REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

VESTAS SERVICES PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2459
(CTA Case No. 9604)

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and,*
FERRER-FLORES, *JJ.*

Promulgated:
FEB 07 2023 4:20pm

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DECISION

BACORRO-VILLENA, J.:

Before the Court *En Banc* is a Petition for Review[1] pursuant to Section 3(b)[2], Rule 8 of the Revised Rules of the Court of Tax Appeals

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1 Filed on 19 May 2021, *Rollo*, pp. 1-37.

2 **SEC. 3**. *Who may appeal; period to file petition.* — …

…

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an

(**RRCTA**), filed by petitioner Vestas Services Philippines, Inc. (**petitioner/VSPI**). It seeks the reversal of the Decision dated 16 September 2020[3] (**assailed Decision**) and the Resolution dated 03 March 2021[4] (**assailed Resolution**) of the Court's Third Division[5] in CTA Case No. 9604, entitled *Vestas Services Philippines, Inc. v. Commissioner of Internal Revenue.*

PARTIES OF THE CASE

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines with office address at 12th floor, Five ECom, Harbor Drive, Mall of Asia Complex, Pasay City.[6] It is registered with the Bureau of Internal Revenue (**BIR**) for value-added tax (**VAT**) purposes, pursuant to Certificate of Registration (**COR**) No. OCN 9RC0000382508 with Revenue District Office (**RDO**) No. 50[7] and currently under COR No. OCN 9RC0000777961E with RDO No. 51.[8]

Based on its Amended Articles of Incorporation[9] (**AOI**), petitioner is engaged in the business of installation and construction services (except contracts for the construction of locally funded public works and contracts for the construction of defense related structures), including entering into subcontracting arrangements, and service of wind power systems, *i.e.,* wind turbine generators, spare parts and activities related thereto.[10]

On the other hand, respondent Commissioner of Internal Revenue (**respondent/CIR**) is vested with authority to carry out the functions and duties of his or her office; including, among others, the duty to act on and approve claims for refund or issuance of a tax credit certificate (**TCC**) pursuant to the pertinent provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and other tax

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additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

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3 Division Docket, Volume III, pp. 1139-1155.

4 Id., pp. 1174-1179.

5 Penned by Associate Justice Erlinda P. Uy, concurred in by Associate Justice Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro.

6 Paragraph (Par.) 2.1, The Parties, Petition for Review, supra at note 1.

7 Exhibit "P-3", Division Docket, Volume I, p. 221.

8 Exhibit "P-4", id., pp. 222-223.

9 Exhibit "P-2", id., pp. 210-220.

10 Par. 1.1, Joint Stipulations of Facts and Issues (JSFI), id., Volume II, p. 764.

laws, rules and regulations, with office address at the BIR National Office Building, Diliman, Quezon City.

FACTS OF THE CASE

On 22 January 2015, petitioner filed with the BIR RDO No. 50 its Original Quarterly VAT Return (BIR Form No. 2550-Q)[11] for the fourth (4th) quarter of the calendar year (**CY**) 2014.[12]

On 29 December 2016, petitioner also filed with RDO No. 50 an Application for Tax Credits/Refunds (BIR Form No. 1914)[13] for the refund of its alleged excess and unutilized input VAT attributable to its zero-rated sales for the period of 01 October 2014 to 31 December 2014, in the aggregate amount of ₱92,042,554.03. To support its application for VAT credit/refund, it submitted the documents enumerated in its accomplished "Checklist of Mandatory Requirements for Claims for VAT Credit/Refund".[14]

On 06 January 2017, Revenue Officer (**RO**) Nesel C. Ilagan (**Ilagan**) of RDO No. 50 advised petitioner *via* a telephone call to instead forward its application to RDO No. 51 since the complete records were already transferred to the latter as of 12 December 2016.[15] As instructed, petitioner forwarded its documents to RDO No. 51 on 09 January 2017. Upon RO Ilagan's advice, petitioner also filed a new application for tax credits/refunds (BIR Form No. 1914)[16] with RDO No. 51.[17]

On 03 May 2017, petitioner received the undated Letter[18] (**Denial Letter**) signed by the RDO No. 51's Revenue District Officer, Virgilio R. Cembrano (**Cembrano**) denying its administrative claim for refund due to its alleged belated filing beyond the two (2) year prescriptive period from the close of taxable quarter.

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11 Exhibit "P-8", id., Volume I, pp. 266-267.
12 Par. 3.1.1, Timeliness of Petition, id., p. 11.
13 Exhibit "P-5-A", id., Volume II, p. 997.
14 See Exhibit "P-6", id., p. 998.
15 See Question 47 and Answer 47 of the Amended Judicial Affidavit of Ian Jasper E. Monteras, Division Docket, Volume II, p. 978
16 Exhibit "P-7-A", BIR Records, p. 679.
17 See Question 48 and Answer 48 of the Amended Judicial Affidavit of Ian Jasper E. Monteras, Division Docket, Volume II, p. 978.
18 Exhibit "P-18", id., pp. 757-758.

PROCEEDINGS BEFORE THE COURT

On 26 May 2017, petitioner filed its prior Petition for Review[19] before this Court and appealed the denial of its administrative claim. The case was raffled to the Third Division and docketed as CTA Case No. 9604.[20]

Within the thirty (30)-day extension period granted by the Third Division[21], respondent filed its Answer[22] through registered mail on 28 July 2017. Petitioner filed its Answer through a Reply[23] on 11 August 2017.

Prior to the Pre-Trial Conference date[24] (which was later reset[25]), respondent filed his or her Pre-Trial Brief[26] on 15 January 2018 while petitioner filed its Pre-Trial Brief[27] on 15 February 2018.

During the Pre-Trial Conference proper, the Third Division granted both parties fifteen (15) days or until 07 March 2018 within which to submit their Joint Stipulation of Facts and Issues (**JSFI**).[28] The parties filed their JSFI on 05 March 2018.[29] In addition, petitioner filed a motion for the commissioning of Katherine O. Constanino (**Constantino**) of Constantino, Guadalquiver, & Co., as the Independent Certified Public Accountant (**ICPA**).[30]

On 12 April 2018, the Third Division issued a Pre-Trial Order[31] approving the parties' JSFI, terminating the pre-trial, and setting the dates for the ICPA's commissioning and the initial presentation of petitioner's evidence.

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19 Id., Volume I, pp. 10-113, with annexes.
20 The Third Division was then composed of Associate Justice Lovell R. Bautista (Ret.), as Chairperson, Associate Justice Esperanza R. Fabon-Victorino (Ret.), and Associate Justice Ma. Belen M. Ringpis-Liban, as Members.
21 See Resolution dated 19 July 2017, Division Docket, Volume I, p. 120.
22 Id., pp. 121-123.
23 Id., pp. 125-136.
24 See Notice of Pre-Trial Conference dated 11 August 2017, id., pp. 138-139.
25 See Resolution dated 12 October 2017, id., p. 147.
26 Id., pp. 148-151.
27 Id., pp. 152-166.
28 See Order dated 20 February 2018, id., Volume II, p. 763.
29 Id., pp. 764-769.
30 See Motion for the Commissioning of Independent Certified Public Accountant, id., pp. 770-774; and Judicial Affidavit of Ms. Katherine O. Constantino, id., pp. 775-796, including annexes.
31 Id., pp. 799-804.

In the Order dated 21 May 2018[32], the Third Division commissioned Constantino as the ICPA and directed her to submit her report within 30 days therefrom. Constantino filed her Report[33] on 20 June 2018.

In the trial that ensued, petitioner presented its witnesses, namely: (1) Ian Jasper E. Monteras (**Monteras**), petitioner's Accounting Assistant; and, (2) Constantino, the Court-commissioned ICPA.

Monteras was the first to assume the witness stand. He testified on his Judicial Affidavit[34] on 21 May 2018[35] but was later on recalled to likewise testify on his Amended Judicial Affidavit.[36] As prayed for, the first Judicial Affidavit was expunged from the records.[37]

In his Amended Judicial Affidavit, Monteras declared that: (1) petitioner was registered with RDO No. 50 in Makati City from 05 January 2010 to 16 December 2016; (2) petitioner transferred to Pasay City and subsequently transferred its registration to RDO No. 51; (3) petitioner's sales for the 4th quarter of CY 2014 were reported as zero-rated because they were made solely to EDC Burgos Wind Power Corporation (**EDC**), a Renewable Energy (**RE**) Developer; (4) petitioner incurred expenses for goods and services used in the EDC contract which resulted in the excess and/or unutilized input VAT of ₱92,042,554.03; (5) petitioner duly filed its quarterly VAT return reflecting the zero-rated sales and the excess input VAT; (6) the excess input VAT was not carried over to the succeeding period; (7) petitioner filed an application for VAT credit/refund before RDO No. 50 on 29 December 2016; (8) petitioner was then directed by RO Ilagan of RDO No. 50 to forward its application to RDO No. 51; (9) upon advice, petitioner filed a new application for VAT credit/refund before RDO No. 51 on 09 January 2017; (10) the BIR, through a letter, denied the VAT credit/refund claim; (11) he has personal knowledge and authority in the preparation and filing of the documents supporting the

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32 Id., pp. 812-813.
33 Exhibit "P-21", id., pp. 815-877.
34 Originally marked as Exhibit "P-19", id., Volume I, pp. 172-195.
35 See Order dated 21 May 2018, id., Volume II, pp. 812-813.
36 Dated 18 July 2018, Exhibit "P-32", id., Volume II, pp. 967-995.
37 See Order dated 11 October 2018, id., Volume III, pp. 1015-1016.

administrative claim; and, (12) the introduction of secondary evidence of Exhibits "**P-5**", "**P-5-A**", "**P-6**" and "**P-7**".

During the cross-examination, Monteras stated that petitioner was informed of the transfer of the BIR registration from RDO No. 50 to RDO No. 51 through the receipt of the new COR.[38] In addition, Monteras clarified that it was his previous superior, John Carlo L. Celebrado (**Celebrado**), who filed the original application for VAT credit/refund before RDO No. 50. According to him, he only prepared the documents and made follow-ups on the status of the application for refund.[39]

On re-direct examination, Monteras clarified that although he could not remember the date of petitioner's actual receipt of the COR from RDO No. 51, he confirmed that it was in mid-December.[40]

On re-cross examination, Monteras reiterated that upon follow ups, RO Ilagan of RDO No. 50 informed him that the application for VAT credit/refund must be filed before RDO No. 51 since petitioner's records were already transferred to the said RDO on 12 December 2016. Monteras also confirmed that petitioner filed the application for VAT credit/refund in RDO No. 50 although it was made aware that its registration was already transferred to RDO No. 51.[41]

On the witness stand, ICPA Constantino identified her: (1) Judicial Affidavit dated 16 July 2018[42]; (2) the ICPA Report dated 20 June 2018[43]; and, (3) one (1) USB[44] containing scanned copies of the ICPA Report and its annexes.

No cross-examination was conducted. Upon the Court's inquiry, ICPA Constantino attested that she only recommended the grant of 55% of petitioner's total claim since it failed to present some of the importation documents pertaining to the VAT credit/refund claim.

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38 TSN dated 11 October 2018, pp. 10-11.
39 Id.
40 Id., p. 15.
41 Id., p. 17.
42 Exhibit "P-31, pp. 882-891.
43 Supra at note 33.
44 Exhibit "P-30".

On 26 October 2018, after completing the presentation of its testimonial evidence, petitioner filed its Formal Offer of Evidence[45] (**FOE**) consisting of Exhibits "**P-1**" to "**P-31-A**", inclusive of sub-markings.

Without comment from respondent[46], the Third Division issued a Resolution[47] denying the admission of Exhibits "**P-4**", "**P-5**", "**P-5-A**", "**P-6**" "**P-7**", and "**P-7-B**"[48] for petitioner's failure to present the originals for comparison.

Unsatisfied with the above resolution, petitioner filed a "Motion for Partial Reconsideration (Re: Resolution dated 30 January 2019)"[49] (**MPR**) on 26 February 2019 praying for the admission of the denied exhibits. *Sans* comment from respondent[50], the Third Division granted the MPR and admitted the above-mentioned exhibits.[51]

During the hearing conducted on 23 May 2019, respondent manifested that he or she will not present any evidence. Thereafter, the Third Division gave the parties a period of 30 days within which to submit their respective memoranda.[52] On 21 June 2019, petitioner filed its Memorandum.[53] On the other hand, beyond the extended period[54],

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45 Division Docket, Volume III, pp. 1025-1040.
46 See Records Verification Report dated 06 November 2018, id., p. 1042.
47 Dated 30 January 2019, id., pp. 1048-1049.
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Exhibit	Description
"P-4"	Certificate of Registration with COR No. OCN 9RC0000777961E issued by the BIR RDO 51.
"P-5"	Letter dated 21 December 2016 stamped received by RDO 50 on 29 December 2016.
"P-5-A"	BIR Form No. 1914 (Application for Tax Credits/Refunds) stamped received on 29 December 2016 by RDO 50.
"P-6"	Checklist of Mandatory Requirements for Claims for VAT Credit/Refund which was attached to the BIR Form No. 1914 and filed with RDO 50 on 29 December 2016.
"P-7"	Letter addressed to Mr. "VIRGILIO R. CEMBRANO" dated 06 January 2017.
"P-7-B"	Checklist of Mandatory Requirements for Claims for VAT Credit/Refund received on 09 January 2017 by RDO 51 with relevant attachments previously submitted to, and received by, RDO 50.

49 Division Docket, Volume III, pp. 1050-1059.
50 See Records Verification Report dated 01 April 2019, id., p. 1063.
51 See Resolution dated 22 May 2019, id., pp. 1067-1070.
52 See Order dated 23 May 2019, id., p. 1072.
53 Id., pp. 1075-1102.
54 See Motion for Extension to File Memorandum filed on 21 June 2019, id., pp. 1105-1106; and Resolution dated 30 July 2019, id., p. 1118.

respondent filed a "Motion to Admit Respondent's Memorandum"[55] praying for the admission of the attached Memorandum.[56] Thereafter, the Third Division ordered petitioner to comment on the said motion.[57] In its Comment[58], petitioner prayed for the denial of the said motion stating that there was no good and sufficient cause to warrant the relaxation of procedural rules. In a Resolution dated 13 September 2019, the Third Division admitted respondent's Memorandum[59] and submitted the case for decision.[60]

On 16 September 2020, the Third Division rendered the assailed Decision denying the petitioner's Petition for Review.[61] The dispositive portion thereof reads:

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

In the Third Division's assailed Decision, it found that petitioner failed to establish that its sales transaction with EDC are subject to zero-rated VAT because it failed to present the alleged requisite Certificate of Endorsement (**COE**) issued to EDC by the Department of Energy (**DOE**) on a *per* transaction basis, pursuant allegedly to the conditions set forth under Section 18(C)[62] of the of DOE Circular No. DC2009-05-0008 (also known as the Implementing Rules and Regulation [**IRR**] of Republic Act [**RA**] No. 9513 or the *Renewable Energy Act of 2008*).

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55 Filed through registered mail on 19 July 2019, id., pp. 1108-1110.
56 Id., pp. 1111-1115.
57 See Resolution dated 08 August 2019, id., p. 1120.
58 See Comment (To Respondent's Motion to Admit Memorandum dated 15 July 2019), id., pp. 1121-1127.
59 Id., pp. 1132-1134.
60 See Resolution dated 20 September 2019, id., p. 1136.
61 Supra at note 3.
62 **SEC. 18. Conditions for Availment of Incentives and Other Privileges.**
...
C. Certificate of Endorsement by the DOE
RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided for in the Act only after securing a Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.
...

Petitioner sought reconsideration of the assailed Decision but to no avail.[63] On 03 March 2021, the Third Division rendered the similarly assailed Resolution[64] denying petitioner's Motion for Reconsideration (**MR**). In denying petitioner's MR, the Third Division held that the requirement of COE under Section 18(C) of the IRR of RA 9513 makes no distinction as to what type of incentive is covered.

Unsatisfied with the Third Division's rulings, petitioner filed the instant Petition for Review before the Court *En Banc*.[65] In the Resolution dated 29 July 2021[66], the Court *En Banc* ordered respondent to file his or her comment to the said petition. On 08 February 2022, without respondent's comment[67], the Court *En Banc* submitted the case for decision.[68]

ISSUE

Based on the arguments presented, the central issue for the Court *En Banc*'s resolution is —

> WHETHER THE THIRD DIVISION ERRED IN DENYING PETITIONER VESTAS SERVICES PHILIPPINES, INC.'S ENTITLEMENT TO A TAX REFUND, REPRESENTING ITS EXCESS AND/OR UNUTILIZED INPUT VALUE-ADDED TAX (VAT) CREDITS ATTRIBUTABLE TO ITS ZERO-RATED SALES FOR THE FOURTH QUARTER OF CALENDAR YEAR 2014 IN THE AMOUNT OF ₱92,042,554.03.

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63 See Motion for Reconsideration (Re: Decision dated 16 September 2020) filed by petitioner on 15 October 2020, Division Docket, Volume III, pp. 1156-1167; Respondent failed to file its comment *per* Records Verification Report dated 18 December 2020, id., p. 1170.

64 Supra at note 4.

65 Supra at note 1. Prior to the filing of the Petition for Review, petitioner filed a Motion for Extension of Time to File Petition for Review on 25 March 2021 through registered mail [*Rollo*, pp. 64-68]. The motion was granted through the Resolution dated 22 June 2021. In the same resolution, petitioner was ordered to submit the Affidavit of Service for the filed petition [id., pp. 72-74]. Petitioner submitted the Affidavit of Service through the Compliance with the Resolution dated 22 June 2021 [id., pp. 75-80].

66 *Rollo*, pp. 83-84.

67 See Records Verification dated 11 November 2021, id., p. 85.

68 See Resolution dated 08 February 2022, id., pp. 87-88.

ARGUMENTS

In support of its present petition, petitioner insists that it filed its administrative claim within the two (2)-year prescriptive period after the close of the taxable quarter when the sales were made. Petitioner argues that although RDO No. 51 received its application for VAT credit/refund on 09 January 2017, it initially filed the said application before RDO No. 50 on 29 December 2016. Upon being notified of the transfer of its records to RDO No. 51, petitioner immediately forwarded its application for VAT credit/refund to the latter office. Nonetheless, since RDO No. 50 received the application, it was already given due course. Moreover, both RDO No. 50 and RDO No. 51 are authorized to process and approve the VAT credit/refund claims. Citing Revenue Memorandum Circular (**RMC**) No. 66-08[69], petitioner avers that newly transferred taxpayers must not be penalized for filing documents with the original RDO. It then claims that the government must not resort to technicalities to enrich itself at the expense of law-abiding citizens.

Petitioner alleges further that it is engaged in zero-rated or effectively zero-rated sales to EDC and that the Third Division erred in its findings that it is not entitled to a tax refund or tax credit (since it failed to show that the DOE issued a COE to EDC [as an RE Developer] on a *per* transaction basis). It argues that:

I. Section 108(B)(3)[70] of the NIRC of 1997, as amended, states that services performed by VAT-registered person shall be subject to zero percent (0%) if it is rendered to entities whose exemption under special laws effectively subjects the supply of services to 0% rate.

   In relation thereto, Section 15(g)[71] of RA 9513 provides that RE developers are entitled to 0% VAT for the purchases of local

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69 Filing and Payment of Tax Returns of Newly Transferred Taxpayers.

70 **SEC. 108.** *Value-Added Tax on Sale of Services and Use or Lease of Properties.* —
...
(B) *Transactions Subject to Zero Percent (0%) Rate.* — ...
...
(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[.]
...

71 **Sec. 15.** *Incentives for Renewable Energy Projects and Activities.* — RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE

supply of goods and services needed for the development, construction and installation of its plant facilities.

In addition, Section 13(G)(b)[72] of the IRR of RA 9513 provides that purchases of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE developers are subject to 0% VAT.

Thus, as petitioner rendered its services to EDC, a registered RE Developer, its 4^{th} quarter sales to EDC were subjected to 0% VAT;

II. The requirement of COE under Section 18(C)[73] of the IRR of RA 9513 only pertains to local purchases of RE equipment and applies only to manufacturers, fabricators and suppliers of

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component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

...

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

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

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

...

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

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

...

G. ***Zero Percent Value-Added Tax Rate***

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

...

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

...

73 **SEC. 18. Conditions for Availment of Incentives and Other Privileges.**

...

C. Certificate of Endorsement by the DOE

RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided for in the Act only after securing a Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.

...

locally-produced RE equipment. It does *not* pertain to other fiscal incentives granted under RA 9513 and accordingly does *not* extend to the purchase of services relating to the development, construction, and installation of the plant facilities of RE Developers.

Since petitioner does not claim to be an RE Developer, manufacturer, fabricator or supplier of locally-produced RE equipment, it is not required to submit the necessary certifications under Section 18 of the IRR;

III. Section 15[74] of RA 9513 requires DOE endorsement only for the importation of RE machinery, equipment, and materials. All

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

(a) Income Tax Holiday (ITH) — For the first seven (7) years of its commercial operations, the duly registered RE developer shall be exempt from income taxes levied by the National Government.

Additional investments in the project shall be entitled to additional income tax exemption on the income attributable to the investment: *Provided*, That the discovery and development of new RE resource shall be treated as a new investment and shall therefore be entitled to a fresh package of incentives: *Provided, further*, That the entitlement period for additional investments shall not be more than three (3) times the period of the initial availment of the ITH.

(b) Duty-free Importation of RE Machinery, Equipment and Materials — Within the first ten (10) years upon the issuance of a certification of an RE developer, the importation of machinery and equipment, and materials and parts thereof, including control and communication equipment, shall not be subject to tariff duties: *Provided, however*, That the said machinery, equipment, materials and parts are directly and actually needed and used exclusively in the RE facilities for transformation into energy and delivery of energy to the point of use and covered by shipping documents in the name of the duly registered operator to whom the shipment will be directly delivered by customs authorities: *Provided, further,* That endorsement of the DOE is obtained before the importation of such machinery, equipment, materials and parts is made.

Endorsement of the DOE must be secured before any sale, transfer or disposition of the imported capital equipment, machinery or spare parts is made: *Provided*, That if such sale, transfer or disposition is made within the ten (10)-year period from the date of importation, any of the following conditions must be present:

(i) If made to another RE developer enjoying tax and duty exemption on imported capital equipment;

(ii) If made to a non-RE developer, upon payment of any taxes and duties due on the net book value of the capital equipment to be sold;

(iii) Exportation of the used capital equipment, machinery, spare parts or source documents or those required for RE development; and

(iv) For reasons of proven technical obsolescence.

When the aforementioned sale, transfer or disposition is made under any of the conditions provided for in the foregoing paragraphs after ten (10) years from the date of importation, the sale, transfer or disposition shall no longer be subject to the payment of taxes and duties[.]

(c) Special Realty Tax Rates on Equipment and Machinery — Any law to the contrary notwithstanding, realty and other taxes on civil works, equipment, machinery, and other improvements of a [r]egistered RE Developer actually and exclusively used for RE facilities shall not exceed one and a half percent (1.5%) of their original cost less accumulated normal depreciation or net book value: *Provided,* That in case of an integrated resource development and generation facility as provided under Republic Act No. 9136, the real property tax shall only be imposed on the power plant[.]

(d) Net Operating Loss Carry-Over (NOLCO) — The NOLCO of the RE Developer during the first three (3) years from the start of commercial operation which had not been previously offset as deduction from gross income shall be carried over as a deduction from gross income for the next seven (7) consecutive taxable years immediately following the year of such loss: *Provided, however,* That operating loss resulting from the availment of incentives provided for in this Act shall not be entitled to NOLCO[.]

(e) Corporate Tax Rate — After seven (7) years of income tax holiday, all RE Developers shall pay a corporate tax of ten percent (10%) on its net taxable income as defined in the National Internal Revenue [Code (NIRC)] of 1997, as amended by Republic Act No. 9337: *Provided,* That the RE Developer shall pass on the savings to the end-users in the form of lower power rates.

(f) Accelerated Depreciation — If, and only if, an RE project fails to receive an ITH before full operation, it may apply for Accelerated Depreciation in its tax books and be taxed based on such: *Provided,* That if it applies for Accelerated Depreciation, the project or its expansions shall no longer be eligible for an ITH. Accelerated depreciation of plant, machinery, and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of the Department of Finance and the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended. Any of the following methods of accelerated depreciation may be adopted:

(i) Declining balance method; and

(ii) Sum-of-the years digit method.

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

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

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

(h) Cash Incentive of Renewable Energy Developers for Missionary Electrification — A renewable energy developer, established after the effectivity of this Act, shall be entitled to a cash generation-based incentive per kilowatt-hour rate generated, equivalent to fifty percent (50%) of the universal charge for power needed to service missionary areas where it operates the same, to be chargeable against the universal charge for missionary electrification.

(i) Tax Exemption of Carbon Credits — All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

other incentives, including VAT zero-rated status of local purchases of goods and services, make no reference to a DOE endorsement for availment of such incentives; and,

IV. Section 25[75] of RA 9513 provides that the COR issued to RE Developers is the only basis for the entitlement to the fiscal incentives enumerated under Section 15 of RA 9513.

With the COR issued to petitioner by the DOE and the Board of Investment (**BOI**), coupled with the contracts between EDC and petitioner, there is factual and legal basis to consider the latter's sales to EDC as zero-rated.

V. DOE - Renewable Energy Management Bureau (**REMB**) only processes COE for duty-free importations. Hence, DOE-REMB cannot issue a separate COE for purposes of availing the VAT zero-rating on local purchases of goods and services.

Lastly, petitioner claims that the principle of *strictissimi juris* applies only when the taxpayer fails to meet the quantum of evidence required to prove its entitlement to tax credit/refund. Since it was able to prove its substantial compliance and entitlement, its application for VAT credit/refund claim should be granted.

RULING OF THE COURT *EN BANC*

Before going into the merits of the case, We deem it propitious to first resolve whether the Court in Division acquired jurisdiction over the original Petition for Review filed on 26 May 2017.

(j) Tax Credit on Domestic Capital Equipment and Services — A tax credit equivalent to one hundred percent (100%) of the value of the value-added tax and customs duties that would have been paid on the RE machinery, equipment, materials and parts had these items been imported shall be given to an RE operating contract holder who purchases machinery, equipment, materials, and parts from a domestic manufacturer for purposes set forth in this Act: *Provided*, That prior approval by the DOE was obtained by the local manufacturer: *Provided, further*, That the acquisition of such machinery, equipment, materials, and parts shall be made within the validity of the RE operating contract.

75 Sec. 25. ***Registration of RE Developers and local manufacturers, fabricators and suppliers of locally-produced renewable energy equipment.*** — RE Developers and local manufacturers, fabricators and suppliers of locally-produced renewable energy equipment shall register with the Department of Energy, through the Renewable Energy Management Bureau. Upon registration, a certification shall be issued to each RE Developer and local manufacturer, fabricator and supplier of locally-produced renewable energy equipment to serve as the basis of their entitlement to incentives provided under Chapter VII of this Act.

In the assailed Decision, the Third Division ruled that petitioner's administrative claim was timely filed. The pertinent part of the assailed Decision provides:

> ...
>
> In the instant case, the present claim covers the 4th quarter of CY 2014. Counting two (2) years from the close of the 4th quarter of CY 2014, petitioner had two (2) years after the close of the taxable quarter on December 31, 2014 or until December 31, 2016 within which to file its claim for refund. **Petitioner's administrative claim for refund for the 4th quarter of CY 2014 was filed with the BIR RDO No. 50, on December 29, 2016. Thus, the same was timely filed.**[76]
>
> ...

However, after an assiduous review of the records, the Court *En Banc* is constrained to rule otherwise. The reasons are essayed below:

I. THE TWO-YEAR PRESCRIPTIVE PERIOD TO FILE THE ADMINISTRATIVE CLAIM ENDS ON 31 DECEMBER 2016.

According to Section 112(A) of the NIRC of 1997, as amended, the application for VAT credit/refund must be filed within 2 years from the close of the taxable quarter when the sales were made. The relevant provision states:

> ...
>
> **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

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76 See Decision dated 16 September 2020, supra at note 3, pp. 1147-1148; Citations omitted and emphasis supplied.

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.

...

In relation thereto, Section 4.112-1 (a) of Revenue Regulations (**RR**) No. 16-2005[77] echoes the same prescriptive period, *viz*:

...

SEC. 4.112-1. *Claims for Refund/Tax Credit Certificate of Input Tax.* -

(a) **Zero-rated and Effectively Zero-rated Sales of Goods, Properties or Services**

A VAT-registered person whose sales of goods, properties or services are zero-rated or effectively zero-rated may apply for the issuance of a tax credit certificate/refund of input tax attributable to such sales. The input tax that may be subject of the claim shall exclude the portion of input tax that has been applied against the output tax. The application should be filed within two (2) years after the close of the taxable quarter when such sales were made.[78]

...

Here, petitioner is seeking for the VAT credit/refund of its unutilized input VAT for the 4th quarter (October to December) of CY 2014. The close of the said taxable quarter was on **31 December 2014**. Counting 2 years therefrom, petitioner had until 31 December 2016[79] to

[77] Consolidated Value-Added Tax Regulations of 2005.

[78] Emphasis, italics and underscoring in the original text and supplied.

[79] In the case of *Commissioner of Internal Revenue, et al. v. Primetown Property Group, Inc.* (G.R. No. 162155, 28 August 2007), the Supreme Court ruled that in computing years, the provision of Executive Order (EO) 292 or the Administrative Code of 1987 must be followed. The relevant portions state:

...

> The rule is that the two-year prescriptive period is reckoned from the filing of the final adjusted return. But how should the two-year prescriptive period be computed?
>
> As already quoted, Article 13 of the Civil Code provides that when the law speaks of a year, it is understood to be equivalent to 365 days. In *National Marketing Corporation v. Tecson*, we ruled that a year is equivalent to 365 days regardless of whether it is a regular year or a leap year.

file its administrative claim for VAT credit/refund. Hence, petitioner can file its administrative claim for refund or issuance of tax credit certificate anytime within the 2-year prescriptive period (or until 31 December 2016). If petitioner filed its claim on the last day of the 2-year prescriptive period, its claim would have still been filed on time.[80]

II. RDO NO. 51 HAS JURISDICTION OVER PETITIONER'S PRINCIPAL PLACE OF BUSINESS IN PASAY CITY.

Corollarily, Section 4.112-1(c) of RR No. 16-2005 provides:

...

SEC. 4.112-1. ***Claims for Refund/Tax Credit Certificate of Input Tax.*** -

...

(c) Where to file the claim for refund/tax credit certificate

Claims for refunds/tax credit certificate shall be filed with the appropriate BIR office (Large Taxpayers Service (LTS) or Revenue District Office (RDO) having jurisdiction over the principal place of business of the taxpayer; *Provided*, however, that direct exporters may also file their claim for tax credit certificate with the One Stop Shop Center of the Department of Finance; *Provided*, finally, that the

---

However, in 1987, EO 292 or the Administrative Code of 1987 was enacted. Section 31, Chapter VIII, Book I thereof provides:

Sec. 31. *Legal Periods.* — "Year" shall be understood to be twelve calendar months; "month" of thirty days, unless it refers to a specific calendar month in which case it shall be computed according to the number of days the specific month contains; "day", to a day of twenty-four hours and; "night" from sunrise to sunset.

A calendar month is "a month designated in the calendar without regard to the number of days it may contain." It is the "period of time running from the beginning of a certain numbered day up to, but not including, the corresponding numbered day of the next month, and if there is not a sufficient number of days in the next month, then up to and including the last day of that month." To illustrate, one calendar month from December 31, 2007 will be from January 1, 2008 to January 31, 2008; one calendar month from January 31, 2008 will be from February 1, 2008 until February 29, 2008.

...

(Emphasis and citations omitted)

80 *Team Energy Corporation (Formerly Mirant Pagbilao Corp.)* v. *Commissioner of Internal Revenue*, G.R. No. 190928, 13 January 2014.

> filing of the claim with one office shall preclude the filing of the same claim with another office.[81]
>
> ...

It is clear from the foregoing that the application for VAT credit/refund *shall* be filed in the RDO having jurisdiction over the taxpayer's principal place of business. The use of the word "shall" underscores the mandatory character of the rule. The term "shall" is a word of command and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory.[82]

In the instant case, petitioner's previous principal place of business was at 31/F Tower II RCBC Plaza Ayala Ave. corner Sen. Gil Puyat Ave., Makati City, Philippines. This was reflected in petitioner's original AOI executed on 07 December 2009.[83] Accordingly, petitioner was duly registered in RDO No. 50 with COR No. OCN 9RC0000382508.[84]

Subsequently, petitioner transferred its principal place of business to **12th floor, Five ECom, Harbor Drive, Mall of Asia Complex, Pasay City, Philippines** as evidenced in its Amended AOI[85] which provides:

> ...
>
> THIRD: That the place where the principal office of the Corporation is to be established and/or located is in: ***12/F Five E-Com Center, Harbor Drive, Mall of Asia Complex, Pasay City, Philippines 1300***. (As amended on April 25, 2015)
>
> ...

The Certificate of Filing of Amended AOI was approved on 29 June 2016.[86] Petitioner then filed for the transfer of its BIR registration. Currently, petitioner is registered with RDO No. 51 and issued with

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81 Emphasis, italics and underscoring in the original text and supplied.
82 *Fil-Estate Properties, Inc., et al.* v. *Hon. Marietta J. Homena-Valencia, et al.*, G.R. No. 173942, 15 October 2007.
83 Part of Exhibit "P-1", Division Docket, Volume I, pp. 203-209.
84 Supra at note 7.
85 Supra at note 9.
86 Division Docket, Volume I, p. 210.

COR 9RC0000777961E.[87] Hence, the RDO that has jurisdiction over petitioner's principal place of business is RDO No. 51.

III. PETITIONER WAS INFORMED OF THE TRANSFER OF ITS BUREAU OF INTERNAL REVENUE (BIR) REGISTRATION ON 12 DECEMBER 2016.

Relative to the transfer of registration, RR No. 05-2010[88], as amended by RR No. 07-2012[89], provides that the new RDO shall inform and/or notify the taxpayer that the transfer of its registration has already been completed, *viz*:

> ...
> **SECTION 10. TRANSFER OF REGISTRATION. — ...**
> ...
> **5. Filing of Tax Returns. — The filing of tax returns and payment of taxes to the new BIR district office shall commence following the issuance of the new COR. The new BIR district office shall be responsible for notifying the taxpayer concerned that the transfer of registration has already been completed.**[90]
> ...

Here, petitioner was issued with the new COR dated 12 December 2016 from RDO No. 51. Petitioner's own witness, Monteras, confirmed this in his amended Judicial Affidavit. We quote:

> ...
> 14. **Q: You likewise mentioned earlier that VSPI is a VAT-registered entity. What is your proof, if any, that VSPI is registered for VAT purposes?**
>
> A: VSPI's VAT registration is shown in its old Certificate of Registration ("COR") issued by RDO 50 (i.e., effective during CY 2015) and in its new COR issued by RDO 51.

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87 Supra at note 8.
88 Amending Sections 3 (D) and 12 of Revenue Regulations No. 11-2008 Pertaining to the Provisions on the Issuance of TIN Card and the Transfer of Registration.
89 Amended Consolidated Revenue Regulations on Primary Registration, Updates, and Cancellation.
90 Emphasis supplied.

15. **Q: You mentioned that VSPI was issued CORs by both RDO 50 and RDO 51, why is this so?**

A: From 05 January 2010 to 16 December 2016, VSPI was registered with RDO 50, as its office was previously located in Makati City. When VSPI transferred its office to Pasay City, it also transferred its BIR registration to RDO 51. When it applied for transfer of registration on 24 November 2016, VSPI surrendered the original COR to RDO 50 for cancellation. RDO 51 then issued a new COR.[91]

...

Clearly, upon the issuance of the new COR, petitioner was already notified of the completion of the transfer of its registration. Monteras again confirmed this during his cross-examination:

...

ATTY. HUSSIN

Q. Were you informed of the formal transfer of your business registration from RDO 50 to 51?

MR. MONTERAS

A. **Yes, I was informed.**

ATTY. HUSSIN

Q. How are you informed of the said transfer, Mr. Witness?

MR. MONTERAS

A. I just cannot remember the date, **but we received the COR stating that we are now registered in RDO 51.**[92]

...

What remains uncertain is when petitioner was actually informed of the completion of the transfer of its BIR registration. In its petition[93], petitioner claims that it was only on 06 January 2017 (after it inquired about the status of its application for VAT credit/refund)

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[91] See Amended Judicial Affidavit of Ian Jasper E. Monteras, supra at note 36. Emphasis in the original and underscoring supplied.

[92] See TSN dated 11 October 2018, pp. 10-11; Emphasis supplied.

[93] Supra at note 1.

when it learned of the completion of the said transfer.[94] Ironically, however, its own witness declared in open court during the re-direct examination that it received the new COR in December 2016. Monteras testified, to wit:

> ...
> ATTY. CORDOVA
>
> Q. In your cross-examination **you were asked whether the VSPI know the transfer to RDO 50 to 51 is effective already?**
>
> MR. MONTERAS
>
> A. **Upon receipt of the Certificate of Registration from RDO 51.**
>
> ATTY. CORDOVA
>
> Q. When did you receive this Certificate of Registration?
>
> MR. MONTERAS
>
> A. **I just cannot remember the date, it is during [the] middle of December.**[95]
>
> ...

From the testimony above, We can deduce that the issuance of the new COR and petitioner's receipt thereof were both made on 12 December 2016. Briefly, We summarize the following indisputable facts:

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94 **E. VSPI FILED ITS ADMNISTRATIVE CLAIM FOR REFUND WITHIN THE TWO (2)-YEAR PRESCRIPTIVE PERIOD**

...

3.36 Since VSPI's claim for refund for the fourth quarter of 2014 was filed on 29 December 2016 with RDO 50, the administrative claim was timely filed. VSPI's claim for refund was filed with RDO 50 on said date because the records of VSPI was still with the said RDO.

3.37 On 06 January 2017, after having reviewed VSPI's application for refund, RO Ilagan of RDO 50 advised VSPI via telephone call to forward its application to RDO 51 as the transfer of records had been completed by 12 December 2016. Hence, on the same date, VSPI forwarded the same documents submitted to RDO 50 to RDO 51. It was received by the Administrative Section of RDO 51 on the same date.

95 TSN dated 11 October 2018, p. 15; Emphasis supplied.

1. The last day to file petitioner's administrative claim for VAT credit/refund ended on 31 December 2016;
2. RDO No. 51 has jurisdiction over petitioner's principal place of business; and,
3. Petitioner was informed of the completion of the transfer of its BIR registration to RDO No. 51 on 12 December 2016.

IV. PETITIONER DELIBERATELY FILED ITS APPLICATION FOR VALUE-ADDED TAX (VAT) CREDIT/REFUND IN THE WRONG VENUE.

Based on the above and the pertinent law and regulation, petitioner should have filed its administrative claim before RDO No. 51 on or before 31 December 2016.

A scrutiny of the records reveals clearly that petitioner filed its application for VAT credit/refund before **RDO No. 50** on **29 December 2016.**[96] It filed its application for VAT credit/refund before **RDO No. 51** only on **09 January 2017.**[97] Certainly, petitioner filed its administrative claim beyond the 2-year prescriptive period. Thus, respondent is correct in denying petitioner's application for VAT credit/refund for having been filed out of time.[98]

Petitioner argues further that since RDO No. 50 received its application for VAT credit/refund on 29 December 2016, the administrative claim was given due course and the same was timely filed. In addition, petitioner contends that RDO No. 50 cannot belatedly invoke that it has no jurisdiction when it had already received the application.

We do not agree.

During the re-cross examination of petitioner's witness, Monteras admitted that despite *earlier* knowledge of the completion of transfer of its registration to RDO No. 51, petitioner still filed its

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[96] See Exhibits "P-5", "P-5-A", and "P-6", Division Docket, Volume II, pp. 996-998.

[97] See Exhibit "P-7", id., p. 999; "P-7-A", BIR Records, p. 679; and "P-7-B", Division Docket, Volume I, p. 228.

[98] See Letter of Denial Letter, supra at note 18.

application for VAT credit/refund with RDO No. 50. The significant parts state:

> ...
> ATTY. HUSSIN
>
> Q Why was it necessary for you to file your application with RDO 51?
>
> MR. MONTERAS
>
> A Because they informed us that the records has been transferred to RDO 51.
>
> ATTY. HUSSIN
>
> Q But you have already filed your application with RDO 50 and why was it necessary for you to file another application with another RDO?
>
> MR. MONTERAS
>
> A Because that's how RDO 50 representative has instructed us to do.
>
> ATTY. HUSSIN
>
> Q **You are aware of the transfer of registration and jurisdiction from RDO 50 to RDO 51 and despite that knowledge, you still filed an Application for Refund with the wrong Revenue District Office that is why the Revenue Officer informed you that you have to refile it with RDO 51?**
>
> MR. MONTERAS
>
> A **Yes, sir.**[99]
>
> ...

This declaration is likewise borne by its own previous Petition for Review before the Third Division where petitioner stated that due to uncertainty and lack of knowledge of the relevant law, it decided to file its application for VAT credit/refund in the old RDO. The records tell:

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[99] See TSN dated 11 October 2018, pp. 16-17; Emphasis supplied.

...

6.27. As of this time, **VSPI was not certain if its administrative claim for refund should be filed in RDO 51** since all of its returns and submissions for the fourth quarter of CY 2014 were filed with RDO 50. ...

...

6.29 There is **nothing in Section 112 of the NIRC or RMC 54-14 that requires that the administrative claim for refund be filed with a particular RDO**, in contrast to the filing of returns and payment of taxes which must be filed where the principal office of the corporation is located or where its main books of account are kept.[100]

...

The declarations, verbal and written, are judicial admissions. Section 4, Rule 129 of the Revised Rules of Evidence, as amended[101], defines judicial admission as:

...

Section 4. *Judicial admissions.* - An admission, oral or written, made by the party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that the imputed admission was not, in fact, made.

...

A party may make judicial admissions in (1) the pleadings; (2) during the trial, by verbal or written manifestations or stipulations; or, (3) in other stages of the judicial proceeding. The veracity of judicial admissions requires no further proof and may be controverted only upon a clear showing that the admissions were made through palpable mistake or that no admissions were made.[102] As petitioner did not deny the admissions nor claim that these were made through palpable mistake, the admitted facts are incontrovertible.

With the foregoing, it becomes unequivocal that petitioner was indeed informed and/or notified of the completion of transfer of its registration to RDO No. 51 *prior* to the filing of its application for VAT

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100 Petition for Review, supra at note 19, p. 26; Emphasis supplied.
101 A.M. No. 19-08-15-SC.
102 *Jesus Cuenco* v. *Talisay Tourist Sports Complex, Incorporated, et al.*, G.R. No. 174154, 17 October 2008.

credit/refund. However, it deliberately filed its application for VAT credit/refund in the wrong venue.

In sum, since petitioner failed to file its administrative claim within the 2-year prescriptive period before the RDO that has jurisdiction over its principal place of business, petitioner's claim for tax refund before the Court in Division should fail. Furthermore, tax refunds are in the nature of tax exemptions; the statutes therefor are construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.[103]

Considering that the Court in Division failed to validly acquire jurisdiction over the original Petition for Review before it and with the above disquisitions, the Court *En Banc* will no longer delve on the other matters raised by petitioner.[104]

WHEREFORE, the foregoing considered, the present Petition for Review filed by petitioner Vestas Services Philippines, Inc. on 19 May 2021 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[103] *Philippine Phosphate Fertilizer Corporation* v. *Commissioner of Internal Revenue*, G.R. No. 141973, 28 June 2005.

[104] *Bernadette S. Bilag, et al.* v. *Estela Ay-Ay, et al.*, G.R. No. 189950, 24 April 2017.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice