REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

MD NABUNTURAN AGRI-VENTURES, INC.	**CTA CASE NO. 11248**
Petitioner,	Members:
	RINGPIS-LIBAN, *Chairperson,*
	MODESTO-SAN PEDRO, *and*
-versus-	**FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before Us is a Petition for Review,[1] posted on August 3, 2023, and received by the Court on August 8, 2023, pursuant to *Section (7)(a)(1) of Republic Act ("RA") No. 1125*,[2] *as amended by RA No. 9282*,[3] praying for the Court to issue a judgment reversing and setting aside respondent's Value Added Tax ("VAT") Refund Notice, dated June 6, 2023, and granting the same refund application in the amount of Php2,433,849.28, representing petitioner's alleged excess and unutilized input VAT for the period covering taxable year 2021 ("TY 2021").[4]

The Parties

Petitioner MD Nabunturan Agri-Ventures, Inc. ("MDNAVI" or "petitioner") is a corporation duly organized and existing under the laws of the Philippines, with principal office address at Nabunturan, Compostela

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1 Docket Vol. 1, pp. 6-37.
2 An Act Creating the Court of Tax Appeals, June 16, 1954.
3 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections or Republic Act No. 1125, As Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes; March 30, 2004.
4 Prayer, Petition for Review, Docket Vol. 1, p. 36.

Valley Province.[5] It is primarily engaged in developing, managing, owning, leasing, and operating agricultural lands, farms, pasture lands, and ranches, as well as in planting and cultivation of organic cavendish bananas and other farm products.[6] It is likewise involved in raising, breeding, cross-breeding, fattening, and pasturing of cattle, hog, poultry, and similar stocks.[7]

Petitioner is registered with the Bureau of Internal Revenue ("BIR") as a VAT-registered taxpayer with identification number ("TIN") 005-211-977-000,[8] and with the Board of Investments ("BOI") as an existing export producer of cavendish banana under BOI Registration No. 2019-264.[9] It is also registered with the Bureau of Customs ("BOC") as an exporter, as evidenced by Certificate of Renewal of Export License with CCN EX0000667633, issued on July 18, 2023.[10]

On the other hand, respondent Commissioner of Internal Revenue ("CIR" or "respondent") is the public officer duly authorized to decide cases involving claims for tax refund pursuant to *Section 112 (C) of the National Internal Revenue Code of 1997, as amended* ("Tax Code"). He may be served with summons and other Court processes through the BIR Litigation Division at Room 703 Litigation Division, BIR National Office Building, BIR Road, Diliman, Quezon City.[11]

The Facts

On March 31, 2023, petitioner filed with the BIR VAT Credit Audit Division an application for refund of the alleged utilized and excess creditable input VAT for a total amount of Php2,433,849.28 attributable to its zero-rated sales for TY 2021.[12]

Upon review of the application, respondent issued VAT Refund Notice ("Notice") dated June 6, 2023,[13] received by petitioner on July 4, 2023, denying the entire amount of claim. In the Notice, respondent discussed the following observations / findings:

1. Deductions of Php1,153,546.50 from the claim, to wit:

Violation of invoicing pursuant to Sec. 113 to Sec. 110 of the NIRC of 1997, as amended ("Annex A")	₱	103,962.41

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5 Articles of Incorporation, Exhibit "P-3", Docket Vol. 2, pp. 670-676.
6 *Id.*
7 *Id.*
8 BIR Certificate of Registration, Exhibit "P-6", *id.* at 682.
9 BOI Certificate of Registration, Exhibit "P-5", *id.* at 678.
10 BOC Certificate of Renewal of Export License, Exhibit "P-4", *id.* at 677.
11 See Joint Stipulation of Facts and Issues ("JSFI"), *id.* at 451.
12 Application for Tax Credits/Refunds (BIR Form No. 1914), Exhibit "P-17", BIR Records, p. 167.
13 VAT Refund Notice, Exhibit "P-1", Docket Vol. 1, p. 47-53, with annexes.

Disallowed amortized portion of deferred input VAT on prior year's CG ("Annex B")	47,925.32
Output VAT on sales declared as exempt ("Annex C")	1,605.60
Output VAT on other income (Annex "C")	59,100.77
Output VAT on collected intercompany billings (Annex "C")	940,970.40
Total	**₱ 1,153,564.50**

2. Review of zero-rated sales and their corresponding supporting documents disclosed disallowed zero-rated sales of goods and services in the total amount of Php255,525,186.21, as summarized and discussed hereunder:

Unsupported indirect zero-rated sales of bananas		₱ 80,143,875.62
Direct zero-rated sales of services		
Official receipt outside the period of claim	₱ 166,683.93	
No scanned copy of official receipt	1,079,090.63	1,245,774.56
Direct zero-rated sales of goods		174,135,536.03
Zero-rates sales of goods (per QVRs)		**₱ 255,525,186.21**

a. Alleged indirect zero-rated sales of *Php80,143,875.62* to Sarap Fruits Agri-venture, Inc. was not substantiated by proof of zero-rating pursuant to item 6 of Annex "A.1" of RMO No. 47-2020.

b. Official Receipt (OR) No. 380000013, amounting to *Php166,683.93*, was dated August 18, 2022.

c. No scanned copy of OR No. 380000008, with sales of *Php1,079,090.63*, was submitted pursuant to item 2.2 of Annex "A.1" of RMO No. 47-2020.

d. Facts of the case disclosed that:

- **MDNAVI** was issued a **Permit to Use (PTU) Computerized Accounting System (CAS) No. 1810_0112_PTU_CAS_000352 approved on October 10, 2018.**

- The said permit covers the claimant's complete CAS, computerized books of accounts and the use/printing of system-generated accounting records which include, among others, **CHARGE INVOICES with serial range from 0000001 to 9999999.**

- **MDNAVI** issued "**Charge Sales Invoice/Commercial Invoice**" for the **taxable year 2021 for its zero-rated sale of goods.**

- **MDNAVI notified Revenue District Office (RDO) No. 112 – Tagum City, Davao Del Norte** of the enhancement/modification made to its CAS on **April 29, 2022** (page 194).

Based on the existing records of the Bureau for the period of the claim, the **MDNAVI** is **only authorized to issue invoices bearing the header "CHARGE INVOICE". The "Charge Sales Invoice/Commercial invoices"** issued by **MDNAVI are still not covered by the BIR approved CAS Permit** since the notification to the RDO of the enhancement/modification was **made only on April 29, 2022** which was beyond the period of the claim.

Section 238 of the NIRC of 1997, as amended, requires that all persons who are engaged in business shall secure from the BIR an authority to print receipts or sales or commercial invoices before a printer can print the same. Without this proof, the invoices or receipts would have no probative value for the purpose of refund.

Hence, **MDNAVI** was not able to comply with one of the requisites in establishing VAT zero-rated sales, which is the issuance of a valid Sales Invoices for its alleged zero-rated sale of goods. In this regard, you were not able to prove your zero-rated sales amounting to Php174,135,536.03.
(Emphasis in the original)

Aggrieved, petitioner elevated an appeal with this Court through the instant Petition for Review posted on August 3, 2023. On the other hand, respondent posted his Answer,[14] dated October 18, 2023, on October 23, 2023, after being granted an extension of time to file the same.[15]

Thereafter, both petitioner[16] and respondent[17] submitted their respective pre-trial briefs on March 8, 2024.

The pre-trial conference ensued on March 12, 2024.[18]

On April 11, 2024, petitioner filed a Motion to Commission Independent Certified Public Accountant ("ICPA") praying for the appointment of Tibayan Santos Magpantay and Company, represented by Peter Raymond T. Santos, as ICPA who would perform audit functions in the

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[14] Answer, Docket Vol. 1, pp. 326-353.
[15] See Motion for Extension of Time to file Answer, *id.* at 320-323; see also Order dated September 27, 2023, *id.* at 324
[16] Pre-Trial Brief for Petitioner, *id.* at 385-409.
[17] Respondent's Pre-Trial Brief, *id.* at 411-414.
[18] See Minutes of hearing dated March 12, 2024, Docket Vol. 2, p. 418.

instant case.[19] The same was granted during the hearing held on April 25, 2024.[20]

Meanwhile, on April 11, 2024, the parties submitted their Joint Stipulation of Facts and Issues.[21] The Court then issued its pre-trial order[22] on April 25, 2024.

During trial, petitioner presented its witnesses Joseph Basquina,[23] Marlon Dumail[24] and Eden Ledres Miranda,[25] who testified through their separate judicial affidavits and appeared before the Court on April 25, 2024,[26] July 16, 2024[27] and September 12, 2024,[28] respectively.

Petitioner also offered the testimony of ICPA Santos who submitted his report[29] to the Court on May 27, 2024 and was called as witness on July 16, 2024.[30]

On October 14, 2024, petitioner submitted its Formal Offer of Evidence ("FOE"),[31] to which respondent filed its Comment[32] on October 18, 2024. The Court thereafter admitted all offered evidence pursuant to such FOE on January 21, 2025.[33]

Meanwhile, respondent offered the testimonies of Revenue Officers ("RO") Denise R. Dayanan[34] and Janine Mycka P. Espiritu,[35] who testified through their separate Judicial Affidavits both dated February 12, 2024. They were presented before the Court on January 21, 2025.[36]

Respondent then submitted his FOE[37] on January 27, 2025, to which petitioner filed its Comment[38] on February 11, 2025. All evidence were admitted by the Court on April 2, 2025.[39]

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[19] Motion to Commission Independent Certified Public Accountant, *id.* at 423-434, with annexes.
[20] See Minutes of hearing dated April 25, 2024, *id.* at 465.
[21] Joint Stipulation of Facts and Issues, *id.* at 451-457.
[22] Pre-Trial Order, *id.* at 468-474.
[23] See Judicial Affidavit of Joseph P. Basquina, Exhibit "P-54", Docket Vol. 1, pp. 60-72.
[24] See Judicial Affidavit of Marlon D. Dumail, *id.* at 73-82.
[25] See Judicial Affidavit of Eden Ledres Miranda, Docket Vol. 2, pp. 576-592.
[26] See Minutes of hearing dated April 25, 2024, *supra* note 20.
[27] See Minutes of hearing dated July 16, 2024, Docket Vol. 2, p. 564.
[28] See Minutes of hearing dated September 12, 2024, *id.* at 641.
[29] ICPA Report, dated May 24, 2024, Exhibit "P-55".
[30] See Minutes of hearing dated July 16, 2024, *supra* note 27.
[31] Formal Offer of Evidence, Docket Vol. 2, pp. 644-667.
[32] Comment (Re: Formal Offer of Evidence), *id.* at 782-784.
[33] See Resolution dated January 21, 2025, *id.* at 792.
[34] See Judicial Affidavit of Revenue Officer Denise R. Dayanan, Exhibit "R-7", Docket Vol. 1, pp. 368-373.
[35] See Judicial Affidavit of Revenue Officer Janine Mycka P. Espiritu, Exhibit "R-8", *id.* at 378-384.
[36] See Minutes of hearing dated January 21, 2025, Docket Vol. 2, p. 788.
[37] Respondent's Formal Offer of Evidence, *id.* at 794-798.
[38] Comment (to Respondent's Formal Offer of Evidence), *id.* at 803-807.
[39] Resolution dated April 2, 2025, *id.* at 812.

Respondent[40] and petitioner[41] submitted their respective Memoranda on May 7 and May 8, 2015.

After noting the foregoing submissions, the instant Petition was submitted for decision on May 12, 2025.

The Issues

The issues, as stipulated by the parties, are as follows:

> WHETHER PETITIONER IS ENTITLED TO THE REFUND OF THE ALLEGED EXCESS AND UNUTILIZED INPUT VAT IN THE AMOUNT OF PHP2,433,849.28 COVERING THE PERIOD JANUARY 1, 2021 TO DECEMBER 31, 2021; and
>
> WHETHER THE ADMINISTRATIVE DECISION SERVED TO PETITIONER DENYING ITS CLAIM FOR REFUND BASED ON THE EVIDENCE PRESENTED BEFORE THE BUREAU OF INTERNAL REVENUE WAS CORRECT.[42]

Arguments of the Parties

Petitioner's Arguments[43]

Petitioner argues that it is entitled to a VAT refund for TY 2021 in the amount of Php2,433,849.28. It highlights that it complied with all the requisites of a valid refund, and that it submitted all the required documents to support such application.

As regards the documents supporting its sales, petitioner maintains that it issued valid invoices for its zero-rated transactions pursuant to a valid Permit to Use Computer Accounting System ("PTUCAS") and in compliance with *Sections 237 and 238 of the Tax Code,* as well as *Section 113 thereof in relation to Revenue Regulations (RR) No. 16-2005, as amended.* It insists that the modification of the header of the system generates sales invoice from "Charge Sales Invoice" to "Charge Sales Invoice/Commercial Invoice" does not constitute a system enhancement that resulted in the change in the system's release and/or version number; hence, the automatic revocation of petitioner's PTUCAS has no basis in law.

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[40] Memorandum dated May 7, 2025, *id.* at 814-848.
[41] Memorandum dated May 8, 2025, *id.* at 852-901.
[42] See Pre-Trial Order, *id.* at 469.
[43] See Memorandum dated May 8, 2025, *id.* at 864-898..

Finally, petitioner raises that it was able to substantiate its entitlement to a tax refund in the amount of Php2,433,849.28.

Respondent's Counter-Arguments[44]

Respondent, on the other hand, counters that the instant Petition must be denied due to petitioner's failure to substantiate its administrative claim for refund. He advances that since a decision has been rendered at the administrative level, the Court's jurisdiction shifts from a trial court to an appellate tribunal. Thus, according to respondent, the Court should confine itself to the issue of whether the findings of respondent are consistent with the law.

Respondent also highlights that its denial of petitioner's claim for refund was proper. Specifically, it emphasizes that petitioner failed to properly establish VAT zero-rated sales due to non-compliance with the requirements of *Sections 237 and 238 of the Tax Code,* as amended, and of *Section 113* of the same law. He further argues that although petitioner insists that the changes in the invoices are immaterial, without the confirmation of the BIR, petitioner cannot assume that the change of the header of its invoices will automatically conform to the already existing PTUCAS issued to it for another invoice with another header.

Lastly, after quoting the findings per VAT Refund Notice dated June 6, 2023, respondent advances that petitioner, as the entity claiming for input VAT refund, must not only prove entitlement to the claim but also compliance with all documentary and evidentiary requirements provided by tax laws and regulations. This, according to respondent, the petitioner failed to do so.

The Ruling of the Court

Requisites for the grant of claims for VAT refund or issuance of a tax credit certificate

The claims for refund or issuance of tax credit certificate of excess or unutilized creditable input VAT attributable to zero-rated sales, like the case at hand, are governed by *Sections 112(A) and (C) of the Tax Code*, as implemented by *Section 4.112.1 of the Revenue Regulations (RR) No. 16-2005*,[45] as amended by *RR No. 13-18*,[46] which respectively provide:

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[44] See Memorandum dated May 7, 2025, *id.* at 817-846.

[45] Consolidated Value-Added Tax Regulations of 2005, September 1, 2005.

[46] Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended, March 15, 2018.

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 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: 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 or Tax Credit of Input Taxes shall be Made. – In proper cases, ***the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) [now 90][47] days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.***

In case of ***full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals***.

. . .

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

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

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

[47] As amended under Section 36 of Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law, effective January 1, 2018.

> In case of zero-rated sales under Secs. 106(A)(2)(a)(1) and (3), Secs. 108(B)(1) and (2) of the Tax Code, the payments for the sales must have been made in ***acceptable foreign currency duly accounted for in accordance with the BSP rules and regulations***.
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> Where the taxpayer is engaged in both zero-rated or effectively zero-rated sales and in taxable (including sales subject to final withholding VAT) or exempt sales of goods, 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, only the proportionate share of input taxes allocated to zero-rated or effectively zero-rated sales can be claimed for refund or issuance of a tax credit certificate.
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> In the case of a person engaged in the transport of passenger and cargo by air or sea vessels from the Philippines to a foreign country, the input taxes shall be allocated ratably between his zero-rated sales and non-zero-rated sales (sales subject to regular rate, subject to final VAT withholding and VAT-exempt sales).
> (Emphasis and italics supplied)

On the basis of the foregoing, jurisprudence has laid down the requirements which a taxpayer-applicant must satisfy to successfully obtain a credit/refund of input VAT. These requisites are categorized as follows:

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

1. the administrative claim with the BIR should be filed within two years after the close of the taxable quarter when the pertinent zero-rated sales were made;[48]
2. that in case of full or partial denial of the refund claim, or the failure on the part of the respondent to act on the said claim within a period of 120 days (*now 90 days*), the judicial claim should be filed with this Court, within 30, days from receipt of the decision or after the expiration of the said 120-day (*now 90-day*) period;[49]

As to the taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;[50]

In relation to the taxpayer's output VAT;

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[48] *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

[49] *Id.*

[50] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *Southern Philippines Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 179632, October 19, 2011; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009.

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[51]
5. for zero-rated sales under *Sections 106(A)(2)(a)(1), (2), and (b) and 108(B)(1) and (2)*, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[52]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[53]
7. the input taxes are due or paid;[54]
8. the input taxes have not been applied against output taxes during and in the succeeding quarters;[55] and
9. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.[56]

Upon review of the evidence offered by the parties, We find that petitioner failed to comply with these requisites and is, thus, deemed not entitled to the refund of input VAT.

The Court is not limited by the evidence presented in the administrative claim; the taxpayer is allowed to present additional evidence with the CTA to support its claim for tax refund.

In relation to the above-enumerated requirements, it demands emphasis at this juncture that, contrary to respondent's claim, the Court is not limited to the evidence presented by a taxpayer in the administrative claim for refund.

Cases filed before the Court are litigated *de novo* wherein taxpayer-claimants must prove every minute aspect of their case.[57] Thus, petitioner must rightfully show compliance with the abovementioned requisites. The absence of any of the requirements constitutes a valid ground for the denial of

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51 *Id.*
52 *Id.*
53 *Id.*
54 *Id.*
55 *Id.*
56 *Id.*
57 *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

the claim. The Court therefore disagrees with the respondent's position that since an unfavorable decision has already been rendered at the administrative level, petitioner cannot present before the Court documents not submitted at the administrative level.

Respondent espouses the myopic view that the Court must be confined to a limited issue of whether there is indeed insufficiency of substantiation requirements to warrant the denial of the claim. However, We reiterate that as a court of record, the CTA has the authority to determine issues raised by the parties even if these were not raised in the administrative level. Similarly, it has the authority to accept evidence offered by the taxpayer-claimant to the Court, regardless of whether these were submitted at the administrative level. This has been clearly explained by the Supreme Court in the case of *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc.*[58] citing *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*,[59] thus:

> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, *the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.*
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> ***Cases filed in the CTA are litigated de novo*** as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting... to the Court of Tax Appeals all evidence... required for the successful prosecution of its administrative claim." ***Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.***
> (Emphasis and italics supplied.)

Petitioner's administrative and judicial claims for refund were timely filed.

As regards the *first* and *second* requisites in refund applications in relation to the timeliness of the administrative and judicial claims, the respective applicable periods are expressly provided in *Section 112 (A) and (C) of the Tax Code,* as quoted above.

Morevoer, the Court finds guidance from the ruling of the Supreme Court in case of *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue,*[60] which states:

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[58] G.R. No. 212727, February 1, 2023.
[59] G.R. No. 231581, April 10, 2019.
[60] G.R. No. 191495, July 23, 2018.

> . . . a VAT-registered taxpayer who has excess and unutilized creditable input VAT attributable to zero-rated sales may file an application for cash refund or issuance of TCC (administrative claim) before the CIR who has primary jurisdiction to decide such application. *The period within which to file the administrative claim is two (2) years reckoned from the close of the taxable quarter when the pertinent zero-rated sales were made.*
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> From the submission of complete documents to support the administrative claim, *the CIR is given a 120-day period to decide.* In case of whole or partial denial of or inaction on the administrative claim, the taxpayer may bring his judicial claim, through a petition for review, before the CTA who has exclusive and appellate jurisdiction. *The period to appeal is thirty (30) days counted from the receipt of the decision or inaction by the CIR.*
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> . . .
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> In the seminal cases of *Commissioner of Internal Revenue (Commissioner) v. Aichi Forging Company of Asia, Inc.* and *Commissioner v. San Roque Power Corporation/Taganito Mining Corporation v. Commissioner/Philex Mining Corporation v. Commissioner (San Roque),* the Court interpreted the 30-day period of appeal as mandatory and jurisdictional. Thus, noncompliance with the mandatory 30-day period renders the petition before the CTA void. The ruling in said cases as to the mandatory and jurisdictional character of the 30-day period of appeal was reiterated in a litany of cases thereafter.
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> Pertinently, the CTA law expressly provides that when the CIR fails to take action on the administrative claim, the "inaction shall be deemed a denial" of the application for tax refund or credit. The taxpayer-claimant must strictly comply with the mandatory period by filing an appeal with the CTA within thirty days from such inaction, otherwise, the court cannot validly acquire jurisdiction over it.
> (Italics supplied)

Based on the foregoing, there are three relevant periods governing claims for refund of input VAT attributable to zero-rated or effectively zero-rated sales:

1. The administrative claim for refund or issuance of tax credit certificate must be filed by the VAT-registered taxpayer within two years from the close of the taxable quarter when the sales were made;
2. The CIR has 90 days[61] to grant or deny the claim for refund from the date of submission of complete documents in support of the administrative application; and
3. The judicial appeal must be filed by the claimant within 30 days from the receipt of the decision denying the claim.[62]

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[61] As amended by Section 36 of the Tax Reform for Acceleration and Inclusion (TRAIN) Law.

[62] *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023.

In relation to the period granted to the CIR to review the application, the running of the same shall be triggered by the simultaneous submission by the taxpayer-applicant of the tax refund claim together with the complete supporting documents, as prescribed in *Revenue Memorandum Circular ("RMC") No. 54-2014*,[63] in accordance with the pronouncement of the Supreme Court in *Pilipinas Total Gas, Inc., v. Commissioner of Internal Revenue,*[64] to wit:

> To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition documents to complete his administrative claim, the 120 day period allowed to the CIR begins to run from the date of filing.
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> In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112(A) of the NIRC. The 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the denial or inaction of the CIR to the CTA must also be respected.
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> It bears mentioning at this point that the foregoing summation of the rules should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014, such as the claim at bench. *As it now stands, RMC 54-2014 dated June 11, 2014 mandates that:*
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> > *The application for VAT refund/tax credit must be accompanied by complete supporting documents as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that the said documents are the only documents which the taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.*
> >
> > Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and

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[63] Clarifies the issues relative to the application for Value-Added Tax (VAT) refund/credit under Section 112 of the Tax Code, as amended, dated June 17, 2014.

[64] G.R. No. 207112, December 8, 2015.

> issue the corresponding Denial Letter to the taxpayer/claimant.
>
> *Thus, under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to complete his supporting documents and attest that he will no longer submit any other document to prove his claim.* Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim.
> (Italics supplied)

Further, in the case of *Commissioner of Internal Revenue v. Dohle Shipmanagement Philippines Corp.*,[65] the Supreme Court had the occasion of applying amendments introduced by *RA No. 10963, or the Tax Reform for Acceleration and Inclusion ("TRAIN") Law*, adjusting the previously prescribed 120-day to 90-day period:

> For administrative claims for VAT refund filed beginning January 1, 2018:
>
> 1. The filing of the administrative claim with supporting documents must be done within two years from the close of the taxable quarter pursuant to Section 112 (A) of the 1997 Tax Code or issuance of tax clearance by the BIR in case of cancellation of registration or cessation of business under Section 106 (C) of the Tax Code.
>
> 2. The 90-day processing period is reckoned from the submission of the official receipts or invoices and other documents in support of the application for VAT refund.
>
> 3. Pursuant to RMC 47-2019, once an administrative claim for VAT refund is filed and duly received by the BIR, no additional document/s shall be subsequently requested/required from the taxpayer. Failure on the part of the taxpayer-claimant to submit the complete documents in support of the claim shall result in non-acceptance of the applications. Any unsupported claim shall be outrightly disallowed, resulting in full/partial denial of the claim.

Here in MDNAVI's case, the claim covers all the taxable quarters of TY 2021 – ending March 31, 2021 (for the first quarter / Q1), ending June 30, 2021 (for the second quarter / Q2), ending September 30, 2021 (for the third quarter / Q3), and December 31, 2021 (for the fourth quarter / Q4).

Based on the duly stamped received BIR Form No. 1914, the administrative claim for all quarters in TY 2021 was filed on March 31, 2023;[66] it was thus timely filed, considering the two-year prescriptive period.

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[65] G.R. No. 246379, August 19, 2024.
[66] *Supra* note 12.

The VAT Refund Notice, stating the BIR's decision on the refund application was thereafter received by petitioner on July 4, 2023.[67] Counting 30 days therefrom, petitioner had until August 3, 2023 within which to file a judicial appeal; hence, the instant Petition was timely posted on even date.[68]

Petitioner is a VAT-registered entity.

Based on MDNAVI's BIR Certificate of Registration[69] OCN 2RC00011136 with TIN 005-211-977-000, VAT was listed as one of petitioner's registered tax types. Accordingly, it is deemed to be compliant with the *third* requisite.

Petitioner failed to establish that it performed zero-rated sales under Section 106 (A)(2)(a)(1) of the Tax Code

Anent the *fourth* requisite, a taxpayer-applicant is mandated to prove that it is engaged in zero-rated or effectively zero-rated sales. In the case of *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*,[70] the Supreme Court unequivocally held that it is only when these types of sales transactions were duly proven that the taxpayer may have the option of applying for tax refund or credit, to wit:

> A plain and simple reading of the aforequoted provisions reveals that if and when the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. ***It is only when the sales of a VAT-registered person are zero-rated or effectively zero-rated that he may have the option of applying for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales.*** Such is the clear import of the Court's ruling in San Roque, to wit:
>
> > *Under Section 110(B), a taxpayer can apply his input VAT only against his output VAT. The only exception is when the taxpayer is expressly "zero-rated or effectively zero-rated" under the law,* like companies generating power through renewable sources of energy. . . .
>
> (Emphasis and italics supplied)

Further, as for the *fifth* requirement, the *Tax Code* requires that those zero-rated sales falling under *Sections 106 (A)(2)(a)(1) and (2), and 108 (B)(1) and (2)* thereof must be paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

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67 *Supra* note 13.
68 *Supra* note 1.
69 *Supra* note 8.
70 G.R. No. 222428, February 19, 2018.

Based on MDNAVI's VAT returns for Q1 to Q4 of TY 2021, and as summarized by ICPA Santos in his Report,[71] it reported total sales of Php256,622,389.29, including zero-rated sales amounting to Php255,525,186.21, broken down as follows:

2021	VATable	Zero-rated	Exempt	Total
Q1[72]	Php 372,343.50	Php 47,333,974.84	Php 361.88	Php 47,706,680.22
Q2[73]	439,044.33	70,470,649.13	315.69	70,910,009.15
Q3[74]	186,244.58	51,032,507.12	1,750.39	51,220,502.09
Q4[75]	86,190.17	86,688,055.12	10,952.54	86,785,197.83
	Php 1,083,822.58	**Php 255,525,186.21**	**Php 13,380.50**	**Php 256,622,389.29**

Petitioner claims that its zero-rated sales were covered by *Section 106(A)(2)(a)(1)*,[76] as amended, which provides that:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —
>
> (A) Rate and Base of Tax. — . . .
>
> . . .
>
> (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).*
> (Italics supplied)

Accordingly, in order to be considered valid zero-rated export sales, the following elements must be complied with:

1. The sale was made by a VAT-registered person;
2. There was a sale and actual shipment of goods from the Philippines to a foreign country; and
3. The sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

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[71] Summary of VAT Returns, Exhibit "P-55-1", ICPA Report.
[72] Exhibit "P-18", BIR Records, p. 62.
[73] Exhibit "P-18-1", *id.* at 61.
[74] Exhibit "P-18-2", *id.* at 60.
[75] Exhibit "P-18-3", *id.* at 59.
[76] See Petition for Review, Docket Vol. 1, p. 20; see also Memorandum dated May 8, 2025, Docket Vol. 2, p. 16.

i. First element: Petitioner is a VAT registered taxpayer.

As for the *first* element, it has already been established that petitioner is a VAT-registered person based on its BIR Certificate of Registration.[77]

ii. Second element: The commercial invoices issued by petitioner to its clients remain valid despite the modification made in the header from "Charge Sales Invoice" to "Charge Sales Invoice / Commercial Invoice."

Regarding the *second* element, any VAT registered person claiming VAT zero-rating on its direct export sale of goods must present the following documents:

1. The sales invoice as proof of sale of goods; and
2. The bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country.

In relation to the first item above, the claimant must prove compliance with the substantiation and invoicing requirements provided under *Section 113(A)(1),(B)(1), and (2)(c) of the Tax Code,* as amended, and *Section 4.113.1(A)(1), (B)(1), and (2)(c) of RR No. 16-2005,*[78], which respectively provide:

Section 113(A)(1),(B)(1) and (2)(c) of the Tax Code:

> SEC. 113. Invoicing and Accounting Requirements for VAT-Registered Persons. -
>
> (A) Invoicing Requirements. - A VAT-registered person shall issue:
>
> *(1) A VAT invoice for every sale, barter or exchange of goods or properties*; and
>
> (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> (B) Information Contained in the VAT Invoice or VAT Official Receipt. - The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> *(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN); and*

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[77] *Supra* note 8.
[78] Subject: Consolidated Value-Added Tax Regulations of 2005, September 1, 2005.

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

. . .

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

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

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.
(Italics supplied)

Section 4.113.1(A)(1), (B)(1) and (2)(c) of RR No. 16-2005

SEC. 4.113-1. *Invoicing Requirements.-*

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

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

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

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or VAT official receipt. All purchases covered by invoice/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) Information contained in VAT invoice or VAT official receipt. -The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN

> *(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:*
>
> . . .
>
> *(c) If the sale is subject to zero percent (0%) VAT, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;*
> . . .
> (Italics supplied)

It must be recalled that the BIR's denial of the administrative claim is mostly anchored on the alleged non-compliance with the foregoing invoicing requirements, in relation to *Sections 237 and 238 of the Tax Code.* These provisions require that sales invoices supporting the export sales must be duly registered with the BIR, thus:

> SEC. 237. ***Issuance of Receipts or Sales or Commercial Invoices***. - All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, ***issue duly registered receipts or sales or commercial invoices,*** prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That where the receipt is issued to cover payment made as rentals, commissions, compensations, fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: Provided, further, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser. . . .
>
> SEC. 238. ***Printing of Receipts or Sales or Commercial Invoices***. - All persons who are engaged in business shall secure from the Bureau of Internal Revenue an ***authority to print receipts or sales or commercial invoices before a printer can print the same.***
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, *the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner. . . .*
> (Emphasis and italics supplied)

To recall, respondent recognizes that petitioner was issued CAS No. 1810_0112_PTU_CAS_000352 approved on October 10, 2018[79] covering complete CAS. The Summary of System Description attached to the PTUCAS enumerates in Part V thereof the list of system-generated accountable forms/documents with approved serial number and/or manually issued receipts/invoices which includes "Charge Invoice." However, to support its

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[79] Exhibit "P-10", Docket Vol. 2, p. 692-693.

TY 2021 sales transactions, petitioner issued documents with the header "Charge Sales Invoice/Commercial Invoice."

Respondent, however, argues that by changing the header from "Charge Invoice" to "Charge Sales Invoice/Commercial Invoice", petitioner effectively used invoices not covered by the BIR approved CAS permit, as well as an authority to print ("ATP"); thus, violating the above-quoted *Sections 237 and 238 of the Tax Code.*

We find no merit in respondent's position.

For the period subject of the instant claim (TY 2021), the pertinent regulation is *RMC No. 05-2021*, dated December 28, 2020, promulgated January 8, 2021. Such BIR issuance enumerates the instances when PTUCAS shall no longer be considered valid, as well as the occurrences considered major enhancement, necessitating a new application for registration, to wit:

> 5. All taxpayers with existing Permit to Use (PTU) CAS, CBA and/or its Components shall NOT be required to apply for registration. The approved PTU previously issued by the Bureau shall still be valid, except for the following circumstances:
>
> a. ***PTU was revoked upon discovery of its non-compliance with existing revenue issuances*** during the conduct of authorized audit activity, Tax Compliance Verification Drive (TCVD) or Post-Evaluation.
>
> b. ***Existence of major system enhancement or upgrade,*** which will require the filing of *new application* for registration of the "System".
>
> 6. Taxpayer must submit a new application for registration in case of ***major enhancement***, such as but not limited to any of the following:
>
> a. ***Change in the functionalities of the system particularly on enhancements that will have a direct effect on the financial aspect*** of the system that includes modified computations and other financial-related issued that were considered;
>
> b. ***Addition or removal of modules or submodules within the system that will have a direct impact on the financial aspect*** of the system;
>
> c. ***Change in the system/software Version or Release Number*** that will have enhancement on the financial aspect of the system; and
>
> d. All other enhancements that will be deemed as ***major system enhancement based on the recommendation of the technical evaluators*** after the comparative functionalities of the old and upgraded "system" were presented by the taxpayer.

> In case a taxpayer is found to have used an ***enhanced/upgraded system/software/application without registering with BIR prior to the use of such enhanced "system", the PTU originally issued shall be automatically revoked or registration shall have no effect from the time the enhanced/upgraded system/software/application is adopted*** by the taxpayer and may still be subjected to applicable penalty under existing revenue issuances.
>
> 7. In case of any ***minor system enhancement***, e.g. user interface modification, bug fixes, performance improvements, etc., the taxpayer must submit a ***written notification to their registered RDO/LT Office*** stating the specific minor enhancements on the system.
> (Emphasis and italics supplied)

Here, petitioner claims that a side-by-side comparison of the "Charge Sales Invoice: as submitted for approval during its CAS application and the "Charge Sales Invoice/Commercial Invoice" eventually issued to its clients would show that both are the same on all material aspects, save for the updated header.

According to petitioner, the change in header was implemented pursuant to the mandate of the BOC, sometime in March 2018, to submit Commercial Invoices to support its export sales. Petitioner claims that by this time, the application for PTUCAS had already been submitted, sans approval. Thus, to implement the BOC mandate, petitioner instead applied for ATP to print and issue Commercial Sales Invoices. Such ATP was granted on April 20, 2018.[80] Then after being issued the PTUCAS on October 10, 2018,[81] and in order to reflect the 2018 ATP to issue Commercial Sales Invoice, petitioner updated the header of the computer-generated sales invoice from "Charge Invoice" to "Charge Sales Invoice/Commercial Invoice."

We note, however, that the sample Charge Invoice submitted to the Court as Exhibit "P-51"[82] (Charge Sales Invoice submitted by petitioner during CAS application), reflects the name of MD Davao Agri-Ventures, Inc. which appears to be an affiliate of petitioner. Thus, We are inevitably unable to verify petitioner's position regarding the sole modification on the header allegedly made in the invoices.

Nevertheless, We still deem it necessary to rule on the foregoing matter on the basis of the testimonies of the parties' witnesses, and the other documents presented to the Court.

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[80] Authority to Print OCN 2AU0001949730, dated August 20, 2018, valid until August 19, 2023, Exhibit "P-9", Docket Vol. 2, p. 691.

[81] *Supra* note 79.

[82] Exhibit "P-48", Docket Vol. 2, p. 764.

To recall, *RMC No. 5-2021* states that an existing PTUCAS shall be considered valid except: (i) if the PTU was revoked upon discovery of non-compliance with existing rules; and (ii) if there exists major system enhancement or upgrade which will require the filing of a new application.

Here, there was no prior express revocation of the PTU. Thus, what remains to be evaluated is whether there was a major enhancement in petitioner's system. For this purpose, the same RMC enumerates the following instances which are considered major system enhancements:

1. Change in the functionalities of the system particularly on enhancements that will have a direct effect on the financial aspect of the system;

2. Addition or removal of modules or submodules within the system that will have a direct impact on the financial aspect of the system;

3. Change in the system/software Version or Release Number that will have enhancement on the financial aspect of the system; and

4. All other enhancements that will be deemed as major system enhancement based on the recommendation of the technical evaluators.

In the Judicial Affidavit of witness Dumail, Manager of the Information and Communication Technology ("ICT") Department assigned to petitioner, the following questions were propounded by the counsel:

Q14: You mentioned in the Report that changing the header of Petitioner's system-generated sales invoices does not constitute a system enhancement on Petitioner's CAS, what do you mean by this?

A14: System enhancement is defined in Section II.AA of RMO No. 29-2002 as "any change or modification in the system software or architecture components of a computerized application system that will add value or further improve the system."

In the case of Petitioner's CAS, changing the header name of the system-generated sales invoices does not add value nor improve the Petitioner's CAS.

To elaborate, all data entry changes in the financial system are covered by the audit trail log. This audit trail log is illustrated at the Annex C of the Report. On the other hand, the change in header of the sales invoices from "Charge Sales Invoice" to "Charge Sales Invoice/Commercial Invoice" is "coded" in the programming "stored procedure programmability" and used at program runtime. This "stored procedure programmability" can be seen at Annex D of

> the Report. *The "store procedure programmability" only defines the display or presentation of the "table" of contents on the user's interface, which includes the form headers and print layout. Hence,* ***changes in the header of the system-generated sales invoices will not affect the contents of the underlying modules and sub modules with the accounting system.*** *Further,* ***this will not also affect the integral recognition and computation of all financial transactions.***
>
> Put simply, changing the header of the system-generated sales invoice from "Charge Sales Invoice" to "Charge Sales Invoice/Commercial Invoice" is simply a nominal or formal change which ***adds no value nor improvement in the system.***[83]
> (Emphasis and italics supplied)

Further, during the cross-examination of respondent's witness on January 21, 2025, RO Espiritu confirmed that the sole basis for the denial of the refund is the mere change in header, without any mention of other substantial changes in the forms, to wit:

> Atty. Jacob: And in your answer to Question 12 of your Judicial Affidavit, you highlighted that your reason for the denial of petitioner's entire claim for VAT refund for taxable year 2021, among others, was because petitioner's (PTUCAS) covers charge invoices, with serial range from (0000001 to 9999999), and while it covers charge invoices, petitioner issued charge sales invoice/commercial invoice for taxable year 2021 to its zero-rated sale of goods. Correct?
>
> Witness: Yes, Attorney.
>
> Atty. Jacob: Would you then agree that the foregoing reasons just mentioned was due to the change of the header of the invoice (from) charging invoice to charge sales invoice/commercial invoice?
>
> Witness: Yes, Attorney.
>
> Atty. Jacob: Based on that, Ms. Witness, would you agree then that all the other items in the said invoices you mentioned are the same?
>
> Witness: Are the same?
>
> Justice Liban: Except for header.
>
> Witness: Yes.
>
> Atty. Jacob: Did you examine the system release and/or version number of the petitioner?
>
> Witness: No.[84]

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[83] Judicial Affidavit of Marlon Dumail, Docket Vol. 1, pp. 78-79.
[84] Transcript of Stenographic Notes ("TSN") dated January 21, 2025, pp. 11-12.

In addition, the PTUCAS[85] issued to petitioner states the following details on the approved system:

Main Software/Core System:

Software Name:	SAP Business One
Version Number:	Version 9.2 PL07
Release No. and/or Date:	2017

The same version and release number remain to be used by petitioner despite the change in header name, as observed by the Court in the screenshot of the running software submitted by petitioner.[86]

Based on the foregoing, We find substantial support to petitioner's claim that the modification made to the invoices merely pertain to the header and no other fields of such form were altered, substantial or otherwise. Such modified header can hardly qualify under any of the instances considered as major enhancement, as enumerated above. To be specific, there was no change in functionalities of the system, no addition or removal of modules, nor any change in the system/software version or release number, which will have impact on financial aspect of the system. In addition, respondent failed to show that a technical evaluator has deemed the enhancement a "major" one.

Moreover, We deem it improper to consider the PTUCAS invalid due to the alleged belated notification made by petitioner on April 29, 2022. While it is true that *RMC No. 5-2021* requires a taxpayer to submit a written notification to the BIR in case of any minor system enhancement, the same issuance provides for the invalidation of the PTUCAS only for failure to register with the BIR those upgrades which fall under paragraph six thereof – the same provision which discusses "major system enhancement."

As such, the Court holds that the change in header name from "Charge Sales Invoice" to "Charge Sales Invoice/Commercial Invoice" does not constitute a system enhancement that will necessitate a new CAS Permit from the BIR. Thus, the invoices issued by petitioner to its clients remain valid and have probative value for purposes of proving petitioner's zero-rated sales.

Despite this, however, We still find insufficiency in the documents submitted by petitioner to prove the proper zero-rating of its sales transactions.

iii. Third element: Petitioner failed to prove that the payments for the alleged zero-rated sales were accounted for in accordance with the rules and regulations of the BSP

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[85] *Supra* note 79.
[86] CAS No Enhancement Narrative Report, Exhibit "P-52", Docket Vol. 2, p. 770.

The *third* element of a valid zero-rated export sale, in relation to the *fifth* requirement to successfully claim input VAT refund, mandates that the alleged zero-rated sales falling under *Section 106 (A)(2)(a)(1)* must be paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

To prove compliance to the foregoing, petitioner submitted the following:

Exhibit No.	Description	Purpose
P-35[87]	Metrobank Certification of Inward Remittances dated January 4, 2023	To prove: a. That petitioner submitted all documents in compliance with the mandatory requirements enumerated under BIR rules and regulations for claims for VAT refund; b. Petitioner's VAT zero-rated export sales; and c. That the foreign currency exchange has been accounted for in accordance with the rules and regulations of the BSP.
P-35-1[88]	Metrobank Certification of Inward Remittances dated February 23, 2023	
P-36[89]	Security Bank Certification of Inward Remittances dated December 16, 2022	
P-37[90]	PNB Certification of Remittances dated March 8, 2023	

In the certifications above, the respective banks listed the remittances with corresponding remittance dates, name of remitter, amount remitted, amount credited, and remittance reference numbers. Notably, however, the amounts listed therein are in lump sum, based on the date of remittance made by remitter. In other words, the certificates themselves fail to show to the Court whether the amounts reflected therein correspond to the zero-rated sales subject of the instant claim.

Meanwhile, upon the Court's reference to the ICPA Report, We note that narration of the procedures performed include a review of the proof of inward remittances, to wit:

> C. For VAT zero-rated sales and receipts, propriety of treatment as zero-rated transaction as follows:
>
> (1) Examine proof of exportation (of) goods for zero-rated sales;

[87] BIR Records, p. 121-122.
[88] *Id.* at 119-120
[89] *Id.* at 123-124.
[90] *Id.* at 118.

(2) Reviewed proof of inward remittances of foreign currency representing proceeds arising from zero-rated sales.

(3) In cases where the supporting documents are stated in United States Dollar (USD), we determined that the foreign currency exchange rate used to convert the same to Philippine Peso are based on the prevailing reference rates from the Banko Sentral ng Pilipinas.[91]

Nevertheless, the Schedule of Zero-Rated Sale of Goods[92] prepared by ICPA do not provide any proof of remittance as the cells in column 12, Proof of Remittances (Bank/Credit Memo), were all empty. Moreover, there is nothing in the ICPA Report which shows a breakdown of the remittances indicated in the bank certificates.

Consequently, as the amount in the four remittance certificates were not itemized and ICPA Santos failed to show if the client's payments were traced to any of these certificates, the next logical way available to the Court is to add all the amounts listed under the "Amount Remitted (in Foreign Currency)" column, in the Schedule of Zero-Rated Sale of Goods,[93] on a per date of remittance and per bank basis, then compare the derived sum to the amount listed by the banks. Still, the amounts do not match.

Further, in an attempt to persuade the Court that remittances were duly accounted for, petitioner highlighted in its Memorandum the working papers prepared by the BIR during the evaluation of the administrative claim. Specifically, one of the schedules therein purportedly shows a reconciliation of petitioner's direct export sales *vis-à-vis* the dollar remittances per bank certificates submitted.[94]

			In USD	**In Peso**
Direct Export Sales			**3,55,403.44**	**175,381,310.94**
Less:	Inward Remittance in USD			
	Security Bank	580,597.38		
	Metrobank	1,206,746.50		
	Metrobank	280,069.50		
	PNB	2,298,088.87	4,365,502.25	
Difference			**810,098.81**	
Remittance for previous year			**(818,722.81)**	
Unremitted export			**(8,624.00)**	
	SI1310000803	2,156		
	SI1310000843	2,156		
	SI1310000875	4,312	**8,624.00**	422,620.39

[91] Exhibit "P-55", ICPA Report, p.2.
[92] Exhibit "P-55-3", ICPA Report.
[93] *Id.*
[94] See Working Paper – Sales and Dollar Remittances, BIR Records, p. 222.

In addition, petitioner likewise prepared a separate reconciliation schedule in its Memorandum, substantially reproduced below:[95]

Bank	Amount per Bank Certificate (January 1, 2021 to March 31, 2022) in USD	2020 Invoiced Sales in USD	2022 Invoiced Sales in USD	Assumed 2019 Invoiced Sales in USD	Schedule of Zero-rated sale of goods – Banana – TOTAL in USD	Management and Service Fee in USD	(Over Remittance) / Under Remittance in USD	Bank Charge in USD
SBC	580,597.38		47,483.79	533,113.59	533,273.59			160.00
PNB	2,298,088.87	61,639.54	449,069.95	1,787,379.38	1,752,762.54	21,882.76	(13,112.08)	378.00
MBTC Head Office	1,206,746.50	5,382.51	297,805.90	903,558.09	916,530.39		12,737.30	235.00
MBTC Airport View	279,989.50			279,989.50	248,248			429.50
TOTAL DIRECT EXPORT	**4,365,422.25**	**67,022.05**	**794,359.64**	**3,504,040.56**	**3,450,814.52**	**21,882.76**		
INDIRECT EXPORT					1,706,077.30			
TOTAL					**5,156,891.82**			
Schedule of Sales per P-51-C					5,156,891.82			

These schedules, however, fail to impress on the merits.

For one, the reconciling items lack due explanation and supporting documents. Petitioner cannot merely claim the pertinent amounts as service fees, over or under remittances, bank charges, or sales invoiced in other years, and not provide documents to corroborate such assertions.

Also, the Court finds it curious that the reconciling items for both schedules do not match. Particularly, the alleged "remittance for previous year" per BIR's working paper, amounting to USD818,722.8, does not equal the "2020 invoiced sales," amounting to USD67,022.05, per schedule prepared by petitioner. The inconsistencies in the amounts cast doubt on the truthfulness and propriety of claiming them as reconciling items.

As such, in the absence of an itemized list or even an identification of the corresponding remittance numbers in the schedule of zero-rated sales, as well as supporting documents to corroborate petitioner's alleged reconciling items, there is no way for the Court to determine whether the payment for the zero-rated sales were indeed "accounted for in accordance with the rules and regulations of the BSP."

Inevitably, We hereby find that petitioner failed to fulfill the *fifth* requisite for the successful prosecution of the instant refund claim.

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[95] See Par. 62.6.3, Memorandum dated May 8, 2025, Docket Vol. 2, p. 869.

At this juncture, petitioner must be reminded that in cases filed before this Court, which are *litigated de novo*, party-litigants must prove every minute aspect of their case.[96] It is well-settled that tax refunds are in the nature of a claim for exemption and, therefore, the law is construed in *strictissimi juris* against the taxpayer. Accordingly, the pieces of evidence presented entitling a taxpayer to an exemption must also *strictissimi* scrutinized and must be duly proven.[97] In this case, petitioner was not able to prove with competent evidence its entitlement to a refund or issuance of a tax credit certificate.

In light of the above discussions, it becomes unnecessary to determine whether petitioner fulfilled the remaining requisites for granting a refund of input VAT for TY 2021.

ACCORDINGLY, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

I CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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[96] *Supra* note 57.
[97] *Atlas Consolidated Mining and Development Corporation v. CIR*, G.R. No. 159490, February 18, 2008.