REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

HALLIBURTON WORLDWIDE LIMITED - PHILIPPINE BRANCH, *Petitioner,*	**CTA Case No. 10467**
	Members: **MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
- versus -	
	Promulgated:
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	JUL 26 2024 3:25 p.m.

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DECISION

REYES-FAJARDO, J.:

This Petition for Review filed by Halliburton Worldwide Limited - Philippine Branch on February 16, 2021 seeks the refund or issuance of tax credit certificate (TCC) of alleged unutilized input value-added tax (VAT) in the amount of ₱7,287,179.51, covering the four (4) quarters of calendar year (CY) 2018.[1]

PARTIES

Petitioner Halliburton Worldwide Limited – Philippine Branch, is a Philippine branch office of Halliburton Worldwide Limited, a foreign company organized and existing under the laws of Cayman Islands, with office address at Unit 1502-03, 15th Floor Richville Corporate Tower, 1107 Alabang-Zapote Road Madrigal Business Park, Ayala Muntinlupa City 1780.[2] It is licensed by the Securities

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1 Par. 1, Statement of the Case, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. II, p. 561.

2 Par. 2, *Petition for Review*, Docket – Vol. I, p. 9.

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and Exchange Commission (SEC) to transact as a branch office in the Philippines to engage in the business of providing oilfield services and products, such as well completion, drilling, cementing, logging, well testing, perforating, production testing and workover, stimulation services and licensing of software and consulting services, and importation and provision of oilfield equipment and technology to the oil and gas industries.[3] It is also registered with the Bureau of Internal Revenue (BIR), Revenue District Office (RDO) No. 53B, as a VAT taxpayer with Taxpayer's Identification Number (TIN) 266-369-565-000 as shown in its BIR Certificate of Registration dated October 23, 2008.[4]

Respondent is the duly appointed Commissioner of Internal Revenue vested under the 1997 National Internal Revenue Code, as amended by Republic Act (RA) No. 10963 (NIRC, as amended),[5] with the authority to decide, approve, and grant refunds or tax credits of excess and unutilized input VAT. He holds office at the BIR National Office, BIR Road, Diliman, Quezon City.[6]

FACTS

On July 15, 2020, petitioner filed with the BIR RDO No. 53B, its *Application for Tax Credits/Refunds* (BIR Form No. 1914), an administrative claim for refund of its alleged unutilized input VAT in the amount of ₱7,287,179.51, for the four (4) quarters of CY 2018.[7]

On February 16, 2021, petitioner filed a Petition for Review, docketed as CTA Case No. 10467, [8] to which respondent filed an Answer on August 20, 2021.[9]

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3 Exhibit "P-1," Docket - Vol. II, pp. 717 to 728.

4 Par. 3, Stipulated Facts, JSFI, Docket - Vol. II, p. 562; and Exhibit "P-2," Docket - Vol. II, p. 729.

5 AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

6 Par. 2, Stipulated Facts, JSFI, Docket - Vol. II, pp. 561 to 562.

7 Par. 5, Stipulated Facts, JSFI, Docket - Vol. II, p. 562; and Exhibit "P-27," "P-27-1," and "P-28," Docket - Vol. II, pp. 1065 to 1078.

8 Docket - Vol. I, pp. 8 to 28.

On March 31, 2022, the Pre-Trial Conference was held.[10]

On April 20, 2022, the parties filed their Joint Stipulation of Facts and Issues,[11] which was approved through Resolution dated May 4, 2022.[12] On the basis thereof, the Court issued a Pre-Trial Order dated May 27, 2022.[13]

Trial ensued. Petitioner presented: (1) Ms. Nadia Wahida Ab Kadir,[14] Accountant of Halliburton Business Services Sdn Bhd; and (2) Mr. Edward D. Roguel,[15] the Court-commissioned Independent Certified Public Accountant (ICPA Roguel),[16] as its witnesses.

On November 23, 2022, petitioner filed its Formal Offer of Evidence,[17] to which respondent filed his Comment/Opposition (To Petitioner's Formal Offer of Evidence dated November 23, 2022) on December 9, 2022.[18]

By Resolution dated January 13, 2023,[19] the Court admitted the pieces of evidence offered by petitioner, except:

1. Exhibits "P-34," "P-49 to P-50," "P-82," "P-91," "P-93-1," "P-98-1," "P-101-1," "P-103-4," "P-121-1," "P-122-1," "P-123-1 to P-124," "P-125," "P-126," "P-133-1," "P-135-1 to P-135-2," "P-135-4," "P-138," "P-144-1," "P-149 to P-150," "P-161 to P-161-1," "P-170 to P-171-1,"

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9 *Motion for Extension of Time to File Answer* dated July 13, 2021, *Motion to Admit Answer and Judicial Affidavit of Christine C. Virtudes* dated August 20, 2021, and Resolution dated October 20, 2021, Docket - Vol. I, pp. 406 to 409, 412 to 444, and 499, respectively.

10 Order dated February 9, 2022, Docket - Vol. II, p. 505; and Order dated, March 31, 2022, Docket - Vol. II, unpaginated.

11 Docket - Vol. II, pp. 561 to 576.

12 Docket - Vol. II, p. 578.

13 Docket - Vol. II, pp. 585 to 601.

14 Exhibit "P-29," Docket - Vol. I, pp. 369, to 388 and 49 (signed Attestation); and Order dated, August 18, 2022, Docket - Vol. II, unpaginated.

15 Exhibit "P-28," Docket - Vol. II, pp. 659 to 684; and Order dated October 18, 2022, Docket - Vol. II, pp. 693 to 694.

16 *Oath of Commission* dated August 18, 2022, Docket - Vol. II, unpaginated; and Order dated, August 18, 2022, Docket - Vol. II, pp. unpaginated.

17 Docket - Vol. II, pp. 695 to 716.

18 Docket - Vol. II, pp. 1081 to 1094.

19 Docket - Vol. II, pp. 1096 to 1099.

"P-172-1," "P-175," "P-181," "P-182-1 to P-182-2," "P-183 to P-183-2," "P-184-1 to P-184-2," "P-186-1 to P-186-4," "P-191-1," "P-191-3 to P-191-5," "P-193-6," "P-200-1 to P-201," "P-209," "P-219-1," "P-220-1," "P-221-1," "P-222-1," "P-223-1," "P-224-1," "P-225-1," "P-226-1," "P-227-1," "P-233," "P-235 to P-236," "P-240," "P-254," "P-262 to P-266," "P-268," and "P-276 to P-279," for failure to present the originals for comparison;

2. Exhibit "P-38-5," for not being found in the records and for failure to present the original for comparison;

3. Exhibit "P-87, including sub-markings," for failure of the document offered to correspond with the document actually marked; and

4. Exhibit "P-202-2" for not being found in the records.

On January 19, 2023, petitioner filed a Reply (Re: Respondent's Comment/Opposition to Petitioner's Formal Offer of Evidence).[20] However, through Resolution dated January 27, 2023,[21] said Reply was rendered moot.

Respondent presented Revenue Officer (RO) Christine C. Virtudes,[22] as his witness.

On February 20, 2023, respondent filed his Formal Offer of Evidence,[23] to which petitioner filed its Comment/Opposition (Re: Respondent's Formal Offer of Evidence dated February 20, 2023) on March 8, 2023.[24]

On February 22, 2023, petitioner filed a Motion for Reconsideration (Re: Resolution dated January 13, 2023),[25] sans respondent's comment thereon.[26]

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[20] Docket - Vol. II, pp. 1100 to 1105.
[21] Docket - Vol. II, p. 1107.
[22] Exhibit "R-8," Docket - Vol. I, pp. 434 to 444; and Order dated, February 7, 2023, Docket - Vol. II, pp. 1108 to 1109.
[23] Docket - Vol. II, pp. 1113 to 1117.
[24] Docket - Vol. II, pp. 1137 to 1140.
[25] Docket - Vol. II, pp. 1123 to 1129.

Under Resolution dated May 9, 2023,[27] the Court admitted all pieces of evidence offered by respondent.

Through Resolution dated June 14, 2023,[28] the petitioner's Motion for Reconsideration (Re: Resolution dated January 13, 2023) was partially granted. Accordingly, Exhibits "P-34," "P-38-5," "P-87, including sub-markings," "P-121-1," "P-122-1," "P-123-1 to P-124," "P-125," "P-126," "P-133-1," "P-135-1 to P-135-2," "P-135-4," "P-138," "P-144-1," "P-149 to P-150," "P-161 to P-161-1," "P-170 to P-171-1," "P-172-1," "P-175," "P-181," "P-182-1 to P-182-2," "P-183 to P-183-2," "P-184-1 to P-184-2," "P-186-1 to P-186-4," "P-191-1," "P-191-3 to P-191-5," "P-193-6," "P-200-1 to P-201," "P-202-2," "P-209," "P-219-1," "P-220-1," "P-221-1," "P-222-1," "P-223-1," "P-224-1," "P-225-1," "P-226-1," "P-227-1," "P-233," P-235 to P-236," "P-240," "P-254," "P-262 to P-266," "P-268," and "P-276 to P-279," were admitted as petitioner's evidence. However, the following documents were again denied: Exhibits "P-49 to P-50," "P-82," "P-91," "P-93-1," "P-98-1," "P-101-1" and "P-103-4," for failure to present the originals for comparison.

In the Resolution dated August 16, 2023, this case was deemed submitted for decision.[29] considering respondent's Memorandum filed on August 7, 2023,[30] and petitioner's Memorandum filed on August 10, 2023.[31]

ISSUE[32]

> Is petitioner entitled to claim the refund or issuance of TCC in the amount of ₱7,287,179.51 of its alleged unutilized input VAT attributable to zero-rated sales for the four (4) quarters of CY 2018?

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26 Records Verification dated April 18, 2023 issued by this Court's Judicial Records Division, Docket - Vol. II, p. 1141.
27 Docket - Vol. II, pp. 1144 to 1145.
28 Docket - Vol. II, pp. 1149 to 1155.
29 Minute Resolution dated August 16, 2023, Docket - Vol. II, p. 1212.
30 Docket - Vol. II, pp. 1156 to 1176.
31 Docket - Vol. III, pp. 1180 to 1211.
32 Par. 9, Issue, JSFI, Docket - Vol. II, p. 563.

ARGUMENTS

Petitioner argues that its sales to Energy Development Corporation (EDC) and Philippine Geothermal Production Company (PGPC) must be conferred VAT zero-rating, because sales to registered renewable energy developers are automatically subject to 0% VAT.

Petitioner further maintains that it satisfied all the conditions for the grant of input VAT refund under Section 112 of the NIRC, as amended. Specifically: 1) its administrative and judicial claims for input VAT refund were timely filed; 2) it is a VAT-Registered entity; 3) it is engaged in zero-rated sales of goods; 4) it had duly substantiated its input taxes in accordance with Sections 110 and 113 of the NIRC, as amended; 5) the input taxes it claimed are not transitional input taxes; 6) said substantiated input taxes are attributable to its zero-rated sales; 7) it had duly substantiated zero-rated export sales, which was paid for in acceptable foreign currency exchange proceeds, and duly accounted for under *Bangko Sentral ng Pilipinas (BSP)* rules and regulations; and 8) such substantiated input taxes were not applied to its output VAT. Therefore, petitioner asserts that it is entitled to its refund claim of unutilized input taxes, attributable to its zero-rated sales covering the four (4) Quarters of CY 2018 in the amount of ₱7,287,179.51.

Respondent counters that petitioner's input VAT refund claim must be rejected because: *one,* the Petition for Review was prematurely filed; *two,* petitioner failed to prove that its sales to EDC and PGPC are zero-rated; *three,* petitioner failed to prove that there was an actual offsetting of accounts to prove that constructive foreign currency exchange proceeds were inwardly remitted as required under Section 106(A)(2)(a); and *four,* VAT invoices or official receipts presented by petitioner failed to comply with the invoicing requirements under the law.

RULING

The Petition is partly meritorious. Petitioner is entitled to an input VAT refund, only to the extent of ₱249,846.52; the prayer for refund in the amount of ₱7,037,332.99 is denied.

od

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

Section 112 (A) and (C) of the NIRC, as amended, provides:

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

Jurisprudence has laid down requisites which the taxpayer-applicant must comply with to successfully obtain an input VAT refund claim, as follows:

> *As to the timeliness of the filing of the administrative and judicial claims:*
>
> 1. the refund claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[33]
>
> 2. 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 ninety (90) days, the judicial claim has been filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the said 90-day period;[34]
>
> *With reference to the taxpayer's registration with the BIR:*
>
> 3. the taxpayer is a VAT-registered person;[35]
>
> *In relation to the taxpayer's output VAT:*
>
> 4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[36]
>
> 5. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[37] the acceptable foreign currency exchange proceeds have been duly

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33 *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; and *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

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

35 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc., v. Commissioner of Internal Revenue, supra*.

36 *Id.*

37 Under RA No. 10963, Section 106(A)(2)(a)(**2**) was renumbered to Section 106(A)(2)(a)(**3**) while Section 106(A)(2)(**b**) was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

or

accounted for in accordance with the Bangko Sentral ng Pilipinas (BSP) rules and regulations;[38]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[39]

7. the input taxes are due or paid;[40]

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;[41] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[42]

Petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[43] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[44] More importantly, compliance with all the VAT invoicing requirements is mandatory.[45]

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38 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc., v. Commissioner of Internal Revenue, supra.*

39 *Id.*

40 *Id.*

41 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra.

42 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, supra.

43 *JRA Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

44 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

45 See *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

First and Second Requisites: petitioner's administrative and judicial claims for input VAT refund were timely filed.

Section 112(A) of the NIRC, as amended, commands the taxpayer to file an administrative claim for input VAT refund, within two (2) years, following the close of the taxable quarter when the sales were made.

Section 112(C) of the same Code grants the BIR a period of ninety (90) days from date of submission of the official receipts or invoices and other supporting documents, to decide on the taxpayer's administrative claim for input VAT refund. At present, said invoices, official receipts, and other supporting documents are submitted upon the filing of the taxpayer's administrative claim for input VAT refund.[46] In turn, the taxpayer, may appeal to the Court, within thirty (30) days: a) from receipt of adverse decision rendered within said 90-day period; or b) after the lapse of said 90-day period, whichever is earlier.

Petitioner's input VAT refund claim covering the four (4) quarters of CY 2018 was timely filed on July 15, 2020. Consider the following presentation:

Quarter (CY 2018)	Period Covered	Last day for filing an administrative claim	Date of filing of administrative claim for refund
1st Quarter	January to March 2018	March 31, 2020 (but was extended up to **July 15, 2020**)[47]	
2nd Quarter	April to June 2018	June 30, 2020 (but was extended up to **August 31, 2020**)[49]	July 15, 2020[48]

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[46] See *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue (CIR)*, G.R. No. 244154, July 15, 2020. Beginning June 11, 2014, or upon effectivity of Revenue Memorandum Circular (RMC) No. 54-2014, the documents are deemed complete upon filing of the taxpayer's administrative claim for input VAT refund.

[47] Pursuant to Section 4(z) of Republic Act (RA) No. 11469 as implemented by Section 2, of BIR Revenue Regulations No. 16-2020, filing of claims for VAT refund for calendar quarters ending March 31, 2018 was extended until July 15, 2020.

[48] Par. 5, Stipulated Facts, JSFI, Docket - Vol. II, p. 562; Exhibits "P-27" and "P-28," Docket - Vol. II, pp. 1065 to 1078; and Exhibit "R-3," Folder 1 of 11, BIR Records, pp. 2139 to 2151.

2nd Quarter	July to September 2018	September 30, 2020	
4th Quarter	October to December 2018	December 31, 2020	

To be sure, the last day for petitioner to file its administrative claim covering the 1st and 2nd quarter of CY 2018 is only until March 31, 2020 and June 30, 2020, respectively. However, due to Corona Virus Disease 2019 (COVID-19), the statutory deadlines and timeliness for the filling and submission of any document were extended. The filing of the VAT refund claims for calendar quarters ending March 31, 2018 was extended until July 15, 2020;[50] while the filing of claims for VAT refund claims for calendar quarters ending June 30, 2018 were extended until August 31, 2020.[51]Thus, the filing of petitioner's administrative claim for input VAT refund covering the four (4) quarters of CY 2018, was timely.

Respondent had ninety (90) days from July 15, 2020, or until October 13, 2020 to decide on said administrative claim for refund.

Pursuant to Section 4(tt) of RA No. 11494,[52] the SOF issued Revenue Regulations (RR) No. 27-2020 dated October 6, 2020,[53] which suspended the ninety (90)-day period for processing of input VAT refund claims under Section 112(C) of the NIRC, as amended, during

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49 Pursuant to Section 4(z) of Republic Act (RA) No. 11469 as implemented by Section 2, of BIR Revenue Regulations No. 16-2020, filing of claims for VAT refund for calendar quarters ending June 30, 2018 were extended until August 31, 2020.

50 Section 4(z) of Republic Act (RA) No. 11469 as implemented by Section 2, of BIR Revenue Regulations No. 16-2020.

51 Section 4(z) of Republic Act (RA) No. 11469 as implemented by Section 2, of BIR Revenue Regulations No. 16-2020

52 AN ACT PROVIDING FOR COVID-19 RESPONSE AND RECOVERY INTERVENTIONS AND PROVIDING MECHANISMS TO ACCELERATE THE RECOVERY AND BOLSTER THE RESILIENCY OF THE PHILIPPINE ECONOMY, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES, otherwise known as *"Bayanihan to Recover as One Act."*

...

Section 4.

...

(tt) Moving of statutory deadlines and timelines for the filing and submission of any document, the payment of taxes, fees, and other charges required by law, and the grant of any benefit, in order to ease the burden on individuals under CQ;

...

53 Regulations Suspending the Filing and Ninety (90)- Day Processing of VAT Refund Claims Anchored Under Section 112 of the Tax Code of 1997, as Amended, in Relation to Section 4 (tt) of RA No. 11494, Otherwise Known as the "Bayanihan to Recover as One Act."

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the effectivity of RA No. 11494 or until the next adjournment of the Eighteenth Congress on December 19, 2020.[54]

Here, sixty-one (61) days had already lapsed from the filing of petitioner's administrative claim for refund on July 15, 2020 until before the effectivity of RA No. 11494 on September 14, 2020; hence, respondent had remaining twenty-nine (29) days from December 20, 2020 or until January 18, 2021 to act on said administrative claim.

There being no adverse decision received by petitioner as of January 18, 2021,[55] the latter's administrative claim for refund is deemed denied under Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282.[56] Counting thirty (30) days from January 18, 2021, petitioner had until February 17, 2021 to file a Petition for Review. Thus, the filing of its judicial claim for input VAT refund on February 16, 2021, was timely vesting the Court with jurisdiction over CTA Case No. 10467.

Third Requisite: petitioner is a VAT-registered taxpayer.

Petitioner is a VAT-registered taxpayer with Tax Identification No. 266-369-565-000 as evidenced by Certificate of Registration with registration No. 9RC0000530550.[57]

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54 R.A. No. 11494 became effective on September 11, 2020, before the lapse of respondent's 90-day period to act on petitioner's administrative claim for refund on September 30, 2020.

55 Par. 7, JSFI, Docket – Vol. II, p. 562.

56 Sec. 7. Jurisdiction. - The CTA shall exercise:
a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
...
2. **Inaction** by the Commissioner of **Internal Revenue** in **cases** involving disputed assessments, **refunds of internal revenue taxes,** fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; (Boldfacing supplied)

57 Par. 3, Stipulated Facts, JSFI, Docket – Vol. II, p. 562; and Exhibit "P-2," Docket – Vol. II, p. 729.

Fourth and Fifth Requisites: petitioner was able to partially establish that it was engaged in zero-rated sales for the four (4) quarters of CY 2018 in the amount of ₱4,382,813.67.

In its Amended Quarterly VAT Returns (BIR Forms No. 2550-Q) for the four (4) Quarters of CY 2018, petitioner reported total zero-rated sales/receipts in the amount of ₱94,633,039.84:

CY 2018	Exhibit	Reported Zero-Rated Sales/Receipts
1st Quarter	"P-3-1"[58]	₱ 26,732,466.44
2nd Quarter	"P-4-1"[59]	25,807,044.45
3rd Quarter	"P-5-1"[60]	7,724,194.94
4th Quarter	"P-6-1"[61]	34,369,334.01
	Total	₱94,633,039.84

Petitioner allegedly generated zero-rated sales/receipts for the four (4) quarters of CY 2018 from: 1) export sales of goods to non-resident foreign affiliate doing business outside the Philippines under Section 106(A)(2)(a)(1) of the NIRC, as amended; and 2) sales of services to duly registered Renewable Energy (RE) Developers under Section 15(g) of RA No. 9513 or the Renewable Energy (RE) Act of 2008 detailed as follows:[62]

2018	Exhibits	Export Sale of Goods to Non-Resident Foreign Affiliate	Sale of Services to RE Developers		Total
		PT Halliburton Drilling Systems Indonesia[63]	EDC[64]	PGPC[65]	

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[58] Docket - Vol. II, pp. 733 to 735.
[59] Docket - Vol. II, pp. 739 to 741.
[60] Docket - Vol. II, pp. 745 to 747.
[61] Docket - Vol. II, pp. 751 to 753.
[62] Par. 7, *Petition for Review*, Docket - Vol. I, p. 10.
[63] Par. 24, *Petition for Review*, Docket - Vol. I, p. 16.
[64] Par. 19, *Petition for Review*, Docket - Vol. I, pp. 14 to 15.
[65] Par. 21, *Petition for Review*, Docket - Vol. I, p. 15.

1st Quarter	"P-3-1"[66]	₱ 30,529.50	₱ 26,701,936.94	-	₱ 26,732,466.44
2nd Quarter	"P-4-1"[67]	-	25,807,044.45	-	25,807,044.45
3rd Quarter	"P-5-1"[68]	-	7,724,194.94	-	7,724,194.94
4th Quarter	"P-6-1"[69]	-	33,270,953.95	₱ 1,098,380.06[70]	34,369,334.01
Total		**₱30,529.50**	**₱93,504,130.28**	**₱1,098,380.06**	**₱94,633,039.84**

I. Export sale of goods to non-resident foreign affiliate under Section 106(A)(2)(a)(1) of the NIRC, as amended.

Petitioner states that for the 1st quarter of CY 2018, it exported goods to its non-resident affiliate, PT Halliburton Drilling Systems Indonesia, amounting to ₱30,529.50. Petitioner was allegedly paid in acceptable foreign currencies accounted for in accordance with the rules and regulations of the BSP and Revenue Memorandum Circular (RMC) No. 42-2003, via offsetting arrangements for said sale.[71] Thus, petitioner submits that the aforesaid export sale in the amount of ₱30,529.50 is subject to zero percent (0%) VAT pursuant to Section 106(A)(2)(a)(1) of the NIRC, as amended,[72] which provides:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —
>
> (A) *Rate and Base of Tax.* — ...
>
> (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

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66 Docket - Vol. II, pp. 733 to 735.
67 Docket - Vol. II, pp. 739 to 741.
68 Docket - Vol. II, pp. 745 to 747.
69 Docket - Vol. II, pp. 751 to 753.
70 Erroneously indicated as ₱1,089,380.06 per *Petition for Review*, please see Exhibit "P-27," Docket - Vol. II, p. 1066.
71 Pars. 24 and 25, *Petition for Review*, Docket - Vol. I, p. 16.
72 Par. 26, *Petition for Review*, Docket - Vol. I, p. 17.

> paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);[73]

To accord 0% VAT on sales made pursuant to Section 106(A)(2)(a)(1) of the NIRC, as amended, the following conditions must be complied with: *first,* the sale was made by a VAT-registered person; *second,* there was sale and actual shipment of goods from the Philippines to a foreign country; and *third,* said sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

In relation to the *second* condition, any VAT-registered person claiming VAT zero-rated direct export sales must present, among others: *one,* SI as proof of sale of goods;[74] and *two,* bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country.[75]

Said SIs must also comply with the pertinent invoicing and substantiation requirements, containing all the required information under Sections 113(A) and (B), and 237 of the NIRC, as amended, in relation to Section 4.113-1(A) and (B) of RR No. 16-2005.[76] These provisions respectively state:

> 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

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[73] Boldfacing supplied.

[74] Section 113(A)(1) of the NIRC, as amended, requires a VAT-registered person to issue a VAT invoice for every sale of goods, among others. See *Takenaka Corporation-Philippine Branch v. Commissioner of Internal Revenue,* G.R. No. 193321, October 19, 2016.

[75] *Commissioner of Internal Revenue v. Colt Commercial, Inc.* and *Colt Commercial, Inc. v. Commissioner of Internal Revenue,* CTA EB Nos. 2006 and 2012, June 29, 2020, citing *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 166732, April 27, 2007.

[76] See *Commissioner of Internal Revenue v. Filminera Resources Corporation,* G.R. No. 236325, September 16, 2020.

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

(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 breakdown 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 (P1,000) 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.

...

"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, <u>issue duly registered</u> receipts

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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.

...

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.

...

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 peso (₱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."

As for the *first* condition, petitioner's status as a VAT-Registered person may not be denied.[77] However, petitioner's claimed direct export sales of goods to its non-resident foreign affiliate, PT Halliburton Drilling Systems Indonesia, in the amount of ₱30,529.50, failed to qualify for VAT zero-rating under 106(A)(2)(a)(1) of the NIRC, as amended.

Specifically, petitioner presented its Invoice No. 9503736351,[78] and Air Waybill No. 203-1074-2502[79] to prove its export sale of equipment to PT Halliburton Drilling Systems Indonesia. The amount of ₱30,529.50 must be denied VAT zero-rating for being

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[77] *Supra* note 57.
[78] Exhibit "P-36," USB.
[79] Exhibit "P-82," USB.

violative of the invoicing requirements under Sections 113(A) and (B), and 237 of the NIRC, as amended, in relation to Section 4.113-1(A) and (B) of RR No. 16-2005, as follows: (1) the SI pertaining thereto was computer-generated for which petitioner has no existing registration with the BIR to use a computerized accounting system; and (2) the term "zero-rated" was not indicated on the face of said invoice.[80] Further, Air Waybill No. 203-1074-2502[81] was denied admission by the Court in its Resolution dated June 14, 2023[82] because of petitioner's failure to present the original for comparison. Hence, petitioner failed to comply with the second condition thereof.

Also, petitioner did not adhere with the *third* condition. Petitioner presented In-House Cash and Intercompany Settlement Agreement,[83] to prove that its export sales of good in the amount of ₱30,529.50 was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP and RMC No. 42-2003, via offsetting arrangements.[84] Yet, petitioner failed to submit

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80 Exhibit "P-31," Docket - Vol. II, p. 616.

81 Exhibit "P-82," USB.

82 Docket - Vol. II, pp. 1149 to 1155.

83 Exhibit "P-26," Docket - Vol. II, pp. 1051 to 1064.

84 Revenue Memorandum Circular No. 42-2003
SUBJECT: Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters

Q-8: With the full liberalization of the BSP rules on foreign exchange and trade transactions (CB Circular No. 1389 dated April 13, 1993 enunciated in RMC No. 57-97), the BIR requirement for full documentation of proofs of inward remittances of export proceeds should no longer be enforced. Accordingly, what should be the acceptable documentary requirements in the processing of claims for TCC/refund, specifically on offsetting arrangements?

A-8: In the case of offsetting arrangements, the following documents should be required:

a. Import documents which created liability accounts in favor of the foreign parent or affiliated company;
b. Other contracts with the foreign or affiliated company that brought about the liabilities which were offset against receivables from export sales;
c. Evidence of proceeds of loans, in case the claimant has received loans or advances from the foreign company;
d. Documents or correspondence regarding offsetting arrangements;
e. Confirmation of the offsetting arrangements by the heads of the business organizations involved;
f. Documents to prove actual export of goods;
g. Documents to prove that the sales are zero-rated sales.

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documents establishing the existence of its foreign currency payables to PT Halliburton Drilling Systems Indonesia, such as those specified under letters "a" to "c" of RMC No. 42-2003, against which the receivable from its claimed export sales of ₱30,529.50 was allegedly offset. Also, petitioner failed to provide a schedule of intercompany receivables/payables account. Thus, it cannot be verified whether the sales of petitioner to PT Halliburton Drilling Systems Indonesia in 2018 was fully accounted for in the offsetting of receivables.[85] Moreover, an examination of the In-House Cash and Intercompany Settlement Agreement[86] presented by petitioner does not bear any indication that petitioner and PT Halliburton Drilling Systems Indonesia agreed to the offsetting of their receivables from and payables to each other as required under letters "d" and "e" of RMC No. 42-2003.

II. *Sale of services to RE Developers under Section 15(g) of RA No. 9513 or the Renewable Energy (RE) Act of 2008.*

Petitioner claims that its sales to RE Developers, namely: (a) EDC, in the amount of ₱93,504,130.28; and (b) PGPC, in the amount of ₱1,098,380.06, are subject to VAT at zero-percent (0%), pursuant to Section 15(g) of RA No. 9513 or the Renewable Energy (RE) Act of 2008.[87]

Section 15 (g) of RA No. 9513 declares that a RE Developer's purchases of local supply of goods, properties, and services needed for the development, construction and installation of its plant facilities and the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors, shall be entitled zero percent (0%) VAT. Accordingly, sales of services to an RE Developer is subject to zero percent (0%) VAT:

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85 Exhibit "P-31," Docket - Vol. II, p. 614.

86 Exhibit "P-26," Docket - Vol. II, pp. 1051 to 1064.

87 Pars. 17 to 23, *Petition for Review*, Docket - I, pp. 14 to 15.

CHAPTER VII
GENERAL INCENTIVES

Section 15. *Incentives for Renewable Energy Projects and Activities.* - RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

....

(g) *Zero Percent Value-Added Tax Rate.* - The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.

This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.[88]

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[88] As provided also in Part III, Rule 5, Section 13.G of the Department Circular (DC) No. DC2009-05-0008 dated May 25, 2009 issued by the DOE, Implementing Rules and Regulations (IRR) of RA No. 9513:

SEC. 13. *Fiscal Incentives for Renewable Energy Projects and Activities*

DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:

...

G. Zero Percent Value-Added Tax Rate

The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337:

....

(b) **Purchase of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE Developers; and**

a

Before an RE Developer's local purchases of goods, properties, and services be conferred 0% VAT under Section 15(g) of RA No. 9513, said RE developer must secure a Department of Energy (DOE) Certificate of Registration and Board of Investments (BOI) Certification. Section 18(A), and (B), Part III, Rule 5 of the IRR of RA No. 9513 confirmed:

> SEC. 18. *Conditions for Availment of Incentives and Other Privileges* –
>
> A. *Registration/Accreditation with the DOE*
>
> **For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall register with the DOE, through the Renewable Energy Management Bureau (REMB).** The following certifications shall be issued:
>
> *(1)* ***DOE Certificate of Registration*** **– issued to an RE Developer holding a valid RE Service/Operating Contract.**
>
> For existing RE projects, the new RE Service/Operating Contract shall pre-terminate and replace the existing Service Contract that the RE Developer has executed with the DOE subject to the Transitory Provision in Rule 13, Section 39.
>
> The DOE Certificate of Registration shall be issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment.
>
> Any investment added to existing RE projects shall be subject to prior approval by the DOE.
>
> xxx xxx xxx
>
> B. *Registration with the Board of Investments (BOI)*
>
> The RE sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan (IPP), unless declared otherwise by law.

(c) Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.

> **To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment, shall register with the BOI.**
>
> The registration with the BOI shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities. The applications for registration shall be favorably acted upon immediately by the BOI, on the basis of the certification issued by the DOE.

To confer 0% VAT on sales of goods, properties and services to an RE Developer pursuant to Section 15(g) of RA No. 9513 or the Renewable Energy (RE) Act of 2008, the following conditions must be present: *first,* the RE Developer must be registered with the DOE and BOI; and *second,* the local sales of goods, properties and services to the RE Developer are needed for the development, construction, and installation of the RE Developer's plant facilities and the whole process of exploration and development of RE sources up to its conversion into power.

For the *first* condition, petitioner presented the following documents to prove that its clients, EDC and PGPC, are RE Developers duly registered with the DOE and BOI:

Exhibits	Exhibit Reference	
	EDC	**PGPC**
Certificate of Registration with the Department of Energy	"P-14-1" to "P-14-5"[89]	"P-19"[90]
Certification from the Board of Investments	"P-16"[91]	"P-20" to "P-20-1"[92]
Endorsement from the Department of Energy to the Bureau of Internal Revenue	"P-18"[93]	"P-21"[94]
Bureau of Internal Revenue (BIR) VAT Ruling No. 0218-2020 confirming that the sales to EDC are entitled to VAT Zero-rating	"P-17"[95]	N/A

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89 Docket - Vol. II, pp. 778 to 782.
90 Docket - Vol. II, p. 800.
91 Docket - Vol. II, p. 790.
92 Docket - Vol. II, pp. 801 to 802.
93 Docket - Vol. II, pp. 798 to 799.
94 Docket - Vol. II, p. 803.
95 Docket - Vol. II, pp. 791 to 797.

In relation to the *second* condition, petitioner presented its contracts[96] with EDC to show that for the subject period of claim, EDC engaged the services of petitioner for directional drilling services, mud logging services and back-off operation services for drilling of geothermal wells, which are all related to the exploration and development of renewable energy sources.

As to petitioner's sale of services to PGPC, the ICPA Roguel noted that the same involves a sale of license to use COMPASS software and maintenance services thereof as evidenced by Purchase Order No. PO51871[97] and Quotation No. 22435701.[98] According to ICPA Roguel, COMPASS is a drilling software used by well planners for directional and horizontal planning, anti-collision analysis and managing survey data for each well drilled; COMPASS was created by Landmark Software & Services, a Halliburton company.[99] Indeed, petitioner's sale of services to PGPC also pertains to the exploration and development of renewable energy sources.

Therefore, petitioner's sales of services to EDC and PGPC qualify for VAT zero-rating under Section 15(g) of RE Act of 2008.

In any event, considering that petitioner's sales to EDC and PGPC are one of services, the same must be substantiated by BIR-registered VAT official receipts (ORs) issued in accordance with the invoicing requirements under the VAT law and regulations.

Based on ICPA Roguel's examination of petitioner's sales invoices (SIs),[100] ORs[101] and *Certificates of Creditable Tax Withheld at Source* (BIR Forms No. 2307),[102] petitioner's reported zero-rated sales of services to EDC and PGPC amounted to ₱93,504,130.28 and ₱1,098,380.06, respectively, in the total amount of ₱94,602,510.34, as summarized below:[103]

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96 Exhibits "P-24" and "P-24-2," Docket - Vol. II, pp. 888 to 1032; Exhibits "P-32" and "P-33," USB.

97 Exhibit "P-34," USB.

98 Exhibit "P-35," USB.

99 Page 7, Exhibit "P-31," Docket - Vol. II, p. 614.

100 Exhibits "P-37-1" to "P-44-3," "P-46-1" to "P-48-1," USB.

101 Exhibits "P-37," "P-38," "P-39" to "P-48," USB.

102 Exhibits "P-51" to "P-81," USB.

103 Extracted from Annex C, Exhibit "P-31," Docket - Vol. II, p. 627.

Period of Claim	Invoice Exhibit No.	OR Exhibit No	Invoice Amount (in US$)	OR Amount net of CWT (in PhP) [a]	CWT Exhibit No.	CWT (in PhP) [b]	Gross Sales (in PhP) [a+b]
Sales of services to EDC							
1st Quarter	"P-37-1"	"P-37"	20,304.00	4,382,813.67	-	20,426.64	4,472,258.85[104]
	"P-37-2"		8,380.80		-	69,018.54	
	"P-37-3"		27,936.00				
	"P-37-4"		7,497.60				
	"P-37-5"		25,200.00				
	"P-38-1"	"P-38"	106,111.45	21,785,084.53	"P-51"	104,047.70	22,229,678.09
	"P-38-2"		36,501.01		"P-52"	36,832.44	
	"P-38-3"		28,867.20		"P-53"	28,879.32	
	"P-38-4"		1,862.40		"P-54"	1,901.14	
	"P-38-5"		25,608.00		"P-55"	26,140.65	
	"P-38-6"		240,524.25		"P-56"	246,792.31	
2nd Quarter	"P-39-1"	"P-39"	23,803.20	18,990,656.09	"P-57"	24,808.65	19,378,219.89
	"P-39-2"		22,982.40		"P-58"	23,963.75	
	"P-39-3"		26,508.00		"P-59"	27,599.60	
	"P-39-4"		22,099.20		"P-60"	23,009.25	
	"P-39-5"		251,761.64		"P-61"	261,791.20	
	"P-39-6"		25,444.80		"P-62"	26,391.35	
	"P-40-1"	"P-40"	65,283.93	6,300,248.08	"P-63"	57,849.10	6,428,824.56
	"P-40-2"		24,624.00		"P-64"	25,905.43	
	"P-40-3"		19,852.80		"P-65"	20,885.94	
	"P-40-4"		22,752.00		"P-66"	23,936.01	
3rd Quarter	"P-41-1"	"P-41"	25,444.80	5,026,040.73	"P-67"	27,181.15	5,128,612.98
	"P-41-2"		23,078.40		"P-68"	24,704.04	
	"P-41-3"		22,752.00		"P-69"	24,354.65	
	"P-41-4"		24,624.00		"P-70"	26,332.41	
	"P-42-1"	"P-42"	23,803.20	2,543,670.32	"P-71"	25,463.71	2,595,581.96
	"P-42-2"		1,641.60		"P-72"	1,756.35	
	"P-42-3"		23,078.40		"P-73"	24,691.58	
4th Quarter	"P-43-1"	"P-43"	26,088.40	1,380,828.23	"P-74"	28,180.17	1,409,008.40
	"P-44-1"	"P-44"	25,608.00	15,486,202.58	"P-75"	27,670.47	15,802,247.53
	"P-44-2"		27,984.00		"P-76"	30,373.27	
	"P-44-3"		237,653.33		"P-77"	258,001.21	
	"P-46-1"	"P-46"	227,784.17	13,092,420.46	"P-78"	240,248.54	13,359,612.71
	"P-46-2"		25,608.00		"P-79"	26,943.71	
	"P-47-1"	"P-47"	25,142.40	1,312,524.30	"P-80"	26,786.21	1,339,310.51
	"P-48-1"	"P-48"	25,200.00	1,333,559.30	"P-81"	27,215.50	1,360,774.80
			Subtotal	*91,634,048.29*		*1,870,081.99*	*93,504,130.28*
Sales of services to PGPC							
4th Quarter	"P-45-1"	"P-45"		1,098,380.06	-	-	1,098,380.06
			Subtotal	*1,098,380.06*	-	-	*1,098,380.06*
			Total	**92,732,428.35**		**1,870,081.99**	**94,602,510.34**

ICPA Roguel noted that the amounts indicated in the ORs listed above pertain to the actual amounts collected which are net of creditable withholding taxes (CWT), except for the sale to PGPC in the amount of ₱1,098,380.06.[105]

However, records show that the BIR Forms No. 2307 supporting the alleged CWT in the amounts of ₱20,426.64, and

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[104] Exhibit "P-84," USB.

[105] Exhibit "P-31," Docket - Vol. II, pp. 614 to 615.

₱69,018.54, totaling ₱89,445.18, for OR marked as Exhibit "P-37" were denied admission by the Court in its Resolution dated June 14, 2023,[106] because of petitioner's failure to present the original for comparison. Thus, the amount of ₱89,445.18 is deemed not supported by VAT OR and shall be disallowed.

Moreover, the related sales of petitioner in the amount of ₱51,840,875.38, shall be disallowed because they were supported with ORs with expired Authority to Print (ATP). The validity period of the ATP was only until May 3, 2018, but the following ORs were issued beyond May 3, 2018, violative of the invoicing requirements under Sections 237 and 238 of the NIRC of 1997, as amended, quoted earlier:[107]

Invoice Exhibit No.	Invoice Date	OR Exhibit No.	OR Date	Period of Claim	Gross Sales[108]
Sales of services to EDC					
"P-39-1"	22 March 2018	"P-39"	26 June 2018	2nd Quarter	₱ 19,378,219.89
"P-39-2"	4 April 2018				
"P-39-3"	6 April 2018				
"P-39-4"	6 April 2018				
"P-39-5"	12 April 2018				
"P-39-6"	7 May 2018				
"P-40-1"	22 May 2018	"P-40"	24 July 2018		6,428,824.56
"P-40-2"	31 May 2018				
"P-40-3"	31 May 2018				
"P-40-4"	31 May 2018				
				Subtotal	₱ 25,807,044.45
"P-41-1"	10 July 2018	"P-41"	05 September 2018	3rd Quarter	₱ 5,128,612.98
"P-41-2"	18 July 2018				
"P-41-3"	18 July 2018				
"P-41-4"	20 July 2018				
"P-42-1"	27 August 2018	"P-42"	04 October 2018		2,595,581.96
"P-42-2"	29 August 2018				
"P-42-3"	29 August 2018				
				Subtotal	₱ 7,724,194.94
"P-43-1"	14 September 2018	"P-43"	29 November 2018	4th Quarter	₱ 1,409,008.40
"P-44-1"	25 September 2018	"P-44"	07 December 2018		15,802,247.53
"P-44-2"	28 September 2018				
"P-44-3"	9 October 2018				
				Subtotal	₱ 17,211,255.93
Sales of services to PGPC					
"P-45-1"		"P-45"		4th Quarter	₱ 1,098,380.06
				Subtotal	₱ 1,098,380.06
				Total	**₱51,840,875.38**

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106 Docket – Vol. II, pp. 1149 to 1155.

107 Annex C, Exhibit "P-31," Docket – Vol. II, p. 628.

108 Amounts collected per ORs plus CWT per BIR Forms No. 2307.

Furthermore, ICPA Roguel found that petitioner's sales to EDC in the amount of ₱16,059,698.03 are supported by ORs dated February 6, 2020, outside the period of claim, *i.e.*, CY 2018, thus, must also be disallowed, detailed as follows:

Invoice Exhibit No.	Invoice Date	OR Exhibit No.	OR Date	Period of Claim	Gross Sales to EDC[109]
"P-46-1"	26 November 2018	"P-46"	6 February 2020	4th Quarter	₱ 13,359,612.71
"P-46-2"	30 November 2018				
"P-47-1"	7 November 2018	"P-47"	6 February 2020		1,339,310.51
"P-48-1"	22 October 2018	"P-48"	6 February 2020		1,360,774.80
				Total	**₱16,059,698.02**

In addition, the Court found that the sale to EDC in the amount of ₱22,229,678.09 is supported by an official receipt [110] with unreadable details, hence, must also be disallowed.

Summing it up, out of the ₱94,633,039.84 total amount of zero-rated sales/receipts reported by petitioner for the four (4) quarters of CY 2018, petitioner had valid zero-rated sales/receipts in the amount of ₱4,382,844.23, computed as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	2018
Zero-Rated Sales/Receipts Per VAT Return	₱ 26,732,466.44	₱25,807,044.45	₱7,724,194.94	₱ 34,369,334.01	₱ 94,633,039.84
Less: Disallowances					
Export sale of goods to PT Halliburton Drilling Systems Indonesia not properly substantiated	₱ 30,529.50				₱ 30,529.50
Sales of services to EDC without supporting BIR-registered VAT ORs	89,445.18				89,445.18
Sales of services to EDC and PGPC supported by VAT ORs with expired ATP		₱25,807,044.45	₱7,724,194.94	₱18,309,635.99	51,840,875.38
Sales of services to EDC supported by BIR registered VAT ORs dated outside the period of claim				16,059,698.02	16,059,698.02
Sales of services to EDC supported by BIR registered VAT OR with unreadable details	22,229,678.09				22,229,678.09
Total Disallowances	₱ 22,349,652.77	₱25,807,044.45	₱7,724,194.94	₱ 34,369,334.01	₱ 90,250,226.17
Valid Zero-Rated Sales/Receipts	**₱4,382,813.67**	₱ -	₱ -	₱ -	**₱4,382,813.67**

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109 Amounts collected per ORs plus CWT per BIR Forms No. 2307.

110 Exhibit "P-38," USB.

Sixth Requisite: the input VAT being claimed are not transitional input taxes.

Petitioner's claimed input VAT are not transitional input taxes. Section 111(A)[111] of the NIRC, as amended, states that transitional input taxes are realized when: *one,* a person not previously liable for VAT, becomes liable for said tax; and *two,* on newly VAT-Registered persons. Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisition of their beginning inventory of goods, materials and supplies. During that 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.[112] None of these circumstances apply to petitioner.

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

To prove that the input VAT claimed for refund for the four (4) quarters of CY 2018 were actually due or paid, Section 110(A) of the NIRC, as amended, must be observed, which provides:

> 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:
>
> (a) Purchase or importation of goods:
>
> (i) For sale; or

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111 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.

112 See *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue,* G.R. No. 173425, September 4, 2012.

(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or

(iii) For use as supplies in the course of business; or

(iv) For use as materials supplied in the sale of service; or

(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.

(b) Purchase of services on which a value-added tax has actually been paid.

(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

(a) To the purchaser upon consummation of sale and on importation of goods or properties; and

(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One Million pesos (P1,000,000): *Provided, however,* That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, finally,* That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

Section 110(A) of the NIRC, as amended is implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, which provide as follows:

SECTION 4.110-1. *Credits for Input Tax.* — 'Input tax' means the VAT due on or paid by a VAT-registered person on importation of goods or local purchases of goods, properties, or services, including lease or use of properties, in the course of his trade or business. It shall also include the transitional input tax and the presumptive input tax determined in accordance with Sec. 111 of the Tax Code.

It includes input taxes which can be directly attributed to transactions subject to the VAT plus a ratable portion of any input tax which cannot be directly attributed to either the taxable or exempt activity.

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

(a) Purchase or importation of goods:

(1) For sale; or

(2) For conversion into or intended to form part of a finished product for sale including packaging materials; or

(3) For use as supplies in the course of business; or

(4) For use as materials supplied in the sale of services; or

(5) For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code,

(b) Purchase of real properties for which a VAT has actually been paid;

(c) Purchase of services in which a VAT has actually been paid.

(d) Transactions "deemed sale" under Sec. 106 (B) of the Tax Code;

(e) Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;

(f) Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;

(g) Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

SEC. 4.110-2. *Persons Who Can Avail of the Input Tax Credit.* – The input tax credit on importation of goods or local purchases of goods, properties or services by a VAT-registered person shall be creditable:

(a) To the importer upon payment of VAT prior to the release of goods from customs custody;

(b) To the purchaser of the domestic goods or properties upon consummation of the sale; or

(c) To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

SEC. 4.110-3. *Claim for Input Tax on Depreciable Goods.* — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of the capital good is five (5) years or more - The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years - The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed one million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

Capital goods or properties refers to goods or properties with estimated useful life greater than one (1) year and which are treated as depreciable assets under Sec. 34(F) of the Tax Code, used directly or indirectly in the production or sale of taxable goods or services.

The aggregate acquisition cost of depreciable assets in any calendar month refers to the total price, excluding the VAT, agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired on installment for an acquisition cost of more than P1,000,000.00, excluding the VAT, will be subject to the amortization of input tax

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despite the fact that the monthly payments/installments may not exceed P1,000,000.00.

Construction in progress (CIP) is the cost of construction work which is not yet completed. CIP is not depreciated until the asset is placed in service. Normally, upon completion, a CIP item is reclassified and the reclassified asset is capitalized and depreciated.

CIP is considered, for purposes of claiming input tax, as a purchase of service, the value of which shall be determined based on the progress billings. Until such time the construction has been completed, it will not qualify as capital goods as herein defined, in which case, input tax credit on such transaction can be recognized in the month the payment was made: *Provided*, that an official receipt of payment has been issued based on the progress billings.

In case of contract for the sale of service where only the labor will be supplied by the contractor and the materials will be purchased by the contractee from other suppliers, input tax credit on the labor contracted shall still be recognized on the month the payment was made based on progress billings while input tax on the purchase of materials shall be recognized at the time the materials were purchased.

(a) The amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

...

Once the input tax has already been claimed while the construction is still in progress, no additional input tax can be claimed upon completion of the asset when it has been reclassified as a depreciable capital asset and depreciated.

Relative thereto, Section 4.110-8 of RR No. 16-2005 provides for the substantiation requirements of input tax credits, as follows:

SEC. 4.110-8. *Substantiation of Input Tax Credits.* –

(a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited

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against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau:

(1) **For the importation of goods** - import entry or other equivalent document showing actual payment of VAT on the imported goods.

(2) **For the domestic purchase of goods and properties** – invoice showing the information required under Secs. 113 and 237 of the Tax Code.

(3) For the purchase of real property – public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.

(4) **For the purchase of services** – official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code.

To prove entitlement to credits for input taxes due or paid, petitioner must not only present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005. In addition, these documents must comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC, as amended, as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005.

Based on petitioner's *Amended Quarterly VAT Returns* for 2018, the subject input VAT claim in the amount of ₱7,287,179.51 arose from petitioner's amortization of input tax on purchases of capital goods exceeding ₱1,000,000.00, current domestic purchases of goods other than capital goods, domestic purchases of services, and services rendered by non-residents, detailed as follows:

	1st Quarter (Exhibit "P-3-1")[113]	2nd Quarter (Exhibit "P-4-1")[114]	3rd Quarter (Exhibit "P-5-1")[115]	4th Quarter (Exhibit "P-6-1")[116]	2018
Input Tax Deferred on	₱ 44,230.35	₱ 36,424.99	₱ 28,619.63	₱ 20,814.27	

113 Docket – Vol. II, pp. 733 to 735.
114 Docket – Vol. II, pp. 739 to 741.
115 Docket – Vol. II, pp. 745 to 747.
116 Docket – Vol. II, pp. 751 to 753.

Capital Goods Exceeding ₱1Million from Previous Quarter					
Less: Input Tax on Purchases of Capital Goods Exceeding ₱1Million Deferred for the Succeeding Period	36,424.99	28,619.63	20,814.28	13,008.92	
Amortization of Input Tax on Purchases of Capital Goods Exceeding ₱1Million	₱ 7,805.36	₱ 7,805.36	₱ 7,805.35	₱ 7,805.35	₱ 31,221.42
Add: Input VAT from Current Transactions:					
Domestic Purchases of Goods Other than Capital Goods	64,944.57	21,016.73	21,675.00	5,546.52	113,182.83
Domestic Purchases of Services	398,487.89	408,051.09	383,828.86	304,014.94	1,494,382.78
Services Rendered by Non-Residents	1,294,889.04	1,328,796.25	1,622,684.33	1,402,022.86	5,648,392.48
Total	**₱1,766,126.86**	**₱1,765,669.44**	**₱2,035,993.54**	**₱1,719,389.67**	**₱7,287,179.51**

To support the above input VAT, petitioner presented, among others, its Schedule of Local Purchases with Input VAT,[117] Schedule of Income Payments to Non-Resident Suppliers, [118] Monthly Remittance Returns of Value-Added Tax and Other Percentage Taxes Withheld (BIR Forms No. 1600),[119] and suppliers' SIs and ORs.[120]

Yet, a review of the ICPA Report[121] and petitioner's supporting documents shows that the amount of ₱1,029,821.09 must be disallowed, for failure to meet the substantiation and invoicing requirements as prescribed under Sections 110(A), 113(A) and (B), and 237 of the NIRC, as amended, as implemented by Sections 4.110-1, 4.110-2, 4.110-8, 4.113-1(A) and (B) of RR No. 16-2005, as amended, as detailed below:

Supplier Name	**Inv/OR Exhibit No.**	**Summary Reference** (Exhibit "P-31")	**INPUT VAT (In Philippine Peso)**				
			1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total (2018)
Domestic purchases of services supported by VAT ORs but the nature of payment was not indicated and the invoices referred to therein were denied admission by the Court							
OILSERVE TRADING	"P-93"	Annex G	6,000.00				6,000.00
OILSERVE TRADING	"P-98"	Annex G	6,600.00				6,600.00
OILSERVE TRADING	"P-101"	Annex G			169.13		169.13
OILSERVE	"P-103"	Annex G			202.68		202.68

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117 Exhibit "P-88," USB.
118 Exhibit "P-89," USB.
119 Exhibits "P-109" to "P-120-1," USB.
120 Exhibits "P-93" to "P-279," USB.
121 Pages 10 to 16, Exhibit "P-31," Docket – Vol. II, pp. 617 to 623.

TRADING							
Domestic purchases of services supported by VAT ORs dated outside the period of claim							
FERVID INTERNATIONAL PRODUCTS INC	"P-121"	Annex I	2,704.48				2,704.48
FERVID INTERNATIONAL PRODUCTS INC	"P-122"	Annex I	3,645.97				3,645.97
FERVID INTERNATIONAL PRODUCTS INC	"P-123"	Annex I		3,645.97			3,645.97
SYCIP GORRES VELAYO & CO	"P-124"	Annex I				16,523.06	16,523.06
SYCIP GORRES VELAYO & CO	"P-125"	Annex I				16,523.06	16,523.06
SYCIP GORRES VELAYO & CO	"P-126"	Annex I				16,031.93	16,031.93
Domestic purchases of goods/services supported by VAT SIs/ORs with no petitioner's TIN and with petitioner's address different from that appearing in petitioner's Certification of Registration with the BIR							
FERVID INTERNATIONAL PRODUCTS INC	"P-131-1"	Annex J	34,085.43				34,085.43
FERVID INTERNATIONAL PRODUCTS INC	"P-131-2"	Annex J	22,723.61				22,723.61
SONJU ENGINEERING SERVICES	"P-132"	Annex J			1,068.00		1,068.00
HI-SAFETY INDUSTRIAL SUPPLIES INC	"P-238"	Annex P			3,257.13		3,257.13
HP PPS PHILIPPINES INC	"P-240"	Annex P			5,430.52		5,430.52
HI-SAFETY INDUSTRIAL SUPPLIES INC	"P-239"	Annex P				386.79	386.79
Domestic purchases of services supported by Collection Receipt instead of VAT OR							
FERVID INTERNATIONAL PRODUCTS INC	"P-131"	Annex J	2,880.00				2,880.00
FERVID INTERNATIONAL PRODUCTS INC	"P-131"	Annex J	1,920.00				1,920.00
Domestic purchases of services supported by VAT ORs with no petitioner's TIN, VAT was not separately shown, and nature of payment was not indicated							
DHL EXPRESS (PHILIPPINES) CORPORATION	"P-127"	Annex J		465.66			465.66
DHL EXPRESS (PHILIPPINES) CORPORATION	"P-128"	Annex J			782.29		782.29
DHL EXPRESS (PHILIPPINES) CORPORATION	"P-129"	Annex J			579.23		579.23
DHL EXPRESS (PHILIPPINES) CORPORATION	"P-130"	Annex J				106.68	106.68
Domestic purchase of service supported by VAT OR but input VAT was not shown separately							
SYCIP GORRES VELAYO & CO	"P-214"	Annex N			16,333.87		16,333.87
Domestic purchases of goods/services supported by VAT SIs/ORs wherein petitioner's address is different from that appearing in petitioner's Certificate of Registration with the BIR							

OILSERVE TRADING	"P-138"	Annex K	3,335.54				3,335.54
RAJAH TRAVEL CORPORATION	"P-149"	Annex K	576.00				576.00
RAJAH TRAVEL CORPORATION	"P-150"	Annex K	708.00				708.00
RAJAH TRAVEL CORPORATION	"P-151"	Annex K	432.00				432.00
RAJAH TRAVEL CORPORATION	"P-152"	Annex K	216.00				216.00
RAJAH TRAVEL CORPORATION	"P-153"	Annex K	180.00				180.00
RAJAH TRAVEL CORPORATION	"P-154"	Annex K	2,448.00				2,448.00
RAJAH TRAVEL CORPORATION	"P-155"	Annex K	348.00				348.00
RAJAH TRAVEL CORPORATION	"P-156"	Annex K		1,008.00			1,008.00
RAJAH TRAVEL CORPORATION	"P-157"	Annex K		144.00			144.00
RAJAH TRAVEL CORPORATION	"P-158"	Annex K		564.00			564.00
RAJAH TRAVEL CORPORATION	"P-159"	Annex K		432.00			432.00
RAJAH TRAVEL CORPORATION	"P-160"	Annex K			1,530.00		1,530.00
RAJAH TRAVEL CORPORATION	"P-161"	Annex K			348.00		348.00
RAJAH TRAVEL CORPORATION	"P-162"	Annex K			288.00		288.00
RAJAH TRAVEL CORPORATION	"P-163"	Annex K			864.00		864.00
RAJAH TRAVEL CORPORATION	"P-164"	Annex K			852.00		852.00
ROXAS CRUZ TAGLE AND CO	"P-169"	Annex K			4,800.00		4,800.00
RAJAH TRAVEL CORPORATION	"P-177"	Annex M			420.00		420.00
RAJAH TRAVEL CORPORATION	"P-165"	Annex K				288.00	288.00
RAJAH TRAVEL CORPORATION	"P-166"	Annex K				432.00	432.00
RAJAH TRAVEL CORPORATION	"P-167"	Annex K				504.00	504.00
RAJAH TRAVEL CORPORATION	"P-168"	Annex K				2,136.00	2,136.00
Domestic purchases of services supported by VAT ORs but the nature of payment was not indicated; invoices referred to in the VAT ORs were not presented							
SUPPLY OILFIELD SERVICES INC	"P-176"	Annex L	961.70				961.70
SUPPLY OILFIELD SERVICES INC	"P-178"	Annex M	463.58				463.58
SUPPLY OILFIELD SERVICES INC	"P-179"	Annex M	166.2				166.20
SUPPLY OILFIELD SERVICES INC	"P-180"	Annex M	335.18				335.18
SUPPLY OILFIELD SERVICES INC	"P-187"	Annex M		1,131.12			1,131.12
SUPPLY OILFIELD	"P-188"	Annex M		7,776.17			7,776.17

SERVICES INC							
SUPPLY OILFIELD SERVICES INC	"P-190"	Annex M		551.03			551.03
SUPPLY OILFIELD SERVICES INC	"P-191"	Annex M		1,008.71			1,008.71
SUPPLY OILFIELD SERVICES INC	"P-191"	Annex M		4,339.07			4,339.07
SUPPLY OILFIELD SERVICES INC	"P-191"	Annex M		977.67			977.67
SUPPLY OILFIELD SERVICES INC	"P-191"	Annex M		5,095.99			5,095.99
SUPPLY OILFIELD SERVICES INC	"P-191"	Annex M		954.15			954.15
SUPPLY OILFIELD SERVICES INC	"P-191"	Annex M		5,501.99			5,501.99
SUPPLY OILFIELD SERVICES INC	"P-193"	Annex M			318.05		318.05
SUPPLY OILFIELD SERVICES INC	"P-193"	Annex M			3,856.82		3,856.82
SUPPLY OILFIELD SERVICES INC	"P-194"	Annex M			1,005.21		1,005.21
SUPPLY OILFIELD SERVICES INC	"P-194"	Annex M			8,948.64		8,948.64
SUPPLY OILFIELD SERVICES INC	"P-195"	Annex M			132.00		132.00
SUPPLY OILFIELD SERVICES INC	"P-199"	Annex M				2,350.56	2,350.56
SUPPLY OILFIELD SERVICES INC	"P-200"	Annex M				5,013.16	5,013.16
Domestic purchases of services supported by VAT ORs with erasures but were not countersigned by authorized signatory and with petitioner's address different from that appearing in petitioner's Certificate of Reg with the BIR							
TECHNOLOGY EXPORTS SERVICES	"P-219"	Annex O	42,232.20				42,232.20
TECHNOLOGY EXPORTS SERVICES	"P-220"	Annex O	6,019.20				6,019.20
ICO ASIAPACIFIC PHILIPPINES INC	"P-215"	Annex O		11,650.49			11,650.49
ICO ASIAPACIFIC PHILIPPINES INC	"P-216"	Annex O		16,443.86			16,443.86
TECHNOLOGY EXPORTS SERVICES	"P-221"	Annex O		42,232.20			42,232.20
TECHNOLOGY EXPORTS SERVICES	"P-222"	Annex O		43,928.57			43,928.57
TECHNOLOGY EXPORTS SERVICES	"P-223"	Annex O			34,787.53		34,787.53

TECHNOLOGY EXPORTS SERVICES	"P-224"	Annex O			34,787.53		34,787.53
TECHNOLOGY EXPORTS SERVICES	"P-225"	Annex O			34,787.53		34,787.53
TECHNOLOGY EXPORTS SERVICES	"P-226"	Annex O				34,787.53	34,787.53
TECHNOLOGY EXPORTS SERVICES	"P-227"	Annex O				34,787.53	34,787.53
ICO ASIAPACIFIC PHILIPPINES INC	"P-217"	Annex O				4,858.19	4,858.19
Domestic purchases of services supported by documents other than VAT ORs							
FERVID INTERNATIONAL PRODUCTS INC	"P-237"	Annex P	21,016.73				21,016.73
QUISUMBING TORRES	"P-242"	Annex P	1,475.42				1,475.42
QUISUMBING TORRES	"P-243"	Annex P	760.75				760.75
QUISUMBING TORRES	"P-244"	Annex P	2,679.74				2,679.74
SUPPLY OILFIELD SERVICES INC	"P-269"	Annex P	1,088.24				1,088.24
SUPPLY OILFIELD SERVICES INC	"P-270"	Annex P	9,034.58				9,034.58
SUPPLY OILFIELD SERVICES INC	"P-271"	Annex P	1,070.62				1,070.62
SUPPLY OILFIELD SERVICES INC	"P-272"	Annex P	5,353.60				5,353.60
SUPPLY OILFIELD SERVICES INC	"P-273"	Annex P	4,788.34				4,788.34
SUPPLY OILFIELD SERVICES INC	"P-274"	Annex P	3,742.89				3,742.89
SUPPLY OILFIELD SERVICES INC	"P-275"	Annex P	3,438.87				3,438.87
SUPPLY OILFIELD SERVICES INC	"P-276"	Annex P	14,950.87				14,950.87
TECHNOLOGY EXPORTS SERVICES	"P-277	Annex P	(51,096.60)				-51,096.60
BPO INTERNATIONAL INC	"P-228"	Annex P		1,344.00			1,344.00
QUISUMBING TORRES	"P-245"	Annex P		6,425.72			6,425.72
QUISUMBING TORRES	"P-246"	Annex P		3,414.29			3,414.29
QUISUMBING TORRES	"P-247"	Annex P		4,513.74			4,513.74
TECHNOLOGY EXPORTS SERVICES	"P-278"	Annex P		42,232.20			42,232.20
BPO INTERNATIONAL	"P-229"	Annex P			1,344.00		1,344.00

INC							
BPO INTERNATIONAL INC	"P-230"	Annex P			2,400.00		2,400.00
BPO INTERNATIONAL INC	"P-231"	Annex P			1,344.00		1,344.00
OILSERVE TRADING	"P-241"	Annex P			1,706.81		1,706.81
QUISUMBING TORRES	"P-248"	Annex P			9,082.40		9,082.40
QUISUMBING TORRES	"P-249"	Annex P			2,222.10		2,222.10
QUISUMBING TORRES	"P-250"	Annex P			1,565.80		1,565.80
RAJAH TRAVEL CORPORATION	"P-251"	Annex P			72.00		72.00
RAJAH TRAVEL CORPORATION	"P-252"	Annex P			216.00		216.00
RAJAH TRAVEL CORPORATION	"P-253"	Annex P			216.00		216.00
RAJAH TRAVEL CORPORATION	"P-254"	Annex P			72.00		72.00
SALVADOR LLANILLO & BERNARDO	"P-267"	Annex P			6,600.00		6,600.00
SISON CORILLO PARONE & CO	"P-268"	Annex P			5,808.00		5,808.00
TECHNOLOGY EXPORTS SERVICES	"P-279"	Annex P			34,787.53		34,787.53
BPO INTERNATIONAL INC	"P-232"	Annex P				1,344.00	1,344.00
BPO INTERNATIONAL INC	"P-233"	Annex P				600.00	600.00
BPO INTERNATIONAL INC	"P-234"	Annex P				1,344.00	1,344.00
BPO INTERNATIONAL INC	"P-235"	Annex P				2,016.00	2,016.00
BPO INTERNATIONAL INC	"P-236"	Annex P				1,344.00	1,344.00
RAJAH TRAVEL CORPORATION	"P-255"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-256"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-257"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-258"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-259"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-260"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-261"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-262"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-263"	Annex P				72.00	72.00

RAJAH TRAVEL CORPORATION	"P-264"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-265"	Annex P				72.00	72.00
RAJAH TRAVEL CORPORATION	"P-266"	Annex P				72.00	72.00
Domestic purchases of goods/services without supporting VAT SIs/ORs							
DHL EXPRESS (PHILIPPINES) CORPORATION	-	Annex Q	564.89				564.89
ICO ASIAPACIFIC PHILIPPINES INC	-	Annex Q	8,954.06				8,954.06
ISUZU AUTOMOTIVE DEALERSHIP INC	-	Annex Q	69.64				69.64
OILSERVE TRADING	-	Annex Q	191.40				191.40
PHILIPPINE LONG DISTANCE	-	Annex Q	10,314.00				10,314.00
PICASSO RENTAL MANAGEMENT CORP	-	Annex Q	722.64				722.64
RAJAH TRAVEL CORPORATION	-	Annex Q	5,328.00				5,328.00
RICOH PHILIPPINES INC	-	Annex Q	1,575.79				1,575.79
SUPPLY OILFIELD SERVICES INC	-	Annex Q	1,452.03				1,452.03
TECHNOLOGY EXPORTS SERVICES	-	Annex Q	47,953.86				47,953.86
HOSPITALITY INTERNATIONAL INC	-	Annex Q		611.25			611.25
OILSERVE TRADING	-	Annex Q		4,756.60			4,756.60
SUPPLY OILFIELD SERVICES INC	-	Annex Q		8,898.81			8,898.81
TECHNOLOGY EXPORTS SERVICES	-	Annex Q		43,303.63			43,303.63
VALERO GRAND SUITES MANAGEMENT CORP	-	Annex Q		1,252.85			1,252.85
BPO INTERNATIONAL INC	-	Annex Q			1,344.00		1,344.00
HP PPS PHILIPPINES INC	-	Annex Q			3,082.90		3,082.90
MANABAT SANAGUSTIN AND CO CPAS	-	Annex Q			16,560.00		16,560.00
OILSERVE TRADING	-	Annex Q			460.68		460.68
PHILIPPINE LONG DISTANCE	-	Annex Q			12,913.75		12,913.75
PICASSO RENTAL MANAGEMENT CORP	-	Annex Q			1,720.57		1,720.57
RAJAH TRAVEL CORPORATION	-	Annex Q			204.00		204.00

RICOH PHILIPPINES INC	-	Annex Q			94.67		94.67
ROXAS CRUZ TAGLE AND CO	-	Annex Q			960.00		960.00
VALERO GRAND SUITES MANAGEMENT CORP	-	Annex Q			910.27		910.27
Y2 RENTAL MANAGEMENT CORPORATION	-	Annex Q			1,974.74		1,974.74
BPO INTERNATIONAL INC	-	Annex Q				6,870.18	6,870.18
DURBAN APARTMENTS CORP	-	Annex Q				342.86	342.86
HP PPS PHILIPPINES INC	-	Annex Q				1,494.06	1,494.06
ICO ASIAPACIFIC PHILIPPINES INC	-	Annex Q				13,554.13	13,554.13
MANABAT SANAGUSTIN AND CO CPAS	-	Annex Q				33,120.00	33,120.00
OILSERVE TRADING	-	Annex Q				9,869.86	9,869.86
PHILIPPINE LONG DISTANCE	-	Annex Q				3,438.00	3,438.00
PICASSO RENTAL MANAGEMENT CORP	-	Annex Q				1,445.28	1,445.28
QUISUMBING TORRES	-	Annex Q				529.88	529.88
RAJAH TRAVEL CORPORATION	-	Annex Q				1,296.00	1,296.00
RICOH PHILIPPINES INC	-	Annex Q				1,401.28	1,401.28
ROXAS CRUZ TAGLE AND CO	-	Annex Q				3,840.00	3,840.00
SISON CORILLO PARONE & CO	-	Annex Q				8,712.00	8,712.00
SUPPLY OILFIELD SERVICES INC	-	Annex Q				3,388.66	3,388.66
TECHNOLOGY EXPORTS SERVICES	-	Annex Q				3,912.48	3,912.48
Y2 RENTAL MANAGEMENT CORPORATION	-	Annex Q				918.94	918.94
Amortization of input VAT on purchases of capital goods exceeding P1Million without supporting documents							
-	-	Annex Q	7,805.36				7,805.36
-	-	Annex Q		7,805.36			7,805.36
-	-	Annex Q			7,805.35		7,805.35
-	-	Annex Q				7,805.35	7,805.35
Total Disallowed Input VAT			***242,216.81***	***272,409.10***	***271,015.73***	***244,179.45***	***1,029,821.09***

Based on the foregoing, out of the ₱7,287,179.51 total input VAT claim, only the amount of ₱6,257,358.42 pertains to petitioner's valid input VAT, as computed below:

2018	Input VAT Claim	Disallowances	Valid Input VAT
1st Quarter	₱ 1,766,126.86	₱ 242,216.81	₱ 1,523,910.05
2nd Quarter	1,765,669.44	272,409.10	1,493,260.34
3rd Quarter	2,035,993.54	271,015.73	1,764,977.81
4th Quarter	1,719,389.67	244,179.45	1,475,210.22
Total	**₱ 7,287,179.51**	**₱ 1,029,821.09**	**₱ 6,257,358.42**

Eight Requisite: a portion of petitioner's valid input VAT of ₱6,257,358.42 is attributable to its zero-rated sales/ receipts for the four (4) quarters of CY 2018.

Section 112(A) of the NIRC, as amended, requires that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, the same provision recognizes that where there are zero-rated or effectively zero-rated sale and taxable sales 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.

Considering that petitioner had only zero-rated sales, its valid input VAT of ₱6,257,358.42 may be attributed thereto. Out of petitioner's reported zero-rated sales of ₱94,633,039.84, only the amount of ₱4,382,813.67 is its *valid* zero-rated sales. Therefore, petitioner's refund of valid input VAT, attributable to said *valid* zero-rated sales, to the extent of ₱249,846.52, must be allowed, computed as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	2018
Valid Input VAT	₱1,523,910.05	₱1,493,260.34	₱1,764,977.81	₱1,475,210.22	₱6,257,358.42
Divided by: Declared Zero-Rated Sales/Receipts	26,732,466.44	25,807,044.45	7,724,194.94	34,369,334.01	94,633,039.84
Multiplied by: Valid Zero-Rated Sales/Receipts	4,382,813.67	-	-	-	4,382,813.67
Input VAT Attributable to Valid Zero-Rated Sales/Receipts	**₱249,846.52**	-	-	-	**₱249,846.52**

Ninth Requisite: the claimed input taxes were not applied against output taxes during and in the succeeding quarters.

As already pointed out, petitioner had no reported output tax for the four (4) quarters of CY 2018 as its reported sales/receipts were all zero-rated sales/receipts.[122] Thus, it had no output VAT against which the reported input VAT claim of ₱7,287,179.51 may be applied or credited. Although petitioner carried-over the subject claim of ₱7,287,179.51 to the succeeding quarters,[123] the same remained unutilized until it was deducted as "VAT Refund/TCC claimed" in its 1st Quarterly VAT Return for CY 2020,[124] preventing the carry-over or application of such input taxes in the next taxable quarter/s.

In fine, petitioner is entitled to refund or issuance of TCC of unutilized input VAT, attributable to its zero-rated sales for the four (4) quarters of CY 2018, to the extent of ₱249,846.52.

WHEREFORE, the Petition for Review filed by Halliburton Worldwide Limited - Philippine Branch on February 16, 2021, is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱249,846.52**, representing the latter's excess and unutilized input VAT, attributable to its zero-rated sales for the four (4) quarters of CY 2018.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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122 Annex E of Exhibit "P-31," Docket - Vol. II, p. 630.
123 Exhibits "P-7" to "P-10," USB.
124 Line 23D, Exhibit "P-11-1," Docket - Vol. II, p. 770.

We Concur:

CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice