
CITRA METRO MANILA TOLLWAYS CORP.	190913	16-Oct-15	9.00	"P-175"
STATION SQUARE EAST COMMERCIAL CORP	75808	16-Oct-15	4.29	"P-174"
OCTAGON COMPUTER SUPERSTORE	48393	04-Nov-15	741.43	"P-615"
CITRA METRO MANILA TOLLWAYS CORP.	285531	09-Nov-15	9.00	"P-625"
MANILA INTERNATIONAL AIRPORT AUTHORITY	41290	15-Nov-15	4.29	"P-495"
CITRA METRO MANILA TOLLWAYS CORP.	134504	10-Nov-15	53.57	"P-499"
CITRA METRO MANILA TOLLWAYS CORP.	3195753	10-Nov-15	53.57	"P-503"
MANILA INTERNATIONAL AIRPORT AUTHORITY	468831	25-Nov-15	4.29	"P-504"
7 ELEVEN	unreadable	15-Nov-15	18.96	"P-636"
NATIONAL BOOK STORE	1059593	11-Nov-15	116.73	"P-639"
OCTAGON COMPUTER SUPERSTORE	unreadable	26-Nov-15	185.36	"P-588"
PIZZA HUT - PHILIPPINE PIZZA INC.	137655	19-Nov-15	89.68	"P-647"
LBC EXPRESS, INC.	None	17-Nov-15	19.82	"P-649"
TAI-PAN DEVELOPMENT INC.	0122541	20-Nov-15	44.11	"P-667"
OCTAGON COMPUTER SUPERSTORE	48522	13-Nov-15	1,612.50	"P-677"
PARK WAY	None	13-Nov-15	46.41	"P-891"
GLOBE TELECOM INC.	73809	16-Nov-15	160.54	"P-696"
GLOBE TELECOM INC.	73811	16-Nov-15	383.78	"P-849"
GLOBE TELECOM INC.	73810	16-Nov-15	419.68	"P-697"
GLOBE TELECOM INC.	73812	16-Nov-15	160.54	"P-848"
GLOBE TELECOM INC.	73808	16-Nov-15	336.47	"P-698"
GLOBE TELECOM INC.	71375	02-Nov-15	535.50	"P-206"
CITI HARDWARE BACOLOD INC	133977	12-Dec-15	616.49	"P-449"
SAVEMORE	8521560	01-Dec-15	30.16	"P-422"
ACE HARDWARE	73372	02-Dec-15	5.33	"P-360"
GOODHOPE HARDWARE	6947	04-Dec-15	34.93	"P-436"
GOODHOPE HARDWARE	6930	04-Dec-15	7.71	"P-436-A"
PUERTO SERVICIO	1752479	10-Dec-15	5.36	"P-372"
7 ELEVEN	590003	09-Dec-15	8.68	"P-479"

GLOBE TELECOM	38492	23-Dec-15	4,109.10	"P-844"
vCITRA METRO MANILA TOLLWAYS CORP.	217846	01-Dec-15	214.29	"P-498"
Subtotal			***₱ 19,503.07***	
5. Purchase of services supported by documents other than OR				
PINEDA GASOLINE STATION	30010	05-Oct-15	₱ 10.71	"P-282"
LAVENDER SHELL SERVICE STATION & GEN MDSE	105116	04-Oct-15	192.84	"P-243"
LAVENDER SHELL SERVICE STATION & GEN MDSE	105091	07-Oct-15	184.29	"P-247"
XPRESSFILL STATION	109676	09-Nov-15	119.07	"P-610"
PRIMERA CLASE GAS STATION, INC.	69996	02-Nov-15	165.53	"P-613"
VALUCORE BUSINESS VENTURES CORPORATION	4193	16-Nov-15	123.41	"P-614"
CAPITOL 8 GAS & FUEL STATION, INC.	68951	09-Nov-15	128.57	"P-624"
CAPITOL 8 GAS & FUEL STATION, INC.	69404	25-Nov-15	77.37	"P-501"
TONNEL'S PETRON SERVICE STATION	15706	22-Nov-15	111.64	"P-581"
SOLANO PETRON SERVICE CENTER	111660	25-Nov-15	62.14	"P-561"
XPRESSFILL STATION	108833	06-Nov-15	58.71	"P-593"
PINEDA GASOLINE STATION	30919	02-Nov-15	12.86	"P-660"
LAVENDER SHELL SERVICE STATION & GEN.MDSE.	110907	23-Nov-15	136.87	"P-566"
LAMUAN SHELL GAS STATION, INC.	853446	27-Nov-15	18.21	"P-711"
JERICK PETRON SERVICE CENTER	1068905	10-Nov-15	7.98	"P-149"
LAVENDER SHELL SERVICE STATION & GEN. MERCHANDISE	112721	26-Dec-15	96.43	"P-421"
LAVENDER SHELL SERVICE STATION & GEN. MERCHANDISE	112560	19-Dec-15	107.14	"P-326"
NORTHERN STAR ENERGY	40990	18-Dec-15	107.14	"P-454"
PINEDA GASOLINE STATION	33342	02-Dec-15	5.36	"P-415"
Subtotal			***₱ 1,726.27***	
Total-input VAT on domestic purchases of goods and services			**₱115,617.71**	
II. Input VAT on Importations				
Input VAT on importations supported by photocopied[92] Statement of Settlement of Duties & Taxes/Assessment Notice/BOC Single Administrative Document/Temporary Assessment Notice and computer generated bank statement				
REMA TIP TOP AG			₱ 178,392.00	"P-872" to "P-872-H"
TIP TOP OBERFLACHENSHUTZ ELBE			462,603.00	"P-873" to "P-873-E"
REMA TIP TOP AG			132,659.00	"P-874" to "P-874-F"
GMA GARNET GROUP			59,251.00	"P-875" to "P-875-D"
TIP TOP OBERFLACHENSHUTZ ELBE			214,016.00	"P-876" to "P-876-C"
AME INTERNATIONAL			27,673.00	"P-878" to "P-878-D"
TIP TOP JAPAN			80,265.00	"P-879" to "P-879-F"
REMA TIP TOP TIANJIN RUBBER TECH			20,510.00	"P-880" to "P-880-D"
Total-input VAT on importations			**₱1,175,369.00**	
TOTAL			**₱1,290,986.71**	

In sum, out of the reported input VAT of ₱1,574,758.55 for the 4th quarter of 2015, only the amount of ₱232,014.18, as computed below, represents petitioner's valid input VAT:

[92] "PHOTOCOPY/ORIGINAL" Column, Exhibit "P-42-5", Docket – Vol. 3, p. 1478.

Reported Input VAT		₱1,574,758.55
Less: Disallowances		
Unaccounted/unsubstantiated input VAT	₱ 18,211.61	
Per ICPA Report	33,546.05	
Per Court's further verification	1,290,986.71	1,342,744.37
Valid Input VAT		**₱232,014.18**

Since there are both zero-rated or effectively zero-rated sales and taxable sales subject to 12% VAT, the valid input VAT of ₱232,014.18 shall be proportionately allocated on the basis of sales volume.

To reiterate, 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.

As stated earlier, for the subject period of claim, there exist taxable sales subject to twelve percent (12%) and 0% rates, to wit:[93]

Particulars	Amount
Vatable Sales/Receipts	₱ 4,313,062.28
Zero-Rated Sales/Receipts	14,548,005.68
Total Sales/Receipts	**₱ 18,861,067.96**

Since petitioner's input VAT cannot be directly or entirely attributed to any of the transactions, the valid input VAT of ₱232,014.18 shall be allocated proportionately on the basis of the volume of petitioner's total sales, as shown below:

Taxable Sales subject to 12% VAT for the 4th quarter of 2015	₱ 4,313,062.28
Divided by the Total Sales for the 4th quarter of 2015	18,861,067.96
Multiplied by Total Valid Input VAT	232,014.18
Valid input VAT allocated to sales subject to 12% VAT	**₱ 53,055.94**

Zero-Rated Sales for the 4th quarter of 2015	₱14,548,005.68
Divided by the Total Sales for the 4th quarter of 2015	18,861,067.96
Multiplied by Total Valid Input VAT	232,014.18
Valid input VAT allocated to zero-rated sales	**₱ 178,958.24**

[93] Exhibit "P-3", Docket – Vol. 3, pp. 1382 to 1383.

Thus, for purposes of, and with regard to petitioner's compliance with the *eighth* requisite, only the amount of ₱178,958.24 represents valid input VAT attributable to total reported zero-rated sales.

Petitioner has no excess input VAT available for refund

Having determined that petitioner had valid input VAT attributable to its zero-rated sales, 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.

After deducting the input VAT attributable to taxable sales subject to 12% VAT in the amount of ₱53,055.94 from its output VAT liability of ₱517,567.47[94] on the said sales, petitioner still has a net output VAT payable of ₱464,511.53, as computed below:

Output VAT per Return	₱ 517,567.47
Less: Input VAT allocated to 12% Vatable Sales	53,055.94
Net Output VAT Payable	**₱464,511.53**

Since the valid input VAT attributable to 12% vatable sales is not enough to cover its output VAT liability, the valid input VAT attributable to total reported zero-rated sales in the amount of ₱178,958.24 shall be utilized against the remaining output VAT liability of ₱464,511.53. However, the input VAT attributable to zero-rated sales of ₱178,958.24 is lower than the net output VAT payable of ₱464,511.53. Consequently, petitioner still has net output VAT due of ₱285,553.29, computed as follows:

Net Output VAT Payable	₱ 464,511.53
Less: Input VAT attributable to Zero-rated Sales	178,958.24
Net Output VAT Still Due	**₱ 285,553.29**

Although petitioner's amended Quarterly VAT Return for the 4th quarter of taxable year 2015 reflected the amount of ₱4,696,993.60[95] as *"Input Tax Carried Over from Previous Period"*, petitioner failed to substantiate the same. Needless to say, petitioner failed to prove that it has excess input VAT carried over from previous period.

[94] Exhibit "P-3" (Line 15B), Docket – Vol. 3, p. 1382.
[95] Exhibit "P-3" (Line 20A), Docket - Vol. 3, p. 1382.

Accordingly, the input tax carries over of ₱4,696,993.60, cannot be validly applied against petitioner's output tax pursuant to Section 110(A) in relation to Section 110(B) of the NIRC of 1997, as amended, which states:

> "SEC. 110. *Tax Credits.* —
>
> (A) *Creditable Input Tax.* —
>
> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:
>
> xxx xxx xxx
>
> (B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the Vat-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: xxx."

Based on the foregoing provision, it is worthy to stress that in claiming excess or unutilized input VAT from zero-rated transactions, it is the excess input tax over the output tax which should be refunded to the taxpayer or credited against other internal revenue taxes. Hence, it is important for the taxpayer to prove that it has enough prior year's excess input tax credits to cover its output tax liability for the current taxable year. To repeat, in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[96]

Consequently, petitioner failed to fulfill the *ninth* requisite, *i.e.*, that the input taxes have not been applied against output taxes during the quarter. Its failure to substantiate that it has sufficient input taxes to offset its output taxes due for the period covered merits the denial of its claim for refund.

With the foregoing disquisitions, there is no showing that petitioner fully complied with the requisites to successfully obtain a refund of input VAT.

In fine, considering that petitioner failed to show that its administrative claim should not have been denied in the first place, as earlier discussed, and since it likewise failed to sufficiently prove its entitlement to a refund of its

[96] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, et seq.*, 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.

input VAT for the 4th quarter of taxable year 2015, the instant claim for refund must perforce be denied.

It must be emphasized that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.[97] Thus, the burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit.[98] In this case, petitioner failed to discharge the said burden warranting the denial of its claim for refund or issuance of tax credit certificate.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[97] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.
[98] *Commissioner of Internal Revenue vs San Roque Power Corporation*, G.R. Nos. 187485, February 12, 2013.

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.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice