REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

FOUNDEVER PHILIPPINES CORPORATION (formerly SITEL PHILIPPINES CORPORATION),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2678
(CTA Case No. 10076)

Present:

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

Promulgated:
DEC 13 2023 2:33 pm

x - x

DECISION

BACORRO-VILLENA, J.:

Assailing the Decision dated 21 February 2022[1] (**assailed Decision**) and Resolution dated 15 August 2022[2] (**assailed Resolution**) of the First Division[3] in CTA Case No. 10076, entitled *Sitel Philippines Corporation v. Commissioner of Internal Revenue*, petitioner Foundever Philippines Corporation (formerly known as *Sitel Philippines Corporation*) (**petitioner**) filed the instant Petition for Review[4] on

1 *Rollo*, pp. 6-27.
2 Id., pp. 29-34.
3 Penned by Associate Justice Catherine T. Manahan, with Presiding Justice Roman G. Del Rosario and Associate Justice Marian Ivy F. Reyes-Fajardo, concurring.
4 *Rollo*, pp. 38-64.

21 September 2022[5], pursuant to Section 3(b)[6], Rule 8, in relation to Section 2(a)(1)[7], Rule 4 of the Revised Rules of the Court of Tax Appeals[8] (**RRCTA**).

In herein petition, petitioner seeks the reversal of the assailed Decision and assailed Resolution and prays instead for a judgment declaring its entitlement to a refund from the Bureau of Internal Revenue (**BIR**) in the amount of ₱13,878,079.64, or a reduced amount of ₱13,006,229.54, based on the recommendations of the Court-commissioned Independent Certified Public Accountant (**ICPA**).[9]

PARTIES OF THE CASE

Petitioner is a corporation duly organized and existing under Philippine laws, with principal place of business at One Julia Vargas Building, Ortigas Home Depot Complex, One Julia Vargas Avenue, Barangay Ugong, Pasig City.[10] It is registered with the BIR, with Taxpayer Identification No. (**TIN**) 208-780-708-000[11], as a taxpayer engaged in the business of call center services *per* Certificate of Registration (**COR**) OCN 8RC0000065770 issued by the BIR's Large Taxpayer Service.

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5 The Petition for Review was filed subsequent to the grant of a fifteen (15)-day extension by the Court *En Banc* pursuant to a "Motion for Extension of Time to File Petition for Review" *per En Banc* Minute Resolution dated 07 September 2022, id., p. 37.

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

...

7 **SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:

...

(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture[.]

...

8 A.M. No. 05-11-07-CTA.

9 Prayer, Petition for Review, supra at note 4, p. 59.

10 Paragraph 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Division Docket, Volume I, p. 498; Exhibits "P-1" to "P-1-3", Division Docket, Volume II, pp. 774-848.

11 Exhibit "P-2", id., Volume II, p. 849.

Petitioner is also registered with the Philippine Economic Zone Authority (**PEZA**) as an Information Technology (**IT**) Enterprise with numerous sites located at the Baguio Economic Zone, Wynsum Corporate Plaza, One Julia Vargas Building, Eastwood City Cyberpark, Robinsons Cyberpark, Eton Cyberpod Corinthian, Robinsons Luisita, and SM Baguio Cyberzone Building.[12] It also maintains a branch in Puerto Princesa, Palawan, which is registered with the BIR as a "*Facility*"[13] but not registered with PEZA[14] (as its location is not a PEZA site).

Respondent, on the other hand, is the duly-appointed Commissioner of Internal Revenue (**respondent/CIR**) 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. He or she holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

FACTS OF THE CASE

On 28 December 2018, petitioner, through a letter dated 19 December 2018 and accompanied by an Application for Tax Credits/Refunds (**BIR Form No. 1914**), filed with BIR's VAT Credit Audit Division (**VCAD**) an administrative claim[15] seeking the refund of unutilized input value-added tax (**VAT**) arising from its domestic purchases of goods other than capital goods, services, and capital goods exceeding ₱1 Million, attributable to alleged zero-rated transactions for the fourth (4th) quarter of taxable year (**TY**) 2016 in the aggregate amount of ₱13,878,079.64.[16]

To inform petitioner that its administrative claim (in the aggregate amount of ₱13,878,079.64) was denied, the Office of the Deputy Commissioner – Operations Group of the BIR issued a letter dated 21 March 2019, which petitioner received through its counsel on 28 March 2019.[17]

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12 Exhibits "P-34" to "P-34-3", id., pp. 1070-1079.
13 Exhibit "P-29", id., p. 1008.
14 Par. 3, Stipulation of Facts, JSFI, id., Volume I, p. 499.
15 Exhibits "P-25" (including sub-markings) to "P-26", id., Volume II, pp. 994-1003.
16 Par. 4, Stipulation of Facts, JSFI, id., Volume I, p. 499.
17 Par. 5, id.; Exhibit "P-27", id., Volume II, pp. 1004-1005.

In view of the BIR's denial of its refund claim, petitioner filed a Petition for Review[18] before this Court on 26 April 2019. It was raffled to the First Division. On 24 June 2019, respondent filed his or her Answer thereto. On 28 June 2019, respondent also transmitted to the First Division the BIR's records.[19]

Later, the Pre-Trial Conference was held on 22 August 2019.[20] Prior thereto, the parties filed their Pre-Trial Briefs on 16 August 2019[21] and 19 August 2019[22], respectively. Still later, on 06 September 2019, they also submitted their Joint Stipulation of Facts and Issues (**JSFI**).[23] On 14 October 2019[24], the First Division issued a Pre-Trial Order adopting the JSFI and declared the Pre-Trial Conference terminated.

Subsequently, the trial proper ensued wherein petitioner presented the testimonies of its witnesses, namely: (1) Ronald P. Portula[25] (**Portula**), its Senior Tax Analyst; and, (2) Madonna Mia S. Dayego[26] (**Dayego**), the Court-commissioned ICPA.

Portula testified, through his Judicial Affidavit[27], that petitioner was engaged in the zero-rated sale of services to nonresident affiliates not engaged in business in the Philippines which were outside the Philippines when the services were performed. He maintained further that petitioner was paid for its services in acceptable foreign currency and accounted for in accordance with Bangko Sentral ng Pilipinas (**BSP**) rules and regulations.

Portula testified further that petitioner paid input taxes on its purchases, ₱93,081,532.51 of which was attributable to zero-rated sales for the 4th quarter of TY 2016. He also declared that a portion of ₱57,279,308.91 of the aforesaid amount (₱93,081,532.51) was directly attributable to zero-rated sales and that out of said portion, only a further segregated ₱13,878,079.64 was the subject of the Petition for

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18 Id., Volume I, pp. 10-31.
19 Compliance dated 28 June 2019, id., pp. 93-95.
20 Id., pp. 464-465.
21 Id., pp. 410-411.
22 Id., pp. 467-483.
23 Id., pp. 498-510.
24 Id., pp. 583-594.
25 Exhibit "P-43", Judicial Affidavit of Ronald P. Portula, id., pp. 110-138.
26 Exhibit "P-46", Judicial Affidavit of Madonna Mia S. Dayego, id., Volume II, pp. 712-716; Oath of Commission dated 08 October 2019, id., Volume I, p. 574.
27 Supra at note 25; Order dated 08 October 2019.

Review filed with the First Division. He clarified that this represented input VAT directly attributable to the zero-rated sales that petitioner rendered within its Palawan *Facility* (which is outside any economic zone).

On 07 November 2019, Dayego submitted her ICPA Report.[28] Later, she testified, by way of Judicial Affidavit[29], that she examined and verified petitioner's supporting documents relative to the latter's claim for refund. She stated that, pursuant to the Court's directive and based on the procedures she had performed as ICPA, she prepared her aforementioned written report containing her findings and conclusions. There, she detailed that out of the claimed amount of ₱13,878,079.64, a reduced amount of ₱13,034,527.62 was duly supported by documents. She explained that the difference pertained to claims (*i*) outside the period, (*ii*) supported by documents but do not comply with BIR's invoicing requirements; and, (*iii*) not adequately supported by relevant documents, among others.

On 16 December 2019, petitioner filed its Formal Offer of Evidence[30] (**FOE**). In a Resolution dated 11 February 2020[31], the First Division admitted petitioner's exhibits, except for: (1) Exhibit "P-19"[32], for failure to submit the duly marked exhibit; and, (2) Exhibit "P-41"[33], for failure to comply with the requisites for admissibility as secondary evidence.

On 03 March 2020, petitioner filed a Motion for Reconsideration (**MR**) of the Resolution dated 11 February 2020[34], praying for the admission of Exhibit "P-19" as part of its evidence for the purpose for which it was offered. In a subsequent Resolution dated 01 September 2020[35], the First Division granted said motion thereby admitting Exhibit "P-19".

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28 Exhibit "P-45", Division Docket, Volume I, pp. 599-704.
29 Supra at note 26; See also Order dated 21 November 2019.
30 Division Docket, Volume II, pp. 728-773.
31 Id., pp. 1114-1116.
32 Summary List of Purchases for the 4th quarter of TY 2016.
33 Certificate of Completion issued by Data Center Design Corporation to petitioner with reference number P.O. 27474 and 27475.
34 Division Docket, Volume II, pp. 1118-1123.
35 Id., pp. 1143-1145.

As for respondent, Revenue Officer Dexter C. Bustillos (**RO Bustillos**) was presented to the witness stand where he declared, through his Judicial Affidavit[36], that he was the RO who conducted the examination and review of petitioner's refund claim when he was with the BIR's Tax Audit Review Division (**TARD**). At the conclusion of his recommendation and review, he recommended the denial of petitioner's claim and prepared a memorandum report therefor (which report was adopted in the letter of denial later issued against the latter. During his testimony, he cited the grounds for the denial. According to RO Bustillos, apart from unsupported sales, purchases, and input taxes, another reason for the denial was the belated and erroneous registration of petitioner's Palawan site as a *Facility.* He pointed out that petitioner should have registered the same as a *Branch.*

On 22 October 2020, respondent filed his or her FOE[37], to which petitioner filed its Comment[38] on 03 November 2020. In its Resolution dated 02 December 2020[39], the First Division admitted all of respondent's exhibits and ordered the parties to file their respective memoranda within thirty (30) days from receipt thereof.

Petitioner and respondent then filed their respective Memoranda on 07 January 2021[40] and 11 January 2021.[41] Thereafter, on 03 February 2021, the case was submitted[42] for decision.

As earlier stated, the BIR denied petitioner's administrative claim prompting the latter to file its judicial claim before the CTA on 26 April 2019. In the Petition for Review priorly filed, petitioner sought a refund of ₱13,878,079.64, representing its unutilized input VAT arising from its domestic purchases of goods (other than capital goods) and services, and purchases of capital goods attributable to zero-rated transactions for the 4th quarter of TY 2016.

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36 Exhibit "R-4", id., Volume I, pp. 418-423.
37 Id., Volume II, pp. 1154-1157.
38 Id., pp. 1160-1161.
39 Id., pp. 1166-1167.
40 Id., pp. 1168-1198.
41 Id., pp. 1200-1211.
42 See Resolution dated 03 February 2021, id., p. 1214.

In the assailed Decision, the First Division denied petitioner's Petition for Review for lack of merit.[43] The pertinent portion thereof reads:

> ...
>
> ... Hence, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements. Unfortunately for petitioner, it has failed to prove such entitlement.
>
> **WHEREFORE**, in light of the foregoing considerations, the Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED.**
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> ...

The First Division essentially found that petitioner failed to establish that, as a taxpayer, it was a VAT-registered entity and that it was engaged in zero-rated or effectively zero-rated sales. It further ruled that in line with its finding that petitioner generated sales in its Palawan site, the said side should have been registered with BIR as a *Branch* (pursuant to the registration requirements under the National Internal Revenue Code (**NIRC**) of 1997, as amended).

On 17 March 2022, petitioner filed its MR[44] contending that it properly registered its Palawan site as a *Facility*, upon the consideration that it had not conducted any sales activities or sales transactions therein, and that its services were performed in the Philippines (pursuant to the requisites of a refund claim of unutilized input taxes). As respondent failed to comment[45], the First Division proceeded to promulgate its now assailed Resolution[46] of 15 August 2022, denying petitioner's MR. The pertinent portion thereof declares:

> ...
>
> **WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration (of the Decision dated February 21, 2022)* is **DENIED** for lack of merit.

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43 Supra at note 1; Citations omitted and emphasis in the original text.
44 Division Docket, Volume II, pp. 1240-1252.
45 See Records Verification dated 28 April 2022, id., p. 1257.
46 Supra at note 2; Emphasis and italics in the original text.

Accordingly, the Decision of the Court in the above-captioned case dated February 21, 2022, is hereby **AFFIRMED**.

SO ORDERED.

...

In denying the MR, the First Division did not agree with petitioner's argument that the registration of its Palawan site as a *Facility* is sufficient for purposes of its refund claim. It emphasized VAT registration as an indispensable requirement in a refund claim. Similarly disagreeing with petitioner's position that the subject services were performed in the Philippines, it pointed out that the issues raised in the MR were already resolved and passed upon in the assailed Decision.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Following petitioner's receipt of a copy of the assailed Resolution on 22 August 2022[47], it filed a "Motion for Extension of Time to File Petition for Review"[48] with the Court *En Banc* on 06 September 2022. On 21 September 2022 or within the extended period granted, petitioner filed the instant Petition for Review[49] seeking the reversal of the First Division's assailed Decision and Resolution. On 30 November 2022, respondent filed his or her Comment thereto.[50] The Court *En Banc* thereafter deemed the case submitted for decision.[51]

In the *interim*, petitioner amended[52] its Articles of Incorporation, effecting a change in corporate name from "Sitel Philippines Corporation" to "Foundever Philippines Corporation". In connection therewith, it requested[53] for a substitution to the new name which the Court *En Banc* granted[54] on 17 October 2023.

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47 See Notice of Resolution dated 22 August 2022, Division Docket, Volume II, p. 1261.
48 *Rollo*, pp. 1-4.
49 Supra at note 4.
50 *Rollo*, pp. 415-418.
51 See Resolution dated 15 December 2022, id., p. 421.
52 Certified true copy of petitioner's Certificate of Filing of Amended Articles of Incorporation dated 05 October 2023, id., pp. 432-445.
53 Petitioner's Manifestation dated 28 July 2023, id., pp. 423-424.
54 See Minute Resolution dated 17 October 2023, id., p. 447.

ISSUES

Petitioner presented the following issues for the Court *En Banc*'s resolution: (1) whether petitioner is a VAT-registered person for purposes of claiming a refund of unutilized input VAT; and, (2) whether petitioner rendered its services in the Philippines during the 4th quarter of TY 2016.[55] In other words, the instant Petition for Review calls for the resolution of the following issue –

> WHETHER PETITIONER FOUNDEVER PHILIPPINES CORPORATION (FOMERLY SITEL PHILIPPINES CORPORATION) IS ENTITLED TO ITS CLAIM FOR REFUND IN THE AMOUNT OF ₱13,878,076.64, REPRESENTING ITS EXCESS AND UNUTILIZED INPUT VALUE-ADDED TAX (VAT) ARISING FROM ITS DOMESTIC PURCHASES OF GOODS (OTHER THAN CAPITAL GOODS) AND SERVICES AND PURCHASES OF CAPITAL GOODS ATTRIBUTABLE TO ITS ZERO-RATED TRANSACTIONS FOR THE FOURTH (4TH) QUARTER OF TAXABLE YEAR (TY) THAT ENDED 31 DECEMBER 2016.

Herein, petitioner maintains that it has complied with all the requisites for a valid claim for VAT refund and is entitled to the amount being claimed, *i.e.*, ₱13,878,076.64.

In support of its petition, petitioner submits that it properly registered its Palawan site as a *Facility* since it is merely a "cost center" that incurs production costs but does not actually generate any sales. Relative thereto, it refers to BIR Revenue Regulations (**RR**) No. 7-2012 that defines a *Branch* and a *Facility*. According to petitioner, as part of the definition[56] in RR No. 7-2012, a *Facility* shall be registered as a *Branch* whenever sales transactions/activities are conducted thereat. It further argues that the registration of a *Facility* with no sales activity, as opposed to a *Branch*, is not subject to any payment of Annual Registration Fee (**ARF**).

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55 Statement of Issues, Petition for Review, id., p. 47.

56 **SEC. 3. DEFINITION OF TERMS**. For purposes of these Regulations, the following words and/or phrases shall be defined as follows:

...

8. "***Facility***" – may include but not limited to place of production, showroom, warehouse, storage place, garage, bus terminal, or real property for lease *with no sales activity*. A facility shall be registered as a branch whenever sales transactions/activities are conducted thereat. Registration of the "Facility" with no sales activity is not subject to payment of Annual Registration Fee (ARF).

...

While reliant on the definition of a *Branch* or *Facility* in the aforesaid RR, petitioner points out that the same regulation does not define what constitutes a "sales activity". It also posits that the term should be understood to pertain to the perfection of a sale by the mere acceptance of orders and the consequent issuance of a sales invoice or official receipt. To bolster its stance, petitioner refers to its practice across its numerous operational sites (including its Palawan site). It asserts that its sites cannot operate independently from its main office that issues the billing statements and official receipts.

Reacting on the First Division's finding that the registration of the Palawan site as a *Facility* was only finalized in 2017 or the TY subsequent to the subject TY (2016) for its refund claim, petitioner explains that this lapse should only be imposed with administrative penalties and not with an outright rejection of its refund claims.

Additionally, petitioner maintains that the evidence it presented before the First Division sufficiently established that it rendered its services in the Philippines during the 4th quarter of TY 2016. To this end, it recaps that it had presented uncontroverted testimony supporting its position, as well as a Certificate of Inward Remittances that proves inward payments of foreign currency. Its audited financial statements also state that it is engaged in providing services to domestic and offshore businesses and that it had rendered services to overseas entities.

Respondent counters that the nature of registration of a taxpayer's additional sites determines the activities that may be conducted therein. As such, as petitioner's Palawan site was registered only as a *Facility*, it should mean that petitioner had been doing business beyond the scope of its vested authority pursuant to its registration.

Respondent also contends that due to the lapse in petitioner's registration *vis-à-vis* the way it has set up its sites, the sales in question should be treated as the main office's sales (which would then be classified as VAT-exempt instead of zero-rated as contemplated under Section 112(A) of the NIRC of 1997, as amended). According to respondent, it should be so since the main office operates from within an Ecozone as a registered business enterprise and benefits from a preferential 5% Gross Income Tax rate incentive.

As regards petitioner's claim of its rendered services in the Philippines during the 4th quarter of TY 2016, respondent takes the opposite position and insists that petitioner's evidence presented for this purpose was insufficient. Respondent adds that the latter's issues are recycled and should be disregarded after the First Division has already passed upon them.

RULING OF THE COURT *EN BANC*

After a thorough examination of the records of the case and the parties' arguments, We find no cogent reason to deviate from the First Division's actions in petitioner's prior Petition for Review.

PETITIONER FAILED TO MEET THE REQUISITES TO BE ENTITLED TO THE REFUND CLAIMED.

Claims for refund of input taxes find basis in Section 110(B), in relation to Section 112(A) and (C) of the NIRC of 1997, as amended by RA 10963[57], otherwise known as the Tax Reform for Acceleration and Inclusion (**TRAIN**) and subsequent laws. The said provisions read as follows:

> ...
>
> **Sec. 110.** *Tax Credits.* —
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> ...
>
> (B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.
>
> ...

[57] 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 NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

> **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.
>
> ...
>
> (C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.
>
> ...

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[58] (**Deutsche Knowledge Services**), the Supreme Court laid down the requisites for the entitlement to tax refund or credit of excess input VAT attributable to zero-rated sales, to wit:

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58 G.R. No. 234445, 15 July 2020; Citations omitted.

> ...
>
> Under Section 4.112-1(a) of Revenue Regulations No. (RR) 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites: "(1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax."
>
> ...

Applying the foregoing principle, the Court *En Banc* shall evaluate petitioner's compliance with the aforementioned requisites, beginning with the third requisite for an orderly disposition of the case.

> THIRD (3RD) REQUISITE:
> THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES WERE MADE.

Pursuant to the above-cited Section 112(A) and (C)[59] of the NIRC of 1997, as amended, the administrative claim for refund of excess input tax must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

As to the judicial claim, a thirty (30)-day period to is counted from the taxpayer's receipt of an adverse decision rendered within the ninety (90)-day period for the BIR to decide the claim, or within 30 days after the lapse of such ninety 90-day period, whichever comes earlier.[60]

We echo the First Division's findings which aptly concluded[61] that both of petitioner's administrative and judicial claims were timely filed, *viz*:

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59 Supra at p. 12.
60 Id.
61 Supra at note 1, p. 15; Citations omitted, emphasis supplied and italics in the original text.

...

The present claim covers the 4th quarter of taxable year 2016. Counting two (2) years from the close of the said quarter, the pertinent last day for the filing of an administrative claim is December 31, 2018.

Considering that petitioner's **administrative claim for refund** [letter dated December 19, 2018 and *Application for Tax Credits/Refunds* (BIR Form No. 1914)] covering the said period, **was filed with the BIR's VCAD on December 28, 2018, the same was timely made.**

...

Notably, respondent is deemed to have acted on petitioner's administrative claim within the said ninety (90)-day period from December 28, 2018, when the BIR, through OIC-Assistant Commissioner Ma. Luisa I. Belen, issued the letter dated March 21, 2019, denying petitioner's administrative claim.

Considering that petitioner received the said Letter dated March 21, 2019 on March 28, 2019, the former had until April 27, 2019 within which to appeal the same before this Court. Since **the present judicial claim was filed on April 26, 2019, the same is likewise timely made.**

...

FIRST (1ST) REQUISITE:
PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Section 105[62] of the NIRC of 1997, as amended, provides that any person who, in the course of trade or business, sells barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to VAT. Section 236(G) of the same Code lays down the persons required to register for VAT:

...

SEC. 236. *Registration Requirements.* —

...

(G) *Persons Required to Register for Value-Added Tax.* —

62 SEC. 105. *Persons Liable.*

> (1) Any person who, in the course of trade or business, sells, barters or exchanges goods or properties, or engages in the sale or exchange of services, shall be liable to register for value-added tax if:
>
> (a) His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Section 109(A) to (BB), have exceeded Three million pesos (₱3,000,000); or
>
> (b) There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Section 109(A) to (BB), will exceed Three million pesos (₱3,000,000).
>
> (2) Every person who becomes liable to be registered under paragraph (1) of this Subsection shall register with the Revenue District Office which has jurisdiction over the head office or branch of that person, and shall pay the annual registration fee prescribed in Subsection (B) hereof. If he fails to register, he shall be liable to pay the tax under Title IV as if he were a VAT-registered person, but without the benefit of input tax credits for the period in which he was not properly registered.
>
> ...

The First Division has already rendered an exhaustive discussion on the necessity of VAT registration and the implications of the defect or absence thereof, highlighting petitioner's failure to conform with the registration requirements under Section 9.236-1(a) of RR No. 16-2005.[63]

Nevertheless, for emphasis, We shall pass upon the same arguments as raised anew by petitioner before this Court *En Banc*.

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63 SEC. 9.236-1. *Registration of VAT Taxpayers.* –

(a) *In general.* - Any person who, in the course of trade or business, sells, barters, exchanges goods or properties, or engaged in the sale of services subject to VAT imposed in Secs. 106 and 108 of the Tax Code shall register with the appropriate RDO using the appropriate BIR forms and pay an annual registration fee in the amount of Five Hundred Pesos (₱500) using BIR Form No. 0605 for every separate and distinct establishment or place of business (save a warehouse without sale transactions) before the start of such business and every year thereafter on or before the 31st day of January.

"Separate or distinct establishment" shall mean any branch or facility where sales transactions occur.

"Branch" means a fixed establishment in a locality which conducts sales operation of the business as an extension of the principal office.

...

Any person who maintains a head or main office and branches in different places shall register with the RDO which has jurisdiction over the place wherein the main or head office or branch is located.

Each VAT-registered person shall be assigned only one TIN. The branch shall use the 9-digit TIN of the Head Office plus a 3-digit Branch Code.

"VAT-registered person" refers to any person registered in accordance with this section.

Notably, it is provided in the last paragraph of the Section 236(G), as quoted previously, that an entity required to register for VAT that fails to register is to be made liable for the same without the benefit of input tax credits. It is to be understood that a refund claim for unutilized input taxes cannot be given due course if the taxpayer is, to begin with, denied the benefit of the input tax.

Petitioner leans on its interpretation of Our previous pronouncements in *The City of Makati v. The Municipality of Bakun and Luzon Hydro Corporation*[64] (**Municipality of Bakun**), isolating the fact of billing, invoicing, and recording as the basis in determining a site's designation as a *Branch* or *Facility*.

We do not adhere to petitioner's view.

To clarify, the relevant disquisitions in *Municipality of Bakun* are quoted as follows:

> ...
>
> Makati City failed to controvert that invoices or records of all sales to NPC are not handled by the Makati City Office nor does it **operate any aspect of the business or primary purposes of the Company as provided in Plaintiff's Articles of Incorporation**. Thus, we find that the Special First Division of this Court was correct when it ruled as follows:
>
> > "xxx, [T]o be considered as a branch or sales office under the LGC, such office must be engaged in the sale of goods/services of the principal office.
> >
> > ...
> >
> > *In other words, to be considered as a branch or sales office of LHC, the Makati City office must be engaged in the sale of the hydro electric power being produced by LHC. However, the record shows otherwise. The Makati office of LHC does not sell the goods/products of its principal office, which is hydro electric power. This much is evident in the allegation of LHC in its Complaint dated January 17, 2006 filed with the RTC which was never disputed by any of the municipalities concerned. LHC states that '[Tlhe invoices or records of all sales to NPC are not handled by Plaintiff's (LHC) Makati City Office* ***nor does it operate any aspect of the business or primary purposes of the Company as provided in Plaintiff's Articles of Incorporation.***'[65]
>
> ...

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64 CTA EB Case No. 1179 (CTA AC No. 100), 14 January 2016.

65 Supra; Emphasis supplied, italics and underscoring in the original text.

Of further relevance is the disquisition of the Supreme Court when the above-cited case was presented for its review -

> ...
>
> ... In the present case, LHC's Makati office could not be viewed as equivalent to a factory or a project office.
>
> The subject tax is a tax on business, particularly one that is expressly imposed on gross sales recorded. For this reason, it was relevant to the CTA's discussion to consider that **invoices or records of all sales are not handled by LHC's Makati office, nor does it operate any aspect or primary purpose of LHC as provided in its Articles of Incorporation.**
>
> The rules on tax allocation in relation to tax situs under Sec. 150 of R.A. No. 7160 come into play when a business subject to it does not operate a branch or sales office outside of its principal office where all sales are recorded, but has a factory, project office, plant, or plantation situated in different localities, whether or not sales are made in these localities. Thus, even if no sales were recorded or undertaken at LHC's Makati office, **Makati would have been entitled to share with LHC's power plant sites in the 70% portion of the business tax if it could be shown that the Makati office was a project office of LHC akin to a factory.** The enumeration itself — factory, project office, plant, or plantation — reveals the character of the office contemplated by the provision. **These are offices directly involved in production or operations;** hence, the inescapable conclusion that LHC's Makati office was a mere administrative office.[66]
>
> ...

A careful reading of the foregoing yields that, contrary to petitioner's view, the Supreme Court held that apart from the recording and invoicing of sales, a site's activities amounting to direct participation in the entity's production or operations are equally sufficient for it to be considered a *Branch*.

Petitioner has likewise been clear and consistent in narrating the model of its business in the arguments and evidence it has presented both to the Court *En Banc* and before the First Division. As stated in its Amended Articles of Incorporation[67], petitioner's primary purpose is *"to*

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66 *The City of Makati v. The Municipality of Bakun and Luzon Hydro Corporation*, G.R. No. 225226, 07 July 2020; Citations omitted, emphasis and underscoring supplied.

67 Petitioner's Amended Articles of Incorporation, *Rollo*, p. 436.

provide outscored call centre services from the Philippines to domestic and offshore businesses."

Applying by analogy, the Rules and Regulations[68] implementing the Local Government Code of 1991, as amended, defines *"Branch or Sales Office"* as a fixed place in a locality, which conducts **operations of the business** as an extension of the principal office. Petitioner's witness has also previously testified[69]:

> ...
>
> Q-103 Why was the Palawan site registered as a facility, if you know?
>
> A-103 ...
>
> **... The Palawan facility is simply the place where the call center agents carry-out or perform services which lead to revenues** that the head office bills, invoices, records, and collects from customers. ...
>
> ...

To establish the basis of its refund claim, petitioner had also presented its record of zero-rated sales for the TY 2016, as compared with its VAT returns and supported by its official receipts, credit memos, journal vouchers, and ledgers. In the assailed Decision, the First Division held[70]:

> ...
>
> The records show that petitioner's Palawan Facility (in Puerto Princesa) was not yet registered at the time of the period of the subject refund claim (*i.e.*, the 4th quarter of taxable year 2016), and yet it was able to generate sales of call center services therein to Sitel Operation Corporation in the same period, in the aggregate amount of US$408,504.82 (equivalent to ₱20,083,296.82). ...
>
> ...
>
> The records show that petitioner generated sales for call center services during the subject period. ...
>
> ...

---

68 Administrative Order No. 270 dated 21 February 1992.

69 Exhibit "P-43", supra at note 25, pp. 134-135; Emphasis supplied.

70 Supra at note 1, pp. 21-22.

Taken together, it is apparent that, opposite to petitioner's stance, it must indeed register its Palawan site as a *Branch* in compliance with RR No. 7-2012. However, as petitioner admitted, it registered the Palawan site as a *Facility* (but argued that it only did so in 2017 or the subsequent year of the subject TY).

The First Division has sufficiently addressed the matter of petitioner's belated and erroneous registration[71], to wit:

> ...
>
> The fact that petitioner was able to obtain a Certification of Registration of Facility (OCN: 8RCOOO 1131729E) is of no moment. This is so because the same was issued only on August 9, 2017, and thus, it is apparent that the issuance thereof is already after the 4th quarter of taxable year 2016, when the subject sales were made[.] ...
>
> ...

Petitioner is also of the belief that the BIR erred in approving its registration of its Palawan site as a *Facility* by issuing a *Certificate of Registration of Facility*.[72] According to petitioner, the said certificate[73] carries a disclaimer that "[n]o [s]ales [t]ransactions are conducted in this Facility, otherwise, it shall be registered as a branch office".

Indubitably, petitioner's activities in its Palawan site determine whether the corresponding registration as a *Facility* should remain or ought to be changed into a *Branch*. Coupled with the aforementioned disclaimer, We cannot fault the BIR for the resultant lapse in petitioner's registration. Nonetheless, it is worthy to note that petitioner's Palawan site lacked such registration of either form during the period pertinent to the refund claim, *i.e.*, the 4th quarter of TY 2016.

All told, We find no error with the First Division's conclusions. For the purpose of the instant refund claim, petitioner's Palawan site cannot be considered validly VAT-registered.

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71 Id.

72 Par. 75, Petition for Review, supra at note 4, p. 54.

73 Exhibit "P-29", Division Docket, Volume II, p. 1008.

SECOND (2ND) REQUISITE:
PETITIONER MUST BE ENGAGED IN SALES WHICH ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED.

The 2nd requisite requires that the taxpayer is engaged in zero-rated or effectively zero-rated sales and, for zero-rated sales under Sections 106(A)(2)(a)(1) and (3)[74], and 108(B)(1) and (2)[75] of the NIRC[76] of 1997, as amended, the acceptable foreign currency exchange proceeds must have been duly accounted for in accordance with [BSP] rules and regulations.

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[74] **Sec. 106.** *Value-Added Tax on Sale of Goods or Properties.* –
(A) *Rate and Base of Tax.* – There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, value-added tax equivalent to twelve percent (12%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
...
(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
(a) *Export Sales.* - The term '*export sales*' means:
(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
...
(3) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.]
...

[75] **Sec. 108.** *Value-Added Tax on Sale of Services and Use or Lease of Properties.* –
...
(B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
(1) **Processing, manufacturing or repacking goods** for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
(2) **Services other than those mentioned in the preceding paragraph**, rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.] (Emphasis supplied)
...

[76] As amended by TRAIN.

In *Deutsche Knowledge Services*[77], the Supreme Court held that in order for the sales of "other services"[78] to be considered VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the taxpayer-claimant must prove the following conditions:

> ...
>
> ... *First*, the seller is VAT-registered. *Second*, the services are rendered "to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed." *Third*, services are "paid for in acceptable foreign currency and accounted in accordance with [BSP] rules and regulations.
>
> ...

In addition to the foregoing, as laid down under Section 108(B)(2)[79] of the NIRC of 1997, as amended, the "other services" must be performed in the Philippines.

As to the ***1st condition***, it was already earlier established that petitioner's registration of its Palawan site is fatally defective. As stated, petitioner registered it as a *Facility* instead of a *Branch*. In addition, it lacked a registration of either kind for the period pertinent to its refund claim.

As regards the ***2nd condition*** which requires that the recipient of such services must be engaged in business conducted outside the Philippines or not engaged in business and is outside the Philippines when the services are performed, in *Deutsche Knowledge Services*[80], the Supreme Court discussed the two (2) components that the claimant must establish to prove a client's status as a nonresident foreign corporation (**NRFC**), to wit:

> ...
>
> ... (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must, be sufficient proof of *both* of these

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77 Supra at note 58; Citations omitted and italics in the original text.
78 Supra at note 75.
79 Supra at note 75.
80 Supra at note 58; Citations omitted, emphasis supplied and italics in the original text.

components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.

...

Proof of the above-mentioned second component sets the present case apart from *Accenture, Inc. v. Commissioner of Internal Revenue* and *Sitel Philippines Corp. v. Commissioner of Internal Revenue*. In these cases, the claimants similarly presented **SEC Certifications and client service agreements**. However, the Court consistently ruled **that documents of this nature only establish the *first* component (*i.e.*, that the affiliate is foreign). The absence of any other competent evidence (*e.g.*, articles of association/certificates of incorporation) proving the *second* component (*i.e.*, that the affiliate is not doing business here in the Philippines) shall be fatal to a claim for credit or refund of excess input VAT attributable to zero-rated sales.**

...

Based on *Deutsche Knowledge Services*, there must be sufficient proof of both components – (1) that petitioner's clients are **foreign corporations** which can be proven by the SEC Certifications of Non-Registration; and, (2) that they are **not doing business in the Philippines** (the *prima facie* proof of which is the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines).

As the First Division held correctly, it is not enough that the recipient of the services be proven to be a foreign corporation; rather, it must be specifically proven to be a nonresident foreign corporation. For this, it is propitious to revisit its findings, *viz*:

...

... [P]etitioner points to its SEC Certificates, BIR Registration, and the Services Agreements it entered into with Sitel Operating Corporation. However, said documents are wanting of any indication that the subject services were performed in the Philippines. The said SEC Certificates and BIR Registration merely establish petitioner's existence and the fact of registration under Philippine laws. Anent the said Services Agreements, nothing has been stipulated therein as to where the said services are to be performed. ...[81]

...

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81 Supra at note 1, pp. 25-26.

The records likewise bear that petitioner presented a Certificate of Inward Remittances that proves inward payments of foreign currency in petitioner's favor, and its audited financial statements showing that it is engaged in providing services to domestic and offshore businesses, and that it had rendered services to overseas entities. While these pieces of evidence can respectively prove the fact of inward remittances and the scope of petitioner's business activities, they do not strictly meet the two (2) components discussed above. While the documents support the facts identified herein, they do not definitively prove that the recipients of petitioner's services are foreign corporations not doing business in the Philippines.

As to the nuances in the necessary evidence and the facts petitioner should prove in connection with the above requirement, the Supreme Court's pronouncements in *Accenture, Inc. v. Commissioner of Internal Revenue*[82] are instructive:

> ...
>
> **The evidence presented by Accenture may have established that its clients are foreign. This fact does not automatically mean, however, that these clients were doing business outside the Philippines.** After all, the Tax Code itself has provisions for a foreign corporation engaged in business within the Philippines and vice versa, to wit:
>
> > SEC. 22. *Definitions.* — When used in this Title:
> > ...
> >
> > (H) The term *"resident foreign corporation"* applies to a foreign corporation engaged in trade or business within the Philippines.
> >
> > (I) The term *'nonresident foreign corporation'* applies to a foreign corporation not engaged in trade or business within the Philippines.
>
> Consequently, to come within the purview of Section 108(B)(2), it is not enough that the recipient of the service be proven to be a foreign corporation; rather, it must be specifically proven to be a nonresident foreign corporation.
>
> ...
>
> Accenture failed to discharge this burden. It alleged and **presented evidence to prove *only* that its clients were foreign entities**. However, as found by both the CTA Division and the CTA

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82 G.R. No. 190102, 11 July 2012; Citation omitted, italics in the original text, emphasis and underscoring supplied.

> *En Banc*, no evidence was presented by Accenture to **prove the fact that the foreign clients to whom petitioner rendered its services were clients doing business outside the Philippines**.
>
> As ruled by the CTA *En Banc*, the Official Receipts, Intercompany Payment Requests, Billing Statements, Memo Invoices-Receivable, Memo Invoices-Payable, and Bank Statements presented by Accenture merely substantiated the existence of sales, receipt of foreign currency payments, and inward remittance of the proceeds of such sales duly accounted for in accordance with BSP rules, all of these were devoid of any evidence that the clients were doing business outside of the Philippines.
>
> ...

Verily, absent any clear and competent proof that petitioner's clients are not engaged in trade or business within the Philippines, a collection of pieces of evidence aiming to reinforce the fact that a taxpayer's clients are foreign would still fall short of the requirement under Section 108(B)(2) of the NIRC of 1997, as amended.

Furthermore, it is settled that claims for refund are to be strictly construed against the claimant in the same nature as a tax exemption.[83] At this stage, We must stress the importance of satisfying the two (2) components. We are of the view that the absence of evidence sufficiently proving both components are fatal to a refund claim for unutilized input taxes.

Actions for a tax refund or credit are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.[84] The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit.[85] Since taxes are the lifeblood of the government, tax laws must be

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83 See *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206526, 28 January 2015; *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corp*oration, G.R. No. 188497, 25 April 2012; *Commissioner of Internal Revenue v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, 07 July 2010; *Commissioner of Internal Revenue v. Solidbank Corporation*, G.R. No. 148191, 25 November 2003.

84 *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008.

85 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, 19 February 2018.

faithfully and strictly implemented as they are not intended to be liberally construed.[86]

In view of petitioner's non-compliance with the ***1st*** and ***2nd conditions***, the Court *En Banc* finds it unnecessary to proceed with a determination of the concurrence of the ***3rd*** *and* ***4th conditions***, *i.e.*, that the services are "paid for in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations, and are rendered in the Philippines", respectively.

Similarly, the Court *En Banc* finds it unnecessary to determine whether petitioner complied with the remaining requisite under Section 112[87] of the NIRC of 1997, as amended, *i.e.*, that the creditable input tax due or paid must be attributable to such sales (except the transitional input tax to the extent that such input tax has not been applied against the output tax). A further discussion or resolution thereof could no longer change the outcome of herein case.

WHEREFORE, in view of the foregoing, the instant Petition for Review filed by petitioner Foundever Philippines Corporation (formerly *Sitel Philippines Corporation*) on 21 September 2022 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 21 February 2022 and 15 August 2022, respectively, of the First Division in CTA Case No. 10076, entitled *Sitel Philippines Corporation v. Commissioner of Internal Revenue,* are **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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86 Id.
87 Supra at p. 12.

WE CONCUR:

ON LEAVE
ROMAN G. DEL ROSARIO
Presiding 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

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice