REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CARMEN COPPER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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CTA EB NO. 2629
(CTA Case No. 9659)

Present:
Del Rosario, *P.J.,*
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David, *and*
Ferrer-Flores, *JJ.*

Promulgated:
AUG 0 2 2023

DECISION

RINGPIS-LIBAN, J.

Before the Court *En Banc* is a Petition for Review[1] appealing the Decision of the Second Division of this Court (Court in Division), promulgated on September 10, 2020 in CTA Case No. 9659 entitled, *"Carmen Copper Corporation vs. Commissioner of Internal Revenue,"* the dispositive portion thereof reads:

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

and the Resolution dated April 20, 2022, the dispositive portion thereof reads:

[1] Rollo, CTA EB No. 2629, pp. 8-38, with annexes.

"**WHEREFORE,** premises considered, petitioner's Motion for Reconsideration and Supplement to the Motion for reconsideration are both **DENIED** for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner Carmen Copper Corporation is a domestic corporation duly organized and existing under Philippine laws, with principal office at unit 502-P & 503-P, 5/F, Five E-Com Center, Palm Coast Avenue corner Pacific Drive, Mall of Asia Complex, Barangay 76, Pasay City. It is registered with the Bureau of Internal Revenue (BIR) as a value-added tax (VAT) taxpayer, with Tax Identification Number 233-903-100-0000. It is also registered with the Board of Investments (BOI) as a new producer of copper concentrates under Certificate of Registration No. 2006-158 dated December 13, 2006.[2]

Respondent Commissioner of Internal Revenue the duly appointed Commissioner of Internal Revenue empowered to perform the duties of the said office including, among others, the power to decide, approve and grant tax refunds or tax credits as provided for by law, with office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

THE FACTS

On March 24, 2017, petitioner filed an Application for Tax Credits/Refunds (BIR Form No. 1914) with the Large Taxpayers Service, for the period of January 1, 2015 to March 31, 2015 in the amount of ₱60,174,235.61.[4]

On March 31, 2017, a Letter of Authority (LOA) No. AUDM03/011073/2017 (SN:2LOA201500034571)[5] was issued by OIC-Assistant Commissioner Teresita M. Angeles of the Large Taxpayers Service (LTS), authorizing Revenue Officers (RO)s Saidamen Marohombsar, Alexander Atienza, Leonila Manuel and Group Supervisor Ronaldo Camba of Revenue District Office (RDO) No. 121-Excise Large Taxpayer Division I, to examine petitioner's books of accounts for VAT Tax Credit Certificate (TCC)/Refund for the period covering January 1, 2015 to March 31, 2015.

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[2] Decision page 2.
[3] Ibid., p. 2.
[4] Exhibit "P-5."
[5] Exhibit "R-1."

On August 16, 2017, petitioner received the letter dated June 8, 2017[6] signed by OIC-Assistant Commissioner Teresita M. Angeles, which partially granted petitioner's claim in the reduced amount of ₱48,780,741.60.

On August 22, 2017, petitioner filed a Petition for Review before the Court in Division, docketed as CTA Case No. 9659, entitled *"Carmen Copper Corporation vs. Commissioner of Internal Revenue."*

On November 24, 2017, respondent filed his Answer[7] stating that petitioner's claim for refund in the total amount of ₱11,393,494.01 has no bases in fact and in law. Hence, the petition should be denied.

The Pre-Trial Conference of the case was held on March 1, 2018.[8]

On March 23, 2018, the parties filed their Joint Stipulation of Facts and Issues.[9]

In the Resolution dated April 5, 2018, the Court approved the Joint Stipulation of Facts and Issues and deemed the termination of the Pre-Trial Conference.[10]

The Pre-Trial Order was issued on April 23, 2018.[11]

In the Joint Stipulation of Facts and Issues, the parties agreed that the main issue to be resolved by the Court in Division was "Whether or not petitioner is entitled to a tax refund or issuance of TCC on its allegedly unutilized input taxes in the amount of Php11,393,494.01."

After trial on the merits and upon submission of parties' respective memoranda[12], the case was submitted for decision on October 9, 2019.[13]

On September 10, 2020, the Court in Division rendered the questioned Decision.[14] On April 20, 2022, the Court in Division issued the assailed Resolution.[15]

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[6] Exhibit "P-6."
[7] Docket, pp. 78-83.
[8] Ibid., pp. 112-115.
[9] Ibid., pp. 227-234.
[10] Ibid., pp. 236-237.
[11] Ibid., pp. 253-258.
[12] Ibid., Respondent's Memorandum, pp. 369-376; Petitioner's Memorandum, pp. 380-394.
[13] Ibid., pp. 396-398.
[14] Ibid., pp. 408-439.
[15] Ibid., pp. 557-573.

Aggrieved, petitioner filed before the Court *En Banc* the instant Petition for Review.

On August 3, 2022, the Court *En Banc* issued a Resolution[16] ordering respondent to file its Comment on the Petition for Review, within ten (10) days from notice.

On August 11, 2022, respondent filed his Comment (Re: Petition for Review).[17]

On August 30, 2022, the Court *En Banc* issued a Resolution[18] submitting this case for decision.

THE ISSUE

The Court *En Banc* is confronted with this main issue: ***"Whether the Court in Division erred in ruling that respondent is not entitled to refund in the aggregate amount of ₱11,393,494.01 representing unutilized input value-added tax on purchases of goods and services, and importation of goods, all attributable to zero-rated sales for the 1st quarter of 2015."***

THE ARGUMENTS OF THE PARTIES

Petitioner states that the Court in Division erred in not holding that respondent is required by law and the Constitution to provide sufficient explanation and specific legal bases for its denial of claim for VAT refund in compliance with due process; that the Court in Division erred in holding that a sale of BOI-registered enterprise is not covered by Section 106(A)(2)(a)(5), of the Tax Code; that the Court in Division erred in preventing the petitioner from complying with the accounting standards and principles on accrual and recognition of sales; that the Court in Division erred in its ruling that a BOI-registered entity cannot be passed on with VAT by all of its local suppliers of goods and services; that the formula that the Court in Division used in computing the allocable input taxes to the different classes of sales is mathematically wrong; and that the Court in Division went beyond its jurisdiction when it ruled on issues not disputed by the parties.

On the other hand, respondent states that it is incumbent upon petitioner to prove that it is entitled to refund; that petitioner failed to present sufficient evidence that the recipient of the services are persons engaged in business conducted outside the Philippines when the services were performed. Hence,

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[16] Rollo, CTA EB NO. 2629, pp. 100-101.
[17] Ibid. pp. 102-105.
[18] Ibid. pp. 107-108.

petitioner failed to discharge its burden of establishing its claim for a tax refund or credit.

RULING OF THE COURT *EN BANC*

After a careful review of petitioner's arguments and the records of the case, the Court *En Banc* finds no reason to reverse the assailed Decision and assailed Resolution of the Court in Division. The records of the case show that the Court in Division had fully and exhaustively resolved the issues raised in this petition. The Court *En Banc* notes that the arguments presented herein are basically the same arguments offered by petitioner in its Motion for Reconsideration before the Court in Division. Nonetheless, the Court *En Banc* shall pass upon petitioner's arguments to stress the salient points in the assailed Decision and Resolution.

TIMELINESS OF THE PETITION FOR REVIEW

The present Petition for Review before the Court *En Banc* was timely filed.

On September 30, 2020, petitioner received a copy of the Decision dated September 10, 2020. Then, on October 15, 2020 petitioner filed a "Motion for Reconsideration (With Motion for Leave of Court to Reopen the Case for the Recall of a Witness),"[19] which was eventually denied by the Court in Division in its Resolution dated April 20, 2022.[20] The said Resolution was received by petitioner on May 19, 2022. Thus, petitioner had until June 3, 2022 within which to file the instant Petition for Review. On June 2, 2022, petitioner filed a "Motion for Extension of Time to File Petition for Review,"[21] praying for an additional period of fifteen (15) days from June 3, 2022, or until June 18, 2022, within which to file the Petition for Review. On June 6, 2022, the Court *En Banc* issued a Minute Resolution[22] granting petitioner's "Motion for Motion for Extension of Time to File Petition for Review." On June 20, 2022,[23] petitioner filed by registered mail the instant Petition for Review. Hence, this Petition for Review was timely filed.

WHETHER RESPONDENT IS ENTITLED TO ITS CLAIM FOR REFUND

[19] Docket, pp. 440-457.
[20] Ibid., pp. 557-573.
[21] Rollo, CTA Case No. 2629, pp. 1-5.
[22] Ibid., p. 7.
[23] The last day to file the Petition for Review was on June 18, 2022, a Saturday. The next working day is on June 20, 2022, Monday.

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

Section 112 of the National Internal Revenue Code (NIRC) of 1997, as last amended by RA No. 10963[24] or TRAIN, provides, in part, as follows:

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

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

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(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

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

> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however*, That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code."

Based on the foregoing provision, jurisprudence has laid down certain **requisites** which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said **requisites** may be classified into certain categories as follows:

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

1. **the refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;**[25]
2. **in case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within thirty (30) days from receipt of the decision;**

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

3. **the taxpayer is a VAT-registered person;**[26]

In relation to the taxpayer's output VAT:

4. **the taxpayer is engaged in zero-rated or effectively zero-rated sales;**[27]
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 for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;**[28]

As regards the taxpayer's input VAT being refunded:

6. **the input taxes are not transitional input taxes;**[29]
7. **the input taxes are due or paid;**[30]

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[25] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 155732, 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.*, G.R. No. 182364, August 3, 2010.

[26] *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.*, supra.

[27] *Ibid.*

[28] *Ibid.*

[29] *Ibid.*

[30] *Ibid.*

8. **the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;**[31] **and**
9. **the input taxes have not been applied against output taxes during and in the succeeding quarters.**[32]

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.[33] Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[34] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[35] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[36]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[37] Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. The absence of *any* of the said requisites is already a valid ground to deny the refund claim.

Petitioner mainly argues that it is entitled to refund or tax credit certificate in the amount of ₱11,393,494.01, representing its excess and unutilized input VAT on purchases of goods and services, and importation of goods, for the 1st quarter of 2015.

Contrary to the position of petitioner, the Court *En Banc* finds that the Court in Division did not err in finding that the petition be denied for lack of merit. The pieces of evidence presented failed to prove that petitioner is entitled to refund.

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[31] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
[32] *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.*, supra.
[33] *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.
[34] *JRA Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.
[35] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.
[36] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.
[37] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, etseq.*, 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.

The Court *En Banc* agrees with the findings of the Court in Division that the administrative and judicial claims for refund were filed within the prescriptive period, that petitioner is a VAT-registered entity, and that petitioner was able to establish that it was engaged in zero-rated sales or effectively zero-rated sales during the subject taxable year. The Assailed Decision ruled as follows:

> "Based on the foregoing, in order for an export sale to qualify as zero-rated, the following essential elements must be present:
>
> 1.) the sale was made by a VAT registered person;
> 2.) there was sale and actual shipment of goods form the Philippines to a foreign country; and
> 3.) the sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.
>
> *The sale was made by a VAT registered person.*
>
> As discussed earlier the first essential element was already settled that petitioner is a VAT-registered person.
>
> *There was sale and actual shipment of goods from the Philippines to a foreign country.*
>
> As for the second essential element, any VAT registered person claiming VAT zero-rated direct or considered export sales must present, among others, the following documents:
>
> 1. the sales invoice as proof of sale of goods; and
> 2. bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country.
>
> Corollary to the first type of document, in proving its zero-rated sales, petitioner must foremost comply with the pertinent invoicing requirements, containing all the required information under Section 113(A) and (B) of the NIRC of 1997, as amended, which provides as follows:
>
> "SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.*-
>
> (A)*Invoicing Requirements.*- A VAT-registered person shall issue:

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

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

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* – The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN)

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided,* That:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the same is exempt from value-added tax, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

(c) If the same is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: Provided, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if

any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client."

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In addition to the above requirements, the sales invoices (SIs) and official receipts (ORs) must also be duly registered with the BIR as mandated by Section 237, in relation to Section 238, of the NIRC of 1997, as amended, as follows, *viz*.:

"SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.*- All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or *sales* or *commercial invoices*, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service x x x."

"SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* – All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts are sales or commercial invoices before a printer can print the same

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner."

Thus, in order for petitioner's export sales to qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, it is required to issue VAT SIs for each sale of goods, and the information contained therein must be in compliance with the applicable provisions previously cited, such as the imprinted word "zero-rated" and the taxpayer's TIN-VAT number.

In its 1st Quarterly VAT Return (BIR Form No. 2550-Q) for calendar year 2015, petitioner reported total sales in the amount of ₱2,638,435,170.06, broken down as follows:

Type of Sales	Amount
Vatable	₱ 850,424.56
Zero-rated	2,635,483,00.50
Exempt	2,101,740.00
Total	₱ 2,638,435,170.06

To support its zero-rated export sales and to prove its compliance with the above-mentioned invoicing requirements, petitioner submitted the corresponding SIs, bills of lading, and Bureau of Customs (BOC) export declaration documents, which were all examined by the court-commissioned ICPA, Mr. Emmanuel Y. Mendoza, of Mendoza Querido & Co.

However, upon further examination of the said documents, this Court finds that the export sale of goods amounting to US$8,221,401.00 or ₱368,318,809.16 must be disallowed for not being supported with SIs and bills of lading. Consequently, out is the total declared zero-rated sales of ₱2,635,483,005.50 for the 1st quarter of calendar year 2015, only the amount of ₱2,267,164,196.34 has complied with the invoicing requirements under the NIRC and RR No. 16-05.

As such, petitioner have complied with the second essential element, but only in the amount of ₱2,267,164,196.34.

The sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

As for the *third* essential element, petitioner presented as bank certification issued by BDO Unibank, Inc.- Trust and Investments Group, Pioneer, Pasig Branch. This bank certification shows that the payment was made in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. But then, it is also equally important that the foreign currency inward remittance be traced back to the export sales to which it relates. Thus, for the purpose of checking petitioner's compliance with the third essential element, this Court shall only focus on the remaining export sales which are found to be compliant with the invoicing requirements in the amount of ₱2,267,164,196.34.

A perusal of the bank certification shows that the foreign remittance for the whole calendar year 2015 is broken down by date of remittance, the remitter, and the amount remitted. On that basis, the ICPA, in his ICPA report dated May 22, 2018, prepared a reconciliation matrix of these remittances per bank certification

with its corresponding sales invoice for the 1st quarter of calendar year 2015.

However, this Court finds that the export sales amounting to US$20,263,358.54 or ₱899,422,691.13, cannot be properly traced to the inward remittances per bank certification, xxx

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Accordingly, out of the export sales which were found to be compliant with the invoicing requirements under the NIRC and RR No. 16-05, in the total amount of ₱2,267,164,196.34, only the amount of ₱1,367,741,505.21 can be properly traced to its corresponding foreign currency inward remittance. Consequently, out of petitioner's declared total zero-rated sales of ₱2,635,483,005.50 for the subject period, only the amount of ₱1,367,741,505.21 ultimately qualifies as zero-rated sales, in accordance with Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.[38]

Records show that petitioner declared in its Quarterly VAT return for the 1st quarter of calendar year 2015 the amount of ₱60,276,286.56. Out of the reported total input VAT of ₱60,276,286.56, petitioner claims refund of the excess input VAT in the amount of ₱11,393,494.01. Since there is no evidence that the said input VAT are transitional input taxes, thus, petitioner has complied with the requirement that the input taxes being claimed are not transitional input taxes.

Furthermore, the Court *En Banc* agrees with the Court in Division when it disallowed the input taxes on domestic purchases of goods and services for the year covering the subject period of claim because petitioner is not the proper party to seek the tax refund or credit. Petitioner's recourse is not against the government but against the seller who has shifted to it the output VAT.

As correctly ruled by the Court in Division in the assailed Decision:

"xxx, this Court takes note of Revenue Memorandum Order (RMO) No. 9-00 dated February 2, 2000 which states that sales of goods, properties, or services made by a VAT-registered supplier to a BOI registered entity whose products are 100% exported shall be accorded automatic VAT zero-rating, subject, however, to the following reportorial and documentary requirements, prescribed under Section 3 of the said RMO, xxx

[38] Decision, pp. 15-21. Citations omitted.

In the present case, records show that petitioner was issued a Certification by the BOI attesting to the fact that petitioner is a BOI-registered entity with 100% exports for the year 2015.

Under Section 3.4 of RMO 9-00, the said BOI Certification shall serve as authority for the local suppliers of petitioner to avail of the benefits of zero-rating on their sales to petitioner on the year 2015. On the basis of the said Certification, no output tax should, therefore, be shifted by the local suppliers to petitioner. It therefore follows that petitioner is not entitled to refund from the said domestic purchases.

In the case of *Coral Bay Nickel Corp. vs. Commissioner of Internal Revenue,* the Supreme Court affirmed the ruling of this Court *En Banc* in stating that petitioner's recourse is not against the government but against the seller who shifted to it the output VAT, thus:

> "x x x As such, the purchases of goods and services by the petitioner that were destined for consumption with the ECOZONE should be free of VAT; hence, no input VAT should then be paid on such purchases, rendering the petitioner not entitled to claim a tax refund or credit. Verily, if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT following RMC No. 41-03, which provides:
>
> In case the supplier alleges that it reported such sale as a taxable sale, the substantiation of remittance of the output taxes of the seller (input taxes of the exporter-buyer) can only be established upon the thorough audit of the suppliers' VAT returns and corresponding books and records. It is, therefore, imperative that the processing office recommends to the concerned BIR Office the audit of the records of the seller.
>
> In the meantime, the claim for input tax credit by the exporter-buyer should be denied without prejudice to the claimant's right to seek reimbursement of the VAT paid, if any, from its supplier.

We should also take into consideration the nature of VAT as an indirect tax. Although the seller is statutorily liable for the payment of VAT, the amount of the tax is allowed to be shifted or passed on to the buyer. However, reporting and remittance of the VAT paid to the BIR remained to be the seller/supplier's obligation. Hence, the proper party to seek the tax refund or credit should be the suppliers, not the petitioner.

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For this reason, this Court is constrained to only consider petitioner's input VAT arising from its importations and from services rendered by non-residents. As such, it is of fatal importance that petitioner provide supporting documents to prove the input taxes claimed from importation of goods and input taxes withheld from services rendered by non-residents during the 1st quarter of calendar year 2015 are actually paid in accordance with Section 110(A)(1)(a) and (2)(b) of the NIRC of 1997, as amended, xxx

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Based on the verification conducted by the ICPA, petitioner's importation of goods is either classified as capital goods exceeding ₱1million or non-capital goods. In the ICPA Report, petitioner has a total amortization of input VAT arising from capital goods exceeding ₱1million in the amount of ₱21,578,810.54, importation of non-capital goods in the amount of ₱37,147,478.00 and input VAT from services rendered by non-residents in the amount of ₱162,640.21.

With regard to the input VAT arising from importations of non-capital goods in the amount of ₱37,147,478.00, this Court finds petitioner as entitled thereto, considering that it is duly supported by Statements of Settlement of Duties and Taxes (SSDT) and Import Entry and Internal Revenue Declaration (IEIRD) issued by the BOC.

On the other hand, as to the input VAT amortization amounting to ₱21,578,810.54, petitioner did not provide a breakdown to show how much of the said amount arose from importations and from domestic purchases of capital goods exceeding ₱1milion.

Nevertheless, petitioner presented documents which only support the input VAT on importation of capital goods exceeding ₱1million with corresponding input VAT amortization of ₱2,368,589.95 (₱2,271,832.80+₱96,757.15).

Meanwhile, petitioner did not submit the corresponding BIR Forms No. 1600 to support its input VAT from services rendered by non-resident amounting to ₱162,640.21. As such, the whole amount must be disallowed outright.

Henceforth, out of the total input VAT of ₱60,276,286.56 for the 1st quarter of TY 2015, only the amount of ₱39,516,067.95 pertains to valid input VAT, as computed below, to wit:[39]

Input VAT on importation of goods other than capital goods	₱37,147,478.00
Input VAT amortization on importation of capital goods	2,368,589.95
Total valid input VAT	**₱39,516,067.95**

According to Section 112 (A) of the NIRC of 1997, as amended, the input taxes claimed should be 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 based on sales volume.

In this case, based on the VAT Returns of petitioner, there exist zero-rated sales, exempt sales, and taxable sales subject to 12% VAT.

Thus, the Court properly allocated the valid input VAT of ₱39,516,067.95 proportionately based on the volume of petitioner's total sales.

Lastly, the Court *En Banc* holds that petitioner is not entitled to its claim for refund because upon evaluation, the amount of ₱48,780,741.60 that was granted by the BIR for issuance of TCC was beyond the amount found by the Court as petitioner's valid excess input VAT attributable to its zero-rated sales for the subject period of claim.

As aptly stated in the assailed Decision:

"For the period under consideration, petitioner has output VAT liability in the amount of ₱102,050.95. Considering that petitioner's valid input VAT allocated to 12%VAT sales in the amount of ₱12,736.88, is not enough to cover the said output VAT liability, the output VAT still due against petitioner is computed as follows:

Output VAT	₱102,050.95
Input VAT allocated to 12% VAT sales	12,736.88
Output VAT still due	**₱89,314.07**

Thereafter, the valid input VAT attributable to zero-rated sales in the amount of ₱39,471,853.13, shall then be utilized against the said remaining output VAT liability of petitioner in the amount

[39] Decision, pp. 23-28. Citations omitted.

of ₱89,314.07. Consequently, only the remaining input VAT of ₱39,382,539.06 can be attributed to the entire zero-rated sales reported by petitioner in the amount of ₱2,635,483,005.50, and only the input VAT of ₱20,438,429.37 is attributable to the valid zero-rated sales of ₱1,367,741,505.21, as computed below:

Input VAT allocated to zero-rated sales	**₱39,471,853.13**
Output VAT still Due	89,314.07
Excess Input VAT allocated to reported zero-rated sales	**₱39,382,539.06**
Divide by declared zero-rated sales	₱2,635,483,005.50
Multiply by valid zero-rated sales	₱1,367,741,505.21
Excess input VAT attributable to valid zero-rated sales	**₱20,438,429.37**

In addition, the above excess input VAT attributable to valid zero-rated sales in the amount of ₱20,438,429, was also not utilized against the output VAT in the succeeding quarters, since the same was not even carried over to the immediately succeeding period/quarter.

xxx xxx xxx

Nonetheless, considering that the records show that respondent had already authorized the issuance of VAT credit/refund in the total amount of ₱48,780,741.60 in favor of petitioner, which is above and beyond the amount found by this Court as petitioner's valid excess input VAT attributable to its zero-rated sales for the subject period of claim, this Court is constrained to deny the present *Petition for Review.*"[40]

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[41] In this case, petitioner was not able to prove that it is entitled to a refund in cash in the amount of ₱11,393,494.01, representing its excess and unutilized input VAT on purchases of goods and services, and importation of goods, for the 1st quarter of 2015.

In *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),*[42] the Supreme Court ruled that "it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.

[40] Decision, pp. 30-31. Citations omitted.
[41] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue,* G.R. No. 159490, February 18, 2008.
[42] G. R. No. 188016, January 14, 2015, citing Sea-Land Service, Inc. vs. Court of Appeals, G.R. No. 122605, April 30, 2001.

Hence, in the absence of any compelling evidence to the contrary, the Court *En Banc* sustains the findings of the Court in Division.

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. The assailed Decision dated September 10, 2020 and the assailed Resolution dated April 20, 2022 are **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

(With Separate Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Official Business)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Official Leave)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII 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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

CARMEN COPPER CORPORATION, Petitioner,	**CTA EB NO. 2629** (CTA Case No. 9659)
- versus -	*Present*: **DEL ROSARIO**, *P.J.*, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, *and* **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 02 2023

x - x

SEPARATE OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague Associate Justice Ma. Belen M. Ringpis-Liban in ruling that petitioner is not entitled to any additional amount of refund because respondent has already authorized the issuance of a tax credit certificate (**TCC**) in the amount of ₱48,780,741.60, which is above and beyond the amount found by the Court's Second Division as petitioner's valid excess and unutilized input value-added tax (**VAT**) attributable to its zero-rated sales for the first (1st) Quarter of the taxable year (**TY**) 2015.

However, with due respect, I espouse a different view as regards the computation of the amount of excess and unutilized input VAT attributable to zero-rated sales (or the refundable amount before deducting the amount already supported by a TCC). As can be deduced from the recent Supreme

Court decision in *Chevron Holdings, Inc. (formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*[1] (**Chevron**) the steps in computing the refundable amount of excess and unutilized input VAT attributable to zero-rated sales when the taxpayer-claimant is engaged in mixed transactions are as follows:

1. Determine the amount of substantiated or valid input VAT;

2. Deduct from the substantiated or valid input VAT any input VAT directly attributable to a specific activity to arrive at the substantiated or valid input VAT not attributable to any activity;

3. Multiply the substantiated or valid input VAT not attributable to any activity by the ratio of Valid Zero-Rated Sales over Total Sales to determine the amount of substantiated or valid input VAT attributable to valid zero-rated sales;

4. Add to the amount computed in no. 3 any substantiated or valid input VAT directly attributable to zero-rated sales to arrive at the total substantiated or valid input VAT attributable to zero-rated sales;

5. Determine the output VAT still due;

6. Deduct from the output VAT still due any input VAT carried over from previous period to arrive at the amount that may be deemed applied against substantiated or valid input VAT directly attributable to zero-rated sales;

7. Determine the amount of input VAT carried-over instead; and,

8. Deduct from the total substantiated or valid input VAT attributable to zero-rated sales the amount computed in nos. 6 and 7.

Applying the foregoing steps to this case, the amount of excess and unutilized input VAT attributable to valid zero-rated sales (or the refundable amount before deducting the amount already supported by a TCC) should be **₱20,395,466.78**, as computed below:

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1 G.R. No. 215159, 05 July 2022.

Step 1. It is observable from the Second Division's assailed Decision dated 10 September 2020 that the amount of substantiated or valid input VAT is ₱39,516,067.95.

Step 2. No input VAT is directly attributable to a specific activity.

Step 3. The amount of substantiated or valid input VAT attributable to valid zero-rated sales is computed as follows:

Total Valid Zero-Rated Sales	₱1,367,741,505.21
Divided by Reported Total Sales *per* 1st Quarterly VAT Return for TY 2015	2,638,435,170.06
Multiplied by Total Valid Input VAT	39,516,067.95
Valid Input VAT Allocated to Total Valid Zero-Rated Sales	**₱20,484,780.85**

Step 4. No input VAT is directly attributable to a specific activity.

Step 5. Output VAT still due is:

Output VAT		₱102,050.95
Total VATable Sales	₱850,424.56	
Divided by Reported Total Sales	2,638,435,170.06	
Multiplied by Total Valid Input VAT	39,516,067.95	
Valid Input VAT Allocated to VATable sales		12,736.88
Output VAT Still Due		**₱89,314.07**

Step 6. The output VAT still due of ₱89,314.07 may be deemed applied against substantiated or valid input VAT directly attributable to zero-rated sales since there is no input VAT carried over from previous period that can cover the same, as shown below:

Output VAT Still Due	₱89,314.07
Less: Input VAT Carried Over from Previous Period[2]	-
Valid Input VAT attributable to Valid Zero-Rated Sales Effectively Applied Against Output VAT	**₱89,314.07**

Step 7. No input VAT deemed carried-over.

Step 8. The excess input VAT attributable to valid zero-rated sales is: 0

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2 No Input VAT Carried Over from Previous Period *per* 1st Quarterly VAT Return for TY 2015 (Line Item 20A), Exhibit "P-4", Division Docket, Volume I, p. 316.

Valid Input VAT allocated to Total Valid Zero-Rated Sales	₱20,484,780.85
Less: Valid Input VAT attributable to Valid Zero-Rated Sales Effectively Applied Against Output VAT	89,314.07
Less: Input VAT Deemed Carried-Over	-
Excess Input VAT attributable to Valid Zero-Rated Sales	**₱20,395,466.78**

In contrast, the Court's Second Division, as affirmed by the Court *En Banc* through the *ponencia*, computed an excess input VAT attributable to valid zero-rated sales of ₱20,438,429.37 in the following manner:

Output VAT	₱102,050.95
Less: Valid Input VAT allocated to sales subject to 12% VAT	12,736.88
Output VAT Still Due	**₱89,314.07**
Valid input VAT allocated to *reported* zero-rated sales	₱39,471,853.13
Less: Output VAT Still Due	89,314.07
Excess Input VAT allocated to *reported* zero-rated sales	**₱39,382,539.06**
Excess input VAT allocated to *reported* zero-rated sales	₱39,382,539.06
Divided by *reported* zero-rated sales	2,635,483,005.50
Multiplied by *valid* zero-rated sales	1,367,741,505.21
Excess input VAT attributable to *valid* zero-rated sales	**₱20,438,429.37**

The key difference between the foregoing computations is the treatment of the resulting "Output VAT Still Due" amounting to **₱89,314.07**. Applying *Chevron*, I submit that it should be deducted from the valid input VAT allocated to **total *valid* zero-rated sales** and *not* from the valid input VAT allocated to **total reported zero-rated sales.**

As elucidated in *Chevron*[3], it is not for the Court of Tax Appeals (**CTA**) to determine and rule in a judicial claim for refund under Section 112(A)[4] of the NIRC of 1997, as amended, that the taxpayer had insufficient or unsubstantiated input VAT to cover or pay its output VAT and, for this reason, it is not proper to charge the taxpayer's substantiated or valid input VAT against its output VAT first and use the resultant amount as basis for computing the allowable amount for refund, *viz*:

> ...
>
> *Fourth*, that the taxpayer failed to prove that it had sufficient creditable input taxes to cover or "pay" its output tax liability in a given

3 Supra at note 1; Citations omitted, emphasis and italics in the original text and supplied.

4 **Sec. 112**. *Refunds or Tax Credits of Input Tax*. –
A. *Zero-rated or Effectively Zero-rated Sales*. – ...

> period, hence, there is no refundable "excess" input tax, which is an issue distinct, separate, and independent from a claim for refund or issuance of tax credit certificate of **unutilized** input VAT attributable to zero-rated sales. For one, the taxpayer-claimant is not asking to refund the "excess" creditable input taxes from the output tax. To be sure, the "excess" input tax may only be carried over to the succeeding periods and cannot be refunded. But, on the other hand, **the taxpayer is asking to refund the unutilized or unused input tax from zero-rated sales.**
>
> Next, the substantiation of input taxes that can be credited against the output tax is an issue relevant to the assessment for potential deficiency output VAT liability. In turn, it is not for the CTA and the Court to determine and rule in a judicial claim for refund under Section 112(A) of the Tax Code that the taxpayer had insufficient or unsubstantiated input taxes to cover its output tax liability. This is for the BIR to determine in an administrative proceeding for assessment of deficiency taxes.
>
> ...
>
> **All told, it was erroneous for the CTA to charge the validated and substantiated input taxes against Chevron Holdings' output taxes first and use the resultant amount as the basis for computing the allowable amount for refund. The CTA also erred in requiring Chevron Holdings to substantiate its excess input tax carried over from the previous quarter as it is not a requirement for entitlement to a refund of unused or unutilized input VAT from zero-rated sales.**
>
> We reiterate that although the burden of proof to establish entitlement to a refund is on the taxpayer-claimant, the Court has consistently held that once the minimum statutory requirements have been complied with, the claimant should be considered to have successfully discharged their burden to prove its entitlement to the refund. After the claimant has successfully established a *prima facie* right to the refund by complying with the requirements laid down by law, the burden is shifted to the opposing party, *i.e.*, the BIR, to disprove such claim. Otherwise, we would unduly burden the taxpayer-claimant with additional requirements which have no statutory nor jurisprudential basis. In the present case, Chevron Holdings sufficiently proved compliance with all the requisites for entitlement to a refund or credit of unutilized input tax allocable to zero-rated sales under Section 112(A) of the Tax Code.
>
> ...

From the foregoing, when a taxpayer-claimant has excess input VAT carried over from previous period, it need not substantiate the same for purposes of establishing its entitlement to a refund of excess input VAT from zero-rated sales. The declared excess input tax carried over from previous period is presumed correct and is used to cover or pay for the output VAT still due in the period of claim. It is only when there is no such input tax carried over from previous period, as in this case, or the amount thereof is less than or insufficient to cover the output VAT still due that the difference or the remaining output VAT may be deducted from or charged

against the substantiated or valid input VAT directly attributable to zero-rated sales.

Furthermore, it must be noted that the option of a VAT-registered taxpayer on whether to charge against output tax from regular 12% VATable sales and any unutilized or "excess" input tax may be claimed for refund or the issuance of a TCC, or whether to claim for refund or tax credit in its entirety, *only* applies to substantiated input tax attributable to **valid zero-rated sales**. This can be gleaned from the following computation of the Supreme Court in *Chevron*[5], citing Section 4.110-4[6] of RR No. 16-2005[7], as amended by RR No. 4-2007[8]:

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5 Supra at note 1; Citation omitted, emphasis in the original text and supplied.

6 SEC. 4.110-4. *Apportionment of Input Tax on Mixed Transactions.* — . . .

. . .

Illustration: ERA Corporation has the following sales during the month:

Sale to private entities subject to 12%	₱ 100,000.00
Sale to private entities subject to 0%	100,000.00
Sale of exempt goods	100,000.00
Sale to gov't. subjected to 5% final VAT Withholding	100,000.00
Total Sales for the month	₱ 400,000.00

The following input taxes were passed on by its VAT suppliers:

Input tax on taxable goods 12%	₱ 5,000.00
Input tax on zero-rated sales	3,000.00
Input tax on sale of exempt goods	2,000.00
Input tax on sale to government	4,000.00
Input tax on depreciable capital good **not attributable** to any specific activity (monthly amortization for 60 months)	**20,000.00**

. . .

B. **The input tax attributable to zero-rated sales for the month shall be computed as follows:**

Input tax directly attributable to zero-rated sale — ₱ 3,000.00

Ratable portion of the input tax not directly attributable to any activity:

$\frac{\text{Taxable sales (0\%)}}{\text{Total Sales}}$ x **Amount of input tax not directly attributable to any activity**

$\frac{\text{P}100{,}000.00}{400{,}000.00}$ x P20,000.00 — ₱ 5,000.00

Total input tax attributable to zero-rated sales for the month ₱ 8,000.00

7 Consolidated Value-Added Tax Regulations of 2005.

8 Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005.

> ...
>
> Thus, **the refundable input VAT is computed by getting the percentage of valid zero-rated sales over total reported sales (taxable, zero-rated, and exempt)** multiplied by the properly substantiated input taxes not directly attributable to any of the transactions.
>
> ...
>
> Accordingly, Chevron Holdings is entitled to the refund of unutilized input tax allocable to its zero-rated sales for January 1 to December 31, 2006, in the total amount of ₱1,140,381.22, computed as follows:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Valid zero-rated sales	5,762,011.70	4,669,743.23	66,091,331.71	79,131,661.58
Divided by: Total reported sales	313,164,583.06	272,400,438.61	299,500,840.65	501,152,183.16
Multiplied by: Valid input tax not directly attributable to any activity	1,276,656.14	1,650,503.65	1,860,385.53	4,294,269.68
Input tax attributable to zero-rated sales	**23,489.59**	**28,294.48**	**410,534.26**	**678,062.88**
TOTAL				**₱1,140,381.22**

> ...

Notably, the Second Division would have arrived at the same amount of excess and unutilized input VAT attributable to valid zero-rated sales (or the refundable amount before deducting the amount already supported by a TCC) had it *first* separated or excluded the "disallowed" portion of the input VAT allocated to reported zero-rated sales (*i.e.*, ₱18,987,072.28) and deducted the output VAT still due (*i.e.*, ₱89,314.07) only against the "valid" portion thereof (*i.e.*, ₱20,484,780.85), as follows:

Table 1. Input VAT Allocation	**Amount (a)**		**Allocation Factor (c) = (a) / (b)**	**Allocated Input VAT (e) = (c) x (d)**	
Valid Zero-Rated Sales	₱1,367,741,505.21		51.84%	₱20,484,780.85	
Disallowed Zero-Rated Sales	1,267,741,500.29		48.05%	18,987,072.28	
Exempt Sales	2,101,740.00		0.08%	31,477.94	
VATable Sales	850,424.56		0.03%	12,736.88	
Total Reported Sales[9]	**₱2,638,435,170.06**	**(b)**	**100.00%**	**₱39,516,067.95**	**(d)**

[9] Exhibit "P-4", supra at note 2.

Table 2. Computation of Output VAT Still Due

Output VAT	₱102,050.95
Less: Valid Input VAT allocated to VATable Sales	12,736.88
Output VAT Still Due	**₱89,314.07**

Table 3. Refundable Excess Input VAT Attributable to *Valid* Zero-Rated Sales

Valid Input VAT allocated to *Valid* Zero-Rated Sales	₱20,484,780.85
Less: Output VAT Still Due	89,314.07
Excess Input VAT attributable to *Valid* Zero-rated sales	**₱20,395,466.78**

The principle of *stare decisis et non quieta movere* (to adhere to precedents and not to unsettle things which are established), as ordained in Article 8[10] of the Civil Code, enjoins adherence by this Court to doctrinal rules established by the Supreme Court in its final decisions, such as the recent pronouncement in *Chevron* regarding the proper formula for computing the refundable input tax.[11] This principle is based on the notion that once a question of law has been examined and decided, it should be considered settled and closed to further argument.[12] The High Court's interpretation of a statute becomes part of the law as of the date it was originally passed because such interpretation simply establishes the contemporaneous legislative intent that the interpreted law carries into effect.[13]

Nonetheless, since the amount already supported by a TCC of ₱48,780,741.60 is still above and beyond the amount of excess and unutilized input VAT attributable to valid zero-rated sales of ₱20,395,466.78, as recomputed, petitioner is not entitled to any additional amount of refund.

All told, I vote to **DENY** the instant Petition for Review for lack of merit.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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10 ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines.

11 See *Benjamin G. Ting v. Carmen M. Velez-Ting*, G.R. No. 166562, 31 March 2009.

12 Id.

13 *Philippine Long Distance Telephone Company v. Abigail R. Razon, et al.*, G.R. No. 179408, 05 March 2014.