

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

SECOND DIVISION

**MAXIMA MACHINERIES,
INC.,**

Petitioner,

CTA CASE NO. 9598

Members:

-versus-

**Castañeda, Jr., Chairperson,
Mindaro-Grulla,
Bacorro-Villena, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

JAN 22 2020

Y 3:25 p.m.

X-----X

DECISION

CASTAÑEDA, JR., J.:

THE CASE

This *Petition for Review* filed by Maxima Machineries, Inc. on May 24, 2017, prays for the issuance of a tax credit certificate in the amount of ₱104,580,305.56, allegedly representing its unutilized input value-added tax (VAT) allocable and directly attributable to its VAT zero-rated sales for the period covering October 1, 2014 to March 31, 2015.¹

THE PARTIES

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal business address at 871 Quezon Avenue, *gc*

¹ Summary of the Case, Pre-Trial Order dated August 15, 2017, Docket, Vol. V, p. 1898.

Quezon City.² It is registered with the Bureau of Internal Revenue (BIR) under Tax Identification Number (TIN) 006-618-023-00000.³

On the other hand, respondent Commissioner of Internal Revenue is empowered to perform the duties of his office, including acting upon on protests cases and approval of claims for refund or tax credit as provided by law and implementing regulations. He can be served with pleadings, notices, and other processes at BIR National Office Bldg., BIR Road, Diliman, Quezon City.⁴

ANTECEDENTS (ADMINISTRATIVE LEVEL)

For the period covering the subject claim, petitioner filed with the BIR its *Quarterly VAT Returns* (BIR Form No. 2550-Q) on the following dates:

PERIOD	VAT RETURN	DATE OF FILING
3 rd Quarter – Fiscal Year (FY) 2015 (October 1, 2014 to December 31, 2014)	Quarterly VAT Return (Original) ⁵	January 23, 2015
	Quarterly VAT Return (Amended) ⁶	June 19, 2015
4 th Quarter – FY 2015 (January 1, 2015 to March 31, 2015)	Quarterly VAT Return (Original) ⁷	April 21, 2015
	Quarterly VAT Return (Amended) ⁸	July 6, 2015

On December 28, 2016, petitioner filed with the BIR an *Application for Tax Credits/Refunds* (BIR Form No. 1914) of its unutilized input VAT, covering the 3rd and 4th Quarters of FY 2015, amounting to ₱36,551,575.64 and ₱68,028,729.92, respectively.⁹ *g*

² Exhibits "P-1" and "P-2", Docket, Vol. V, pp. 2012 to 2026.
³ Exhibit "P-3", Docket, Vol. V, pp. 2027 to 2029.
⁴ Par. A.1, *Joint Stipulation of Facts and Issues* (JSFI), Docket, Vol. V, p. 1869.
⁵ Exhibit "P-76", Docket, Vol. V, pp. 2154 to 2155.
⁶ Exhibit "P-77", Docket, Vol. V, pp. 2156 to 2157.
⁷ Exhibit "P-78", Docket, Vol. V, pp. 2158 to 2159.
⁸ Exhibit "P-79", Docket, Vol. V, pp. 2160 to 2161.
⁹ Exhibit "P-93", Docket, Vol. V, pp. 2177 to 2215.

However, the said administrative claim was denied by OIC- Assistant Commissioner, Teresita M. Angeles, in her letter dated April 24, 2017, which was received by petitioner on April 25, 2017.¹⁰

PROCEEDINGS BEFORE THIS COURT

Petitioner then filed the instant *Petition for Review* with this Court on May 24, 2017.¹¹

On June 21, 2017, respondent filed his *Answer*,¹² interposing the following defenses, to wit:

"3.1 After review and evaluation of the supporting documents submitted by petitioner, which were found to be altered, its administrative claim for refund was denied. The examination of the supporting certified photocopies of the invoices official receipts for local purchases as well as Import Entry Documents together with Bank Confirmations of VAT payment for importation were made in accordance with the requisites under Sec. 113(A), (B) and Sec. 237 of the National Internal Revenue Code of 1997(NIRC of 1997), as amended, and Sec. 4.113-1(A) and (B) of Revenue Regulation No. 16-2005.

3.2 Since the documents submitted by petitioner were mere photocopies, the authenticity of the entries/information cannot be ascertained outright. The revenue officers cannot merely rely upon the affidavit of the certifying representative/officer of petitioner as to the validity of the invoices/official receipts even if the representative/officer affixed his signature on each and every photocopy of the invoices/official receipts. In addition, the revenue officers found additional entries made in the photocopied documents as to the name indicated as customer, address, business style and/or TIN of petitioner after the issuance of the invoice/official receipt to comply with the invoicing requirements. To reiterate, as the documents were mere photocopies, the revenue officers have [no] means to determine whether the entries were authentic.

3.3 Evaluation of petitioner's Import Entry Documents and Bank Confirmations on VAT payment was based on the provisions of Section 107 of the NIRC and Sec. 4.110-8 of RR 16-2005. It was noted that the supporting documents submitted were again mere photocopies and the back portion of the Import Entry *pc*

¹⁰ Exhibit "P-97", Docket, Vol. V, pp. 2216 to 2218.

¹¹ Docket, Vol. I, pp. 10 to 52.

¹² Docket, Vol. II, pp. 717 to 721.

Documents showing the basis for the VAT on importation was not included rendering the documents insufficient to support the VAT amount claimed. Attached as Annex 'A' hereof are the discrepancies noted in the supporting documents submitted by petitioner.

3.4 Hence, the following analysis of input tax available for refund:

3rd Quarter Fiscal Year 31 March 2015
1 October 2014 to 31 December 2014

ANALYSIS ON INPUT TAX

PER VAT RETURN	PURCHASES	INPUT TAX
DOMESTIC PURCHASE OF GOODS	19,991,186.17	2,398,942.34
IMPORTATION OF GOODS OTHER THAN CAPITAL GOODS	880,395,559.19	115,594,865.00
DOMESTIC PURCHASE OF SERVICES	43,880,934.00	5,267,712.08
TOTAL CURRENT INPUT TAX		123,259,519.42
LESS: OUTPUT TAX FOR THE QTR		76,163,284.36
INPUT TAX AVAILABLE FOR REFUND		47,096,235.06
LESS: INPUT TAX DISALLOWANCE PER REFUND AUDIT		
VT-1 IMPROPER INVOICING ON LOCAL PURCHASES		7,124,210.55
VT-2 NO IMPORT ENTRY DOCUMENTS, NO BANK CERTIFICATION ON VAT PAYMENT; INSUFFICIENT SUPPORT (NO BACK PORTION OF IED)		48,244,182.00
EXCESS OF DISALLOWANCE OVER AVAILABLE INPUT TAX FOR REFUND		<u>(8,272,157.49)</u>

4TH QUARTER FISCAL YEAR 31
MARCH 2015
1 JANUARY 2015 TO 31 MARCH 2015

ANALYSIS ON INPUT TAX:

VAT PER RETURN	PURCHASES	INPUT TAX
DOMESTIC PURCHASE OF GOODS	25,973,292.08	3,116,795.05
IMPORTATION GOODS OTHER THAN CAPITAL GOODS	1,503,735,800.76	183,321,012.00
DOMESTIC PURCHASES OF SERVICES	39, 546,209.17	4,745,545.10
TOTAL CURRENT INPUT TAX		191,183,352.15
LESS: OUTPUT TAX FOR THE QTR		140,097,923.47
INPUT TAX AVAILABLE FOR REFUND		<u>51,085,428.68</u>
LESS: INPUT TAX DISALLOWANCE PER REFUND AUDIT		
VT-1 IMPROPER INVOICING ON LOCAL PURCHASES		7,751,415.86
VT-2 NO IMPORT ENTRY DOCUMENTS, NO BANK CERTIFICATION ON VAT PAYMENT; INSUFFICIENT SUPPORT (NO BACK PORTION OF IED)		<u>185,866,048.00</u>
EXCESS DISALLOWANCE OVER AVAILABLE INPUT TAX FOR REFUND		<u>(142,532,035.18)</u>

jr

4. In the case of *Commissioner of Internal Revenue vs. CE Luzon Geothermal Power Company, Inc.*, CTA EB No. 1397 (CTA Case No. 7393), 7 June 2017, the Honorable Court *En Banc* ruled:

'A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. **If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim.** It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under the substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.

x x x"

The pre-trial conference case was set and held on July 20, 2017.¹³

The *Respondent's Pre-Trial Brief* was filed on July 5, 2017;¹⁴ while the *Pre-Trial Brief for the Petitioner* was submitted on July 17, 2017.¹⁵

Respondent transmitted the *BIR Records* for the instant case on August 1, 2017.¹⁶ *je*

¹³ Notice of Pre-Trial Conference dated June 28, 2017, Docket, Vol. II, pp. 715 to 716; Minutes of the hearing held on, and Order dated, July 20, 2017, Docket, Vol. V, pp. 1839 to 1840.

¹⁴ Docket, Vol. II, pp. 725 to 729.

¹⁵ Docket, Vol. IV, pp. 1806 to 1836.

¹⁶ Respondent's *Compliance*, Docket, Vol. V, pp. 1841 to 1843.

The parties submitted their *Joint Stipulation of Facts and Issues* (JSFI) on August 4, 2017.¹⁷ Thereafter, the Pre-Trial Order dated August 15, 2017 was issued,¹⁸ approving and adopting the said JSFI, and deeming the pre-trial terminated.

The trial of the case then ensued.

During trial, petitioner presented documentary and testimonial evidence. As for its testimonial evidence, petitioner offered the testimonies of the following individuals: (1) Mr. Yusuke Yamada,¹⁹ petitioner's Chief Financial Officer; (2) Atty. Conrado M. Briones,²⁰ Court-commissioned Independent Certified Public Accountant (ICPA)²¹; and (3) Jenelyn Palayon-Tagao,²² petitioner's Chief for Government Compliance.

The ICPA Report was submitted on November 28, 2017.²³

On December 20, 2017, petitioner filed its *Formal Offer of Evidence*.²⁴ Respondent filed his *Comment (Re: Petitioner's Formal Offer of Evidence)* on December 22, 2017.²⁵

On January 3, 2018, petitioner filed a *Manifestation and Omnibus Motion*,²⁶ praying for the Court to: (1) admit the Amended ICPA Report and USB submitted by ICPA Conrado M. Briones; (2) set a hearing date for the presentation of ICPA to identify the *Amended ICPA Report*; (3) defer the resolution of petitioner's *Formal Offer of Evidence*; (4) allow the petitioner to submit an *Amended Formal Offer of Evidence* to include the ICPA Report; and (5) cancel the ~~re~~

¹⁷ Docket, Vol. V, pp. 1869 to 1891.

¹⁸ Docket, Vol. V, pp. 1898 to 1909.

¹⁹ Exhibit "P-102", Docket, Vol. IV, pp. 1156 to 1182; Minutes of the hearing held on, and Order dated, August 30, 2017, Docket, Vol. V, pp. 1924 to 1925.

²⁰ Exhibit "P-209", Docket — Vol. V, pp. 1955 to 1967; Exhibit "P-213", Docket — Vol. V, pp. 2265 to 2269; Minutes of the hearing held on, and Order dated, December 4, 2017, Docket, Vol. V, pp. 1968 to 1969; Minutes of the hearing held on, and Order dated, April 2, 2018, Docket, Vol. V, pp. 2270 to 2271.

²¹ *Oath of Commission* dated September 14, 2017, Docket, Vol. V, p. 1926; Minutes of the hearing held on, and Order dated, September 14, 2017, Docket, Vol. V, pp. 1927 to 1929.

²² Exhibit "P-210", Docket, Vol. III, pp. 736 to 746; Minutes of the hearing held on, and Order dated, December 4, 2017, Docket, Vol. V, pp. 1968 to 1969.

²³ Exhibit P-207.

²⁴ Docket, Vol. V, pp. 1979 to 2010.

²⁵ Docket, Vol. V, pp. 2226 to 2227.

²⁶ Docket, Vol. V, pp. 2229 to 2232.

presentation of respondent's evidence set on February 26, 2018. Respondent failed to file his comment thereon.²⁷

In the Resolution dated February 22, 2018,²⁸ the Court noted petitioner's *Manifestation*; granted petitioner's motion to set the case for the identification of the Amended ICPA Report; set the presentation of the ICPA on April 2, 2018; directed petitioner to submit the ICPA's Judicial Affidavit at least five (5) days before the said date; granted petitioner's motion to allow the submission of an *Amended Formal Offer of Evidence* to include the Amended ICPA Report; gave petitioner a period of five (5) days to submit the *Amended Formal Offer of Evidence*; gave respondent the same period from the above hearing date to file his comment thereon; held in abeyance the resolution on petitioner's *Formal Offer of Evidence* and motion to admit the Amended ICPA Report and USB; and cancelled the initial presentation of respondent's evidence on February 26, 2018.

On April 10, 2018, petitioner filed its *Supplemental Formal Offer of Evidence*.²⁹ Respondent failed to file his comment thereon.³⁰

In the Resolution dated May 18, 2018,³¹ the Court admitted petitioner's Exhibits, *except* for the following:

- 1) Exhibits "P-13", "P-15", "P-40", "P-46", and "P-48", for failure to submit originals for comparison; and
- 2) Exhibits "P-19", "P-45", "P-174-sc", and "P-183-z", for not being found in the records of the case.

At the hearing held on May 30, 2018,³² which was set for respondent's presentation of evidence, petitioner's counsel manifested that he will file a *Motion for Partial Reconsideration* to the Court's Resolution on petitioner's *Formal Offer of Evidence*. Thus, petitioner was granted a period of ten (10) days to file the said *je*

²⁷ Records Verification dated February 12, 2018, issued by the Judicial Records Division of this Court, Docket, Vol. V, p. 2242.

²⁸ Docket, Vol. V, pp. 2258 to 2260.

²⁹ Docket, Vol. V, pp. 2272 to 2276.

³⁰ Records Verification dated April 23, 2018 issued by the Judicial Records Division of this Court, Docket, Vol. V, p. 2278.

³¹ Docket, Vol. VI, pp. 2281 to 2282.

³² Minutes of the hearing held on, and Order dated, May 30, 2018, Docket, Vol. VI, pp. 2283 to 2286.

Motion. Furthermore, petitioner made a *Tender of Excluded Evidence* of Exhibits "P-13", "P-15", "P-40", "P-46" and "P-48".

In the same hearing, respondent presented his lone witness, Ms. Gracielle Cecilia S. Anaban, a Revenue Officer of the BIR, and orally offered Exhibits "R-1", "R-2" and "R-3". There being no objection interposed by the petitioner, the Court admitted the foregoing exhibits.

On May 30, 2018, petitioner filed a *Motion for Partial Reconsideration*,³³ praying for the Court to admit Exhibits "P-174-sc" and "P-183-z", as its evidence. Respondent failed to file his comment thereon.³⁴

In the Resolution dated September 5, 2018,³⁵ the Court granted petitioner's *Motion for Partial Reconsideration*, and admitted Exhibits "P-174-sc" and "P-183-z", and gave the parties thirty (30) days within which to file their respective memorandum.

Subsequently, petitioner filed its *Memorandum* on November 16, 2018;³⁶ while respondent failed to file his memorandum.³⁷

Thus, in the Resolution dated December 4, 2019,³⁸ the case was considered submitted for decision.

However, on December 11, 2018, respondent filed a *Motion to Admit Attached Memorandum*,³⁹ stating the he failed to file his memorandum due to inadvertence and heavy volume of work.

In the Resolution dated February 4, 2019,⁴⁰ the Court granted petitioner's *Motion to Admit Attached Memorandum*, and admitted the attached *Memorandum*. In the same Resolution, the Court *gc*

³³ Docket, Vol. VI, pp. 2287 to 2290.

³⁴ Records Verification dated July 2, 2018 issued by the Judicial Records Division of this Court, Docket, Vol. VI, p. 2298.

³⁵ Docket, Vol. VI, pp. 2300 to 2301.

³⁶ Docket, Vol. VI, pp. 2307 to 2349.

³⁷ Records Verification dated November 19, 2018 issued by the Judicial Records Division of this Court, Docket, Vol. VI, p. 2351.

³⁸ Resolution dated December 4, 2018, Docket, Vol. VI, p. 2352.

³⁹ Docket, Vol. VI, pp.

⁴⁰ Docket, Vol. VI, pp.

recalled and set aside the Resolution dated December 4, 2018, and deemed submitted anew for decision the instant case.

THE ISSUE RAISED

The parties submitted this sole issue for this Court's resolution,⁴¹ to wit:

"WHETHER PETITIONER IS ENTITLED FOR TAX REFUND FOR THE EXCESS UNUTILIZED INPUT VALUE ADDED TAX (VAT) ALLOCABLE AND DIRECTLY ATTRIBUTABLE TO ITS VAT ZERO RATED SALES FOR THE PERIOD FROM 01 OCTOBER 2014 TO 31 MARCH 2015 AMOUNTING TO PHP104,580,305.56."

Petitioner's argument:

Petitioner argues that its claim for tax refund should be granted because all the elements necessary are present.

Respondent's counter-arguments:

Respondent claims that he denied petitioner's administrative claim for refund on the ground that the latter submitted supporting documents that were mere photocopies, thus, the authenticity of the entries/information therein cannot be ascertained outright.

Respondent also claims that since a Decision has been rendered in this case denying petitioner's administrative claim for refund for failure to substantiate the same, petitioner cannot submit documents that it did not submit at the administrative level.

Likewise, respondent insists that this Court should only settle the issue on whether the denial was proper given the evidence submitted at the administrative level. *z*

⁴¹ Par. B.2, JSFI, Docket, Vol. V, pp. 1869 to 1870.

THE COURT'S RULING

The Court finds no merit in the instant *Petition for Review*.

Petitioner failed to show that respondent should not have denied its administrative claim in the first place.

Respondent invokes the ruling of the Supreme Court in the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue* ("*Pilipinas Total Gas* case")⁴². Relative thereto, respondent avers that since he rendered a decision in the administrative level, this Court's jurisdiction becomes strictly appellate in nature. Respondent further argues that since he rendered a decision, the jurisdiction of this Court shifts from a trial court to an appellate tribunal, and thus, this Court should confine itself to the determination of whether the findings of respondent are consistent with law.

We agree with respondent.

In the *Pilipinas Total Gas* case, the Supreme Court said:

"At this stage, a review of the nature of a judicial claim before the CTA is in order. In *Atlas Consolidated Mining and Development Corporation v. CIR*,⁴³ it was ruled –

x x x First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an appeal by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency a quo did not have any reason to deny its claim. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for *gr*

⁴² G.R. No. 207112, December 8, 2015.

⁴³ G.R. No. 145526, March 16, 2007.

an administrative claim for refund or tax credit.

Second, cases filed in the CTA are litigated *de novo*. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA. Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim.

A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but of the taxpayer's failure to substantiate the claim at the administrative level. **When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim.** It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirement for an administrative claim. **It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place.** Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA." (*Emphases and underscoring ours*)

Based on the foregoing doctrinal declarations by the High Court, it is now settled that as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claim; and it is necessary for a petitioner to show this Court not only that it was entitled under substantive law to the grant of its claims **but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit.** It is crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, and should not have been denied. *je*

A careful observation of what transpired in the proceedings before this Court would reveal that petitioner presented its case as if its administrative claim was never acted upon or that there was no decision for this Court to review on appeal *per se*. In other words, petitioner presented its case before this Court as if it was an original action, despite that respondent had denied its administrative claim. Petitioner did not specifically assail the reasons or bases why its administrative claim was denied in the first place by respondent. It did not argue that the said reasons or bases of respondent were never justified in law.

For easy reference, the denial letter dated April 24, 2017⁴⁴ of respondent reads:

"CLAIM FOR VAT TCC/ REFUND

APR 24 2017

MR. YUSUKE YAMADA
CHIEF FINANCE OFFICER
MAXIMA MACHINERIES, INC.
871 Quezon Avenue, Brgy. Sta. Cruz
Quezon City

Sir:

Please be informed that your Application for VAT Tax Credit Certificate (TCC) amounting to P36,551,575.64 and P68,028,729.92 for period October 1, 2014 to December 31, 2014 (3rd Quarter Fiscal Year 2015) and January 1, 2015 to March 31, 2015 (4th Quarter Fiscal Year 2015) as filed with the Regular Large Taxpayer Audit Division I was reviewed, evaluated and appropriately acted upon.

In reviewing the basis for such claim, we took into consideration the provisions and requisites provided under the National Internal Revenue Code (NIRC) of 1997, as amended, Executive Order (EO) No. 226 as amended by Republic Act (RA) No. 8756, Revenue Memorandum Circular (RMC) No. 54-2014, the guidelines set forth by the Board of Investments (BOI) and Securities and Exchange Commissioner (SEC), relevant decisions laid down by the Court of Tax Appeals (CTA), and documents/records submitted by your Office in support of its claim for tax refund.

AUDIT FINDINGS *jr*

⁴⁴ Exhibit "P-97", Docket, Vol. V, pp. 2216 to 2218.

Claims for refund are construed strictly against the claimant

In evaluating the subject application for VAT Refund of Maxima Machineries, Inc., MMI for brevity, the undersigned revenue officers were guided by the rule that claims for refunds partake of the nature of tax exemptions, and as such, are regarded as in derogation of sovereign authority. (*Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95*) Thus, claim for tax credit/refund are construed ***strictissimi juris*** against the taxpayer, which consequently requires that the evidence in support of the claim must likewise be strictly scrutinized and duly proven. (*Commissioner of Internal Revenue vs. Procter and Gamble Philippines Mfg. Corp., 204 SCRA 377; Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332*).

Invoicing and Documentary Requirements

The examination of the supporting certified photocopies of the invoices and official receipts for local purchases as well as Import Entry Documents together with Bank Confirmations of VAT payment for importation were made in accordance with the requisites under Sec. 113(A), (B) and Sec. 237 of the NIRC of 1997, as amended, and Sec. 4.113-1 (A) and (B) of Revenue Regulation No. 16-2005.

As these were photocopies, the authenticity of the entries/information cannot be ascertained outright. We likewise cannot merely rely upon the affidavit of the certifying representative/officer of MMI as to the general validity of the invoices/official receipts even if the representative/officer affixed his signature upon each and every photocopy of the invoices/official receipts. In addition, there appears to be additional entries made in the photocopied as to the name indicated as customer, address, business style and/or TIN of MMI after the issuance of the invoice/official receipt to comply with the invoicing requirements. However, as these are mere photocopies, there was no means to definitely determine or conclude whether the entries were authentic or regularized.

Moreover, evaluation of MMI's Import Entry Documents and Bank Confirmations on VAT payment was based on the provisions of Sec. 107 of the NIRC and Sec. 4.110-8 of Revenue Regulation No. 16-2005. It was noted that the supporting documents submitted were mere photocopies and the back portion of the Import Entry Documents showing the basis for the VAT on importation was not included rendering the documents insufficient to support the VAT amount claimed.

Attached to this report is the summary of findings or discrepancies noted per scrutiny of the photocopies of the *92*

invoices/official receipts/Import Entry Documents as contained in various folders as submitted by MMI. Please refer to Annex A for the discrepancies noted in the supporting documents covering the October 1, 2014 to December 31, 2014 refund application and to Annex B for the discrepancies noted in the supporting documents covering the January 1, 2015 to March 31, 2015 refund application.

The analysis of input tax available for refund is presented in the table below:

3 rd QUARTER FY MARCH 31, 2015 10.01.14 TO 12.31.14

ANALYSIS ON INPUT TAX

PER VAT RETURN	PURCHASES	INPUT TAX
DOMESTIC PURCHASE OF GOODS	19,991,186.17	2,398,942.34
IMPORTATION OF GOODS OTHER THAN CAPITAL GOODS	880,395,559.19	115,594,865.00
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EXCESS OF DISALLOWANCE OVER AVAILABLE INPUT TAX FOR REFUND		(8,272,157.49)

4 th QUARTER FY MARCH 31, 2015 01.01.15 TO 03.31.15

ANALYSIS ON INPUT TAX

VAT PER RETURN	PURCHASES	INPUT TAX
DOMESTIC PURCHASE OF GOODS	25,973,292.08	3,116,795.05
IMPORTATION GOODS OTHER THAN CAPITAL GOODS	1,503,735,800.76	183,321,012.00
DOMESTIC PURCHASES OF SERVICES	39, 546,209.17	4,745,545.10
TOTAL CURRENT INPUT TAX		191,183,352.15
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PER REFUND AUDIT		
VT-1 IMPROPER INVOICING ON LOCAL PURCHASES		7,751,415.86
VT-2 NO IMPORT ENTRY DOCUMENTS, NO BANK CERTIFICATION ON VAT PAYMENT; INSUFFICIENT SUPPORT (NO BACK PORTION OF IED)		185,866,048.00

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EXCESS DISALLOWANCE OVER AVAILABLE INPUT TAX FOR
REFUND (142,532,035.18)

In view of the evaluation and review dutifully performed based on the afore-mentioned provisions and documents presented, please be advised that the Application for VAT TCC of MAXIMA MACHINERIES, INC. the periods October 1, 2014 to December 31, 2014 amounting to P36,551,575.64 and January 1, 2015 to March 31, 2015 amounting to P68,028,729.92 are hereby **DENIED**.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

By:

(Signed)
TERESITA M. ANGELES
OIC-Assistant Commissioner
Large Taxpayers Service"

(Underscoring ours)

With the foregoing discussions, petitioner should have argued and proved before this Court that the above-stated findings do not stand, pursuant to the pertinent provisions of law and jurisprudence, especially in relation to the submitted documents by it at the administrative level, for being mere photocopies, and with regard to the BIR's analysis of input VAT, noting certain discrepancies. To stress, petitioner failed to show that respondent should *not* have denied its administrative claim in the first place, since it has submitted sufficient documents and the noted discrepancies are not meritorious.

As regards respondent's non-reliance to "photocopies" submitted by petitioner, the same may be justified under existing jurisprudence.

In *Commission of Internal Revenue vs. Hantex Trading Co., Inc.*,⁴⁵ the Supreme Court ruled:

"xxx...the general rule is that administrative agencies such as the BIR are not bound by the technical rules of *jurisprudence*

⁴⁵ G.R. No. 136975, March 31, 2005.

evidence. It can accept documents which cannot be admitted in a judicial proceeding where the Rules of Court are strictly observed. It can choose to give weight or disregard such evidence, depending on its trustworthiness.

xxx. Mere photocopies of the Consumption Entries have no probative weight if offered as proof of the contents thereof. The reason for this is that such copies are mere scraps of paper and are of no probative value as basis for any deficiency income or business taxes against a taxpayer. Indeed, in *United States v. Davey*,⁴⁶ the U.S. Court of Appeals (2nd District) ruled that **where the accuracy of a taxpayer's return is being checked, the government is entitled to use the original records rather than be forced to accept purported copies which present the risk of error or tampering.**

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The original copies of the Consumption Entries were of prime importance to the BIR. This is so because such entries are under oath and are presumed to be true and correct under penalty of falsification or perjury. Admissions in the said entries of the importers' documents are admissions against interest and presumptively correct.

In fine, **petitioner acted arbitrarily and capriciously in relying on and giving weight to the machine copies of the Consumption Entries in fixing the tax deficiency assessments against the respondent."** (*Emphases and underscoring ours*)

On the basis of the foregoing jurisprudential pronouncements, while administrative agencies, such as the BIR, are not bound by technical rules of evidence, it may, nevertheless, choose to give weight or ignore evidence submitted to it, depending on its trustworthiness. Such being the case, the BIR, as an administrative agency, is given leeway to decide whether to give weight or ignore any evidence submitted to it, depending on its trustworthiness. Respondent was thus justified in *not* relying on the photocopies submitted by petitioner at the administrative level, and in denying, on the basis thereof, petitioner's administrative claim.

In fine, having failed to show that respondent should not have denied its administrative claim in the first place, the instant *Petition for Review* must already be denied. Nevertheless, even when We are to ignore the ruling in the *Pilipinas Total Gas* case, the instant judicial claim is still not meritorious. *Se*

⁴⁶ 543 F.2d 996 (1976).

In order that petitioner may validly claim for refund of its supposed unutilized input VAT allegedly attributable to its zero-rated sales for the period covering October 1, 2014 to March 31, 2015, it is imperative that it proves compliance with certain legal requirements.

Requisites for the grant of the refund or issuance of TCC under the law.

Section 112 of the NIRC of 1997, as amended by Republic Act (RA) No. 9337,⁴⁷ provides:

"SEC. 112. Refunds or Tax Credits of Input Tax. —

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

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*(C) Period within which Refund or Tax Credit of Input Taxes shall be Made. — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof. *gc**

⁴⁷ AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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.”

Pursuant to the above-quoted provision, jurisprudence has laid down certain requisites which must be complied with by the taxpayer-applicant to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

Timeliness of the filing of the administrative and judicial claims:

1. the claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;⁴⁸
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 from the date of submission of complete documents in support of the application, the judicial claim must be filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;⁴⁹

Taxpayer's registration with the BIR:

3. the taxpayer is a VAT registered;⁵⁰

Taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;⁵¹ *gc*

⁴⁸ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

⁴⁹ *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

⁵⁰ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.

⁵¹ *Id.*

5. for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted with BSP rules and regulations;⁵²

Taxpayer's refund claim for input VAT:

6. the input taxes are due or paid;⁵³
7. the input taxes are not transitional input taxes;⁵⁴
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 volumes;⁵⁵ and
9. the input taxes have not been applied against output taxes during and in the succeeding quarters.⁵⁶

***Timeliness of the filing of
petitioner's administrative
and judicial claims.***

The *first requisite* pertains to the filing of the refund for tax credit or refund of input VAT before the BIR, within two (2) years from the close of the quarter when the sales were made.

The instant claim covers the periods of October 1, 2014 to December 31, 2014 (Third Quarter of FY 2015) and January 1, 2015 to March 31, 2015 (Fourth Quarter of FY 2015). Counting two (2) years from the respective close of the said quarters, the following table indicates the pertinent last days for the filing of an administrative claim for the said two (2) quarters, to wit: *gr*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

⁵⁶ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.

Period (FY 2015)	Close of the Taxable Quarter	Last Day to File Administrative Claim
October 1 to December 31, 2014	December 31, 2014	December 31, 2016
January 1 to March 31, 2015	March 31, 2015	March 31, 2017

Considering that petitioner's administrative claim [*Application for Tax Credits/Refunds* (BIR Form No. 1914)] covering the said 2 quarters, was filed with the BIR on December 28, 2016,⁵⁷ the same was timely made within the 2-year prescriptive period.

The *second requisite* is to the effect that the judicial claim must have been filed within (30) days from receipt of respondent's decision or after the expiration of the 120-day period under Section 112(C).

In this case, petitioner received a copy of the Audit Findings dated April 24, 2007, issued by Ms. Teresita M. Angeles, OIC-Assistant Commissioner of Large Taxpayers Service, on April 25, 2017, denying its claim for refund.⁵⁸ Thus, petitioner had until May 25, 2017, the last day of the 30-day period, within which to file its judicial claim. Such being the case, petitioner seasonably filed the instant *Petition for Review* on May 24, 2017.⁵⁹

Petitioner's Registration with the BIR.

As for its compliance with the *third requisite*, petitioner has fulfilled the same by presenting its BIR Certificate of Registration No. 8RC0000422546 dated March 8, 2016, which was superseded by new Certificate of Registration with OCN8RC0000556816 dated June 20, 2016, issued by BIR with TIN/VAT Registration No. 006-618-023-000, indicating that it is liable to VAT.⁶⁰

Petitioner's output VAT; and refund claim for input VAT *g*

⁵⁷ Exhibit "P-93", Docket, Vol. V, pp. 2177 to 2215.

⁵⁸ Exhibit "P-97", Docket, Vol. V, pp. 2216 to 2218.

⁵⁹ Docket, Vol. I, p. 10.

⁶⁰ Exhibit "P-3", Docket, Vol. V, p. 2027.

As for its compliance with the *other requisites*, petitioner's *Amended Articles of Incorporation* shows that its primary purpose is to buy, sell, barter, trade, lease out, manufacture, import, export or otherwise acquire, dispose of, and deal with any kind of goods, wares and merchandise such as spare parts or replacement parts and/or complete assemblies of agricultural, industrial or commercial machineries, automobiles, buses, trucks, tractors or other motor vehicles and/or related machineries and equipment of every kind and description and to carry on such business as manufacturers, wholesalers, importers and exporters, except the manufacture of food, drugs and cosmetics.⁶¹

In this case, petitioner maintains that its sales of goods and services to entities registered with PEZA, SBMA, CDA, and BOI during the period October 1, 2014 to March 31, 2015 are subject to zero percent (0%) VAT, pursuant to Sections 106(A)(2)(a)(3),(5) and (c) and 108(B)(3) of the NIRC of 1997, as amended. Petitioner also claims that the indent commissions earned from its sale of services to non-resident foreign corporations doing business outside the Philippines like Marubeni Corporation-Japan and Bomag Fayat Group for the same period are also subject to VAT at zero percent (0%) rate, pursuant to Section 108(B)(2) of the same Code.

The pertinent provisions of Sections 106(A)(2)(a)(3), (5) and (c) and 108(B)(2) and (3) of the NIRC of 1997, as amended, state:

“SEC. 106. *Value-Added Tax on Sale of Goods or Properties.*

—

(A) *Rate and Base of Tax.* — x x x

xxx xxx xxx

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

(a) *Export Sales.* —The term ‘**export sales**’ means:

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⁶¹ Exhibits “P-2” and “P-2-A”, Docket, Vol. V, p. 2015.

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xxx *SEC. 4.106-5. Zero-Rated Sales of Goods or Properties. –* *9c*

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

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

xxx xxx xxx

(3) The sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;

xxx xxx xxx

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

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

For purposes of zero-rating, the export sales of registered export traders shall include commission income. The exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee: and ***Provided, finally, that sales of goods, properties or services made by a VAT-registered supplier to a BOI-registered manufacturer/producer whose products are 100%*** *zc*

exported are considered export sales. A certification to this effect must be issued by the Board of Investment (BOI) which shall be good for one year unless subsequently re-issued by the BOI.

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(c) *Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement* – Sales of goods or property to persons or entities who are tax-exempt under special laws or international agreements to which the Philippines is a signatory, such as Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., **shall be effectively subject to VAT at zero-rate.** (Emphasis supplied)

xxx xxx xxx

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

xxx xxx xxx

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

xxx xxx xxx

(2) **Services other than processing, manufacturing or re-packing** rendered to a person engaged in business **conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines** when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;

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

Further, the special laws specific to this case are Republic Act (RA) No. 7227, as amended by RA No. 9400, otherwise known as "*Bases Conversion and Development Act of 1992*", and RA No. 7916, as amended, otherwise known as "*The Special Economic Zone Act of 1995*". The relevant portions of said laws are quoted hereunder, to wit:

"REPUBLIC ACT NO. 9400 *re*

AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED,
OTHERWISE KNOWN AS THE BASES CONVERSION AND
DEVELOPMENT ACT OF 1992, AND FOR OTHER PURPOSES

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SECTION 1. Section 12 of Republic Act No. 7227, as amended, otherwise known as the Bases Conversion and Development Act of 1992, is hereby amended to read as follows:

SEC. 12. *Subic Special Economic Zone.* – xxx

(b) The Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines.

(c) The provision of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed within the Subic Special Economic Zone. xxx.

SEC. 2. Section 15 of the Republic Act No. 7227, as amended, is hereby amended to read as follows:

SEC. 15. *Clark Special Economic Zone (CSEZ) and Clark Freeport Zone (CFZ).* – Subject to the concurrence by resolution of the local government units directly affected, the President is hereby authorized to create by executive proclamation a Special Economic Zone covering the lands occupied by the Clark military reservations and its contiguous extensions as embraced, covered and defined by the 1947 Military Bases Agreement between the Philippines and the United States of America, as amended, xxx.

The CFZ shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital equipment within, into and exported out of the CFZ, as well as provide 

incentives such as tax and duty-free importation of raw materials and capital equipment. xxx

The provisions of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed on registered business enterprises within the CFZ. Xxx

Duly registered business enterprises that will operate in the Special Economic Zones to be created shall be entitled to the same tax and duty incentives as provided for under Republic Act No. 7916, as amended: *Provided*, That for the purpose of administering these incentives, the PEZA shall register, regulate, and supervise all registered enterprises within the Special Economic Zones."

"REPUBLIC ACT NO. 7916
(as amended by Republic Act No. 8748)

AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA) AND FOR OTHER PURPOSES.

xxx xxx xxx

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

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

xxx xxx xxx

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

Since the Ecozone is viewed as a foreign territory by legal fiction, sales of goods and services made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within the ecozone are considered exports to a foreign 

country subject to zero percent (0%) VAT. The case of *Commissioner of Internal Revenue vs. Toshiba Information Equipment (Phils.), Inc.*,⁶² is instructive, to wit:

"This Court agrees, however, **that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities**, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, **because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory.**

xxx An ECOZONE or a Special Economic Zone has been described as —

xxx [S]elected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.

The national territory of the Philippines outside of the proclaimed borders of the ECOZONE shall be referred to as the Customs Territory.

Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the ECOZONES as a separate customs territory; thus, creating the fiction that the ECOZONE is a foreign territory. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.

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

The Philippine VAT system adheres to the Cross Border Doctrine, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, actual export of goods and services from the Philippines to a foreign country must be free of VAT; while, those destined for use or consumption within the Philippines 

⁶² G.R. No. 150154, August 9, 2005.

shall be imposed with ten percent (10%) VAT.⁶³ (*Emphases supplied*)

Based on the foregoing, sales of goods and services by a VAT-registered taxpayer, such as herein petitioner, to entities located in Ecozones, as well as to BOI-registered entities whose products are 100% exported, are considered "*export sales*" subject to zero percent (0%) VAT rate pursuant to Sections 106(A)(2)(a)(3),(5) and (c) and 108(B)(3) of the NIRC of 1997, as amended and as implemented by Sections 4.106-5 and 4.108.5 of RR No. 16-05, as amended.

To prove that its clients are duly registered with the PEZA, SBMA, CDC, and BOI, petitioner submitted various Certifications issued by such agencies. Likewise, petitioner presented the letters of the PEZA Director General, Charito B. Plaza dated July 5, 2017⁶⁴ and the Certifications issued by the BOI- Director, Incentive Service, Ms. Erlinda F. Arcellana, on October 18, 2016⁶⁵ and the BOI OIC- Executive Director, Atty. Bobby G. Fondevilla, dated June 22, 2017⁶⁶, confirming the issuance of VAT zero-rating certifications to certain clients of petitioner. Listed below are petitioner's clients with the corresponding proof of VAT zero-rating:

Name of Customer	Proof of VAT zero-rating	Exhibit No.	Validity Period
ADNAMA MINING RESOURCES	BOI Certification issued Oct. 16, 2016; Confirmation letter from BOI	P-5; P-190-a	TYs 2014 & 2015
ASIA PACIFIC ENERGY CORPORATION	Confirmation Letter from PEZA	P-4	TY 2014
BERONG NICKEL CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-083	P-5; P-6; P-190-a	TYs 2014 & 2015
BIGLIFT PROPERTIES & DEVELOPMENT CORPORATION	SBMA Certificates of Tax Exemption	P-39; P-190-f	October 16, 2013 to October 15, 2014; March 31, 2015 to March 30, 2016
CAGDIANAO MINING CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-014	P-5; P-7; P-190-a	TYs 2014 & 2015
CARMEN COPPER CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-049	P-5; P-8; P-190-a	TYs 2014 & 2015
CORAL BAY NICKEL CORPORATION	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
C.T.P. CONSTRUCTION AND MINING CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-103	P-5; P-9; P-190-a	TYs 2014 & 2015
FLUOR DANIEL, INC-PHILIPPINES	Confirmation Letter from PEZA	P-4	TY 2014
FCF MINERALS CORP.	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-016	P-5; P-10; P-	TYs 2014 & 2015

⁶³ Now at 12% VAT rate.
⁶⁴ Exhibit "P-4", Docket, Vol. V, pp. 2029 to 2032.
⁶⁵ Exhibit "P-5", Docket, Vol. V, p. 2033.
⁶⁶ Exhibit "P-190-a".

		190-a	
HINATUAN MINING CORPORATION	BOI Certificate No. 2015-039; Confirmation letter from BOI	P-11; P-190-a	TYs 2014 & 2015
HOUSE TECHNOLOGY INDUSTRIES PTE., LTD. (HTIPL)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
JAMJLE PROPERTIES (SUBIC) AND DEVELOPMENT CORPORATION (FORMERLY: JAMJLE EQUIPMENTS & GENERAL MERCHANDISE INC)	SBMA Certificates of Tax Exemption	P-41; P-190-e	November 27, 2013 to November 26, 2014; November 27, 2014 to November 26, 2015
JGC PHILIPPINES, INC.	Confirmation Letter from PEZA	P-4	TY 2014
K & A METAL INDUSTRIES, INC.	Confirmation Letter from PEZA	P-4	TY 2014
KROMINCO, INC.	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-009	P-5; P-12; P-190-a	TYs 2014 & 2015
LAPANDAY DIVERSIFIED PRODUCTS CORP.	Confirmation letter from BOI	P-190-a	TY 2015
MAJESTIC LANDSCAPE CORPORATION (MLC)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
MURAMI SUBIC TRADING CORPORATION	SBMA Certificate of Tax Exemption	P-42; P-190-h	July 30, 2014 to July 29, 2015
MARCVENTURES MINING AND DEVELOPMENT CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-057	P-5; P-14; P-190-a	TY 2014 & 2015
NORTHEAST GROUP OF COMPANIES, INC. (FORMERLY: NORTHEAST FREIGHT FORWARDERS, INC.)	SBMA Certificates of Tax Exemption	P-43; P-44; P-190-c	March 4, 2014 to March 3, 2015; March 9, 2015 to March 8, 2016
PHILIPPINE ASSOCIATED SMELTING AND REFINING CORPORATION	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
PHIL. BATTERIES INCORPORATED (PBI)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
PHILIPPINE GOLD PROCESSING & REFINING CORP.	BOI Certificate No. 2015-034	P-16; P-190-a	TY 2015
PLATINUM GROUP METALS CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-085	P-5; P-17; P-190-a	TYs 2014 & 2015
R-TECH PHILIPPINES, INC. (RTPI)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
RIO TUBA NICKEL MINING CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 2015-035	P-5; P-18; P-190-a	TYs 2014 & 2015
SCAD SERVICES (S) PTE., LTD. (PHIL. BRANCH) (SSPL)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
SHIN-ETSU MAGNETIC PHILIPPINES, INC. (SMPI)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
SMART ELECTRONICS MANUFACTURING SERVICE PHILIPPINES, INC. FORMERLY: SAMSUNG ELECTRONICS PHILIPPINES MANUFACTURING CORPORATION	Confirmation Letter from PEZA	P-4	TY 2015
ST. LUKE'S MEDICAL CENTER (GLOBAL CITY) INC. (SLMCGCI)	Confirmation Letter from PEZA	P-4	TY 2014 & 2015
SUBIC BAY MOTORS CORPORATION	SBMA Certificate of Tax Exemption	P-190-i	October 22, 2014 to October 21, 2015
SUBIC CONSOLIDATED PROJECTS, INC.	SBMA Certificates of Tax Exemption	P-47; P-190-g	January 4, 2014 to January 3, 2015; January 4, 2015 to January 3, 2016
SUNWEST WATER AND ELECTRIC	BOI Cert. of Registration No. 2010-	P-20	

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CO. (SUWECO) INC.	206 (as RE Developer)		
TAGANITO HPAL NICKEL CORPORATION (THPAL)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
TAGANITO MINING CORPORATION	BOI Certification issued Oct. 16, 2016; BOI Certificate No. 201S-009-A	P-5; P-21; P-190-a	TYs 2014 & 2015
TAILIN ABRASIVES CORPORATION	SBMA Certificate of Tax Exemption	P-190-d	April 25, 2014 to April 24, 2015
TOYO-INK COMPOUNDS CORPORATION	Confirmation Letter from PEZA	P-4	TY 2014
TRANSCOM WORLDWIDE (PHILIPPINES), INC. (TWPI)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
TRANS ASIA CONSTRUCTION DEVELOPMENT CORP.	CDC Certificate of Registration and Tax Exemption	P-49; P-190-j	April 1, 2013 to March 31, 2016
TRAVELLERS INTERNATIONAL HOTEL GROUP, INC (TIHGI)	Confirmation Letter from PEZA	P-4	TY 2014
UNICHAMP MINERAL PHILIPPINES INC. (UMPI)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
VISAYAS SLAKED LIME CORPORATION (VSLC)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015
WU KONG SINGAPORE PTE. LTD. (PHIL. BRANCH) (WKSPL)	Confirmation Letter from PEZA	P-4	TYs 2014 & 2015

Thus, petitioner's sales to the aforementioned entities for the period covering the third and fourth quarters of FY ending March 31, 2015 qualify for VAT zero-rating.

Relative thereto, Sections 113(A)(1) and (2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, and as implemented by Sections 4.113-1(A)(1) and (2), (B)(1) and (2)(c) of RR No. 16-05 provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT invoice or VAT official receipt which must contain the following information:

"Sec. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* -

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

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

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

(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:*

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; xxx

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

"Sec. 4.113-1. *Invoicing Requirements.* -

(A) A Vat-registered person shall issue: -xxx

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

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

Only VAT-registered persons are required to print their **TIN followed by the word 'VAT' in their** invoice or **official receipts**. Said documents shall be considered as a 'VAT Invoice' or VAT official receipt. All purchases covered by invoice/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*

(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*

(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; xxx" (*emphasis supplied*)

Anent petitioner's alleged indent commissions from its sale of services to non-resident foreign corporations like Marubeni Corporation-Japan and Bomag Fayat Group, the Supreme Court, in the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*⁶⁷, laid down the following requisites in order for the sale of services to the said entities be considered as VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended:

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

In compliance with the *third requisite*, petitioner submitted the *Certificates of Non-Registration* of Marubeni Corporation-Japan⁶⁸ and Bomag Fayat Group⁶⁹ issued by the Philippine Securities and Exchange Commission (SEC), as well as the Consularized Articles of Incorporation/Association of Marubeni Corporation-Japan⁷⁰ and Bomag Fayat Group⁷¹ to prove that the said clients are non-resident foreign corporations doing business outside the Philippines.

With regard to the *remaining requisites*, petitioner submitted its VAT zero-rated Official Receipts (ORs)⁷² and the Certificates of Inward Remittances of Foreign Currency Payments issued by BDO &

⁶⁷ G.R. No. 153205, January 22, 2007.

⁶⁸ Exhibit "P-50", Docket, Vol. V, p. 2105.

⁶⁹ Exhibit "P-52", Docket, Vol. V, p. 2122.

⁷⁰ Exhibit "P-51", Docket, Vol. V, pp. 2106 to 2121.

⁷¹ Exhibit "P-53", Docket, Vol. V, pp. 2123 to 2131.

⁷² Exhibits "P-184-a" to "P-184-d".

Unibank, Inc.⁷³ However, a perusal of the said documents reveals that the ORs were issued to Marubeni Corporation, and not to Marubeni Corporation-Japan. Further, petitioner failed to adduce evidence that could prove that the services rendered by petitioner to Marubeni Corporation-Japan and Bomag Fayat Group were services other than processing, manufacturing or repacking of goods.

Moreover, petitioner failed to adduce evidence showing that Marubeni Corporation is a non-resident foreign corporation, not doing business in the Philippines and that the services rendered by petitioner to the said entity were services other than processing, manufacturing or repacking of goods.

Thus, petitioner's alleged indent commissions from its sale of services to the purported non-resident foreign corporations—Marubeni Corporation-Japan and Bomag Fayat Group failed to qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

On the other hand, in its Amended Quarterly VAT Returns for the third⁷⁴ and fourth⁷⁵ quarters of FY 2015, petitioner reported a total sale of ₱2,944,828,068.33. This, accordingly, includes the zero-rated sales in the amount of ₱1,138,925,192.54, details of which are as follows:

	3rd Qtr.	4th Qtr.	Total
Vatable Sales	₱ 632,503,415.67	₱ 1,161,218,472.33	₱ 1,793,721,888.00
Sale to Government	5,916,764.52	6,264,223.27	12,180,987.79
Zero-Rated Sales	416,011,427.35	722,913,765.19	1,138,925,192.54
Total Sales	₱1,054,431,607.54	₱1,890,396,460.79	₱2,944,828,068.33

In support of its zero-rated sales, petitioner presented its Schedule of Zero-Rated Sales⁷⁶ and various invoices, ORs and other related documents⁷⁷, which were all scrutinized by the ICPA.

As per *Amended ICPA Report* dated January 3, 2018,⁷⁸ the zero-rated sales in the amount of ₱143,491,482.28 shall be denied *je*

⁷³ Exhibits "P-191-a" to "P-191-b".
⁷⁴ Exhibit No. "P-77", Docket, Vol. V, p. 2156.
⁷⁵ Exhibit "P-79", Docket, Vol. V, p. 2160.
⁷⁶ Exhibit "P-154", Amended ICPA Report Binder, Part 2 of 4.
⁷⁷ Exhibits "P-181-a" to "P-187-rt".
⁷⁸ Exhibit "P-207", Amended ICPA Report Binder, Part 1 of 4, p. 11.

VAT zero-rating for failure to comply with the above-stated invoicing requirements:

Exhibit No.	Findings	3 rd Quarter	4 th Quarter	Total
P-184 to P-184-d	Export sale of services which are properly supported by VAT zero-rated OR issued to companies with foreign address ⁷⁹	₱ 14,009,655.26	₱ 37,588,107.54	₱ 51,597,762.80
P-185 to P-185-an	Zero-rated sale of goods which are properly supported by VAT zero-rated invoice/zero-rated sale of services which are properly supported by VAT zero-rated OR but not dated within the quarter (out of covered period)	3,927,836.59	24,857,472.34	28,785,308.93
P-186 to P-186-c	Zero-rated sale of goods which are properly supported by VAT zero-rated invoice/zero-rated sale of services which are properly supported by VAT zero-rated OR but without date	3,214,285.71	736,360.00	3,950,645.71
P-187 to P-187-rt	Zero-rated sale of goods supported by documents other than VAT zero-rated invoice/zero-rated sale of services supported by documents other than VAT zero-rated OR	22,663,283.03	6,305,700.82	28,968,983.85
P-188 to P-188-z	Zero-rated sale of goods to entities without VAT zero-rating incentive certificate provided	19,880,044.80	5,774,191.65	25,654,236.45
P-189	Without supporting documents presented	2,441,020.38	2,093,524.16	4,534,544.54
Total		₱66,136,125.77	₱77,355,356.51	₱143,491,482.28

In addition, the reported zero-rated sales in the amount of ₱4,310,664.43 shall also be denied VAT zero-rating for the following reasons:

Exhibit No.	Customer Name	Amount
1. Sales to entities with proof of VAT zero-rating but outside the validity period		
4th qtr.		
P-182-hz	K & A Metal Industries Inc.	₱ 2,806.63
P-182-hz	K & A Metal Industries Inc.	44,904.45
	Subtotal	₱ 47,711.08
2. Sales of goods supported by VAT zero-rated sales invoices with unreadable details		
3rd qtr.		
P-181-h	Carmen Copper Corp.	₱ 1,691,610.80
P-181-af	FCF Minerals Corporation	1,970.78
P-181-ag	FCF Minerals Corporation	218,553.23
P-181-ah	FCF Minerals Corporation	27,724.34
P-181-ai	FCF Minerals Corporation	42,349.23
P-181-aj	FCF Minerals Corporation	27,724.34
P-181-ak	FCF Minerals Corporation	27,724.34
P-181-al	FCF Minerals Corporation	4,774.10

⁷⁹ This pertains to the alleged indent commissions from Marubeni Corporation which failed to qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended, as previously discussed.

P-181-am	FCF Minerals Corporation	27,724.34
P-181-an	FCF Minerals Corporation	36,946.69
P-181-ao	FCF Minerals Corporation	867.00
P-181-ap	FCF Minerals Corporation	9,692.78
P-181-aq	FCF Minerals Corporation	1,239.40
P-181-ar	FCF Minerals Corporation	7,998.61
P-181-as	FCF Minerals Corporation	1,239.40
P-181-at	FCF Minerals Corporation	27,724.34
P-181-au	FCF Minerals Corporation	161,568.38
P-181-av	FCF Minerals Corporation	22,894.74
P-181-bj	FCF Minerals Corporation	53,241.15
P-181-bk	FCF Minerals Corporation	50,850.88
P-181-bl	FCF Minerals Corporation	13,238.18
P-181-bm	FCF Minerals Corporation	22,981.70
P-181-di	FCF Minerals Corporation	79.26
P-181-ed	FCF Minerals Corporation	102,121.99
P-181-ee	FCF Minerals Corporation	1,104.12
P-181-ef	FCF Minerals Corporation	32,645.88
P-181-eg	FCF Minerals Corporation	50,061.73
P-181-fl	Marcventures Mining and Development Corporation	3,696.00
P-181-fn	Marcventures Mining and Development Corporation	13,904.00
P-181-fo	Taganito Mining Corp.	3,424.00
P-181-fp	Taganito Mining Corp.	35,088.00
P-181-io	FCF Minerals Corporation	2,640.00
P-181-ip	FCF Minerals Corporation	1,100.00
P-181-pr	Carmen Copper Corp.	504,319.82
P-182-aq	Coral Bay Nickel Corporation	4,688.00
P-182-dv	House Technology Industries Pte. Ltd.	2,325.80
	Subtotal	₱ 3,237,837.35
4th qtr.		
P-181-pw	Carmen Copper Corp.	₱ 841,312.00
P-182-fa	House Technology Industries Pte. Ltd.	121,058.00
P-182-fb	Majestic Landscape Corporation	50,832.00
P-182-fc	Scad Services (S) Pte, Ltd	10,767.00
P-182-fe	Scad Services (S) Pte, Ltd	1,147.00
	Subtotal	₱ 1,025,116.00
	Total	₱ 4,262,953.35
	Grand Total	₱ 4,310,664.43

Thus, out of the reported zero-rated sales of ₱1,138,925,192.54, only the amount of ₱991,123,045.83 represents petitioner's valid zero-rated sales for the third and fourth quarters of FY 2015, computed as follows:

	3rd Quarter	4th Quarter	Total
Total Reported Zero-Rated Sales	₱ 416,011,427.35	₱ 722,913,765.19	₱ 1,138,925,192.54
Less: Disallowances			

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Per ICPA Report	66,136,125.77	77,355,356.51	143,491,482.28
Additional disallowances by this Court	3,237,837.35	1,072,827.08	4,310,664.43
Valid Zero-Rated Sales	P346,637,464.23	P 644,485,581.60	P991,123,045.83

Petitioner incurred input taxes during the third & fourth quarters of FY 2015 which are attributable to its zero-rated or effectively zero-rated sales for the same period

For the third and fourth quarters of FY 2015, petitioner declared input taxes in the total amount of P314,833,302.61, out of which the amount of P104,580,305.56 is the subject of petitioner's claim for refund, to wit:

Input taxes as declared per VAT returns:

	3rd Quarter ⁸⁰	4th Quarter ⁸¹	Total
Input Tax Deferred on Capital Goods exceeding 1M from Previous Quarter (Line 20B)	P 2,146,063.69	P 1,950,848.23	P 4,096,911.92
Less: Input Tax on Purchases of Capital Goods exceeding P1M deferred for the succeeding period (Line 23A)	1,950,848.16	1,755,632.72	3,706,480.88
Input tax Amortized for the period	P 195,215.53	P 195,215.51	P 390,431.04
Add: Current Input Taxes			
On Domestic Purchases of Goods Other than Capital Goods (Line 21F)	P 2,398,942.34	P 3,116,795.05	P 5,515,737.39
On Importation of Goods Other than Capital Goods (Line 21H)	115,594,865.00	183,321,012.00	298,915,877.00
On Domestic Purchase of Services (Line 21J)	5,265,712.08	4,745,545.10	10,011,257.18
Total Current Input Tax	P123,259,519.42	P 191,183,352.15	P314,442,871.57
Total Input Taxes for the period	P123,454,734.95	P 191,378,567.66	P314,833,302.61

Input taxes as per subject claim⁸²:

	3rd Quarter	4th Quarter	Total
Total input taxes for the period	P 123,454,734.95	P 191,378,567.66	P 314,833,302.61
Less: Input tax on VATable sale of machineries from current purchases	7,821,548.34	34,053,683.39	41,875,231.73
Input tax on zero-rated sale of machineries from current purchases	21,381,098.78	43,555,100.63	64,936,199.41
Input tax directly identified and allocable to Government Sales	2,395,849.56	523,678.01	2,919,527.57

⁸⁰ Exhibit "P-77", Docket, Vol. V, p. 2156.

⁸¹ Exhibit "P-79", Docket, Vol. V, p. 2160.

⁸² *Petition for Review*, Docket, Vol. I, pp. 44 to 48.

Input tax on current purchase of machineries not sold within the quarter	59,609,821.87	62,980,989.89	122,590,811.76
Total Common Input tax allocable to VATable and VAT zero-rated sales	₱ 32,246,416.40	₱ 50,265,115.74	₱ 82,511,532.14
Multiply by Zero-Rated Sales	399,931,585.75	722,913,765.19	1,122,845,350.94
Divide by Total Sales	1,038,351,765.94	1,890,396,460.79	2,928,748,226.73
Common Input tax allocable VAT Zero-Rated Sales	₱ 12,420,030.35	₱ 19,222,075.77	₱ 31,642,106.12
Add: Input tax directly related to zero-rated sale of machineries which were imported and sold in current period	21,381,098.78	43,555,100.63	64,936,199.41
Input tax directly related to zero-rated sale of machineries which were imported in prior years but sold only this quarter	2,750,446.51	5,251,553.52	8,002,000.03
Total Input Taxes claimed for refund	₱ 36,551,575.64	₱ 68,028,729.92	₱104,580,305.56

In support of its reported input taxes of ₱314,442,871.57, petitioner submitted various sales invoices, ORs, Import Entry and Internal Revenue Declarations (IEIRDs), Statements of Settlement of Duties and Taxes (SSDTs), Bureau of Customs (BOC) ORs and other related documents⁸³, which were examined by the ICPA.

Summarized below are the current input taxes for the third and fourth quarters of FY 2015 in the total amount of ₱314,442,871.57, as accounted for by the ICPA:

	3 rd Quarter	4 th Quarter	Total	Exhibit No. (Amended ICPA Report Binder, Parts 2 and 3 of 4)
A. Input tax on current quarter's importations directly related to VATable sale of machineries in the same quarter	₱ 7,821,548.34	₱ 30,560,806.25	₱ 38,382,354.59	P-155 to P-156
B. Input tax on current quarter's importations directly related to zero-rated sale of machineries in the same quarter	21,381,098.78	43,556,801.68	64,937,900.46	P-157 to P-158

⁸³ Exhibits "P-155-a" to "P-155-al", "P-156-a" to "P-156-t", "P-157-a" to "P-157-n", "P-158-a", "P-159-a" to "P-159-dl", "P-160-a" to "P-160-ab", "P-161-a" to "P-161-ln", "P-162-a" to "P-162-fm", "P-163-a", "P-164-a" to "P-164-c", "P-167-a" to "P-167-ag", "P-168-a" to "P-168-ea", "P-169-a" to "P-169-z", "P-170-a" to "P-170-pw", "P-171-a" to "P-171-ci", "P-172-a" to "P-172-ao", "P-173-a" to "P-173-abf", "P-174-a" to "P-174-sz", "P-175-a" to "P-175-se", "P-176-a" to "P-176-bm", "P-177-a" to "P-177-bc" and "P-179-a" to "P-179-x".

C. Input tax on current purchase of machineries not sold within the quarter	59,609,819.88	66,472,166.07	126,081,985.95	P-159 to P-160
D. Common input tax allocable to VATable and zero-rated sales				
a. Input tax on current quarter's importations	₱ 26,782,398.00	₱ 42,731,238.00	₱ 69,513,636.00	P-161 to P-166
b. Input tax on current quarter's domestic purchases	7,664,654.42	7,862,340.15	15,526,994.57	P-167 to P-178
subtotal	₱ 34,447,052.42	₱ 50,593,578.15	₱ 85,040,360.57	
Total	₱123,259,519.42	₱191,183,352.15	₱314,442,871.57	

As per ICPA Report, the input VAT in the amount of ₱130,575,993.13⁸⁴ was disallowed for failure to meet the substantiation requirements under Sections 110(A), 113(A) and (B), and 237 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-2005, as amended:

Exhibit Reference	Description	3rd Qtr.	4th Qtr.	Total
A. Input tax on current quarter's importations directly related to VATable sale of machineries in the same quarter				
P-156	Supported by *IEIRDs and traced to E2M schedule		₱ 23,801,253.85	₱ 23,801,253.85
B. Input tax on current quarter's importations directly related to zero-rated sale of machineries in the same quarter				
P-158	Supported by *IEIRDs and traced to E2M schedule		19,333,886.00	19,333,886.00
C. Input tax on current purchase of machineries not sold within the quarter				
P-160	Supported by *IEIRDs and traced to E2M schedule	₱ 726,945.76	35,383,163.31	36,110,109.07
D. Common input tax allocable to VATable and zero-rated sales				
a. Input tax on current quarter's importations				
P-162	Supported by *IEIRDs and traced to E2M schedule	₱ 24,784,189.00	₱ 10,571,326.00	₱ 35,355,515.00
P-163	Supported by IEIRDs**		2,663.00	2,663.00
P-165	Traced to E2M schedule only	857,003.00		857,003.00
P-166	Without supporting documents presented	9,122.00	10,958.00	20,080.00
b. Input tax on current quarter's domestic purchases				

⁸⁴ Exhibit "P-211", Amended ICPA Report Binder, Part 1 of 4, pp. 4 to 7.

P-169	Domestic purchase of goods properly supported by VAT invoice/purchase of services properly supported by VAT OR, that are issued in the name of the Petitioner with the petitioner's complete TIN, address, business style, and with valid ATP and signature but the VAT amount is not shown separately in the invoice/OR	52,628.26	39,198.00	91,826.26
P-170	Domestic purchase of goods not properly supported by VAT invoice/purchase of services not properly supported by VAT OR	304,900.48	295,751.29	600,651.77
P-171	Domestic purchase of goods supported by VAT invoice/purchase of services supported by VAT OR not dated within the same taxable year or dated in the subsequent quarter	118,366.85	185,419.17	303,786.02
P-172	Domestic purchase of goods supported by VAT invoice/purchase of services supported by VAT OR without date	9,891.93	5,056.83	14,948.76
P-173	Domestic purchase of goods supported by VAT invoice/purchase of services supported by VAT OR without valid Authority to Print (ATP)	391,511.51	97,541.10	489,052.61
P-174	Domestic purchase of goods supported by VAT invoice/purchase of services supported by VAT OR with missing and/or incorrect Company name	259,431.88	154,471.67	413,903.55
P-175	Domestic purchase of goods supported by VAT invoice/purchase of services supported by VAT OR with missing and/or incorrect TIN	1,172,878.70	724,869.06	1,897,747.76
P-176	Domestic purchase of goods supported by VAT invoice/purchase of services supported by VAT OR with missing and/or incorrect registered address	209,289.21	47,913.59	257,202.80
P-177	Domestic purchase of goods supported by VAT invoice/purchase of services supported by VAT OR with missing and/or incorrect business style	82,004.76	93,436.85	175,441.61
P-178	Domestic purchases without supporting invoices/ORs presented	4,920,651.70	5,930,270.37	10,850,922.07
Total		P33,898,815.04	P96,677,178.09	P130,575,993.13

* IEIRDs are without machine validation.

**Actual document pertains to Informal Import Declaration and Entry only.

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In addition to the above disallowances, the input VAT in the amount of ₱520,793.62 shall, likewise, be disallowed for the reasons stated hereunder:

Exhibit No.	Name of Supplier	3rd Qtr.	4th Qtr.	Total	Reason for disallowance
<i>D.b. Common input tax on current quarter's domestic purchases allocable to VATable and zero-rated sale</i>					
P-167-a	I Nav Philippines Corp	₱ 1,607.14		₱ 1,607.14	Supported by VAT invoice but without the TIN of petitioner
P-167-d	Matatag Cargo Logistics Corporation	3,199.21		3,199.21	Supported by VAT OR wherein the input VAT amount was not separately shown
P-167-f	Toyota Commonwealth Inc	1,578.92		1,578.92	Supported by VAT OR but without the BIR's ATP
P-167-g	Toyota Commonwealth Inc	1,418.40		1,418.40	Supported by VAT OR but without the BIR's ATP
P-167-h	Toyota Commonwealth Inc	1,204.86		1,204.86	Supported by VAT OR but without the BIR's ATP
P-167-n	Charter Ping An Insurance Corporation	890.43		890.43	Supported by VAT OR but without the TIN of petitioner
P-167-p	Mendez System Maintenance and Manpower Services	599.10		599.10	Supported by VAT OR wherein the input VAT amount was not separately shown
P-167-u	Whiteknight Security Agency Corporation		₱ 975.74	975.74	Supported by VAT OR but without the TIN of petitioner
P-167-w	Rhotech Pest Management		7,200.00	7,200.00	Supported by VAT OR wherein the input VAT amount was not separately shown
P-167-ad	Whiteknight Security Agency Corporation		1,951.48	1,951.48	Supported by VAT OR but without the TIN of petitioner
P-167-ag	Briceup and Matchmytrip		2,982.97	2,982.97	Over-claimed input VAT (claimed amount of ₱3,068.68 less OR amount of ₱ 85.71)
P-168-c	Jemtech IT Solutions Inc.	814.29		814.29	Supported by VAT invoice dated outside the period of claim
P-168-e	Karigalan Intl Travel and Tours Corp	96.06		96.06	Supported by VAT OR wherein the input VAT amount was not separately shown
P-168-f	Solid Business Machines Center, Inc.	383.57		383.57	Supported by VAT invoice dated outside the period of claim
P-168-g	Darosan Enterprises	273.21		273.21	Supported by VAT invoice dated outside the period of claim
P-168-h	Junction Inn Mansion	540.00		540.00	Supported by VAT OR wherein the input VAT amount was not separately shown
P-168-i	Philippine Ports Authority	1.93		1.93	Supported by OR dated outside the period of claim
P-168-j	World Best Industrial Sales Inc		1,409.51	1,409.51	Supported by VAT invoice dated outside the period of claim
P-168-k	Adam Gas and		1,157.25	1,157.25	Supported by VAT invoice without

	Trading Corp.				the TIN of petitioner (total of ₱250.70, ₱173.60, ₱173.60, ₱212.15 and ₱347.20)
P-168-k	Adam Gas and Trading Corp.		366.56	366.56	Over-claimed input VAT (claimed amount of ₱2,073.21 less invoice amount of ₱1,706.65)
P-168-l	SK Techno-Lube Corporation		4,942.50	4,942.50	Supported by VAT invoice but without the TIN of petitioner
P-168-l	SK Techno-Lube Corporation		2,748.21	2,748.21	Over-claimed input VAT (claimed amount of ₱7,690.71 less invoice amount of ₱4,942.50)
P-168-n	A.L. Gantuangco Construction		19,500.00	19,500.00	Supported by VAT invoice but without the TIN of petitioner and input VAT amount was not separately shown
P-168-p	Solid Business Machines Center Inc		1,624.29	1,624.29	Supported by document with unreadable details
P-168-r	OTR Type Mart Inc		10,613.57	10,613.57	Supported by VAT invoice but without the TIN and address of petitioner
P-168-t	Jemtech IT Solutions Inc.		1,875.00	1,875.00	Supported by VAT invoice but without the address of petitioner
P-168-u	Makati Microshop		12,857.14	12,857.14	Supported by VAT invoice but without the TIN of petitioner
P-168-v	Meridian IT Corporation		6,750.00	6,750.00	Supported by VAT invoice but without the TIN of petitioner
P-168-ac	CRC Enterprises		728.57	728.57	Supported by VAT invoice but without the TIN of petitioner
P-168-ai	Crest Sun Industrial Products Inc		321.43	321.43	Supported by VAT invoice but without the TIN of petitioner
P-168-ar	Jemtech IT Solutions Inc.		209.83	209.83	Supported by VAT invoice but without the TIN of petitioner
P-168-aw	Denmark Paints Specialist and Hardware Corp		8,824.29	8,824.29	Supported by VAT invoice wherein the input VAT amount was not separately shown
P-168-bf	Roqson Industrial Sales, Inc		10,472.14	10,472.14	Supported by VAT invoice but without the TIN of petitioner
P-168-bi	Caloocan Standard Inc.		1,532.14	1,532.14	Supported by document with unreadable details
P-168-bp	Dinlys Industrial Sales		419.46	419.46	Supported by VAT invoice but without the TIN of petitioner
P-168-bx	Philippine Long Distance Telephone (PLDT) Company		5,135.98	5,135.98	Supported by VAT OR but without the TIN of petitioner
P-168-cr	International Container Terminal Services, Inc.		1,019.80	1,019.80	Supported by document with notation "NOT VALID AS PROOF TO CLAIM INPUT VAT"
P-168-cz	PLDT Company		224.52	224.52	Supported by VAT OR but without the TIN of petitioner
P-168-db	Zambales Electric Cooperative Inc		429.94	429.94	Supported by VAT OR issued not in the name of petitioner
P-168-dh	International Container Terminal Services, Inc.		1,313.54	1,313.54	Supported by document with notation "NOT VALID AS PROOF TO CLAIM INPUT VAT"
P-168-di	PLDT Company		3,036.34	3,036.34	Supported by VAT OR but without the TIN of petitioner
P-168-di	PLDT Company		2,218.76	2,218.76	Over-claimed input VAT (claimed

					amount of ₱5,255.10 less OR amount of ₱3,036.34)
P-168-dm	Connus Food Inc		1,919.81	1,919.81	Over-claimed input VAT (claimed amount of ₱21,117.86 less OR amount of ₱19,198.05)
P-168-dw	PLDT Company		960.00	960.00	Supported by VAT OR but without the TIN of petitioner
P-168-dy	Marilag Business and Industrial Service Inc		2,034.69	2,034.69	Supported by VAT OR dated outside the period of claim
	subtotal	₱ 12,607.12	₱117,755.46	₱130,362.58	
Input tax on purchases of capital goods exceeding 1 Million amortized for the period					
		₱ 195,215.53	₱ 195,215.51	₱ 390,431.04	Without supporting documents
	subtotal	₱195,215.53	₱195,215.51	₱390,431.04	
	Total	₱207,822.65	₱312,970.97	₱520,793.62	

In sum, out of the reported input VAT of ₱314,833,302.61 for the third and fourth quarters of FY 2015, petitioner was able to substantiate only the amount of ₱183,736,515.86, computed as follows:

Particulars	Reported Input VAT	Disallowances		Substantiated Input VAT
		Per ICPA Report	Per Court's further verification	
<i>Third Quarter of FY 2015</i>				
A. Input tax on current quarter's importations directly related to VATable sale of machineries in the same quarter	₱ 7,821,548.34	-	-	₱ 7,821,548.34
B. Input tax on current quarter's importations directly related to zero-rated sale of machineries in the same quarter	21,381,098.78	-	-	21,381,098.78
C. Input tax on current purchase of machineries not sold within the quarter	59,609,819.88	₱ 726,945.76	-	58,882,874.12
D. Common input tax allocable to VATable and zero-rated sales	34,447,052.42	33,171,869.28	₱ 12,607.12	1,262,576.02
Input VAT on purchases of capital goods exceeding ₱1Million amortized for the period	195,215.53	-	195,215.53	-
Subtotal	₱ 123,454,734.95	₱ 33,898,815.04	₱ 207,822.65	₱ 89,348,097.26
<i>Fourth Quarter of FY 2015</i>				
A. Input tax on current quarter's importations directly related to VATable sale of machineries in the same quarter	₱ 30,560,806.25	₱ 23,801,253.85	-	₱ 6,759,552.40
B. Input tax on current quarter's importations directly related to zero-rated sale of machineries in the	43,556,801.68	19,333,886.00	-	24,222,915.68

same quarter				
C. Input tax on current purchase of machineries not sold within the quarter	66,472,166.07	35,383,163.31	-	31,089,002.76
D. Common input tax allocable to VATable and zero-rated sales	50,593,578.15	18,158,874.93	₱ 117,755.46	32,316,947.76
Input VAT on purchases of capital goods exceeding ₱1Million amortized for the period	195,215.51	-	195,215.51	-
Subtotal	₱ 191,378,567.66	₱ 96,677,178.09	₱ 312,970.97	₱ 94,388,416.60
Total	₱314,833,302.61	₱130,575,993.13	₱520,793.62	₱183,736,515.86

Considering that petitioner is engaged in taxable sales subject to zero percent (0%) and twelve percent (12%) rates, and its input VAT of ₱1,262,576.02 and ₱32,316,947.76 (*item D. above*) for the third and fourth quarters, respectively, cannot be directly or entirely attributed to any of the transactions, the same shall be allocated proportionately on the basis of the volume of its sales for the respective quarters in this wise:

Period	VAT Sales (a)	Sales to Gov't (b)	Zero-Rated Sales (c)	Total Sales (d = a+b+c)
3rd Quarter	₱ 632,503,415.67	₱5,916,764.52	₱416,011,427.35	₱ 1,054,431,607.54
4th Quarter	1,161,218,472.33	6,264,223.27	722,913,765.19	1,890,396,460.79
Third Quarter Substantiated input VAT attributable to:				
VAT Sales (₱632,503,415.67/₱1,054,431,607.54 x ₱1,262,576.02)				₱ 757,359.96
Sales to Gov't (₱5,916,764.52 /₱1,054,431,607.54 x ₱1,262,576.02)				7,084.73
Zero-Rated Sales (₱416,011,427.35/₱1,054,431,607.54 x ₱1,262,576.02)				498,131.93
Total				₱ 1,262,576.02
Fourth Quarter Substantiated input VAT attributable to:				
VAT Sales (₱1,161,218,472.33/₱1,890,396,460.79 x ₱32,316,947.76)				₱ 19,851,410.79
Sales to Gov't (₱6,264,223.27/₱1,890,396,460.79 x ₱32,316,947.76)				107,088.95
Zero-Rated Sales (₱722,913,765.19/₱1,890,396,460.79 x ₱32,316,947.76)				12,358,448.01
Total				₱ 32,316,947.76

Petitioner also included in its claim the input VAT amounting to ₱8,002,000.03 which, accordingly, pertains to *"input tax related to zero-rated sale of machineries which were imported in prior years but sold only this quarter"*. Petitioner also submitted documents to substantiate its claim.

However, as accounted for by the ICPA⁸⁵, out of the input VAT of ₱8,002,000.02, only the amounts of ₱2,438,029.33 and ₱5,251,553.51 pertaining to the third and fourth quarters, respectively, or a total of ₱7,689,582.84, were duly supported by *re*

⁸⁵ Exhibit "P-211", Amended ICPA Report Binder, Part 1 of 4, p. 10.

IEIRDs and SSDTs that could likewise be traced to E2M schedule. Thus, may be refunded.

On the other hand, the amount of ₱312,417.18, which was only traced to E2M schedule cannot be refunded by the Court on the ground that petitioner failed to offer any proof of VAT payment.

In view thereof, petitioner's input VAT directly and indirectly attributable to its zero-rated sales amounted to ₱66,132,369.21, as computed below:

	3rd Qtr.	4th Qtr.	Total
Input Vat allocable to zero-rated sales	₱ 498,131.93	₱ 12,358,448.01	₱ 12,856,579.94
Add: Input VAT on current quarter's importations directly related to zero-rated sale of machineries in the same quarter	21,381,098.78	24,222,915.68	45,604,014.46
Input VAT directly related to zero-rated sale of machineries which were imported in prior years but sold only this quarter	2,438,029.33	5,251,553.51	7,689,582.84
Total Input VAT attributable to zero-rated sales	₱ 24,317,260.04	₱ 41,832,917.20	₱ 66,150,177.24

Petitioner has no excess input VAT available for refund

Having determined that petitioner had valid input VAT which may be attributable to its zero-rated sales, the Court shall now determine whether petitioner has excess input VAT attributable to zero-rated sales which was not applied against its output VAT liability.

After deducting the input tax attributable to VATable sales to private entities amounting to ₱35,189,870.89 from its output VAT liability of ₱215,246,616.56 on the said sales, petitioner still has a net output VAT payable of ₱180,056,745.67, as computed below:

	3rd Qtr.	4th Qtr.	Total
Output VAT per Returns ⁸⁶	₱ 75,900,399.88	₱ 139,346,216.68	₱ 215,246,616.56
Less: Input VAT attributable to VATable sales to private entities			
(₱757,359.36 + ₱7,821,548.34)	8,578,907.70		8,578,907.70
(₱19,851,410.79 +		26,610,963.19	26,610,963.19

⁸⁶ Line 15B of Exhibits "P-77" and "P-79, Docket, Vol. V, pp. 2156 and 2160.

₱6,759,552.40)			
Total	8,578,907.70	26,610,963.19	35,189,870.89
Net output VAT Payable	₱ 67,321,492.18	₱112,735,253.49	₱180,056,745.67

Since the input VAT attributable to VATable sales to private entities is not enough to cover its output VAT liability, the input VAT attributable to zero-rated sales shall be utilized against the remaining output VAT liability. However, the input VAT attributable to zero-rated sales of ₱66,150,177.24 is way lower than the net output VAT payable of ₱180,056,745.67. Consequently, petitioner still has net output VAT due of ₱113,906,568.43, computed as follows:

	3rd Qtr.	4th Qtr.	Total
Net output VAT Payable	₱ 67,321,492.18	₱ 112,735,253.49	₱ 180,056,745.67
Less: Input VAT attributable to zero-rated sales	24,317,260.04	41,832,917.20	66,150,177.24
Net Output VAT Still Due	₱ 43,004,232.14	₱ 70,902,336.29	₱ 113,906,568.43

Although petitioner's Amended Quarterly VAT returns for the third and fourth quarters of FY 2015 reflected the respective amounts of ₱359,624,263.99⁸⁷ and ₱420,477,797.65⁸⁸ as "*Input Tax Carried Over from Previous Period*", still, petitioner failed to substantiate the same.

Consequently, the input tax carry-over of ₱359,624,263.99 and ₱420,477,797.65, cannot be validly applied against petitioner's output tax pursuant to Section 110(A) in relation to Section 110(B) of the NIRC of 1997, as amended, which states:

"SEC. 110. *Tax Credits.* —

(A) *Creditable Input Tax.* —

(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

xxx

xxx

xxx

(B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the Vat-registered person. If the input tax exceeds

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⁸⁷ Exhibit "P-77", Line 20A, Docket, Vol. V, p. 2156.

⁸⁸ Exhibit "P-79", Line 20A, Docket, Vol. V, p. 2160.

the output tax, the excess shall be carried over to the succeeding quarter or quarters: xxx."

It is worthy to stress that in claiming excess or unutilized input VAT from zero-rated transactions, it is the excess input tax over the output tax which should be refunded to the taxpayer or credited against other internal revenue taxes. Hence, it is important for the taxpayer to prove that it has enough prior year's excess input tax credits to cover its output tax liability for the current taxable year. In cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.⁸⁹

Consequently, there being no excess input VAT which may be the subject of a claim for refund or tax credit certificate, the instant claim must be denied.

On the final note, the Court reiterates that it is the taxpayer-claimant that has the burden of proof to establish the factual basis of his or her claim for tax credit or refund.⁹⁰ Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.⁹¹ Thus, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.⁹² Strict adherence to the conditions prescribed by law is required of the taxpayer.⁹³

All told, petitioner failed to sufficiently prove its entitlement to a refund or tax credit of its unutilized input VAT from its zero-rated sales/receipts for the period covering October 1, 2014 to March 31, 

⁸⁹ *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

⁹⁰ *Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 107434, October 10, 1997.

⁹¹ *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc., et al.*, G.R. No. 127105, June 25, 1999.

⁹² *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015, citing *J.R.A. Philippines, Inc. vs. CIR*, G.R. No. 171307, August 28, 2013.

⁹³ *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019.

2015. Its failure to substantiate that it has sufficient input taxes to offset its output taxes due for the period covered merits the denial of its claim for refund.

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


JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:


CIELITO N. MINDARO-GRULLA
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

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



ROMAN G. DEL ROSARIO
Presiding Justice