REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

REMA TIP TOP PHILIPPINES, INC., *Petitioner,*	**CTA EB No. 2688** *(CTA Case No. 9794)*
	Present:
- versus -	**DEL ROSARIO,** *PJ,* **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** FEB 0 8 2024

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1:30 p.m.

DECISION

REYES-FAJARDO, J.:

Before the Court *En Banc* is a Petition for Review[1] filed by Rema Tip Top Philippines, Inc. (RTTPI) on October 12, 2022 assailing the Decision[2] and Resolution[3] of the Third Division of this Court (Court in Division) promulgated on January 24, 2022 and July 26, 2022, respectively, in CTA Case No. 9794. In these assailed issuances, the Court in Division denied RTTPI's claim for refund amounting to ₱1,377,618.64, allegedly representing input value-added tax (VAT) attributable to zero-rated sales relative to the fourth quarter of the taxable year 2015.

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1 *Rollo*, pp. 8-53.
2 Penned by Court of Tax Appeals Associate Justice *Rollo*, pp. 59-99.
3 *Rollo*, pp. 101-109.

FACTS

Petitioner RTTPI is a domestic corporation duly organized and existing under Philippine laws, primarily to operate, conduct, and carry on the business of engaging in any *construction-related work* on commercial or industrial facilities.[4] It is registered with the Bureau of Internal Revenue (BIR) under Taxpayer Identification Number (TIN) 008-042-655-000.

On the other hand, respondent Commissioner of Internal Revenue (CIR) is vested with the power to decide on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the 1997 National Internal Revenue Code (Tax Code), as amended, or other laws or portions thereof administered by the BIR.

On October 21, 2017, RTTPI filed an amended Quarterly VAT Return (BIR Form No. 2550-Q) relative to the fourth quarter of taxable year 2015,[5] declaring total sales amounting to ₱18,861,067.96, computed as follows:

Particulars	Line	Amount
Sales subject to VAT	15A	₱4,313,062.28
Zero-rated sales	17	14,548,005.68
Total	19A	**₱18,861,067.96**

RTTPI computed output tax on its vatable sales, which amounted to ₱517,567.47,[6] applied the output tax payable against the available input tax and, ultimately, reported a VAT *overpayment* amounting to ₱4,376,566.04, *viz.*:

Particulars	Line	Amount
Total available input tax	22	₱4,894,133.51
Less Output tax due	19B	517,567.47
VAT overpayment	29	**₱4,376,566.04**

4 Exhibit "P-17-a," Docket – Vol. 3, p. 1440.
5 Exhibit "P-3," Docket – Vol. 3, p. 1382.
6 Vatable sales x Tax rate = ₱4,313,062.28 x 12% = ₱517,567.47.

Its *total available input tax* amounting to ₱4,894,133.51 was broken down as follows:

20	Less: Allowable Input Tax				
20A	Input Tax Carried Over from Previous Period			20A	4,696,993.60
20B	Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter			20B	0.00
20C	Transitional Input Tax			20C	0.00
20D	Presumptive Input Tax			20D	0.00
20E	Others			20E	0.00
20F	Total (Sum of Item 20A, 20B, 20C, 20D & 20E)			20F	4,696,993.60
21	Current Transactions		Purchases		
21A/B	Purchase of Capital Goods not exceeding P1Million (see	21A	0.00	21B	0.00
21C/D	Purchase of Capital Goods exceeding P1Million (see	21C	0.00	21D	0.00
21E/F	Domestic Purchases of Goods Other than Capital Goods	21E	88,373.65	21F	10,604.84
21G/H	Importation of Goods Other than Capital Goods	21G	882,569.15	21H	105,908.30
21I/J	Domestic Purchase of Services	21I	671,889.72	21J	80,626.77
21K/L	Services Rendered by Non-residents	21K	0.00	21L	0.00
21M	Purchases Not Qualified for Input Tax	21M	0.00		
21N/O	Others	21N	11,480,155.31	21O	0.00

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21P	Total Current Purchases (Sum of Ite A, 21C, 21E, 21G, 21I, 21K, 21M & 21N)	21P	13,122	33	
22	Total Available Input Tax (Sum of Item 20F, 21B, 21D, 21F, 21H, 21J, 21L & 21O)			22	4,894,133.51
23	Less: Deductions from Input Tax				

On December 27, 2017, RTTPI filed an Application for Tax Credits/Refunds (BIR Form No. 1914) seeking the refund of alleged unutilized input VAT credits amounting to ₱1,377,618.64 relative to the subject period (administrative claim).[7]

Subsequently, on March 2, 2018 respondent[8] denied RTTPI's administrative claim through a Notice of Denial for VAT Refund/Credit[9] for failure to comply with some of the requirements listed under Annex "A" of Revenue Memorandum Circular (RMC) No. 54-2014: (1) Certified true copy of Audited Financial Statements; (2) Schedule of zero-rated sales with complete details; (3) Certified true copy of import entry and internal revenue declarations duly validated by bank with official receipt (OR); and, (4) Certified true copy of Bureau of Customs (BOC) receipts.

This prompted RTTPI to file a Petition for Review[10] before the Court in Division on April 2, 2018 (judicial claim) docketed as CTA Case No. 9794. In the main, it averred as follows:

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7 Exhibits "P-1" and "P-1-A," Docket – Vol. 3, p. 1373.
8 Through Revenue District Officer Rufo B. Ranario.
9 Exhibit "P-36," Docket – Vol. 3, p. 1457.
10 Docket – Vol. 1, pp. 10-38.

First, zero-rated sales as declared in the VAT return amounting to ₱14,548,005.68 (Line 17) consisted of sales to enterprises registered with the Bureau of Investments (BOI) and the Philippine Economic Zone Authority (PEZA),[11] sales to non-resident foreign corporations (NRFCs), and exchange of transportation equipment yielding a net gain.

Second, as declared in the VAT return, total purchases in the fourth quarter of taxable year 2015 amounted to ₱13,122,987.83 (Line 21P). Of this total, purchases *allocated to vatable sales* and *attributable or allocated to zero-rated sales* amounted to ₱1,642,832.52 (total of Lines 21E, 21G, 21I)[12] and ₱11,480,155.31 (Line 21N), respectively.

Third, RTTPI is entitled to the refund of unutilized input tax amounting to ₱1,377,618.64,[13] which was computed and paid on its purchases *attributable or allocated to zero-rated sales* (i.e., ₱11,480,155.31).[14]

RULING OF THE COURT IN DIVISION

In the Assailed Decision promulgated on January 24, 2022, while it ruled in favor of the timeliness of RTTPI's administrative and judicial claims and confirmed its VAT registration, the Court in Division denied RTTPI's judicial claim. Its key findings are summarized as follows: *First*, only fourth quarter sales to the extent of ₱2,322,393.48[15] out of sales amounting to ₱14,548,005.68 declared in the return qualify as zero-rated. *Second*, the input tax met the substantiation and invoicing requirements to the extent of ₱232,014.18. *Third*, RTTPI failed to substantiate the amount of ₱4,696,993.60 representing input tax carried from previous periods, as reported in its VAT return (Line 20A). Resultantly, there is no sufficient proof that the input tax subject of the instant claim was not applied against any output tax in the subject and succeeding periods. Stated differently, RTTPI was unable to establish that it had unutilized input tax that may be refunded in its favor.

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11 Paragraph 15, Petition for Review in CTA Case No. 9794, Docket - Vol. 1, p. 17.
12 Paragraph 19, Petition for Review in CTA Case No. 9794, Docket - Vol. 1, p. 19.
13 Input tax subject of the instant claim = Purchases attributable to zero-rated sales x VAT rate = ₱11,480,155.31 x 12% = ₱1,377,618.64.
14 Paragraph 18, Petition for Review in CTA Case No. 9794, Docket - Vol. 1, pp. 18-19.
15 *Rollo*, pp. 79, 82-83.

The Court in Division likewise denied[16] RTTPI's subsequent motion for reconsideration. Verily, upon re-verification, the amount of sales qualifying as zero-rated was adjusted from ₱2,322,393.48 to ₱4,222,393.48.[17] However, RTTPI still failed to submit proof that it had valid input tax available for refund and attributable to said zero-rated sales.[18]

Hence, RTTPI filed the present petition.

ARGUMENTS

Petitioner assigns the following errors upon the Court in Division as follows: *First*, contrary to the assailed rulings, it complied with the requisites to the entitlement to a refund of unutilized input tax as set out in Section 112(A) of the Tax Code, as amended.[19] *Second*, the Court in Division should have recognized the zero-rated character of its sales for the following reasons: (a) its zero-rated sales were substantiated properly, as confirmed by the Independent Certified Public Accountant (ICPA); (b) photocopies of the BOI Certifications submitted to prove that its sales were made to BOI-registered entities are admissible in evidence; and, (c) on motion for reconsideration, it submitted clearer copies of invoices relative to sales made to PEZA-registered enterprises, but the Court in Division still rejected the same. *Third*, its input tax on purchases and importations should not have been disallowed for the following reasons: (a) these transactions were substantiated properly, and (b) photocopies of the importations documents are admissible in evidence. *Fourth*, the disallowance of input tax carried from previous periods amounting to ₱4,696,993.60 is not relevant to the instant claim, which relates to the fourth quarter of 2015.

Significantly, the Court directed respondent to file a Comment on the instant petition but it failed to do so within the time allowed.[20] Consequently, the case was submitted for decision on February 10, 2023.[21]

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16 In a Resolution promulgated on July 26, 2022.
17 *Rollo*, p. 105.
18 *Rollo*, p. 106.
19 *Rollo*, pp. 30-37.
20 As per Records Verification dated January 25, 2023. *Rollo*, p. 125.
21 In Resolution dated February 10, 2023. *Rollo*, pp. 127-128.

ISSUES

The primary question in the present controversy is: Did the Court in Division err in denying RTTPI's claim for refund?

To resolve this question, We must inquire into the sufficiency of evidence in establishing the following: *First*, whether RTTPI's sales amounting to ₱14,548,005.68 are zero-rated, as declared in its VAT return and, *second*, whether the input taxes subject of the present claim are available / eligible for refund.

OUR RULING

The Petition for Review lacks merit. We do not find sufficient reason to reverse or modify the Assailed Decision.

In the recent case of *Chevron Holdings, Inc. v. Commissioner of Internal Revenue (Chevron)*,[22] the Supreme Court reiterated the requisites for the availment of a tax credit/refund under Section 112(A)[23] of the Tax Code, as amended:

> Under Section 112(A) of the Tax Code, the taxpayer may claim for refund or issuance of tax credit certificate of unutilized input VAT attributable to zero-rated sales subject to the following conditions: (1) the taxpayer is VAT-registered; (2) the taxpayer is engaged in zero-rated or effectively zero-rated sales; (3) the claim must be filed within two (2) 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.

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[22] G.R. No. 215159, July 5, 2022.

[23] SECTION 112. Refunds or Tax Credits of Input Tax.– (A) Zero-rated or Effectively Zero-rated Sales.– Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1),(2) and (B) and Section 108 (B)(1) and (2),the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP):Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or 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.

At the outset, We recognize RTTPI's VAT registration and the timeliness of its administrative and judicial claims for refund/credit (*i.e.*, first and third requisites). Thus, Our pronouncement below deals more specifically with the second and fourth requisites in *Chevron*.

RTTPI established the zero-rated character of its sales, as declared in the VAT return, but only in part.

RTTPI's zero-rated sales amounting to ₱14,548,005.68, as declared in the VAT return (Line 17), consisted of sales to BOI- and PEZA-registered entities, sales to an NRFC, and exchange of equipment yielding a net gain. However, the Court in Division recognized the zero-rated character of these sales to the extent of ₱4,222,393.48, *viz.*:

	Per Return	Confirmed as zero-rated by Court in Division
Sales to BOI-registered entity	₱44,855.96	-
Sales to PEZA-registered entities	13,792,692.39	₱4,222,393.48
Sales to NRFC	170,091.17	-
Exchange of equipment yielding a net gain	540,366.16	-
Total	₱14,548,005.68	₱4,222,393.48

A. The sales to PEZA-registered entities.

Under Section 108(B)(3) of the Tax Code, as amended, when a *VAT-registered person* renders services to a *person enjoying a tax exemption* that, in essence, subjects the supply of such services to zero percent rate, such supply or sale shall be regarded as zero-rated.

Revenue Regulations (RR) No. 16-05, otherwise known as the Consolidated VAT Regulations of 2005 (VAT Regulations) is instructive:

> (c) "Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement". – Sales of goods or property to persons or entities who are tax-exempt under special laws, e.g. sales to enterprises duly registered and accredited with the

> Subic Bay Metropolitan Authority (SBMA) pursuant to R.A. No. 7227, **sales to enterprises duly registered and accredited with the Philippine Economic Zone Authority (PEZA)** or international agreements to which the Philippines is signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., shall be effectively subject to VAT at zero-rate.[24] (Emphasis supplied)

The above-cited regulation includes a PEZA-registered enterprise in the definition of *"person enjoying a tax exemption"* for purposes of VAT zero-rating.

In Revenue Memorandum Circular (RMC) No. 74-99,[25] the BIR clarified the tax treatment of sales of goods, property, and services by a supplier from the customs territory to a PEZA-registered enterprise, *viz.*:

> SECTION 3. Tax Treatment Of Sales Made By A VAT Registered Supplier From The Customs Territory, To A PEZA Registered Enterprise.—
>
> (1) If the Buyer is a PEZA registered enterprise which is subject to the 5% special tax regime, in lieu of all taxes, except real property tax, pursuant to R.A. No. 7916, as amended:
>
> (a) Sale of goods (i.e., merchandise). — This shall be treated as indirect export hence, considered subject to zero percent (0%) VAT, pursuant to Sec. 106(A)(2)(a)(5), NIRC and Sec. 23 of R.A. No. 7916, in relation to ART. 77(2) of the Omnibus Investments Code.
>
> **(b) Sale of service.— This shall be treated subject to zero percent (0%) VAT under the "cross border doctrine" of the VAT System, pursuant to VAT Ruling No. 032-98 dated Nov. 5, 1998.**
>
> (2) If Buyer is a PEZA registered enterprise which is not embraced by the 5% special tax regime, hence, subject to taxes under the NIRC, e.g., Service Establishments which are subject to taxes under the NIRC rather than the 5% special tax regime:
>
> (a) Sale of goods (i.e., merchandise). — This shall be treated as indirect export hence, considered subject to zero percent (0%) VAT, pursuant to Sec. 106(A)(2)(a)(5), NIRC and Sec. 23 of R.A. No. 7916 in relation to ART. 77(2) of the Omnibus Investments Code.

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[24] Section 4.106-5(c), RR No. 16-2005.

[25] *Tax Treatment of Sales of Goods, Property and Services Made by a Supplier from the Customs Territory to a PEZA Registered Enterprise; and Sale Transactions Made by PEZA Registered Enterprises Within and Without the ECOZONE*, October 15, 1999.

> **(b) Sale of Service.— This shall be treated subject to zero percent (0%) VAT under the "cross border doctrine" of the VAT System, pursuant to VAT Ruling No. 032-98 dated Nov. 5, 1998.**
>
> **(3) In the final analysis, any sale of goods, property or services made by a VAT registered supplier from the Customs Territory to any registered enterprise operating in the ecozone, regardless of the class or type of the latter's PEZA registration, is actually qualified and thus legally entitled to the zero percent (0%) VAT.** Accordingly, all sales of goods or property to such enterprise made by a VAT registered supplier from the Customs Territory shall be treated subject to 0% VAT, pursuant to Sec. 106(A)(2)(a)(5), NIRC, in relation to ART. 77(2) of the Omnibus Investments Code, **while all sales of services to the said enterprises, made by VAT registered suppliers from the Customs Territory, shall be treated effectively subject to the 0% VAT, pursuant to Section 108(B)(3), NIRC, in relation to the provisions of R.A. 7916 and the "Cross Border Doctrine" of the VAT system.**
>
> **This Circular shall serve as a sufficient basis to entitle such supplier of goods, property or services to the benefit of the zero percent (0%) VAT for sales made to the aforementioned ECOZONE enterprises and shall serve as sufficient compliance to the requirement for prior approval of zero-rating imposed by Revenue Regulations No. 7-95 effective as of the date of the issuance of this Circular.** (Emphases Supplied)

To underscore, **all** sales of goods, property, or services by a VAT-registered supplier to a PEZA-registered enterprise shall be subject to VAT at zero percent, not at the regular rate of 12%. To enjoy the benefit of VAT zero-rating of its sales, **the supplier is not even required to secure a separate certification therefor**. RMC No. 74-99's provisions shall be sufficient basis.[26]

As declared in the return, RTTPI's sales to PEZA-registered entities in the subject period amounted to ₱13,792,692.39, broken down[27] as follows:

Customer	Amount
Coral Bay Nickel Corporation (CBNC)	₱920,197.48
Taganito HPAL Nickel Corporation (THPAL)	12,872,494.91
Total	₱13,792,692.39

[26] See *Commissioner of Internal Revenue v. Kurimoto (Philippines) Corp.*, C.T.A. EB Case No. 2666 (C.T.A. Case No. 9740), October 11, 2023.

[27] Footnote 52, Assailed Decision.

CBNC and THPAL are PEZA-registered enterprises by virtue of their respective PEZA Certificates of Registration.[28] Hence, RTTPI's aggregate sales to these enterprises are zero-rated.

B. Sales to BOI-registered enterprise.

In the present case, RTTPI claims that it made sales in the amount of ₱44,855.96 to FCF Minerals Corp., a BOI-registered enterprise.

Sales to BOI-registered enterprises are regarded as zero-rated pursuant to Revenue Memorandum Order No. 09-00,[29] *viz.*:

> SECTION 3. Sales of goods, properties or services made by a VAT-registered supplier to a BOI-registered exporter shall be accorded automatic zero-rating, i.e., without necessity of applying for and securing approval of the application for zero-rating as provided in Revenue Regulations No. 7-95, subject to the following conditions:
>
> (1) The supplier must be VAT-registered,
>
> (2) The BOI-registered buyer must likewise be VAT-registered;
>
> (3) The buyer must be a BOI-registered manufacturer/producer whose products are 100% exported. For this purpose a Certification to this effect must be issued by the Board of Investments (BOI) and which certification shall be good for one year unless subsequently re-issued by the BOI;
>
> (4) The BOI-registered buyer shall furnish each of its suppliers with a copy of the aforementioned BOI Certification which shall serve as authority for the supplier to avail of the benefits of zero-rating for its sales to said BOI-registered buyers; and;
>
> (5) The VAT-registered supplier shall issue for each sale to BOI-registered manufacturer/exporters a duly-registered VAT invoice with the words "zero-rated" stamped thereon in compliance with Sec. 4.108-1(5) of RR 7-95. The supplier must likewise indicate in the VAT invoice the name and BOI-registry number of the buyer

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[28] Exhibits "P-9," "P-9-A," "P-9-B," and "P-10," Docket – Vol. 3, pp. 1398-1402.

[29] SUBJECT: Tax Treatment of Sales of Goods, Properties and Services Made by VAT-registered Suppliers to BOI-registered Manufacturers-Exporters With 100% Export Sales, February 2, 2000.

As proof of the transaction's zero-rating and compliance with the fourth requirement above, RTTPI offered in evidence a copy of FCF Minerals Corp.'s BOI Certification.[30]

Significantly, due to its failure to secure the original copy or certified true copy thereof, RTTPI offered a *mere photocopy* of the document. The Court in Division denied[31] admission, did not give probative value thereto, and, consequently, did not regard the sales to FCF Minerals Corp. as zero-rated.

We find this ruling to be in order, especially in light of the further finding that said BOI Certificate pertains to *2014 sales* to FCF Minerals Corp. and, thus, irrelevant to the present claim which is founded on zero-rated sales for the *fourth quarter of 2015*.

C. Sales to NRFCs.

According to RTTPI, sales in the aggregate amount of ₱170,091.17 were made to NRFCs, namely: Evonik Methionine Sea Pty Ltd. (Evonik), Tip Top Japan, Inc. (Tip Top Japan), and Veolia Water Technologies Deutschland (Veolia).[32]

Sales of services in connection with the **processing, manufacturing, or repacking** of goods for persons doing business outside the Philippines are regarded as VAT zero-rated under subparagraph (1) of Section 108(B) of the Tax Code, as amended. On the other hand, sales of services **other than those specified in Section 108(B)(1)**, nonetheless, may qualify for VAT zero-rating, if the requisites as discussed by the Supreme Court in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[33] concur, *viz.*:

> Conditions for Zero-rating of
> Sales of Services
>
> Zero-rated sales are, for all intents and purposes, subject to VAT, only that the rate imposed upon them is 0%. Thus, while these sales will not mathematically yield output VAT, the input VAT

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30 Annex A, Exhibit "P-42-2," Docket - Vol. 3, pp. 1466 to 1467.
31 As per Resolution dated June 26, 2019, Par. 2, Docket - Vol. 4, pp. 1501-1503.
32 See Footnote 53, Assailed Decision.
33 G.R. No. 234445, July 15, 2020.

arising therefrom is nonetheless creditable or refundable, as the case may be.

> Sales of "other services," such as those qualifying services rendered by DKS to its foreign affiliates-clients, shall be zero-rated pursuant to Section 108 (B)(2) of the Tax Code if the following conditions are met: **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, the services are "paid for in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations."**
>
> x x x
>
> Proof of NRFC Status
>
> **For purposes of zero-rating under Section 108 (B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, viz.: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines.** To be sure, there must be sufficient proof of both of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines. (Emphasis supplied)

As found by the Court in Division, RTTPI did not meet two of the three above-enumerated requisites with reference to its sales to NRFCs. More specifically, it cannot avail of VAT zero-rating on its sales to Evonik, Tip Top Japan, and Veolia because it failed to adduce evidence to prove (a) these entities' NRFC status (*i.e.*, that these are foreign corporations *not* doing business in the Philippines), and (b) that the services had been "paid for in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations."

Thus, the Court in Division was correct in not according zero-rating to the aforementioned sales.

D. Exchange of equipment yielding a net gain

The Court in Division observed that the alleged zero-rated sale in the amount of ₱540,366.16 pertains to the net gain on the exchange

of a transportation equipment with Mr. Joseph Antonio Tomas Cruz. On this score, We also agree with the Court in Division's ruling that this transaction does not qualify for zero-rating, inasmuch has there was no proof showing that this transaction may be regarded as zero-rated under the applicable sub-paragraphs of Section 108 of the Tax Code, as amended.

At this juncture, while We confirm the zero-rated nature of the sales amounting to ₱13,792,692.39 out of the aggregate amount of ₱14,548,005.68 declared as zero-rated sales in RTTPI's VAT return, We nonetheless uphold the Court in Division's denial of the instant claim.

With respect to the fourth quarter of 2015, RTTPI did not incur input tax available for refund.

Input VAT subject of a claim must be valid; that is, eligible for refund or credit in accordance with relevant Tax Code provisions and regulations. To be valid, the input VAT: (a) must not be transitional input taxes,[34] (b) must be due or paid[35] and substantiated by supporting documents that, in turn, meet the applicable VAT invoicing requirements,[36] (c) must be attributable to zero-rated or effectively zero-rated sales or supplies of service,[37] and, (d) must not have been applied against output taxes during and in the succeeding quarters.[38]

A judicious review of the records reveals that RTTPI failed to declare in its VAT return for the fourth quarter of 2015 the input taxes subject of the instant claim. As will be explained below, RTTPI's lapse, in turn, amounts to failure to meet requirements (b), (c), and (d) above.

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34 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation v. 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.

35 Ibid.

36 *Team Energy Corporation v. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

37 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009.

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

A VAT taxpayer is mandated to report the **correct amount** of input taxes in the corresponding declaration/return as an integral part of its responsibility to determine the correct amount of VAT payable (*i.e.* output tax less input tax).[39]

Under the Tax Code provisions governing VAT and its implementing rules, for every month or quarter it is required to file a declaration[40] or return,[41] the taxpayer shall work out the amount of input taxes creditable **by adding all creditable input taxes arising from domestic purchases or importations made *during the subject month or quarter*, as the case may be.**

Claimants bear the burden of proving the factual and legal basis of its claim for refund or credit.[42] Thus, for purposes of input tax refunds founded upon Section 112(A) of the Tax Code, as amended, the claimant must demonstrate, among others, attributability of the purchases that incurred input VAT to the "relevant sales" that were made.[43]

Subject of the present claim are input taxes amounting to ₱1,377,618.64 claimed to have been incurred in the **fourth quarter of 2015**. In its VAT return for the said period, RTTPI declared *total available input tax* amounting to ₱4,894,133.50[44] broken down as follows:

Particulars	Line	Amount
Input tax carried over from previous period	20F	₱4,696,993.60
Input tax from current transactions		197,139.90
Total available input tax	22	**₱4,894,133.50**

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39 In computing the VAT payable or excess tax credits, "[t]here shall be allowed as a deduction from the output tax the amount of input tax deductible as determined under Sec. 4.110-1 to 4.110-5 of these Regulations to arrive at VAT payable on the monthly declaration and the quarterly VAT returns, subject to the limitations set forth in Section 4.110-7." See Section 4.110-6, Consolidated Value-Added Tax Regulations of 2005, Revenue Regulations No. 16-05, September 1, 2005, as amended by Revenue Regulations No. 04-07, February 7, 2007.

40 Section 4.114-1, Consolidated Value-Added Tax Regulations of 2005, Revenue Regulations No. 16-05, September 1, 2005.

41 Section 114, Tax Code; Section 4.114-1, Consolidated Value-Added Tax Regulations of 2005, Revenue Regulations No. 16-05, September 1, 2005, as amended by Revenue Regulations No. 04-07, February 7, 2007.

42 *Commissioner of International Revenue v. Filminera Resources Corporation*, G.R. No. 236325, September 16, 2020, citing *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, G.R. Nos. 141104 & 148763, June 8, 2007, 551 PHIL 519-567.

43 *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 250479, July 18, 2022.

44 Amount is ₱4,894,133.51 in Line 22 of the VAT return; ₱0.01 discrepancy.

In other words, as of the fourth quarter of 2015, input taxes amounting to ₱4,894,133.50 may be applied against any output tax due and/or claimed as refund or credit.[45] However, the eligibility of this balance for refund/credit is negated by RTTPI's own averments, *viz.*: *First*, it specified[46] that the input taxes it seeks to refund arose from **current period purchases** (*i.e.*, fourth quarter of 2015), which forecloses a claim against the balance of input taxes carried over from previous periods (₱4,696,993.60). *Second*, it identified[47] the balance of input taxes from current transactions (₱197,139.90) as **attributable to vatable sales**, which makes said balance unavailable for refund or credit.

These lead Us to the conclusion that RTTPI itself acknowledges that the present claim (₱1,377,618.64) cannot be sourced from the balance of available input taxes (₱4,894,133.50) declared in the subject return.

Verily, RTTPI's claim that it had purchases attributable to zero-rated sales during the fourth quarter of 2015 amounting to ₱11,480,155.31[48] can be traced to Line 21N of the subject return, classified as "others" under the "current transactions" section. However, notably, **it did not report any input tax resulting therefrom (Line 21O)**, *viz.*:

Current period transactions	Line	Purchases	Line	Resulting Input tax
Domestic purchases of goods other than capital goods	21E	₱88,373.65	21F	₱10,604.84
Importation of goods other than capital goods	21G	882,569.15	21H	105,908.30
Domestic purchase of services	21I	671,889.72	21J	80,626.77
Subtotal		₱1,642,832.52		₱197,139.90
Others	**21N**	**11,480,155.31**	**21O**	**nil**[49]
Total	21P	₱13,122,987.83		**₱197,139.90**

[45] See *Chevron*, supra Note 22.

[46] Paragraph 18, Petition for Review in CTA Case No. 9794, Docket – Vol. 1, pp. 18-19; also see Paragraph 17, Present Petition for Review, *Rollo*, p. 14.

[47] Paragraphs 19-20, Petition for Review in CTA Case No. 9794, Docket – Vol. 1, p. 19; also see Paragraphs 18-19, Present Petition for Review, *Rollo*, p. 15.

[48] Paragraph 17, Petition for Review in CTA Case No. 9794, Docket – Vol. 1, p. 18; also see Paragraph 16, Present Petition for Review, *Rollo*, p. 14.

[49] Left blank in the return.

Interestingly, 12% of ₱11,480,155.31 corresponds exactly to the amount of the present claim (₱1,377,618.64). Further verification revealed that, instead of declaring this amount in the **fourth quarter of 2015**, RTTPI reported the same in its **first quarter VAT return for 2017**.

> 35. The Input tax allocated to zero-rated sales which was **first presented in line 20E Others** of the 1st Quarter VAT return for 2017 amounted to P7,275,535.75 (*Exhibit P-1077*). This amount consists of P1,377,618.64 which is the amount of Input tax allocated to zero-rated sales for the 4th Quarter of 2015 and the subject matter of the claim for refund under the filed Petition, and P5,897,917.11, the amount of Input tax allocated to zero-rated sales for the year 2016. Following is a summary of the details of the total amount of input tax allocated to zero-rated sales as first presented in the 1st Quarter VAT Return for 2017. As earlier stated, this total amount of input tax attributable to zero-rated sales was not utilized and was deducted from total available input tax.

Table XII

Period	Amount of Purchases allocated to Zero-rated Sales	Input Tax as computed	Exhibit Nos.
4th Quarter 2015		**1,377,618.64**	**see Petition**
1st Quarter 2016	9,965,604.54	1,195,872.54	P-1073
2nd Quarter 2016	15,473,118.03	1,856,774.16	P-1074
3rd Quarter 2016	6,709,880.34	805,185.64	P-1075
4th Quarter 2016	17,000,706.32	2,040,084.76	P-1076
		7,275,535.75	

(Emphasis supplied).[50]

In other words, RTTPI declared the input taxes (*i.e.*, subject of the present claim and supposed to have been paid in relation to 2015 purchases) **belatedly and in a different period**.

To be clear, the taxpayer is not at liberty to declare input taxes at just any time; these must be reported in the declaration/return in the **proper period** to establish the *attribution* of input taxes to the zero-rated sales upon which the claim for refund is based, as well as the fact that the input taxes were *due and paid*.

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[50] Page 19, ICPA Report, Exhibit "P-42", Docket – Vol. 3, pp. 1238-1239.

That the year/period upon which RTTPI's claim was founded (2015 fourth quarter) does not coincide with the year/period of reporting/declaration (2017 first quarter) indicates an absence of the required **nexus** between the input taxes sought to be refunded and the sales to which the purchases and the corresponding input taxes are supposed to relate. Furthermore, RTTPI's failure to declare input taxes that may have arisen from such other purchases in 2015 casts doubt upon the due and paid character thereof.

WHEREFORE, in light of the foregoing considerations, the Petition for Review is **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution of the Third Division of this Court promulgated on January 24, 2022 and July 26, 2022, respectively, in CTA Case No. 9794 are **AFFIRMED**.

SO ORDERED.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

ON LEAVE
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

ROMAN G. DEL ROSARIO
Presiding Justice