REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

LEPANTO CONSOLIDATED MINING COMPANY, Petitioner,	**CTA CASE NO. 9649**
	Members:
- versus -	**CASTAÑEDA, JR.**, Chairperson, **MINDARO-GRULLA**, and **BACORRO-VILLENA, JJ.**
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 2 3 2019 1:10 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

THE CASE

Before this Court is a claim for refund *via* the issuance of tax credit certificate in the amount of ₱14,930,299.09, allegedly representing unutilized input value-added tax (VAT) attributable to Lepanto Consolidated Mining Company's zero-rated sales for taxable year 2015.

THE FACTS

Petitioner Lepanto Consolidated Mining Company is a corporation duly organized and existing under the laws of the Republic of the Philippines, it is engaged in the mining and processing of gold and other precious metals.[1]

[1] Exhibit "P-1".

Petitioner is likewise registered with the Bureau of Internal Revenue (BIR) under Certificate of Registration No. OCN8RC0000017236[2] as, among others, a VAT taxpayer with Tax Identification Number 000-160-247-000, and also with the Board of Investments (BOI) under Certificate of Registration No. EP 96-334[3] as an export producer of gold bullion,[4] copper, gold and silver concentrates.[5]

Respondent is the Commissioner of the Bureau of Internal Revenue (BIR), duly appointed to exercise the powers and perform the duties of his office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the Tax Code. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner claims that it exported one hundred percent (100%) of its total sales volume/value of gold and silver for calendar year (CY) 2015[6] to Heraeus, Ltd., a corporation based in Hong Kong. The subject transactions were paid for in U.S. Dollars and coursed through United Coconut Planters Bank (UCPB), as evidenced by UCPB Certificate of Inward Remittances[7] for 2015 and 2016 and the corresponding Bank Credit Memos[8] for 2015.

By virtue of its 2015 export transactions, petitioner asserts that it had incurred input VAT in the total amount of ₱14,930,299.09.

On March 17, 2017, petitioner filed an Application for Tax Credits/Refunds (BIR Form No. 1914)[9] for its alleged input VAT in the total amount ₱14,930,299.09, together with supporting documents.[10]

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[2] Exhibit "P-6".
[3] Exhibit "P-3".
[4] Exhibit "P-4".
[5] Exhibit "P-5".
[6] Exhibit "P-9-1".
[7] Exhibit "P-46".
[8] Exhibit "P-42" to "P-45".
[9] Exhibit "P-7".
[10] Exhibit "P-8".

However, due to respondent's inaction, petitioner filed the instant Petition for Review on August 11, 2017.[11]

On November 25, 2017, respondent filed his Answer, [12] interposing the following special and affirmative defenses:

> "3.1 Petitioner filed a claim for refund in the total amount of ₱14,930,299.09. However, validation and analysis of Summary List of Importation (SLI), importation documents, AITEID data and BOC RAD disclosed the following disallowed input tax:
>
> 1.) **Unsupported no Import Entry Document – ₱39,813.99**
> There were some input taxes claimed which were not properly supported by Import Entry Document (IED). Thus, it was disallowed.
>
> 2.) **Input Tax allocated to Vatable Sales – ₱733,553.86**
>
> Further computation of input tax on taxable sales as against zero-rated sales showed input tax which should have been to Vatable sales. Hence, the said portion of input tax were included as part of the disallowed input tax.
>
> xxx xxx xxx
>
> 3.7 Based on the foregoing, petitioner's claim for refund in the total amount ₱14,930,299.09 has no bases in fact and in law. Thus, the instant petition should be denied for lack of merit."

On October 30, 2017, the Court issued a Notice of Pre-Trial Conference.[13] On November 20, 2017, petitioner filed its Pre-Trial Brief,[14] while on November 23, 2017, respondent filed his Pre-Trial Brief.[15] *gr*

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[11] Docket, pp. 10-20.
[12] *Id.*, pp. 80-85.
[13] *Id.*, pp. 86-87.
[14] *Id.*, pp. 88-101.
[15] *Id.*, pp. 102-106.

On December 8, 2017, the parties submitted their Joint Stipulation of Facts and Issues[16] (JSFI). On January 9, 2018, the Court issued its Pre-Trial Order.[17]

During trial, petitioner presented as witnesses Mr. Teofilo C. Sacpa,[18] its Chief Accountant; Ms. Cherry H. Tan,[19] its Assistant Vice President for Purchasing; and, the court-commissioned ICPA, Atty. William Benson S. Gan,[20] who all testified on direct by wat of judicial affidavits. After completing the presentation of its testimonial evidence, petitioner filed on April 27, 2018 its Formal Offer of Evidence.[21]

On the other hand, respondent manifested[22] that he will no longer present evidence. As such, on July 25, 2018, the Court issued an Order[23] giving the parties a period of thirty (30) days within which to submit their respective memoranda.

On August 23, 2018, respondent filed his Memorandum[24] while on September 11, 2018, petitioner filed its Memorandum.[25] Thus, on October 4, 2018,[26] the Court issued a Resolution submitting the case for decision. Hence, this Decision.

THE ISSUE

The sole issue[27] stipulated by the parties for this Court's resolution is whether petitioner is entitled to tax credit/refund of its 2015 input VAT arising from importations of capital and consumable goods amounting to ₱14,930,299.09. *gr*

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[16] *Id.*, pp. 243-254.
[17] *Id.*, pp. 266-276.
[18] Judicial Affidavit (Of Teofilo C. Sacpa) dated December 8, 2017, docket, pp. 207-217.
[19] Judicial Affidavit (Of Cherry H. Tan) dated December 8, 2017, docket, pp. 115-123.
[20] Judicial Affidavit (Of Commissioned Certified Public Accountant, Atty. William Benson S. Gan) dated April 20, 2018, docket, pp. 330-338.
[21] Docket, pp. 342-352.
[22] Minutes of the Hearing dated July 25, 2018, *id.*, p. 407.
[23] Docket, p. 408.
[24] *Id.*, pp. 409-416.
[25] *Id.*, pp. 425-455.
[26] *Id.*, p. 456.
[27] Issue, JSFI, *id.*, p. 244.

THE RULING

This Court finds petitioner's claim for refund partly meritorious.

Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, allows tax refund/credit of unutilized input tax attributable to zero-rated or effectively zero-rated sales, to wit:

> "**SEC. 112.** *Refunds or Tax Credits of Input Tax.—*
>
> *(A) Zero-rated or Effectively Zero-rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sales and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and nonzero-rated sales."

From the above provision and as laid down by the Supreme Court in a plethora of cases,[28] a taxpayer engaged in zero-rated or effectively zero-rated transactions may claim a refund/tax credit certificate for input taxes attributable to such sales upon compliance with the following requisites: *gr*

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[28] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 166732, April 27, 2007; *San Roque Power Corporation v. Commissioner of Internal Revenue,* G.R. No. 180345, November 25, 2009; *AT&T Communication Services Phil., Inc. v. Commissioner of Internal Revenue,* G.R. No. 182364, August 3, 2010; and, *Southern Philippines Power Corporation v. Commissioner of Internal Revenue,* G.R. No. 179632, October 19, 2011.

1. taxpayer is VAT-registered;

2. the claim for refund was filed within the prescriptive period;

3. there must be zero-rated or effectively zero-rated sales;

4. input taxes were incurred or paid;

5. such input taxes are attributable to zero-rated or effectively zero-rated sales; and

6. the input taxes were not applied against any output VAT liability.

Petitioner is a VAT-registered entity

Petitioner's BIR Certificate of Registration (BIR Form No. 2303) No. OCN8RC0000017236[29] indubitably shows that one of its duly registered activities is VAT, having Taxpayer's Identification Number 000-160-247-000.

Both the administrative and judicial claims were timely filed.

Section 112(A) requires that the administrative claim for refund or issuance of a tax credit certificate (TCC) of input VAT must be made with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

In the present case, petitioner's claim covers the four taxable quarters of CY 2015. Counting two years from the end of each quarter of 2015, petitioner had until March 31, 2017, June 30, 2017, September 30, 2017, and December 31, 2017, respectively, within which to file its administrative claim. Hence, by filing its

[29] Exhibit "P-6".

administrative claim[30] on March 17, 2017, petitioner was deemed to have seasonably filed its claim for refund, as shown below:

Taxable Period	Close of the Taxable Quarter	Last Day to File Administrative Claim	Date of Filing Administrative Claim
1st Quarter of CY 2015	March 31, 2015	March 31, 2017	March 17, 2017
2nd Quarter of CY 2015	June 30, 2015	June 30, 2017	
3rd Quarter of CY 2015	September 30, 2015	September 30, 2017	
4th Quarter of CY 2015	December 31, 2015	December 31, 2017	

With regard to the timeliness of its judicial appeal, Section 112(C) of the same tax code further provides that:

> "**SEC. 112.** *Refunds or Tax Credits of Input Tax.—*
>
> x x x
>
> *(C) Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Evidently, the foregoing provision also states the requirements when a judicial claim for the refund or tax credit of input VAT must be filed with this Court. Section 112(C) of the NIRC of 1997, as amended, speaks of two periods: the period of 120 days, which serves as a waiting period to give time for the CIR to act on the

[30] Exhibit "P-7".

administrative claim for a refund or credit; and, the period of 30 days, which refers to the period for filing a judicial claim with the Court of Tax Appeals (CTA).[31]

Applying the said periods, petitioner filed its administrative claim, together with the supporting documents, on March 17, 2017. Thus, respondent had one hundred twenty (120) days therefrom, or until July 15, 2017, within which to act on petitioner's claim. However, since respondent failed to expressly act on the said claim, petitioner had thirty (30) days after the 120-day period, or until August 14, 2017, within which to appeal respondent's inaction to this Court. Considering that petitioner filed the instant Petition for Review[32] on August 11, 2017, the same is timely filed.

Petitioner is engaged in zero-rated sales during the four quarters of CY 2015.

In this regard, Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, provides:

> "**SEC. 106.** *Value Added Tax on Sale of Goods or Properties.–*
>
> *(A) Rate and Base of Tax.* – x x x
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* - The term '**export sales**' means:
>
> (1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance

[31] *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue,* G.R. No. 168950, January 14, 2015.
[32] *Supra* No. 11.

with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"

Corollary thereto, Sections 113(A)(1), (B)(1), (B)(2)(c), and (B)(3) of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A)(1), B(1) and (2)(c) of Revenue Regulations (RR) No. 16-2005,[33] as amended, provides that a VAT registered taxpayer shall, for every sale, barter or exchange of goods or properties, issue a VAT invoice which must contain the following information:

"**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

x x x

(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:

x x x

(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; gr

[33] Consolidated Value-Added Tax Regulations Of 2005.

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

"**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

x x x

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:

(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;" *(Underscoring supplied)*

It is also required that the invoices must be duly registered with the BIR as prescribed under Section 237 in relation to Section 238 of the NIRC of 1997, as amended, thus: *gr*

> "**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 **sales** or **commercial invoices**, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: x x x." *(Emphasis supplied)*
>
> "**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.
>
> xxx xxx xxx"

Pursuant to the foregoing provisions, any VAT registered person claiming VAT zero-rated direct export sales must present at least three (3) types of documents, to wit:

1. Sales invoice as proof of sale of goods;

2. Bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and,

3. Bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services. *gr*

Further, the sales invoices supporting the export sales must likewise be registered with the BIR, and must contain all the required information under the law and regulations, such as the imprinted word *"zero-rated"* and the taxpayer's TIN-VAT number.

In its Amended Quarterly VAT Returns for CY 2015, petitioner reported zero-rated sales in the total amount of ₱1,149,630,362.03, broken down as follows:

Exhibit No.	Period	Zero-rated Sales
P-11	1st Quarter	₱ 229,264,371.88
P-12	2nd Quarter	214,786,048.82
P-13	3rd Quarter	374,606,422.04
P-14	4th Quarter	330,973,519.29
Total		**₱1,149,630,362.03**

Petitioner presented its Summary List of Sales,[34] Zero-rated Provisional Invoices,[35] Zero-rated Final Invoices,[36] Export Declarations,[37] Airway Bills,[38] Bank Credit Memos[39] and Bank Certificate of Inward Remittances,[40] to support its claim for zero-rated sales.

As per ICPA's verification, petitioner's reported zero-rated sales of ₱1,149,630,362.03 are comprised of the following:

Particulars	FIRST QUARTER		SECOND QUARTER	
	Amount (IN USD)	Amount (IN PHP)	Amount (IN USD)	Amount (IN PHP)
Sales per zero-rated sales invoices *[Annex 1 of ICPA Report (Exhibit "P-114")]*	**5,269,660.10**	**234,182,525.84**	**4,569,236.66**	**204,200,878.49**
Add/Less: Company Adjustments *[Annexes 2 & 6 of ICPA Report (Exhibit "P-114")]*				
Downward sales adjustment invoiced during the quarter but reported in the subsequent quarter			5,669.36	255,179.87
Upward sales adjustment invoiced during the quarter but reported in the subsequent quarter	(212,377.05)	(9,445,598.97)		

34 Exhibits "P-16" to "P-19".
35 Exhibits "P-24" to "P-27".
36 Exhibits "P-28" to "P-31".
37 Exhibits "P-34" to "P-37".
38 Exhibits "P-38" to "P-41".
39 Exhibits "P-42" to "P-45".
40 Exhibit "P-46".

Downward sales adjustment reported during the quarter but invoiced in the previous quarter				
Upward sales adjustment reported during the quarter but invoiced in the previous quarter	85,535.03	3,813,723.99	212,377.06	9,445,598.97
Refining charges deducted from the sales invoice	16,907.07	751,221.78	16,947.71	757,199.83
Translation adjustment due to differences in exchange rates when sales are reported and invoiced		(37,500.76)		127,191.87
Rounding-off difference	(0.01)		(0.01)	(0.21)
Sub-total	***(109,934.96)***	***(4,918,153.96)***	***234,994.12***	***10,585,170.33***
Total zero-rated sales per VAT returns	**5,159,725.14**	**229,264,371.88**	**4,804,230.78**	**214,786,048.82**

THIRD QUARTER		FOURTH QUARTER		TOTAL	
Amount (IN USD)	**Amount (IN PHP)**	**Amount (IN USD)**	**Amount (IN PHP)**	**Amount (IN USD)**	**Amount (IN PHP)**
8,508,652.37	**392,155,150.96**	**6,876,341.31**	**322,023,339.29**	**25,223,890.44**	**1,152,561,894.58**
				5,669.36	255,179.87
(405,096.30)	(18,941,473.78)	(231,436.39)	(10,930,205.02)	(848,909.74)	(39,317,277.77)
(5,669.36)	(255,179.62)			(5,669.36)	(255,179.62)
		405,096.30	18,941,473.78	703,008.39	32,200,796.74
18,703.60	861,182.13	18,023.61	843,915.45	70,581.99	3,213,519.19
	786,749.53		94,995.80	-	971,436.44
(0.16)	(7.18)		(0.01)	(0.18)	(7.40)
(392,062.22)	***(17,548,728.92)***	***191,683.52***	***8,950,180.00***	***(75,319.54)***	***(2,931,532.55)***
8,116,590.15	**374,606,422.04**	**7,068,024.83**	**330,973,519.29**	**25,148,570.90**	**1,149,630,362.03**

However, the above adjustments in the total amount of ₱2,931,532.55 cannot be considered by the Court in computing petitioner's zero-rated sales for failure to substantiate the same. Thus:

As to the 1st and 3rd quarters, petitioner's substantiated zero-rated sales in the respective amounts of ₱234,182,525.84 and ₱392,155,150.96, were higher than the reported zero-rated sales of ₱229,264,371.88 and ₱374,606,422.04 as per VAT returns.

Accordingly, the difference in the amounts of ₱4,918,153.96 and ₱17,548,728.92 are considered as unreported zero-rated sales which should be disregarded.

As to the 2nd and 4th quarters, petitioner's substantiated zero-rated sales of ₱204,200,878.49 and ₱322,023,339.29 were lower than the reported zero-rated sales of ₱214,786,048.82 and ₱330,973,519.29 as per VAT returns. Thus, the difference in the amounts of ₱10,585,170.33 and ₱8,950,180.00 should be denied VAT zero-rating for not being covered by zero-rated final invoices.

Meanwhile, this Court agrees with the findings of the ICPA that the following zero-rated sales should be disallowed for the following reasons:[41]

Findings	Reference	Amount in USD	Amount in PHP
Zero-rated sales supported by Sales Invoice No. 7144 without the printed phrase "Zero Rated Sales" and the name of foreign customer – *Disallowed in Procedure 4*[42]	Exhibit P-31, page 4; Annex 1, page 2	494,406.22	22,921,751.06
Zero-rated sales supported by Zero-rated Sales Invoice, Bank Credit Memo, Export Declaration, and Air Waybill but shipped during CY 2016 (Zero-rated Sales Invoice Nos. 7163 and 7164) – *Disallowed in Procedure 5*	Exhibit P-31, pages 21 and 22; Annex 1, page 2; Annex 4, page 13	576,948.25	27,247,929.76
Invoice Amount supported by Zero-rated Sales Invoice, Export Declaration, and Air Waybill but not inwardly remitted (Under-remittance) – *Disallowed in Procedure 6*	Annex 5, page 19	0.19	8.87
Total		**1,071,354.66**	**50,169,689.69**

In sum, out of the ₱1,152,561,894.58 which petitioner reported as substantiated zero-rated sales for CY 2015, only the amount of ₱1,079,925,322.01 is duly supported by zero-rated sales invoices, airway bills and bank credit memos/bank certification of inward remittances, which qualifies for VAT zero-rating pursuant to Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, to wit:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Zero-rated sales per Returns	₱229,264,371.88	₱214,786,048.82	₱374,606,422.04	₱330,973,519.29	₱1,149,630,362.03
Less: Disallowances					
Sales not covered by zero-rated	-	10,585,170.33	-	8,950,180.00	19,535,350.33

Jc

[41] Exhibit "P-114", ICPA Report, pp. 9-10 of 41.
[42] Though the ICPA noted that the related sales amount was presented in the "Zero Rated Sales" line item in the computation of total amount due in the invoice [Exhibit "P-114", ICPA Report, page 4 of 41, par. 4(c)], the same is still disallowed since the name of customer is not indicated therein.

final invoices					
Per ICPA's findings	-	-	8.87	50,169,680.82	50,169,689.69
Valid Zero-Rated Sales	**₱229,264,371.88**	**₱204,200,878.49**	**₱374,606,413.17**	**₱271,853,658.47**	**₱1,079,925,322.01**

Petitioner incurred or paid input taxes which are attributable to its zero-rated sales.

After determining petitioner's valid VAT zero-rated sales for the four (4) quarters of CY 2015 in the aggregate amount of ₱1,079,925,322.01, the Court shall now resolve whether petitioner incurred input taxes which are attributable thereto, in accordance with the fourth (4^{th}) and fifth (5^{th}) requisites in claiming refund/tax credit certificate as earlier mentioned.

In its quarterly VAT returns for CY 2015, petitioner declared the input VAT in the total amount of ₱22,048,370.42[43] as arising from its purchases of capital goods exceeding ₱1 Million, importations of goods other than capital goods, and services rendered by non-residents, as follows:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**Total**
	(Exhibit "P-11")	*(Exhibit "P-12")*	*(Exhibit "P-13")*	*(Exhibit "P-14")*	
Input Tax Deferred on Capital Goods exceeding ₱1 Million from Previous Quarter *(Line 20B)*	4,005,790.04	3,790,481.57	3,809,472.44	8,312,845.66	19,918,589.71
Add: Input Tax on Capital Goods exceeding ₱1 Million Purchased this Quarter *(Line 21D)*	260,266.00	520,594.00	5,164,266.00	1,705,356.00	7,650,482.00
Total	4,266,056.04	4,311,075.57	8,973,738.44	10,018,201.66	27,569,071.71
Less: Input Tax on Purchases of Capital Goods exceeding ₱1 Million deferred for the succeeding period	3,790,481.57	3,809,472.43	8,312,845.66	9,272,041.10	25,184,840.76
Amortization of Input Tax on Capital Goods exceeding ₱1 Million	**₱ 475,574.47**	**₱ 501,603.14**	**₱ 660,892.78**	**₱ 746,160.56**	**₱2,384,230.95**
Add: Input Tax on Importation of Goods other than Capital Goods	6,443,350.00	2,048,812.00	5,851,430.00	4,352,818.00	18,696,410.00
Input Tax on Services Rendered by Non-Residents	96,532.56	348,247.92	-	522,948.99	967,729.47

[43] With a discrepancy of 0.01 as against the input VAT of ₱22,048,370.41, from which the instant claim for refund arose.

Total Allowable Input Tax	₱7,015,457.03	₱2,898,663.06	₱6,512,322.78	₱5,621,927.55	₱22,048,370.42

In support thereof, petitioner presented its Summary List of Importations,[44] Schedule of Input VAT Amortization,[45] Single Administrative Document (SAD) and Statement of Settlement of Duties and Taxes (SSDT),[46] Bureau of Customs (BOC) Official Receipts,[47] Bank Certification on Payments to BOC[48] and BIR Form No. 1600 and payment confirmation,[49] which were all examined and verified by the ICPA. Accordingly, the ICPA's findings on petitioner's input VAT may be summarized as follows:[50]

Nature	Reference	Amount	Total
Properly substantiated input VAT			
1. Input VAT on importation of goods declared under Electronic-to-Mobile or e2m Customs System (e2m Customs) supported by Single Administrative Documents (SADs), Statement of Settlement of Duties and Taxes (SSDTs) dated within the 1st Quarter, 2nd Quarter, 3rd Quarter, and 4th Quarter of CY 2015 and Certifications from Authorized Agent Bank (AAB). Printing of SADs and SSDTs from VASP verified.	*Annex 11-1Q, Pages 38 to 39*	₱3,366,157.00	₱ 14,703,514.94
	Annex 11-2Q, Pages 40 to 41	1,778,734.00	
	Annex 11-3Q, Pages 42 to 45	5,714,688.94	
	Annex 11-4Q, Pages 46 to 48	3,843,935.00	
2. Input VAT on importation of goods declared e2m Customs supported by SAD and SSDT dated within the 3rd Quarter of CY 2015 and Certification from AAB but claimed by the Company during the 4th Quarter of CY 2015. Printing of SAD and SSDT from VASP verified.	*Annex 12-4Q, Page 49*	237,555.00	237,555.00
3. Amortization of input VAT on importation of capital goods exceeding ₱1 million declared under e2m Customs supported by SADS and SSDTs dated within the 1st Quarter, 2nd Quarter, 3rd Quarter, and 4th Quarter of CY 2015 and Certifications from AAB. Printing SAD and SSDT from VASP verified.	*Annex 13-1Q, Page 50*	951.47	350,738.77
	Annex 13-2Q, Page 51	5,601.60	
	Annex 13-3Q, Page 52	129,458.95	
	Annex 13-4Q, Page 53	214,726.75	
4. Amortization of prior year's input VAT on importation of capital goods exceeding ₱1 million declared under e2m Customs supported by SAD, SSDT and Certification from AAB claimed by the Company during the 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015. Printing of SAD and SSDT from VASP verified.	*Annex 14-1Q, Page 54*	6,446.10	25,784.40
	Annex 14-2Q, Page 55	6,446.10	
	Annex 14-3Q, Page 56	6,446.10	
	Annex 14-4Q, Page 57	6,446.10	

[44] Exhibits "P-61 to "P-64".
[45] Exhibits "P-82".
[46] Exhibits "P-65" to "P-69" and "P-78".
[47] Exhibits "P-75" to "P-77".
[48] Exhibit "P-80".
[49] Exhibit "P-70".
[50] Exhibit "P-114", ICPA Report, pp. 21-25 of 41.

5. Input VAT on services rendered by non-residents duly supported by e-filed BIR Form No. 1600 and Payment Confirmation from the BIR during the 1st Quarter, 2nd Quarter and 4th Quarter of CY 2015. Printing of Return and Payment Confirmation from EFPS verified.	*Annex 15-1Q, Page 58*	96,532.56	960,834.10
	Annex 15-2Q, Page 59	341,352.36	
	Annex 15-4Q, Page 60	522,949.18	
6. Input VAT on services rendered by non-residents duly supported by e-filed BIR Form No. 1600 and Payment Confirmation from the BIR during the 1st Quarter of CY 2015 but claimed by the Company during 2nd Quarter of CY 2015. Printing of Return and Payment Confirmation from EFPS verified.	*Annex 16-2Q, Page 61*	6,895.37	6,895.37
Subtotal			***₱16,285,322.58***
Substantiated input VAT with certain observations			
1. Input VAT on importation of goods declared under e2m Customs supported by SAD and SSDT dated and claimed by the Company during the 3rd Quarter of CY 2015 but the amount in the corresponding Certification from AAB is less than the amount in the SSDT. Input VAT allowed based on the total amount per Certification from AAB less than other duties and fees. Printing of SAD and SSDT from VASP verified.	*Annex 17-3Q, Page 62*	₱ 61,472.00	₱ 61,472.00
2. Input VAT on importation of goods declared e2m Customs supported by SAD, SSDT and Certification from AAB claimed by the Company during the 4th Quarter of CY 2015 but SSDT date is not indicated. Payment date is supported by Certification from AAB certifying final payment of duties and taxes during the 4th Quarter of CY 2015. Printing of SAD and SSDT from VASP verified.	*Annex 18-4Q, Page 63*	196,887.00	196,887.00
3. Input VAT on importation of goods declared under e2m Customs supported by Bureau of Customs (BOC)-verified SADs, photocopies of SSDTs, BOC Certification of Collection of Duties and Taxes and Certification from AAB claimed by the Company during the 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015.	*Annex 19-1Q, Page 64*	37,233.00	402,755.00
	Annex 19-2Q, Page 65	260,897.00	
	Annex 19-3Q, Page 66	44,607.00	
	Annex 19-4Q, Page 67	60,018.00	
4. Amortization of input VAT on importation of capital goods exceeding ₱1 million declared under e2m Customs supported by SAD, SSDT and Certification from AAB claimed by the Company during the 3rd Quarter and 4th Quarter of CY 2015 but SSDT date is not indicated. Payment date is supported by Certification from AAB certifying final payment during the 3rd Quarter and 4th Quarter of CY 2015. Printing of SAD and SSDT from VASP verified.	*Annex 20-3Q, Page 68*	28,048.22	56,096.44
	Annex 20-4Q, Page 69	28,048.22	
5. Amortization of prior years' input VAT on	*Annex 21-1Q, Page 70*	153,989.75	615,959.00

importation of capital goods exceeding ₱1 million declared under e2m Customs supported by BOC-verified SADs, photocopies of SSDTs, BOC Certification of Collection of Duties and Taxes and Certifications from AAB claimed by the Company during the 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015.	*Annex 21-2Q, Page 71*	153,989.75	
	Annex 21-3Q, Page 72	153,989.75	
	Annex 21-4Q, Page 73	153,989.75	
6. Input VAT on importation of goods declared under e2m Customs supported by SAD and SSDT dated within the 2nd Quarter of CY 2015 and Certification from AAB but claimed by the Company during the 1st Quarter of CY 2015. Printing of SAD and SSDT from VASP verified.	*Annex 22-1Q, Page 74*	3,036,029.00	3,036,029.00
Subtotal			***₱4,369,198.44***
Input VAT with exceptions			
1. Input VAT on importation of goods declared under e2m Customs supported by SAD and SSDT but without Certification from AAB. Printing of SAD and SSDT from VASP verified.	*Annex 23-2Q, Page 75*	₱ 4,279.00	₱ 4,279.00
2. Input VAT on importation of goods made through informal entry supported by photocopies of Informal Import Declaration and Entry and/or original Bureau of Customs Official Receipts (BOC ORs) claimed by the Company during 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015	*Annex 24-1Q, Page 76*	3,931.00	39,814.05
	Annex 24-2Q, Page 77	4,902.19	
	Annex 24-3Q, Page 78	16,558.06	
	Annex 24-4Q, Page 79	14,422.80	
3. Input VAT on importation of goods declared under e2m Customs supported by SAD and SSDT and Certification from AAB claimed by the Company during the 3rd Quarter of CY 2015 but amount and date in the SSDT are not indicated. Printing of SAD and SSDT from VASP verified.	*Annex 25-3Q, Page 80*	7,939.00	7,939.00
4. Amortization of input VAT on importation of capital goods exceeding ₱1 million declared under e2m Customs supported by SAD, SSDT dated within the 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015 and Certifications from AAB. Printing of SAD and SSDT from VASP verified. Asset not traced to the Company's Schedule of Capital Goods.	*Annex 26-1Q, Page 81*	3,386.30	92,448.94
	Annex 26-2Q, Page 82	24,764.84	
	Annex 26-3Q, Page 83	32,148.90	
	Annex 26-4Q, Page 84	32,148.90	
5. Amortization of prior years' input VAT on importation of capital goods exceeding ₱1 million declared under e2m Customs supported by BOC-verified SADs, photocopies of SSDTs, BOC Certification of Collection of Duties and Taxes and Certifications from AAB claimed by the Company during 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015. Asset not traced to the Company's Schedule of Capital Goods.	*Annex 27-1Q, Page 85*	56,044.85	224,179.40
	Annex 27-2Q, Page 86	56,044.85	
	Annex 27-3Q, Page 87	56,044.85	
	Annex 27-4Q, Page 88	56,044.85	
6. Amortization of prior years' input VAT on importation of capital goods exceeding ₱1	*Annex 28-1Q, Page 89*	126,795.00	507,180.00

million declared under e2m Customs supported by BOC-verified SADs, photocopy of Statement of SSDTs, BOC Certification of Collection of Duties and Taxes, without Certification from AAB claimed by the Company during the 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015.	*Annex 28-2Q, Page 90*	126,795.00	
	Annex 28-3Q, Page 91	126,795.00	
	Annex 28-4Q, Page 92	126,795.00	
7. Amortization of prior years' input VAT on importation of capital goods exceeding ₱1 million declared under e2m Customs amortized supported by BOC-verified SAD, photocopy of Import Entry and Internal Revenue Declaration (IEIRD), BOC Certification of Collection of Duties and Taxes, without Certification from AAB claimed by the Company during the 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of CY 2015.	*Annex 29-1Q, Page 93*	32,243.80	128,975.20
	Annex 29-2Q, Page 94	32,243.80	
	Annex 29-3Q, Page 95	32,243.80	
	Annex 29-4Q, Page 96	32,243.80	
8. Amortization of prior years' input VAT on importation of capital goods exceeding ₱1 million declared under e2m Customs supported by SADs and SSDTs claimed by the Company during CY 2015. Printing of SADs and SSDTs from VASP not verified.	*Annex 30-1Q, Pages 97-98*	95,717.20	382,868.80
	Annex 30-2Q, Pages 99-100	95,717.20	
	Annex 30-3Q, Pages 101-102	95,717.20	
	Annex 30-4Q, Pages 103-104	95,717.20	
9. Input VAT on importation of goods declared under e2m Customs supported by SAD and SSDT dated and claimed by the Company during the 3rd Quarter of CY 2015 but the amount in the corresponding Certification from AAB is less than the amount in the SSDT. Input VAT disallowed computed based on the total amount not reflected in the Certification from AAB. Printing of SAD and SSDT from VASP verified.	*Annex 17-3Q, Page 62*	6,165.00	6,165.00
Subtotal			***₱ 1,393,849.39***
GRAND TOTAL			**₱22,048,370.41**

Upon careful scrutiny of the ICPA report together with the other submitted documentary evidence, this Court agrees with the findings of the ICPA that the amounts of ₱16,285,322.58 and ₱4,369,198.44, or in the total amount of ₱20,654,521.02, represent petitioner's substantiated input VAT.

Nonetheless, with regard to the ICPA's findings on *input VAT with noted exceptions* in the amount of ₱1,393,849.39, further scrutiny reveals that out of the total amount of ₱44,093.05 (total of ₱4,279.00 and ₱39,814.05) in *item nos. 1 & 2* thereof, the input VAT of ₱39,542.79 may be claimed by petitioner since the same was validly supported, while the remaining input VAT of ₱4,550.26 should be disallowed, as follows:

Findings	Reference to ICPA Report	Exhibit No.	Input VAT Amount per Quarter	Total Input VAT Amount
• ***Allowed input VAT from ICPA's noted exceptions***				
From Item No. 1: Supported by SSDT as proof of VAT payment	Annex 23-2Q, Page 75	P-66, page 25	₱ 4,279.00	₱ 4,279.00
From Item No. 2: Supported by BOC ORs, which are faithful reproduction of originals, as proof of VAT payments	Annex 24-1Q, Page 76	P-75, pages 3 & 6	3,931.00	35,263.79
	Annex 24-2Q, Page 77	P-76, pages 3, 6 & 9	4,902.00	
	Annex 24-3Q, Page 78	P-77, pages 5, 8, 11, 13,16, 19 & 22	14,564.99	
	Annex 24-4Q, Page 79	P-143, pages 5, 8, 11 & 14	11,865.80	
Total allowed input from ICPA's noted exceptions				***₱39,542.79***

Findings	Reference to ICPA Report	Exhibit No.	Input VAT Amount per Quarter	Total Input VAT Amount
• ***Proper disallowances from ICPA's exceptions*** *(All from Item No. 2)*				
Input VAT amount per BOC OR (₱2,149.00) is lower than the amount per claim (₱2,149.19)	Annex 24-2Q, Page 77	P-76, page 9	₱ 0.19	₱ 0.19
Supported by BOC OR, which is a faithful reproduction of original, but the amount of input VAT cannot be ascertained therefrom	Annex 24-3Q, Page 78	P-77, page 2	1,993.00	1,993.07
Input VAT amount per BOC OR (₱5,571.00) is lower than the amount per claim (₱5,571.07)		P-77, page 22	0.07	
Supported by BOC OR, which is a faithful reproduction of original, but petitioner is not the payor indicated therein	Annex 24-4Q, Page 79	P-143, page 2	2,557.00	2,557.00
Total ICPA disallowances as agreed by the Court				***₱ 4,550.26***
Grand Total of Items Nos. 1 & 2 of ICPA's exceptions				**₱44,093.05**

In addition, the Court also finds the other exceptions found by the ICPA *(items nos. 3 to 9 therein)* in the total amount of ₱1,349,756.34 (₱1,393,849.39 less ₱44,093.05) to be in order.

Accordingly, petitioner's input VAT disallowances amount to ₱1,354,306.60 (total of ₱4,550.26 and ₱1,349,756.34) while its valid input VAT for CY 2015 amounts to ₱20,694,063.81, as computed below:

	Total
Properly substantiated input VAT per ICPA's findings:	
Properly substantiated input VAT	₱16,285,322.58
Substantiated input VAT with certain observations	4,369,198.44
Total	*20,654,521.02*
Additional allowable input VAT per Court's verification	39,542.79
Total Valid Input VAT	**₱20,694,063.81**

Remarkably, the total valid input VAT of ₱20,694,063.81 is not entirely attributable to petitioner's declared zero-rated sales since petitioner also had reported vatable sales in its Amended Quarterly VAT Returns for the four quarters of CY 2015. Therefore, allocating the input VAT of ₱20,694,063.81 to petitioner's zero-rated sales and vatable sales, based on the percentage of each type of sales to total sales, would result to the following input VAT attributable to vatable sales in the amount of ₱1,015,358.59, and likewise input VAT attributable to zero-rated sales in the amount of ₱19,678,705.22, as shown in the tables below:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**Total**
	(Exhibit "P-11")	*(Exhibit "P-12")*	*(Exhibit "P-13")*	*(Exhibit "P-14")*	
Vatable Sales ***(A)***	₱ 36,657,216.59	₱ 6,680,475.64	₱ 5,305,472.25	₱ 10,674,101.17	₱ 59,317,265.65
Zero-Rated Sales ***(B)***	229,264,371.88	214,786,048.82	374,606,422.04	330,973,519.29	1,149,630,362.03
Total ***(C)***	**₱265,921,588.47**	**₱221,466,524.46**	**₱379,911,894.29**	**₱341,647,620.46**	**₱1,208,947,627.68**

	Allocation Factor
Vatable Sales *(A/C)*	4.906521%
Zero-Rates Sales *(B/C)*	95.093479%
Total Sales	100.000000%
Valid Input VAT	₱ 20,694,063.81
Allocated as follows:	
Input VAT attributable to Vatable Sales *(₱20,694,063.81 x 4.906521%)*	₱ 1,015,358.59
Input VAT attributable to Zero-Rates Sales *(₱20,694,063.81 x 95.093479%)*	19,678,705.22
Total	**₱20,694,063.81**

Thus, after deducting the input VAT attributable to vatable sales in the amount of ₱1,015,358.59 from petitioner's output VAT liability for CY 2015 in the amount of ₱7,118,071.88, petitioner still has a net output VAT payable of ₱6,102,713.29, as follows:

Output VAT Payable[51]	₱ 7,118,071.88
Less: Input VAT attributable to Vatable Sales	1,015,358.59
Net Output VAT Payable	**₱6,102,713.29**

Furthermore, by deducting the net output VAT payable in the amount of ₱6,102,713.29 from petitioner's input VAT allocated to zero-rated sales in the amount of ₱19,678,705.22, there remains an excess input VAT of ₱13,575,991.93 attributable to the total declared zero-rated sales of ₱1,149,630,362.03.

Unfortunately, however, only the input VAT of ₱12,752,844.69 can be attributed to the valid zero-rated sales of ₱1,079,925,322.01, computed as follows:

Input VAT Allocated to Zero-Rated Sales	19,678,705.22
Less: Net Output VAT Payable	6,102,713.29
Excess Input VAT attributable to zero-rated sales	**₱13,575,991.93**
Divided by Declared Zero-Rated Sales	1,149,630,362.03
Multiply by Valid Zero-Rated Sales	1,079,925,322.01
Refundable Input VAT attributable to Zero-Rated Sales	**₱12,752,844.69**

Petitioner's input VAT was not applied against any output VAT liability

With regard to the final requisite, this Court finds that petitioner carried over its input VAT claim in its succeeding quarterly VAT Returns for the 1st to 4th quarters of CY 2016[52]. Nevertheless, the said amount remained unutilized until the same was deducted as "VAT Refund/TCC Claimed"[53] in its Amended Quarterly VAT Return for the 4th quarter of CY 2016. Thus, the subject claim no longer formed part of the excess input VAT of ₱1,366,245.62[54] as of the end of the 4th quarter of CY 2016 that was carried over to the succeeding taxable

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Period	**Output VAT Due**
1st Quarter (Exhibit "P-11")	₱ 4,398,865.99
2nd Quarter (Exhibit "P-12")	801,657.08
3rd Quarter (Exhibit "P-13")	636,656.67
4th Quarter (Exhibit "P-14")	1,280,892.14
Total	**₱7,118,071.88**

52 Exhibits "P-91" to "P-94".
53 Line 23D of Exhibit "P-94".
54 Line 29 of Exhibit "P-94".

quarters of CY 2017.[55] Hence, it eliminates the possibility that the present claim would be applied to future output VAT liability.

WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to **ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner, in the amount of **₱12,752,844.69** representing its unutilized excess input VAT attributable to its zero-rated sales for the four quarters of CY 2015.

SO ORDERED.

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

WE CONCUR:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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.

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

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

55 Exhibits "P-95" to "P-98".