

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

CTA CASE NO. 10764

**DIGITAL SERVICES
CAMBRIDGE LIMITED ROHQ,**
Petitioner,

- versus -

NOTICE OF DECISION

**COMMISSIONER OF INTERNAL
REVENUE,**
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. LARA NICOLE T. GONZALES
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

SYCIP SALAZAR HERNANDEZ & GATMAITAN
3rd Floor, SyCiplaw Center
105 Paseo de Roxas, Makati City

GREETINGS:

You are hereby notified by these presents that on **February 26, 2025**, a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 27, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

**DIGITAL SERVICES
CAMBRIDGE LIMITED
ROHQ,**

Petitioner,

- versus -

CTA CASE NO. 10764

Members:

**DEL ROSARIO, P.J., Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

FEB 26 2025, 3:30PM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review* filed on February 2, 2022, by petitioner Digital Services Cambridge Limited ROHQ, seeking a judgment directing respondent Commissioner of Internal Revenue (**CIR**) to refund the aggregate amount of ₱13,547,293.21, representing its excess and unutilized input value-added tax (**VAT**) attributable to its VAT zero-rated sales covering the period May 1, 2019 to April 30, 2020.¹

THE PARTIES

Petitioner Digital Services Cambridge Limited'ROHQ is a duly licensed Regional Operating Headquarters (**ROHQ**) of Digital Services Cambridge Limited, a private limited company incorporated under the laws of England and Wales.² It is registered with the Bureau of Internal Revenue (**BIR**) as a VAT taxpayer under Tax Identification Number (**TIN**) 008-329-848-000, and with address at the 2nd Floor, New Solid

¹ Docket – Vol. I, p. 368, Pre-Trial Order, Summary of the Case.

² Docket – Vol. II, pp. 618–672, Exhibits “P-1”, “P-1-a”, and “P-1-b”.

Building, 357 Sen. Gil Puyat Avenue, Brgy. Bel-Air, Makati City.³

Respondent CIR is the head of the BIR, vested with the power and authority to grant a refund or issue a tax credit certificate for unutilized input VAT attributable to zero-rated sales. Respondent may be served with summons and other court processes at the BIR, Room 703 Litigation Division, BIR Bldg., Diliman, Quezon City.⁴

FACTUAL ANTECEDENTS

Petitioner filed its Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st to 4th quarters of fiscal year ending April 30, 2020 (**FY 2020**) through the BIR’s Electronic Filing and Payment System (**eFPS**) on the following dates:

FY April 30, 2020	Date of Filing	Return Type
1 st Quarter (May 1, 2019, to July 31, 2019)	August 20, 2019 ⁵	Original
	April 16, 2020 ⁶	Amended
	July 8, 2021 ⁷	Amended
	July 27, 2021 ⁸	Amended
	July 29, 2021 ⁹	Amended
2 nd Quarter (August 1, 2019, to October 31, 2019)	November 22, 2019 ¹⁰	Original
	April 16, 2020 ¹¹	Amended
	July 9, 2021 ¹²	Amended
	July 27, 2021 ¹³	Amended
	July 29, 2021 ¹⁴	Amended
3 rd Quarter (November 1, 2019 to January 31, 2020)	February 21, 2020 ¹⁵	Original
	April 16, 2020 ¹⁶	Amended
	July 9, 2021 ¹⁷	Amended
	July 27, 2021 ¹⁸	Amended

³ *Id.* at 673, Exhibit “P-2”.

⁴ *Petition for Review*, par. 2, vis-à-vis *Answer*, par. 1, Docket – Vol. I, pp. 8 and 267, respectively. Although the allegation admitted in respondent’s *Answer* was stated as “paragraph 3.2” of the *Petition for Review*, it appears that respondent is admitting the allegation in paragraph 2 of the *Petition for Review* as there is no paragraph 3.2 in the *Petition for Review* and he corrected the address where petitioner’s pleadings and the court’s processes must be served to respondent, which corresponds with the allegation in paragraph 2 of the *Petition for Review*.

⁵ Docket – Vol. II, pp. 689–690, Exhibit “P-10”.

⁶ *Id.* at 691–692, Exhibit “P-10-a”.

⁷ *Id.* at 693–694, Exhibit “P-10-b”.

⁸ *Id.* at 695–696, Exhibit “P-10-c”.

⁹ *Id.* at 697–698, Exhibit “P-10-d”.

¹⁰ *Id.* at 699–700, Exhibit “P-11”.

¹¹ *Id.* at 701–702, Exhibit “P-11-a”.

¹² *Id.* at 703–704, Exhibit “P-11-b”.

¹³ *Id.* at 705–706, Exhibit “P-11-c”.

¹⁴ *Id.* at 707–708, Exhibit “P-11-d”.

¹⁵ *Id.* at 709–710, Exhibit “P-12”.

¹⁶ *Id.* at 711–712, Exhibit “P-12-a”.

¹⁷ *Id.* at 713–714, Exhibit “P-12-b”.

¹⁸ *Id.* at 715–716, Exhibit “P-12-c”.

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	July 29, 2021 ¹⁹	Amended
4 th Quarter (February 1, 2020, to April 30, 2020)	May 18, 2020 ²⁰	Original
	July 29, 2020 ²¹	Amended
	July 9, 2021 ²²	Amended
	July 27, 2021 ²³	Amended
	July 29, 2021 ²⁴	Amended

On July 30, 2021, the petitioner filed with the BIR an Application for Tax Credits/Refunds (BIR Form No. 1914) for its unutilized input VAT in the total amount of ₱13,547,293.21, covering the period May 1, 2019 to April 30, 2020.²⁵

Thereafter, the *Tax Verification Notice* No. TVN201800143208, dated July 30, 2021, was issued, authorizing Revenue Officers (**ROs**) Michele J. Alonzo-Bucayu and Marjorie C. Dioso to verify the supporting documents and/or pertinent records relative to petitioner's claim for VAT refund for the taxable period May 1, 2019 to April 30, 2020.²⁶

On November 24, 2021, petitioner received a letter dated October 28, 2021, signed by Assistant Commissioner Maria Luisa I. Belen (**ACIR Belen**) of the BIR's Assessment Service,²⁷ denying its application for a VAT refund for lack of factual and legal bases. The denial cited, among others, the following grounds:

Evaluation and verification of the documents submitted pursuant to Annex A.1 of aforecited RMO disclosed that sale transactions generated for the period of claim were made solely to the ultimate parent company which is the University of Cambridge. Due to this fact, the application of input VAT refund attributable thereto cannot be granted pursuant to the promulgation of the Court of Tax Appeals (CTA) in the case of *Institutional Shareholders Services, Inc. – Philippine ROHQ vs. The Commissioner of Internal Revenue*, CTA Case No. 7662, June 30, 2010.²⁸ The CTA ruled that a parent company of an ROHQ is not considered 'other persons doing business outside the Philippines' because the ROHQ and its parent company are

¹⁹ *Id.* at 717–718, Exhibit "P-12-d".

²⁰ *Id.* at 719–720, Exhibit "P-13".

²¹ *Id.* at 721–722, Exhibit "P-13-a".

²² *Id.* at 723–724, Exhibit "P-13-b".

²³ *Id.* at 725–726, Exhibit "P-13-c".

²⁴ *Id.* at 727–728, Exhibit "P-13-d".

²⁵ Exhibit "P-16", BIR Records (Exhibit "R-5"), p. 216; Exhibit "P-37", USB.

²⁶ Exhibit "R-1", BIR Records (Exhibit "R-5"), p. 221.

²⁷ Docket – Vol. II, p. 729, Exhibit "P-21"; Exhibit "R-4", BIR Records (Exhibit "R-5"), p. 341.

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considered one and the same, thus, not considered as zero-rated sales.

PROCEEDINGS BEFORE THIS COURT

On February 2, 2022, petitioner filed the present *Petition for Review*.²⁸

On May 2, 2022, respondent submitted his *Answer*.²⁹

On September 6, 2022, respondent transmitted the *BIR Records* of this case, consecutively numbered from pages 45 to 336, bound in one folder.³⁰

On September 7, 2022, a Pre-Trial Conference was held.³¹ Prior thereto, *Respondent's Pre-Trial Brief*,³² and petitioner's *Pre-Trial Brief*,³³ were both submitted on September 2, 2022. However, the parties failed to file a *Joint Stipulation of Facts and Issues*.³⁴ Thereafter, the Court issued a Pre-Trial Order dated November 24, 2022.³⁵

Trial ensued, during which both parties presented documentary and testimonial evidence.

Petitioner presented the testimonies of the following witnesses: (1) Mr. Ronaldo R. Mañalac (**Mr. Mañalac**),³⁶ General Manager; (2) Mr. Eric J. Magcale,³⁷ Court-commissioned Independent Certified Public Accountant (ICPA);³⁸ and (3) Ms. Catriona Ann Sheret,³⁹ General Counsel and Company Secretary of Cambridge University Press and Assessment.



²⁸ Docket – Vol. I, pp. 7–27.

²⁹ *Id.* at 267–279.

³⁰ *Id.* at 328–330, Respondent's *Compliance* dated September 2, 2022.

³¹ *Id.* at 283, Notice of Resetting dated June 17, 2022; 332–335, Minutes of the hearing held on, and Order dated, September 7, 2022.

³² *Id.* at 297–300.

³³ *Id.* at 315–327.

³⁴ *Id.* at 363, Records Verification dated November 21, 2022 issued by this Court's Judicial Records Division of this Court.

³⁵ *Id.* at 368–375.

³⁶ *Id.* at 29–44 and 288–293, Exhibits “P-28” and “P-29”, respectively; 364–366, Minutes of the hearing held on, and Order dated, November 24, 2022.

³⁷ Docket – Vol. I, pp. 451–460, Exhibit “P-824”; Docket – Vol. II, pp. 524–526, Minutes of the hearing held on, and Order dated, January 26, 2023.

³⁸ Docket – Vol. I, pp. 364–366, Minutes of the hearing held on, and Order dated, November 24, 2022.

³⁹ Docket – Vol. II, pp. 531–540, Exhibit “P-827”; 594–596, Minutes of the hearing held on, and Order dated, March 9, 2023.

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On January 13, 2023, the ICPA *Report* was posted.⁴⁰

On April 11, 2023, petitioner filed its *Formal Offer of Evidence*.⁴¹ In a *Resolution* dated June 19, 2023,⁴² the Court admitted petitioner's exhibits, except: (1) Exhibits "P-40", "P-540", and "P-554" for not being found in the records of the case; and (2) Exhibits "P-41-38 to P-41-44", "P-121-4", and "P-142-3", for being blank or devoid of any content.

For his part, respondent presented the testimony of RO Michele J. Alonzo-Bucayu.⁴³

On September 4, 2023, respondent filed his *Formal Offer of Evidence*.⁴⁴ In a *Resolution* dated January 11, 2024,⁴⁵ the Court admitted all of respondent's exhibits.

On February 15, 2024, respondent filed his *Memorandum*,⁴⁶ while the *Memorandum for Petitioner* was submitted on February 23, 2024.⁴⁷

The case was deemed submitted for decision on March 12, 2024.⁴⁸

THE ISSUE

The issues for this Court's resolution, as agreed upon and proposed during the Pre-Trial Conference, are as follows:

1. WHETHER OR NOT PETITIONER IS ENTITLED TO A TAX REFUND OF THE ALLEGED EXCESS OR UNUTILIZED INPUT TAX FOR THE PERIOD OF MAY 1, 2019 TO APRIL 30, 2020 IN THE AMOUNT OF ₱13,547,293.21.
2. WHETHER OR NOT RESPONDENT COMMISSIONER OF INTERNAL REVENUE ERRED IN CITING THE DECISION OF THE COURT IN *INSTITUTIONAL SHAREHOLDERS SERVICES, INC.-PHILIPPINE ROHQ VS. THE COMMISSIONER OF INTERNAL REVENUE*,

⁴⁰ Docket – Vol. I, pp. 465–522, Exhibit "P-28". [Noted to have the same exhibit number marking as the Judicial Affidavit of Ronaldo R. Mañalac dated December 21, 2021; Refer to Resolution dated June 19, 2023, Docket – Vol. II, pp. 745–748].

⁴¹ Docket – Vol. II, pp. 604–615.

⁴² *Id.* at 745–748.

⁴³ Docket – Vol. I, pp. 307–314, Exhibit "R-6"; Docket – Vol. II, pp. 764–765, Order dated August 22, 2023.

⁴⁴ Docket – Vol. II, pp. 767–772.

⁴⁵ *Id.* at 778–779.

⁴⁶ *Id.* at 780–796.

⁴⁷ *Id.* at 798–818.

⁴⁸ *Id.* at 822, Notice of Resolution dated March 12, 2024.

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CONSIDERING THAT THE RECIPIENT OF
PETITIONER'S SERVICES IS NOT ITS HEAD OFFICE
BUT ITS ULTIMATE PARENT COMPANY.⁴⁹

Petitioner's arguments:

Petitioner contends that the assailed Decision erroneously ruled that petitioner and its client, the University of Cambridge, are one and the same and that it has proven its entitlement to a refund of its unutilized input VAT attributable to its VAT zero-rated sales.

Respondent's counter-arguments:

Citing *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*,⁵⁰ respondent argues that because a Decision has already been rendered at the administrative level denying petitioner's claim for a refund due to lack of sufficient substantiation, the Court's jurisdiction is strictly appellate in nature. As such, the Court should confine itself to determining whether the denial was proper based on the evidence submitted at the administrative level.

Respondent further argues that an examination and audit of petitioner's documents reveal that it is not entitled to a refund on the grounds that it failed to comply with the invoicing requirements under Section 113 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and that the sales transactions claimed for VAT zero-rating were made to its parent corporation, which does not qualify as a transaction with "other persons doing business outside the Philippines."

Additionally, respondent cites the following:

1. Sales invoices were issued without a valid Authority to Print (ATP);
2. Non-compliance with Section 112(A) of the Tax Code, as amended; and
3. Tax refunds are strictly construed against the taxpayer and in favor of the Government.



⁴⁹ Docket – Vol. I, pp. 369–370, Pre-Trial Order dated November 24, 2022, Stipulation of Issues; 333–334, Order dated September 7, 2022.

⁵⁰ G.R. No. 207112, December 8, 2015 [Per J. Mendoza, *En Banc*].

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THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

***The requisites for a valid claim
for refund or tax credit of input
VAT attributable to zero-rated
sales.***

Section 112(A) and (C) of the NIRC of 1997, as amended,⁵¹ provides:

Section 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.

(B)

(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 Subsections (A) and (B) hereof.



⁵¹ Provision quoted is the wording prior to the amendment of the Tax Reform for Acceleration and Inclusion (TRAIN) Law, which is not yet effective and applicable on the instant claim for refund.

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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.

From the foregoing provision and jurisprudence, particularly *Commissioner of Internal Revenue v. Toledo Power Co.*,⁵² the requisites for claiming a refund or tax credit of unutilized or excess input VAT under Section 112 of the NIRC of 1997, as amended, are as follows:

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

1. The claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;⁵³
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 120 days, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;⁵⁴

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

3. The taxpayer is a VAT-registered person;⁵⁵

In relation to the taxpayer's output VAT:

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;⁵⁶
5. For zero-rated sales under Sections 106 (A) (2) (1) and (2); 106 (B); and 108 (B) (1) and (2), the acceptable foreign currency exchange proceeds have

⁵² G.R. Nos. 195175 & 199645, August 10, 2015 [Per C.J. Sereno, First Division].

⁵³ *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

⁵⁴ *Steag State Power, Inc. (Formerly State Power Development Corporation) v. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019 [Per J. Leonen, Third Division]; *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015 [Per C.J. Sereno, First Division].

⁵⁵ *Supra* note 53.

⁵⁶ *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*, G.R. No. 153866, February 11, 2005 [Per J. Panganiban, Third Division].

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been duly accounted for in accordance with Bangko Sentral ng Pilipinas (BSP) rules and regulations;⁵⁷

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional;⁵⁸

7. The input taxes are due or paid;⁵⁹

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;⁶⁰ and

9. The input taxes have not been applied against output taxes during and in the succeeding quarters.⁶¹

In addition, in claims for VAT refund or credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.⁶² Thus, petitioner's compliance with all VAT invoicing requirements is required to file a claim for input taxes attributable to zero-rated sales.⁶³ The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.⁶⁴ Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.⁶⁵

Strict compliance with substantiation and invoicing requirements is necessary considering the nature of VAT and the tax credit method used in the VAT system, where tax payments are based on output and input taxes and where the

⁵⁷ *Supra* note 53.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

⁶¹ *Supra* note 53.

⁶² *Team Energy Corporation v. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

⁶³ *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].

⁶⁴ *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018 [Per J. Martires, Third Division].

⁶⁵ *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015 [Per J. Reyes, Third Division].

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seller's output tax becomes the buyer's input tax that is available as a tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates the computation of tax credits, and provides an accurate audit trail or evidence for BIR monitoring purposes.⁶⁶

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.⁶⁷ Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is a valid ground to deny the refund claim.

***First and second requisites:
Petitioner's administrative and
judicial claims for refund or
credit were timely filed.***

The *first* requisite requires that a claim for a tax refund or tax credit of input VAT be filed before the BIR within two years from the close of the taxable quarter in which the zero-rated or effectively zero-rated sales were made.

In this case, the present claim covers the period from May 1, 2019 to April 30, 2020, corresponding to the 1st to 4th quarters of FY ending April 30, 2020. Counting two years from the close of the four quarters of FY ending April 30, 2020, the last day for filing the administrative claim for each quarter is detailed as follows:

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⁶⁶ *Team Energy Corporation (Formerly: Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

⁶⁷ *Commission of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. Nos. 226548 & 227691, 226682-83, February 15, 2023 [Per J. M.V. Lopez, Second Division] citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007 [Per J. Corona, First Division]; See also *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 201665 & 201668, August 30, 2017 [Per J. Del Castillo, First Division]; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division]; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014 [Per J. Peralta, Third Division]; *Dizon v. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008 [Per J. Nachura, Third Division]; *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].

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Period (FY April 30, 2020)	Close of the Taxable Quarter	Last Day to File Administrative Claim
1 st Quarter	July 31, 2019	July 31, 2021
2 nd Quarter	October 31, 2019	October 31, 2021
3 rd Quarter	January 31, 2020	January 31, 2022
4 th Quarter	April 30, 2020	April 30, 2022

Considering that petitioner filed its administrative claim on July 30, 2021,⁶⁸ the claim was timely made within the two-year prescriptive period.

The *second* requisite requires that the judicial claim be filed within thirty (30) days from receipt of respondent’s decision or after the expiration of the ninety (90)-day period from the date of submission of official receipts (ORs), invoices, and other documents in support of the application for a refund under Section 112(C) of the NIRC of 1997, as amended.

Since petitioner filed its administrative claim on July 30, 2021, respondent had 90 days or until October 28, 2021, to decide on the claim. Respondent acted within this period when ACIR Belen issued a letter dated October 28, 2021, denying petitioner’s claim for refund. Notably, the said letter was received by petitioner on November 24, 2021.⁶⁹ Counting 30 days from this date, petitioner had until December 24, 2021, to file its judicial claim.

However, due to Super Typhoon Odette, the CTA issued CTA Circular No. 02-2021 on December 21, 2021, suspending the filing of pleadings and other court submissions from December 21, 2021, to January 3, 2022, and extending the period to file by seven calendar days from January 4, 2022.

Moreover, given the alarming number of COVID-19 infections, the effects of Super Typhoon Odette, and the request from the 25th Board of Governors of the Integrated Bar of the Philippines, the Supreme Court issued Administrative Circular No. 01-2022 on January 10, 2022, extending the filing periods of any pleadings and other court submissions falling due in January 2022 to February 1, 2022.



⁶⁸ Exhibit “P-16”, BIR Records (Exhibit “R-5”), p. 216; Exhibit “P-37”, USB.
⁶⁹ Docket – Vol. II, p. 729, Exhibit “P-21”; Exhibit “R-4”, BIR Records (Exhibit “R-5”), p. 341.

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Considering that petitioner filed the present *Petition for Review* on February 2, 2022,⁷⁰ the judicial claim was timely filed.

Accordingly, the Court finds that petitioner has complied with the *first* and *second* requisites. As such, the Court validly obtained jurisdiction over the instant *Petition for Review* under Section 3(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals⁷¹ in relation to Sections 7(a)(1) and (2), and 11 of RA No. 1125,⁷² as amended by RA No. 9282.⁷³

Third requisite: Petitioner is a VAT-registered person/entity.

Anent the *third* requisite, it is undisputed that petitioner is a VAT-registered entity with TIN 008-329-848-000.⁷⁴ Thus, compliance with this requirement is not in question.

Fourth and fifth requisites: Petitioner had zero-rated or effectively zero-rated sales during the 1st to 4th quarters of FY ending April 30, 2020.

The *fourth* and *fifth* requisites require that the taxpayer is engaged in zero-rated or effectively zero-rated sales, and for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b),⁷⁵ and 108(B)(1) and (2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations.

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⁷⁰ Docket – Vol. I, pp. 7–27; February 1, 2022 fell on a holiday.

⁷¹ Section 3. Cases Within the Jurisdiction of the Court in Divisions. — The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

(1) Decisions of the Commissioner of Internal Revenue in cases involving...refunds of internal revenue taxes,

⁷² AN ACT CREATING THE COURT OF TAX APPEALS.

⁷³ AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

⁷⁴ Docket – Vol. II, p. 673, Exhibit “P-2”.

⁷⁵ 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.

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In its amended Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st to 4th quarters of FY 2020, petitioner reported total sales of ₱707,479,395.59, comprised solely of zero-rated sales, broken down as follows:

Exhibit	Period Covered (FY 2020)	Zero-Rated Sales
"P-10-d" ⁷⁶	1 st Quarter	₱ 189,735,702.19
"P-11-d" ⁷⁷	2 nd Quarter	194,857,224.82
"P-12-d" ⁷⁸	3 rd Quarter	172,440,070.68
"P-13-d" ⁷⁹	4 th Quarter	150,446,397.90
Total		₱707,479,395.59

Petitioner claims that it is engaged in zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended, and that during the claim period, it rendered services in the Philippines to the University of Cambridge, a foreign corporation engaged in business outside the Philippines. The University of Cambridge is a corporation created under English common law, *i.e.*, The Oxford and Cambridge Act of 1571. Its legal name is "The Chancellor, Masters, and Scholars of the University of Cambridge," while its business name or style is University of Cambridge. Petitioner was paid for its zero-rated services in acceptable foreign currency, duly accounted for in accordance with pertinent rules and regulations of the BSP.⁸⁰

Section 108(B)(2) of the NIRC of 1997, as amended, reads as follows:

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

....

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

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines, which goods are subsequently exported, where the

⁷⁶ Docket – Vol. II, pp. 697–698.

⁷⁷ *Id.* at 707–708.

⁷⁸ *Id.* at 717–718.

⁷⁹ *Id.* at 727–728.

⁸⁰ Docket – Vol. I, p. 369, Pre-Trial Order dated November 24, 2022, II. Statement of the Facts & Issues, Petitioner's proposed stipulations, pars. 3 to 4.

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services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

(2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP); (Emphasis supplied)

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

1. The recipient of the services is a foreign corporation, and the said corporation is doing business outside the Philippines, or is a nonresident person not engaged in business who is *outside* the Philippines when the services were performed;⁸¹
2. The services fall under any of the categories under Section 108(B)(2),⁸² or simply, the services rendered should be other than “*processing, manufacturing or repacking goods*”;⁸³
3. The services must be performed in the Philippines⁸⁴ by a VAT-registered person; and
4. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.⁸⁵

⁸¹ *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017 [Per J. Caguioa, First Division]; *Accenture, Inc. v. Commissioner of Internal Revenue*, G.R. No. 190102, July 11, 2012 [Per J. Sereno, Second Division]; *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007 [Per J. Carpio, Second Division].

⁸² *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005 [Per J. Panganiban, Third Division].

⁸³ *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007 [Per J. Carpio, Second Division].

⁸⁴ *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007 [Per J. Carpio, Second Division]; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005 [Per J. Panganiban, Third Division].

⁸⁵ *Id.*

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**a. Petitioner rendered services to
the University of Cambridge, a
separate and distinct NRFC.**

Anent the *first* essential element, in order to be considered as a non-resident foreign corporation (**NRFC**) doing business *outside* the Philippines, each entity must be supported, at the very least, by **both** a *Certification of Non-Registration of Corporation/Partnership* issued by the Philippine Securities and Exchange Commission (**SEC**), **and** proof of incorporation/registration in a foreign country (e.g., Articles/Certificate of Incorporation/Registration and/or Tax Residence Certificate). The former establishes that the recipient of the service has no registered business in the Philippines and that it is not engaged in trade or business within the Philippines; while the latter proves that the said recipient of the service is indeed foreign. The said documents have been consistently required by this Court, for purposes of the said *first* essential element. In fact, in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,⁸⁶ the Supreme Court affirmed the necessity of presenting the said documents in this wise:

For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, viz.: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.

....

To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.

The Court upholds these findings.

The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax

⁸⁶ G.R. No. 234445, July 15, 2020 [Per J. Inting, Second Division].



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matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.

In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo's* findings. **To the Court's mind, the SEC Certifications of Non-Registration show that these affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.** (Emphasis supplied)

In the present case, petitioner satisfied the *first* essential element as it was able to prove that its sole client, The Chancellor, Masters and Scholars of the University of Cambridge, for the subject period, is an NRFC doing business outside the Philippines, by virtue of the following documents:

1. *Certification of Non-Registration of Company* dated July 28, 2021 issued by the SEC,⁸⁷ to the effect that the records of the SEC "*do not show the registration of **The Chancellor, Masters and Scholars of the University of Cambridge** as a corporation, partnership or One Person Corporation (OPC)*";
2. *Notarized and apostilled copy of an extract of the Oxford and Cambridge Act of 1571*, showing that The Chancellor, Masters, and Scholars of the University of Cambridge is a common law corporation, stating, in part, that "*xxx And likewyse that the Right Honorable Sir William Cicill Knight Baron of Burghley nowe Chauncellor of the said Universitie of Cambridg and his Successors for ever, and the Masters and Schollers of the same Universite of Cambridg for the tyme being, shalbe incorporated and have a perpetual Succession in Fact Deede and*

⁸⁷ Docket – Vol. I, p. 138, Exhibit "P-8".



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Name, by the Name of the Chauncellor Maisters and Schollers of the Universitie of Cambridge, and that the same Chauncellor Masters and Schollers of the said Universitie of Cambridg for the tyme being, from henceforth by the Name of Chauncellor Maisters & Schollers of the Universitie of Cambridg, and by none other Name or Names, shalbe called & named for evermore: xxx";⁸⁸ and

3. *Notarized and apostilled Certificate of Residence for Chancellor Masters and Scholars of the University of Cambridge dated January 13, 2022, issued by the HM Revenue and Customs of the United Kingdom, stating that "xxx as at 13 January 2022, Chancellor Masters and Scholars of the University of Cambridge is resident in the UK in accordance with Article 4 of the Convention in force between the UK and Philippines."*⁸⁹

Respondent asserts that since all sales transactions during the claim period were made to petitioner's ultimate parent company, the University of Cambridge, and that the parent company of an ROHQ is not considered as an "other person doing business outside the Philippines"—on the premise that the ROHQ and its ultimate parent company are one and the same—petitioner's sales do not qualify as zero-rated sales pursuant to this Court's ruling in *Institutional Shareholder Services, Inc. – Philippine ROHQ v. Commissioner of Internal Revenue (ISSI case)*.⁹⁰

This argument is without merit.

Respondent cannot rely on the *ISSI* case as a binding precedent. It is well settled that this Court's decisions do not constitute precedents and do not bind the Supreme Court or the public.⁹¹ Only decisions of the Supreme Court serve as binding precedents and form part of the Philippine legal system.⁹²

⁸⁸ Docket – Vol. II, pp. 675–679, Exhibit "P-5".

⁸⁹ Docket – Vol. I, pp. 294–296, Exhibit "P-22".

⁹⁰ CTA Case No. 7662, June 3, 2010.

⁹¹ *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013 [Per J. Carpio, *En Banc*].

⁹² *Id.*



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Even assuming that the *ISSI* case has persuasive juridical effect,⁹³ its ruling does not apply to the present case. Unlike in the *ISSI* case, petitioner did not render services to its head office, Digital Services Cambridge Limited (DSCL-UK), a company incorporated under the laws of England and Wales. Rather, petitioner provided services to The Chancellor, Masters, and Scholars of the University of Cambridge (University of Cambridge), which is the ultimate parent company of petitioner's head office.

In the *ISSI* case, Institutional Shareholder Services, Inc. – Philippine ROHQ (ISSI-ROHQ) was the Regional Operating Headquarters (ROHQ) of Institutional Shareholder Services, Inc. (ISSI-USA), a multinational company organized under the laws of New York, United States of America. ISSI-ROHQ rendered services solely and exclusively to its head office, ISSI-US. In this regard, this Court ruled that the parent company (head office) of an ROHQ may not be considered an affiliate, subsidiary, or branch since the ROHQ and its parent company are treated as one and the same entity for taxation purposes. Consequently, ISSI-USA may not be considered “other person doing business outside the Philippines” not only because ISSI-USA and ISSI-ROHQ are considered one and the same entity, but also because ISSI-USA was deemed to be doing business in the Philippines through ISSI-ROHQ. Hence, ISSI-ROHQ's services to ISSI-USA did not qualify for VAT zero-rating.

In *Philippine Deposit Insurance Corporation v. Citibank, N.A.*,⁹⁴ the Supreme Court examined how a foreign corporation may establish its presence in the Philippines. It may choose to incorporate its own subsidiary as a domestic corporation, in which case such subsidiary would have a separate and independent legal personality to conduct business in the country. In the alternative, it may create a branch in the Philippines, which would not be a legally independent unit, and simply obtain a license to do business in the Philippines. Philippine branches are, as the name implies, merely branches, without a separate legal personality from their parent company.

Moreover, in *Marubeni Corporation (formerly Marubeni-Iida, Co., Ltd.) v. Commissioner of Internal Revenue*,⁹⁵ the

⁹³ Refer to *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*, *supra*.

⁹⁴ G.R. No. 170290, April 11, 2012 [Per J. Mendoza, Third Division].

⁹⁵ G.R. No. 76573, September 14, 1989 [Per C.J. Fernan, Third Division].

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Supreme Court, concurring with the Solicitor General's arguments, held that a foreign corporation and its Philippine branch are generally considered the same juridical entity. This principle is based on the premise that the business of the foreign corporation is conducted through its branch, following the principal-agent relationship theory.

Since an ROHQ functions as a branch office,⁹⁶ it follows that it is the same juridical entity as its head office or is considered an extension of the head office.⁹⁷

As petitioner correctly pointed out,⁹⁸ respondent attempts to unduly stretch the ruling of the Court in the *ISSI* case. That case was decided based on the "single entity concept" which treats the head office and its ROHQ as one and the same juridical personality. The ROHQ was considered a mere extension of the head office. Nowhere in the *ISSI* case did the Court state that an ROHQ and its ultimate parent company are considered one and the same. Petitioner and its client, the University of Cambridge, are distinct juridical entities. The University of Cambridge is not petitioner's head office but the parent company of petitioner's head office. Petitioner is a branch of DSCL-UK, while DSCL-UK is a wholly owned subsidiary of the University of Cambridge.

Petitioner's witness, Ms. Catriona Ann Sheret, the General Counsel and Company Secretary of Cambridge University Press and Assessment, clarified the relationship between petitioner, DSCL-UK, and the University of Cambridge, as follows:⁹⁹

5. Q: *How are you familiar with this case?*

A: Cambridge University Press & Assessment is a non-teaching department of The Chancellor, Masters, and Scholars of the University of Cambridge, otherwise known as the University of Cambridge. Its governing body is called the Press and Assessment Syndicate.

⁹⁶ Section 22(E) of the NIRC of 1997, as amended, defines ROHQ as follows:

"(EE) The term '*regional operating headquarters*' shall mean a branch established in the Philippines by multinational companies which are engaged in any of the following services: general administration and planning; business planning and coordination; sourcing and procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication; and business development."

⁹⁷ Refer to Section 140 of RA No. 11232 (or the Revised Corporation Code of the Philippines).

⁹⁸ Docket - Vol. II, pp. 805-807, Petitioner's *Memorandum*, pars. 28 and 30.

⁹⁹ *Id.* at 533-537, Exhibit "P-827" (Q&A Nos. 5 to 19).

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The University of Cambridge is a party to the Service Agreement with Digital Services Cambridge Limited ROHQ, the petitioner in this case.

As the General Counsel and Company Secretary of Cambridge University Press & Assessment, I was requested to prepare documents that explain the history and background of the University of Cambridge, as well as detail the organization and relationship between and among the departments and subsidiary entities and branches of the University of Cambridge, which include Digital Services Cambridge Limited ROHQ.

6. Q: *You mentioned the Chancellor Masters' and Scholars of the University of Cambridge, what is the relationship, if any, of the Chancellor Masters and Scholars of the University of Cambridge to **Digital Services Cambridge Limited ROHQ** ('**DSCL-ROHQ**' or the '**Company**'), the Petitioner in this case?*

A: DSCL ROHQ is a branch of Digital Services Cambridge Limited, a UK company (DSCL UK). DSCL UK is a wholly owned subsidiary of the Chancellor Masters and Scholars of the University of Cambridge.

7. Q: *What proof do you have, if any, that DSCL UK is a wholly owned subsidiary of the Chancellor Masters and Scholars of the University of Cambridge?*

A: The Memorandum of Association and Articles of Association of Digital Services Cambridge Limited - as attached in DSCL ROHQ's Certificate of Registration and License with the Philippine Securities and Exchange Commission - show that it was originally owned by Cambridge University Press (Holdings) Limited, itself a subsidiary of the Chancellor Masters and Scholars of the University of Cambridge. DSCL UK was subsequently transferred to the direct ownership of the Chancellor Masters and Scholars of the University of Cambridge.

The list of Material Affiliates, Subsidiaries or Branch Offices of Digital Services Cambridge Limited - listed in DSCL ROHQ's Certificate of Registration and License - are also affiliates, subsidiaries and branch offices of the Chancellor



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Masters and Scholars of the University of Cambridge.

8. Q: *If shown a copy of the documents that you mentioned, would you be able to identify them?*

A: Yes.

9. Q: *I have with me:*

*DSCL ROHQ's Certificate of Registration and License dated July 27, 2012 issued by the Securities and Exchange Commission, with an attached Memorandum of Association and Articles of Association of Digital Services Cambridge Limited, as well as a table of "Material Affiliates, Subsidiaries or Branch Offices of the Digital Services Cambridge Limited", marked as **Exhibit P-1**,¹⁰⁰*

How are these related, if at all, to the documents you mentioned earlier?

A: Those are the documents that I mentioned.

10. Q: *And how is 'The Chancellor, Master, and Scholars of the University of Cambridge' related, if at all, to the University of Cambridge?*

A: They are the same entity. The Chancellor, Masters, and Scholars of the University of Cambridge is the legal name, while University of Cambridge is the commonly used short form. It is a common law corporation and an exempt charity under the Charities Act 2011.

11. Q: *Can you tell us where is the University of Cambridge organized?*

A: The University of Cambridge is organized in the United Kingdom. It has been confirmed as a common law corporation since the passing of Act of Parliament 13 Elizabeth Cap. 29 in 1571. It is authorized by the Lord Chancellor to act in relation to charitable, ecclesiastical and public trusts as a trust corporation.

12. Q: *What proof do you have, if any, of the University of Cambridge's organization in the United Kingdom?*

A: The following documents prove that The Chancellor, Masters, and Scholars of the University of

¹⁰⁰ *Id.* at 618-672, Exhibits "P-1", "P-1-a", and "P-1-b".



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Cambridge or the University of Cambridge is a foreign corporation doing business in the United Kingdom:

1. Screenshot of the published law online - the Oxford and Cambridge Act of 1571;
2. Notarized and apostilled copy of an extract of the Oxford and Cambridge Act of 1571; and
3. Certificate of Residence issued by the tax authorities of the United Kingdom.

13. Q: *Can you tell us how you were able to take the screenshot of the published Oxford and Cambridge Act. of 1571?*

A: I just accessed the website "Legislation.gov.uk", which publishes the enacted and revised versions of all United Kingdom legislation, as well as their accompanying explanatory documents. I then took a screenshot of the published law, saved the file, and printed it.

14. Q: *If shown a copy of the documents that you mentioned, would you be able to identify them?*

A: Yes.

15. Q: *I have with me:*

- *Screenshot of the Oxford and Cambridge Act of 1571 taken from the website 'Legislation.gov.uk, marked as **Exhibit P-4**,¹⁰¹*
- *A copy of an extract of Oxford and Cambridge Act of 1571, notarized and apostilled on January 11, 2022, marked as **Exhibit P-5**,¹⁰²*
- *Certificate of Residence for Chancellor Masters and Scholars of the University of Cambridge dated January 13, 2022 and issued by HM Revenue & Customs of the United Kingdom, notarized on May 23, 2022, and apostilled on May 25, 2022, marked as **Exhibit P-22**,¹⁰³*

¹⁰¹ *Id.* at 674, Exhibit "P-4".

¹⁰² *Id.* at 675–679, Exhibit "P-5".

¹⁰³ Docket – Vol. I, pp. 294–296, Exhibit "P-22".



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How are these related, if at all, to the documents you mentioned earlier?

16. A: Those are the documents that I mentioned.

17. Q: *Has the University of Cambridge engaged in business in the Philippines, particularly in the year 2020?*

A: Not as far as I am aware following enquiry of the University's central administration.

The University of Cambridge only has a Service Agreement with DSCL ROHQ, the petitioner in this case.

18. Q: *What does DSCL ROHQ do for University of Cambridge?*

A: DSCL ROHQ was established to render qualifying services to its affiliates, such as the University of Cambridge, pursuant to a Supply of Services Agreement dated April 30, 2015.

19. Q: *I am showing you a copy of a document captioned Supply of Services Agreement dated April 30, 2015 between The Chancellor, Master, and Scholars of the University of Cambridge and DSCL ROHQ, with a notarial certificate dated January 6, 2023 stating that the document is a true and complete copy of the original. How is this related, if at all, to the Supply of Services Agreement that you mentioned?*

A: That is the Supply of Services Agreement that I mentioned.

*Counsel: We respectfully request that the copy of the Supply of Services Agreement dated April 30, 2015, with a notarial certificate dated January 6, 2023, be marked as **Exhibit P-826**.¹⁰⁴*

The copy attached to this judicial affidavit is a faithful reproduction of the original.

From the foregoing, petitioner is registered with the Philippine SEC as an ROHQ of DSCL-UK, a multinational company organized and existing under the laws of England and Wales.¹⁰⁵ In contrast, The Chancellor, Masters, and Scholars of the University of Cambridge is a common law corporation organized under the laws of the United

¹⁰⁴ Docket – Vol. II, pp. 730–739, Exhibit “P-826”.

¹⁰⁵ *Id.* at 618–672, Exhibits “P-1”, “P-1-a”, and “P-1-b”.



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Kingdom.¹⁰⁶ Clearly, petitioner is not the ROHQ of the University of Cambridge. Stated differently, the University of Cambridge is not petitioner's head office. Correspondingly, petitioner and the University of Cambridge cannot be considered as one and the same entity.

A corporation has a separate and distinct personality from its corporate officers or stockholders.¹⁰⁷ In *Maricalum Mining Corporation v. Florentino*,¹⁰⁸ the Supreme Court affirmed this principle, stating:

...mere presence of control and full ownership of a parent over a subsidiary is not enough to pierce the veil of corporate fiction. It has been reiterated by this Court, time and again that **mere ownership by a single stockholder or by another corporation of all or nearly all of the capital stock of a corporation is not of itself sufficient ground for disregarding the separate corporate personality.** (Emphasis supplied)

Hence, although petitioner's head office is a wholly owned subsidiary of the University of Cambridge, they remain separate and distinct corporate entities.

The separate juridical personality of a corporation may only be disregarded upon clear and convincing proof of wrongdoing. It cannot be presumed. The separate personality of the corporation may be disregarded only when the corporation is used as a cloak or cover for fraud or illegality, or to work injustice, or where necessary for the protection of creditors.¹⁰⁹ Respondent, however, has failed to establish any basis for disregarding the distinct personalities of petitioner and the University of Cambridge.

Petitioner has sufficiently proved that its sole client during period of claim, The Chancellor, Masters, and Scholars of the University of Cambridge, qualifies as an "other person doing business outside the Philippines" as contemplated under Section 108(B)(2) of the NIRC of 1997, as amended.



¹⁰⁶ *Id.* at 674-679, Exhibits "P-4" and "P-5".

¹⁰⁷ *Zomer Development Company, Inc. v. Special Twentieth Division of the Court of Appeals, Cebu City, et al.*, G.R. No. 194461, January 7, 2020 [Per J. Leonen, *En Banc*].

¹⁰⁸ G.R. Nos. 221813 & 222723, July 23, 2018 [Per J. Gesmundo, Third Division].

¹⁰⁹ *Marubeni Corporation, et al. v. Lirag*, G.R. No. 130998, August 10, 2001 [Per J. Pardo, First Division].

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b. Petitioner rendered services other than processing, manufacturing, or repacking of goods.

As to the *second* essential element, petitioner entered into a *Supply of Services Agreement* dated April 30, 2015¹¹⁰ with The Chancellor, Masters, and Scholars of the University of Cambridge. The attached *Schedule 1 Services* enumerates the services to be provided by petitioner, including (a) IT infrastructure support and maintenance services; (b) Content services (quality assurance and control); (c) Software development, quality assurance, and related support services; and (d) Such other business process and technology services as the Recipient may require from time to time.

A cursory examination of *Schedule 1 Services* vis-à-vis the said *Supply of Services Agreement* reveals that the services rendered by petitioner fall within the scope of "services other than processing, manufacturing or repacking of goods," as contemplated under the relevant provision. Thus, in the present case, the *second* essential element is duly established.

c. Petitioner's services were rendered in the Philippines.

Relative to the *third* essential element, the Court notes that neither the *Supply of Services Agreement* nor its *Schedule 1 Services* explicitly states that the services were to be performed by petitioner exclusively in the Philippines. Similarly, there is no indication in the said *agreement* or its *schedule* that the services were rendered outside the Philippines.

However, petitioner's witness, Mr. Mañalac, its General Manager, testified that the services were, in fact, rendered in the Philippines, to wit: ¹¹¹

"33. Q: What happened, if any, after the execution of the *Supply of Services Agreement*?"



¹¹⁰ Docket – Vol. II, pp. 730–739, Exhibit "P-826"; Exhibits "P-32-1" to "P-32-18", USB.

¹¹¹ Docket – Vol. I, p. 37, Exhibit "P-28" (Q&A No. 33).

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A: In accordance with the Supply of Services Agreement, the **services covered have been rendered by DSCL ROHQ in the Philippines**, to the University of Cambridge since the date of the agreement up to the present.” (Emphasis supplied)

This positive testimony by Mr. Mañalac shifts the burden of proof to respondent. Notably, the Court observes that his testimony remains unrebutted by respondent.

Accordingly, petitioner has sufficiently established compliance with the *third* essential element.

d. Petitioner’s services were partially supported by ORs, paid in acceptable foreign currency, and accounted for in accordance with BSP rules and regulations.

Before addressing the *fourth* essential element—which corresponds to the *fifth* requisite under Section 108(B)(2) of the NIRC of 1997, as amended, requiring that foreign currency proceeds be duly accounted for in accordance with BSP rules and regulations—it is equally important to consider that the VAT zero-rated sales corresponding to these foreign currency remittances, must be duly supported by VAT zero-rated ORs.

Pursuant to the invoicing requirements under Section 113(A) and (B) of the NIRC of 1997, as amended, VAT zero-rated ORs must contain all the required information, as follows:

SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —

(A) *Invoicing Requirements.* — A VAT-registered person shall issue:

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

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



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(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;

....

(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;

....

(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. (Emphasis supplied)

The foregoing provisions are further implemented by Section 4.113-1(A) and (B) of Revenue Regulations (**RR**) No. 16-2005,¹¹² as amended, to wit:

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

¹¹² SUBJECT: Consolidated Value-Added Tax Regulations of 2005.



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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;

....

(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;

....

(3) In the case of sales in the amount of one thousand pesos (P1,000.00) 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. (Emphasis supplied)

Moreover, the sales invoices (SIs) and ORs must be duly registered with the BIR, as prescribed under Section 237, in relation to Section 238 of the NIRC of 1997, as amended:

SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* —

(A) *Issuance.* — All persons subject to an internal revenue tax shall, at the point of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100) or more, **issue duly registered receipts or sale or commercial invoices, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service:** *Provided, however,*



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That where the receipt is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further*, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.

....

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. (Emphasis supplied)

As previously intimated, in claims for VAT refund or credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations, as strict compliance with substantiation and invoicing requirements is necessary.

Here, since petitioner's reported sales, which are in the nature of sales of services, fall under Section 108(B)(2) of the NIRC of 1997, as amended, it is required to issue BIR-registered VAT zero-rated ORs for the foreign currency proceeds of each sales transaction. These ORs must comply with the applicable invoicing provisions previously cited, including the presence of the term "zero-rated" and the taxpayer's TIN-VAT number.

To substantiate its zero-rated sales for FY 2020, petitioner submitted the VAT zero-rated ORs¹¹³ it issued to its

¹¹³ Exhibits "P-63" to "P-204", USB.

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sole client, the University of Cambridge, together with its Schedule of Zero-Rated Sale of Services.¹¹⁴

Upon scrutiny of the submitted documents, the Court finds that petitioner's declared zero-rated sales in the total amount of ₱707,479,395.59 were duly supported by VAT zero-rated ORs and complied with the invoicing requirements provided under the law and regulations.

However, a perusal of the *Certificates of Inward Remittance* issued by the Bank of Philippine Islands (BPI)¹¹⁵ reveals that while petitioner was able to establish that the alleged zero-rated sales were duly paid in acceptable foreign currency and accounted for in accordance with the BSP rules and regulations, an amount of ₱1,484,458.23 was not supported by inward remittances per bank certifications. Furthermore, no document was presented to establish any offsetting arrangement with its client, as detailed below:

Exhibit No.	Official Receipt No.	Amount Billed (in Peso)	Amount Billed (in GBP)	Inward Remittance (in GBP)	Discrepancy (in GBP)	Peso Equivalent
"P-82"	1940	233,097.58	3,573.62			
"P-83"	1941	635,756.14	9,746.78			
"P-84"	1942	496,441.07	7,610.94			
"P-85"	1943	302,867.97	4,643.27			
Sub-total			25,574.61	4,255.45	21,319.16	1,390,591.25
"P-203"	2061	1,603,388.20	25,408.38	23,920.90	1,487.48	93,866.98
TOTAL		3,271,550.96	50,982.99	28,176.35	22,806.64	1,484,458.23

Thus, for purposes of compliance with the *fourth* and *fifth* requisites, petitioner has sufficiently established that its sales of services to NRFC for FY 2020, in the aggregate amount of ₱705,994,937.36 (₱707,479,395.59 less ₱1,484,458.23), qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

Sixth requisite: The input taxes being claimed do not appear to be transitional.

In its Amended Quarterly VAT Returns for the four quarters of FY 2020, petitioner declared a total input VAT of

¹¹⁴ Exhibits "P-38-1" to "P-38-6", USB.

¹¹⁵ Docket – Vol. I, pp. 215–221, Exhibits "P-14" and "P-15".

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₱13,547,293.08, representing input VAT from its domestic purchases of goods and services, and input VAT amortized on purchases of capital goods from both previous and current quarters, which is the subject of the present claim for refund, except for a minor rounding-off difference of ₱0.13 (₱13,547,293.08 less ₱13,547,293.21),¹¹⁶ detailed as follows:

	1 st Quarter ¹¹⁷	2 nd Quarter ¹¹⁸	3 rd Quarter ¹¹⁹	4 th Quarter ¹²⁰	TOTAL
Input Tax Due on Capital Goods exceeding ₱1M					
Input Tax Deferred on Capital Goods Exceeding ₱1 Million from Previous Quarter	₱2,653,358.95	₱3,067,263.74	₱4,395,110.48	₱4,009,503.94	₱14,125,237.11
Add: Input Tax on Purchase of Capital Goods exceeding ₱1 Million	732,389.92	1,680,068.59	-	-	2,412,458.51
Less: Input Tax on Purchase of Capital Goods exceeding ₱1 Million deferred for the succeeding period	3,067,263.74	4,395,110.48	4,009,503.94	3,639,201.40	15,111,079.56
<i>Amortized Input Tax</i>	<i>318,485.13</i>	<i>352,221.85</i>	<i>385,606.54</i>	<i>370,302.54</i>	<i>1,426,616.06</i>
Input Tax Due on Current Purchases of Goods and Services other than Capital Goods					
Capital goods not exceeding ₱1 Million	857.14	-	210,368.92	-	211,226.06
Domestic purchases of goods other than capital goods	179,747.53	44,902.19	48,043.80	53,913.55	326,607.07
Domestic purchase of services	3,431,595.72	3,500,128.68	2,570,893.10	2,080,226.39	11,582,843.89
<i>Total Current Input Tax</i>	<i>3,612,200.39</i>	<i>3,545,030.87</i>	<i>2,829,305.82</i>	<i>2,134,139.94</i>	<i>12,120,677.02</i>
Total Available Input Tax	₱3,930,685.52	₱3,897,252.72	₱3,214,912.36	₱2,504,442.48	₱13,547,293.08

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

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 any 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.

¹¹⁶ Total Amount of Claim.

¹¹⁷ Docket – Vol. II, pp. 697–968, Exhibit “P-10-d”.

¹¹⁸ *Id.* at 707–708, Exhibit “P-11-d”.

¹¹⁹ *Id.* at 717–718, Exhibit “P-12-d”.

¹²⁰ *Id.* at 727–728, Exhibit “P-13-d”.

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To be sure, the transitional input tax credit benefits newly VAT-registered persons, whether or not they previously paid taxes in the acquisitions of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.¹²¹

Since there is no showing that the above-stated input VAT qualifies as transitional input VAT, petitioner has sufficiently complied with the *sixth* requisite for the grant of an input VAT refund.

Seventh requisite: A portion of the input taxes being claimed were due or paid.

Anent the *seventh* requisite for claiming a VAT refund, it is important that the input taxes claimed for refund are duly supported by appropriate documents proving that they are actually due or paid, in accordance with Section 110(A) of the NIRC of 1997, as amended, 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 output tax:

(a) Purchase or importation of goods:

(i) For sale; or

(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.



¹²¹ *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, et al.*, G.R. Nos. 158885 & 170680, April 2, 2009 [Per J. Tinga, *En Banc*].

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(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

....

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, further*, That 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, 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."

The above provisions are implemented by Sections 4.110-1, 4.110-2, and 4.110-3 of RR No. 16-2005, as amended by RR No. 13-2018, which provide:

SEC. 4.110-1. *Credits for Input Tax.* - x x x

....

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



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- (3) For use as supplies in the course of business; or
- (4) For use as raw 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:



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(a) If the estimated useful life of a 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 despite the fact that the monthly payments/installments may not exceed P1,000,000.00.

Furthermore, Section 4.110-8 of RR No. 16-2005, as amended, provides for the substantiation requirements of input tax credits on purchases of goods, properties, and services, 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 against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT,



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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.

....

(d) Input tax from payments made to non-residents (such as for services, rental and royalties) shall be supported by a copy of the Monthly Remittance Return of Value Added Tax Withheld (BIR Form 1600) filed by the resident payor in behalf of the nonresident evidencing remittance of VAT due which was withheld by the payor.

Based on the foregoing provisions, entitlement to input tax credits requires compliance with the documentary substantiation requirements prescribed under Section 4.110-8 of RR No. 16-2005. Moreover, these documents must conform to the invoicing requirements under Sections 113(A) and (B), 237, and 238 of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended.

Needless to say, the invoicing requirements for a VAT-registered taxpayer, as provided in the NIRC and the RR, are clear. A VAT-registered taxpayer must strictly comply with the VAT invoicing requirements to claim input taxes on domestic purchases of goods or services attributable to zero-

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rated sales.¹²² In addition, the invoicing requirement is reasonable and must be strictly complied with, as it is the only way to determine the veracity of the claim.¹²³

In support of its reported input VAT of ₱13,547,293.08 from domestic purchases of goods and services, petitioner submitted various suppliers' sales invoices and official receipts¹²⁴ which were examined by the Court-commissioned ICPA.

Based on the ICPA's examination and verification, it was found that out of the ₱13,547,691.54 input VAT per Summary of Input Tax,¹²⁵ only ₱10,582,490.20¹²⁶ was duly supported by purchase/expense documents. Thus, the unsubstantiated input VAT in the aggregate amount of ₱2,965,201.34, must be disallowed, *viz.*¹²⁷

Quarters of FY 2020	PER SCHEDULE	WITH SUPPORTING DOCUMENTS	WITHOUT SUPPORTING DOCUMENTS
	Input VAT	Input VAT	Input VAT
BIG TICKETS			
1 st	₱ 2,778,817.04	₱ 2,576,568.94	₱ 202,248.10
2 nd	3,015,616.67	2,796,275.12	219,341.55
3 rd	2,364,218.66	2,079,770.25	284,448.41
4 th	1,673,840.98	1,404,371.00	269,469.98
Sub-total	9,832,493.35	8,856,985.31	975,508.04
NON-BIG TICKETS			
1 st	1,151,941.34	812,562.00	339,379.34
2 nd	881,635.77	51,830.05	829,805.72
3 rd	850,693.85	599,483.01	251,210.83
4 th	830,927.24	261,629.83	569,297.40
Sub-total	3,715,198.19	1,725,504.89	1,989,693.30
TOTAL	₱ 13,547,691.54	₱ 10,582,490.20	₱ 2,965,201.34

Here, it is worth noting that the total input VAT per schedule¹²⁸ was ₱398.33 higher¹²⁹ than the amount claimed for VAT refund per BIR Form No. 1914.¹³⁰ However, the ICPA was able to verify only ₱10,582,490.20¹³¹ in substantiated

¹²² *Microsoft Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 180173, April 6, 2011 [Per J. Carpio, Second Division].

¹²³ *Kepeco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011 [Per J. Mendoza, Second Division].

¹²⁴ Exhibits "P-205" to "P-823", USB.

¹²⁵ Annex A.1.6, Schedule of Local Purchases with Input Tax, BIR Records (Exhibit "R-5"), p. 308.

¹²⁶ Docket – Vol. I, p. 457, Exhibit "P-824" (Q&A No. 25).

¹²⁷ *Id.* at 496, Exhibit "P-28", Annex B.

¹²⁸ Annex A.1.6, Schedule of Local Purchases with Input Tax, BIR Records (Exhibit "R-5"), p. 308.

¹²⁹ ₱13,547,293.21 less ₱13,547,691.54.

¹³⁰ Exhibit "P-16", BIR Records (Exhibit "R-5"), p. 216; Exhibit "P-37", USB.

¹³¹ Docket – Vol. I, pp. 497–521, Exhibit "P-28", Annexes C and D.

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input VAT, resulting in a disallowance of ₱2,965,201.34, as summarized in the table above.

In addition to the above disallowances, further verification of the supporting documents revealed that an input VAT amounting to ₱326,745.34 must also be disallowed, based on the following grounds:

Name of Supplier	Exhibit No.	Input VAT
Input VAT on purchases of noncapital goods supported by VAT SI/OR but with blurred or unreadable details		
ALLDAY MARTS, INC.	"P-353"	₱ 57.64
ALLDAY MARTS, INC.	"P-682"	190.83
FORTUNEWELL, INC.	"P-695"	53.57
Subtotal		302.04
Input VAT supported by documents with alteration without countersignature of the issuer		
GALACGAC, MA. NENITA	"P-737"	287.14
GALACGAC, MA. NENITA	"P-738"	848.57
GALACGAC, MA. NENITA	"P-739"	1,344.32
ALLEGRO BEVERAGE CORPORATION	"P-752"	1,392.86
ALLEGRO BEVERAGE CORPORATION	"P-753"	642.86
J-K NETWORK RECRUITMENT SVCS	"P-773"	15,750.00
Subtotal		20,265.75
Input VAT supported by documents with alteration countersigned by a person other than the issuer		
NEXUS TECHNOLOGIES, INC.	"P-208"	1,457.14
FRABELLE FISHING CORPORATION	"P-324"	435.49
VENTURA, ELIZABETH M.	"P-389"	44.25
VENTURA, ELIZABETH M.	"P-390"	429.38
VENTURA, ELIZABETH M.	"P-391"	27.40
VENTURA, ELIZABETH M.	"P-392"	234.00
METROPOLE LAUNDRY AND DRYCLEANERS	"P-416"	31.11
VILL-CARE MANAGEMENT AND MAINTENANCE SERVICES INC.	"P-513"	8,774.93
VENTURA, ELIZABETH M.	"P-518"	1,152.00
VENTURA, ELIZABETH M.	"P-519"	11,232.00
JAYNE ADMINISTRATION AND BLDG MGT SERVICES CORP.	"P-556"	7,139.68
VENTURA, ELIZABETH M.	"P-588"	16,848.00
VENTURA, ELIZABETH M.	"P-590"	1,315.20
VENTURA, ELIZABETH M.	"P-591"	37,500.00
VENTURA, ELIZABETH M.	"P-592"	11,232.00
ALLEGRO BEVERAGE CORPORATION	"P-597"	1,885.71
CONFIDENTIAL PARTNERS, INC.	"P-636"	6,473.28
VENTURA, ELIZABETH M.	"P-741"	6,072.00
VENTURA, ELIZABETH M.	"P-742"	5,160.00
VENTURA, ELIZABETH M.	"P-743"	1,428.00

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VENTURA, ELIZABETH M.	"P-744"	1,104.00
VENTURA, ELIZABETH M.	"P-816"	322.50
Subtotal		120,298.07
<i>Input VAT on purchases of services supported by VAT SI/ORs but input VAT amounts per OR are lower than per claim (Overclaimed input VAT)</i>		
SARAM BEE CORPORATION	"P-431"	0.96
SHAKEYS PIZZA ASIA VENTURES, INC.	"P-433"	600.28
KIMUKATSU, INC.	"P-657"	107.47
Subtotal		708.71
<i>Input VAT on purchases of services supported by VAT ORs but the input VAT amounts were not separately indicated</i>		
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-363"	328.33
PAN DE MANILA FOOD CO., INC.	"P-374"	33.75
PHILIPPINE SEVEN CORPORATION	"P-377"	107.14
RUSTAN COFFEE CORPORATION	"P-384"	29.46
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-408"	186.85
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-409"	136.17
MONSTER.COM PHILIPPINES	"P-417"	35,400.00
RUSTAN COFFEE CORPORATION	"P-428"	35.89
AM-PHIL FOOD CONCEPTS INC	"P-454"	1,213.18
CANON MARKETING (PHILIPPINES), INC.	"P-457"	6,763.66
CANON MARKETING (PHILIPPINES), INC.	"P-458"	4,596.18
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-467"	136.15
GOLDEN ARCHES DEV'T CORPORATION	"P-476"	25.07
PHILIPPINE SOFTWARE INDUSTRY ASSOC.	"P-497"	180.00
SHAKEY'S PIZZA ASIA VENTURES, INC.	"P-501"	221.14
THE MICROBREWERY CO., INC.	"P-509"	219.41
VANGUARD SCREENING SOLUTIONS, INC.	"P-512"	6,546.00
LIM, JAMES ALFRED L.	"P-515"	468.21
CONSOLIDATED GLOBAL IMPORTS, INC.	"P-539"	21.21
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-541"	135.95
GOLDEN ARCHES DEV'T CORPORATION	"P-546"	214.29
GOLDEN ARCHES DEV'T CORPORATION	"P-549"	12.54
MERCURY DRUG CORPORATION	"P-561"	178.29
PARTNERS AGAINST PESTS, INC.	"P-574"	3,548.57
PHILIPPINE SEVEN CORPORATION	"P-575"	57.64
RUSTAN COFFEE CORPORATION	"P-585"	107.14
ACTIVEONE HEALTH, INC.	"P-595"	5,618.48
CONFIDENTIAL PARTNERS, INC.	"P-651"	5,515.44
CONSOLIDATED GLOBAL IMPORTS, INC.	"P-652"	17.57
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-654"	223.59
PHILIPPINE SEVEN CORPORATION	"P-660"	17.14
PHILIPPINE SEVEN CORPORATION	"P-661"	107.14
PICASSO BISTROINC	"P-662"	197.24
TAPA KING, INC.	"P-669"	443.79
THE REAL AMERICAN DOUGHNUT COMPANY	"P-670"	543.21
ANGELO AND ANGELAS GARDEN SUITES	"P-686"	214.29
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-692"	84.03

DECISION

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FIGARO COFFEE SYSTEMS INC	"P-694"	102.75
MISNET EDUCATION, INC.	"P-704"	9,509.14
PHILIPPINE SEVEN CORPORATION	"P-711"	10.71
PHILIPPINE SEVEN CORPORATION	"P-712"	12.86
PHILIPPINE SEVEN CORPORATION	"P-713"	6.43
PHILIPPINE SEVEN CORPORATION	"P-714"	6.43
RUSTAN COFFEE CORPORATION	"P-718"	208.93
TALENTVIEW, INC.	"P-728"	2,215.71
TAMKENE PHILS, INC.	"P-729"	2,250.00
VANGUARD SCREENING SOLUTIONS, INC.	"P-731"	1,262.40
ACTIVEONE HEALTH, INC.	"P-749"	6,049.58
ACTIVEONE HEALTH, INC.	"P-750"	20,794.75
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-760"	139.34
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-761"	247.70
GEMSIGN COMPANY	"P-765"	23,967.86
GOLDILOCKS BAKESHOP, INC.	"P-767"	135.96
PAN DE MANILA FOOD CO INC.	"P-788"	34.29
PAN DE MANILA FOOD CO INC.	"P-789"	37.50
PAN DE MANILA FOOD CO INC.	"P-790"	29.46
RUSTAN COFFEE CORPORATION	"P-795"	68.04
SHAKEYS PIZZA	"P-801"	338.14
SODEXO BENEFITS AND REWARDS SERVICES PHILIPPINES INC.	"P-802"	194.40
SUPER SHOPPING MARKET INC.	"P-803"	97.88
SUPER SHOPPING MARKET INC.	"P-805"	39.29
VANGUARD SCREENING SOLUTIONS INC.	"P-810"	5,996.40
YELLOW CAB FOOD CORPORATION	"P-814"	193.61
Subtotal		147,833.70
Input VAT on purchases of services supported by VAT ORs but nature of payment not indicated/attached		
BISTRONOMIA CORP.	"P-405"	300.54
TIVOLI GARDEN RESIDENCES CORPORATION	"P-443"	385.71
360 AEVENT MANAGEMENT CORP.	"P-450"	882.86
ITS TIME FOR TIMS COFFEE INC.	"P-483"	261.43
Subtotal		1,830.54
Input VAT supported with different attachment		
PAN DE MANILA FOOD CO INC.	"P-572"	219.00
THE REAL AMERICAN DOUGHNUT COMPANY	"P-807"	216.96
MOTORINO	"P-369"	671.52
OFFICE WAREHOUSE INC.	"P-496"	11.25
Subtotal		1,118.73
Without supporting document (document marked Exhibit "P-554"¹³² does not correspond with the claimed input VAT per schedule,¹³³ and is the same document as Exhibit "P-555" pertaining to another input VAT claim)		

¹³² Exhibit "P-554" was also denied admission for not being found in the records of the case. However, it was noted that the document saved in the USB under filename "Exhibit No. P-540" is marked as Exhibit "P-554". Nevertheless, the said document is the same document as Exhibit "P-555". Refer to Resolution dated June 19, 2023, Docket – Vol. II, pp. 745 to 748, at p. 746.

¹³³ Refer to Docket – Vol. I, p. 511, Exhibit "P-28", Annex D, Lines 160 and 161.

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ITS TIME FOR TIMS COFFEE INC.	"P-554"	54.64
Subtotal		54.64
Input VAT supported by VAT OR/SI with no date, address, or TIN		
MI CALDERON FOOD SERVICES CORP.	"P-563"	722.14
AMBER GOLDEN PLATE RESTAURANT CORP.	"P-357"	204.64
PUREGOLD PRICE CLUB INC.	"P-381"	22.26
TAPA KING INC.	"P-438"	151.18
ITS TIME FOR TIMS COFFEE INC.	"P-482"	69.11
NATIONAL BOOK STORE INC.	"P-491"	18.64
JOZEL FOODS AND ENTERPRISE CORP.	"P-559"	1,950.32
OFFICE WAREHOUSE INC.	"P-569"	14.44
OFFICE WAREHOUSE INC.	"P-570"	52.10
PACIFIC UNION INSURANCE COMPANY	"P-571"	1,690.92
ADVENT-MANILA HOSPITALITY GROUP, INC.	"P-596"	691.82
INTERNET AND MOBILE MARKETING ASSOCIATION OF THE PHILIPPINES INC.	"P-656"	10,620.00
ARMYNAVY BURGER AND BURRITO	"P-687"	358.29
GINOS BRICK OVEN PIZZA INC.	"P-696"	518.56
THE REAL AMERICAN DOUGHNUT COMPANY	"P-730"	187.50
ARMYNAVY BURGER AND BURRITO	"P-754"	243.21
NOODLERAMA GROUP INC.	"P-780"	356.25
SHAKEYS PIZZA	"P-800"	224.89
TANALGO, AMELIA S.	"P-448"	188.04
BONZER FOODS CORPORATION	"P-455"	840.43
COFFEE TABLE INC.	"P-460"	140.36
EPICUREAN PARTNERS EXCHANGE INC.	"P-470"	298.93
EPICUREAN PARTNERS EXCHANGE INC.	"P-471"	483.80
FRESH N FAMOUS FOODS INC.	"P-472"	180.86
GOLDILOCKS BAKESHOP INC.	"P-697"	170.89
KITARO CUISINE VENTURES INC.	"P-702"	235.61
TANALGO, AMELIA S.	"P-399"	203.57
FRESH N FAMOUS FOODS INC.	"P-412"	460.71
PAN DE MANILA FOOD CO INC.	"P-418"	10.71
PERF RESTAURANTS INC.	"P-421"	159.11
CALTEX	"P-648"	53.57
BALICAO, MENDOZA HERLE	"P-675"	53.57
GONZALES, CELESTE G.	"P-678"	101.36
AMBER GOLDEN PLATE RESTAURANT CORP.	"P-685"	242.14
OFFICE WAREHOUSE INC.	"P-708"	50.81
HEALTHSPHERE TRADING CORP.	"P-768"	1,275.00
MIA MAISON HOME INC.	"P-778"	72.11
CBMPH PATISSERIE INC.	"P-459"	498.21
HEALTHSPHERE TRADING CORP.	"P-481"	1,277.14
NATIONAL BOOK STORE INC.	"P-492"	9.80
NATIONAL BOOK STORE INC.	"P-493"	7.37
ITS TIME FOR TIMS COFFEE INC.	"P-552"	11.79
MEDSTATION BIOLOGICALS INCORPORATED	"P-560"	9,128.57
Subtotal		34,250.73

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Supported by Exhibit which was denied admission by the Court for not being found in the records of the case		
COSMO GET AWAY CHAIN TRAVEL AND TOURS	"P-540"	82.43
Subtotal		82.43
TOTAL		₱ 326,745.34

In sum, out of the total declared input VAT of ₱13,547,293.08, only the amount of ₱10,255,346.40, as computed below, is validly substantiated and qualifies as input VAT due or paid for FY 2020, in compliance with the *seventh* requisite:

Input VAT per Returns		₱ 13,547,293.08
Less: Disallowances		
Per ICPA	₱ 2,965,201.34	
Per this Court	326,745.34	3,291,946.68
Validly Substantiated Input VAT		₱ 10,255,346.40

Eight requisite: The validly substantiated input VAT is attributable to zero-rated sales.

The *eighth* requisite requires that the input taxes claimed must be attributable to zero-rated or effectively zero-rated sales. However, if a taxpayer has both zero-rated (or effectively zero-rated) sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributed to any of these sales categories, the input taxes must be proportionately allocated based on sales volume.

In this case, since petitioner had no other sales except zero-rated sales, the entire validly substantiated input VAT of ₱10,255,346.40 is attributable thereto.

However, as previously established, out of petitioner's declared zero-rated sales of ₱707,479,395.59, only the amount of ₱705,994,937.36 qualifies for VAT zero-rating. Consequently, only the input VAT of ₱10,233,828.27 is attributable to the valid zero-rated sales and may be validly claimed for refund, computed as follows:



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Validly Substantiated Input VAT	₱ 10,255,346.40
Divide by Declared Zero-Rated Sales	707,479,395.59
Multiply by Valid Zero-Rated Sales	705,994,937.36
Valid Input VAT attributable to Valid Zero-Rated Sales	₱ 10,233,828.27

Ninth requisite: The input taxes have not been applied against output taxes during and in the succeeding quarters.

Since petitioner had no sales subject to the 12% VAT during the period covered by the claim, there was no output VAT against which the claimed input VAT of ₱13,547,293.21 could have been applied or credited.

Additionally, although the claimed input VAT of ₱13,547,293.21, which includes the substantiated input VAT of ₱10,255,346.40, was carried over by petitioner to the succeeding quarters, it remained unutilized until it was deducted as "VAT Refund/TCC claimed"¹³⁴ in its Quarterly VAT Return for the 4th quarter of FY 2021. Accordingly, the subject claim was no longer part of the excess input VAT balance of ₱10,922,917.72¹³⁵ as of the end of the 4th quarter of FY 2021.

Given that the claimed input VAT was neither carried over nor utilized in the succeeding quarters of FY 2022, petitioner has sufficiently complied with the *ninth* requisite for the grant of a VAT refund or the issuance of a tax credit certificate.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND or TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱10,233,828.27**, representing the latter's unutilized input VAT attributable to its zero-rated sales for the period from May 1, 2019 to April 30, 2020.



¹³⁴ Exhibit "P-20", Line 23D, BIR Records (Exhibit "R-5), p. 191.

¹³⁵ Exhibit "P-20", Line 29, BIR Records (Exhibit "R-5), p. 191.

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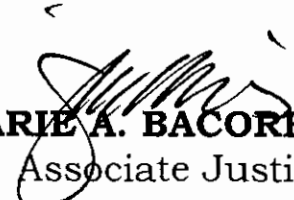
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SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:


(With due respect, see Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

DIGITAL SERVICES
CAMBRIDGE LIMITED ROHQ,
Petitioner,

CTA CASE NO. 10764

Members:

- versus -

DEL ROSARIO, P.J., *Chairperson,*
BACORRO-VILLENA, and
CUI-DAVID, JJ.

COMMISSIONER OF INTERNAL
REVENUE,

Promulgated:

Respondent.

FEB 26 2025, 3:30PM

X-----X

DISSENTING OPINION

DEL ROSARIO, P.J.:

With utmost respect, I am constrained to withhold my assent to the *ponencia*. I submit that petitioner's claim for refund of input value-added tax (VAT) attributable to zero-rated sales must be denied for petitioner's failure to comply with the invoicing requirements under Section 113(B)(2)(c) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Section 113(B)(2)(c) and (d) of the NIRC of 1997, as amended, reads:

"SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –

xxx

xxx

xxx

(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:



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

The above provision is implemented by Section 4.113-1 of Revenue Regulations (RR) No. 16-2005, as amended, which reads:

“SEC. 4.113-1. Invoicing Requirements. --

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

XXX XXX XXX
(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:

XXX XXX XXX
(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.” (*Boldfacing supplied*)

From the foregoing, it is a requirement that for any VAT invoice or official receipt (OR) evidencing a zero-rated transaction, the term “zero-rated sale” **should** be written or printed prominently

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thereon. Failure to comply with the invoicing requirements is sufficient ground to deny the claim for refund or tax credit.¹

The Supreme Court has settled, in a number of cases,² that the writing or imprinting of the term “zero-rated sale” on the VAT invoice or OR is **indispensable** for a valid claim for refund of unutilized input tax. Such requirement was traced by the Supreme Court from Section 4.108-1 of RR No. 7-95, which has been incorporated in Section 113(B)(2)(c) of the NIRC of 1997, as amended, by virtue of the amendments introduced by Republic Act (RA) No. 9337, which confirms the validity of the imprinting requirement on VAT invoices or official receipts, *viz.*³

“RR 7-95, which took effect on 1 January 1996, proceeds from the rule-making authority granted to the Secretary of Finance by the NIRC for the efficient enforcement of the same Tax Code and its amendments. In *Panasonic Communications Imaging Corporation of the Philippines v. Commissioner of Internal Revenue*, we ruled that this provision is ‘reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services.’ Moreover, we have held in *Kepco Philippines Corporation v. Commissioner of Internal Revenue* that the subsequent incorporation of Section 4.108-1 of RR 7-95 in Section 113 (B)(2)(c) of R.A. 9337 actually confirmed the validity of the imprinting requirement on VAT invoices or official receipts – a case falling under the principle of legislative approval of administrative interpretation by reenactment.” (Boldfacing supplied)

Revenue Memorandum Circular No. 42-2003 provides that if the refund claim is based on the existence of zero-rated sales but the taxpayer fails to comply with the invoicing requirements, such claim should be **denied**, *viz.*:

“Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain invoicing requirements, (e.g., sales invoices must bear the TIN of the seller)?

¹ *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.

² *Panasonic Communications Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010; *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 177127, October 11, 2010; *Hitachi Global Storage Technologies Philippines Corp. vs. Commissioner of Internal Revenue*, G.R. No. 174212, October 20, 2010; *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181858, November 24, 2010; *Silicon Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012; *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

³ *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012.



A-13: **Failure by the supplier to comply with the invoicing requirements** on the documents supporting the sale of goods and services will result to the **disallowance** of the claim for input tax by the purchaser-claimant.” (*Boldfacing and underscoring supplied*)

In the case at bar, a scrutiny of **all of the ORs** submitted by petitioner reveals that the same **did not indicate therein that the sales were zero-rated**. The term **“zero-rated sale” was not written or printed prominently on the said ORs**. As shown in three sample ORs,⁴ petitioner clearly failed to comply with the imprinting requirement:

PAYMENT OF THE FOLLOWING	
Inv: No./Supplier	Amount
1984	548,916.45
1984	548,916.45

PAYMENT IN FORM OF:			
CASH	P		
CHECK	P		
BANK NAME	CHECK NO.	DATE	AMOUNT

VARIABLE	
VAT ZERO RATED	548,916.45
VAT EXEMPT: P	
TOTAL SALES	548,916.45
VAT Amount	
Total Amount Due	548,916.45

Total Sales (VAT inclusive)	
Less: VAT	
Amount Net of VAT	
Less: SC/PWD Discount	
Amount Due	
Add: VAT	



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No. 1921

Date May 3, 2019

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TIN: Address:

Business Stamp: University of Cambridge

The sum of Five hundred and ninety one thousand nine hundred sixteen (P548,916.45)

As partial / full payment of Billing Invoice #1984 for services rendered for the month of March 2019

OSCA/PWD ID No.:

Cardholder's Signature:

20 Bldg. 2nd Floor, 357 Sen Gil Puyat Avenue, Brgy. Bel-Air, Makati City 1200
 BIR Accredited with No. 0000000752030
 Valid until: 03-31-20
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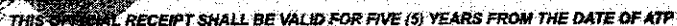
Eric J. Magcale
Digitally signed by Eric J. Magcale
Date: 2023.01.08 22:58:37 +0800

Certified True Copy of Original

Eric S. Magcale
EJM and Associates

⁴ Exhibits P-63-1, P-73-1, and P-83-1, USB.

VATABLE	
VAT ZERO RATED	29,217.17
VAT EXEMPT P	
TOTAL SALES	29,217.17
VAT Amount	
Total Amount Due	29,217.17
Total Sales (VAT Inclusive)	
Less: VAT	
Amount Net of VAT	
Less: SC/PWD Discount	
Amount Due	
Add: VAT	



Eric J. Magcale
EJM and Associates

VARIABLE	
VAT ZERO RATED	9,746.78
VAT EXEMPT P	
TOTAL SALES	9,746.78
VAT Amount	
Total Amount Due	9,746.78
Total Sales (VAT inclusive)	
Less: VAT	
Amount Net of VAT	
Less: SCIPWD Discount	
Amount Due	
Add: VAT	



Eric J. Magcale
EJM and Associates

Thus, for failure of petitioner to comply with the invoicing requirements for all its alleged zero-rated sales, its refund claim should be denied.

Notwithstanding the fact that petitioner indicated in the breakdown of the VAT ORs the amount pertaining to the "zero-rated sale", such however **did not in any way cure its failure to comply with the imprinting requirement**. The information necessary to be indicated in the "breakdown" and the writing or imprinting of "zero-rated sales" on the VAT ORs are requirements governed by separate provisions of the NIRC of 1997, as amended; that is, Section 113(B)(2)(d), which requires the breakdown of sales in mixed transactions involving VATable, VAT-exempt or VAT zero-rated goods, properties, or services and Section 113(B)(2)(c), which provides for the imprinting requirement in case of sale exempt from VAT.

Otherwise stated, when the transaction involves a purely VAT zero-rated sale, the VAT OR should prominently bear the phrase "zero-rated sale", separate and distinct from any imprinted "breakdown format", in accordance with Section 113(B)(2)(c) of the NIRC of 1997, as amended. When the transaction, however, is mixed, i.e., it involves a combination of VATable, VAT-exempt or VAT zero-rate sales, the **breakdown format** under Section 113(B)(2)(d) may apply. In the case at bar, all of petitioner's VAT ORs pertain to **purely VAT zero-rated sales**, yet the imprinting of the required phrase "zero-rated sale" as mandated under Section 113(B)(2)(c) of the NIRC of 1997, as amended, was not complied with.

If the breakdown format is intended by law to be sufficient in all types of transactions - - whether mixed transactions or purely "zero-rated sales" transactions, then the law does not make sense in crafting separate provisions, one, in requiring the use of "breakdown format", and another mandatory, the separate imprinting of "zero-rated sale" in purely VAT zero-rated sale transactions.

Section 113 of the NIRC of 1997, as amended, in both its previous form under RA No. 9337, which is applicable to this case, and present form as introduced by RA No. 11976, otherwise known as "Ease of Paying Taxes Act", requires the use of two (2) formats, that is, either the use of invoices bearing prominently the phrase "zero-rated sale" or the use of invoices bearing the "breakdown format" (**depending upon the nature or type of sale involved**).



Section 113 of the NIRC of 1997, as amended by RA No. 9337 and RA No. 11976 read as follows:

RA No. 9337	RA No. 11976
SEC. 113. <i>Invoicing and Accounting Requirements for VAT-registered Persons.</i> – (A) <i>Invoicing Requirements.</i> - 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. (B) <i>Information Contained in the VAT Invoice or VAT Official Receipt.</i> — 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: <i>Provided, That:</i> (a) The amount of the tax shall be shown as a separate item in the invoice or receipt; (b) If the sale is exempt from value-added tax, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt; (c) If the sale is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt; (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated	Section 113. <i>Invoicing and Accounting Requirements for VAT-Registered Persons.</i>– (A) <i>Invoicing Requirement.</i> - A VAT-registered person shall issue a VAT invoice for every sale, barter, exchange, or lease of goods or properties, and for every sale, barter or exchange of services. (B) <i>Information Contained in the VAT Invoice.</i> - The following information shall be indicated in the VAT invoice: (1) A statement that the seller is a VAT-registered person, followed by the seller's Taxpayer Identification Number; (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: <i>Provided, That:</i> (a) The amount of the tax shall be shown as a separate item in the invoice; (b) If the sale is exempt from value-added tax, the term 'VAT-exempt sale' shall be written or printed on the invoice; (c) If the sale is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' shall be written or printed on the invoice; (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 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: <i>Provided, That</i> the seller may issue separate

components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: <i>Provided</i>, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale. xxx	invoices for the taxable, exempt, and zero-rated components of the sale. xxx
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Interestingly, the Ease of Paying Taxes Act,⁵ **has retained specific but separate provisions on the type of sales subject to imprinting “zero-rated sale” and those that are subject to “breakdown format”**, albeit with a minor modification on the imprinting requirement, *i.e.*, the omission of the word “prominently” to qualify the requirement. The retention of both requirements supports the interpretation that the **imprinting requirement is indeed separate and distinct from the breakdown requirement**.

In numerous VAT refund cases, this Court had allowed erasures and corrections in invoices or official receipts as long as they are made by an authorized signatory. Such treatment of allowing erasures and corrections in invoices or official receipts, especially on the parts where the types and amounts of sales are shown, creates a risk that ill-intentioned taxpayers may manipulate zero-rated sale transactions who make use of the “breakdown format” without “zero-rated sale” separately and prominently written in the official receipts by altering such invoices or receipts to appear as VATable transactions, thus eventually allowing them to be entitled to input tax credits, whether to be used to settle output tax liability or to be claimed for refund. **To prevent such abuse, the requirement of stamping or imprinting the term “zero-rated sales”, which cannot simply be discounted, in receipts involving purely zero-rated sale transaction is and should be implemented.** This measure ensures that alterations cannot easily convert zero-rated sales into VATable sales, and thus prevent the evil, *i.e.*, the use of credits against output tax liability, or worse, refund of taxes not actually incurred or paid.

Thus, petitioner was unable to prove compliance with the fourth requisite thereby precluding its entitlement to refund.

The Court reiterates that tax refunds are in the nature of a claim for tax exemption and the law is not only construed in *strictissimi*

⁵ RA No. 11976.



juris against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.⁶

ALL TOLD, I *VOTE* to **DENY** the Petition for Review for lack of merit.


ROMAN G. DEL ROSARIO
Presiding Justice

⁶*Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue* (Notice), G.R. No. 211779, November 3, 2020.