REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION
****

MANULIFE DATA SERVICES, INC., Petitioner,	**CTA Case Nos. 8305, 8322, 8348 and 8408**
	Members:
- versus -	**DEL ROSARIO,** *P.J.*, **UY,** and **MINDARO-GRULLA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** JUL 01 2016 10:05 a.m.

x - - -

THE FACTS

Petitioner Manulife Data Services, Inc. is a foreign corporation duly registered with and licensed by the Securities and Exchange Commission (SEC) to operate as a Regional Operating Headquarter (ROHQ) under SEC Certificate of Registration No. FS200603505.[1] It is a VAT-registered entity since March 9, 2006.[2] Its registered address is at Manulife Building, UP North Science and Technology Park, Commonwealth Avenue, Diliman, Quezon City.[3] As an ROHQ, petitioner is engaged in the business of providing qualifying services to its affiliates and related parties in the Asia-Pacific Region and in other foreign markets.[4]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), with principal office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City. She is vested with the power to decide tax cases, including claims for refunds or tax credits.[5]

For the year 2009, petitioner filed its original and amended Quarterly VAT Returns on the following dates:

QUARTERLY VAT RETURNS (2009)	DATE FILED
1st Quarter (Original)	April 24, 2009[6]
2nd Quarter (Original)	July 24, 2009[7]
2nd Quarter (Amended)	August 4, 2009[8]
3rd Quarter (Original)	October 22, 2009[9]
4th Quarter (Original)	January 25, 2010[10]
4th Quarter (Amended)	March 19, 2010[11]

[1] Par. 1, Stipulation of Facts, Amended Consolidated Joint Stipulation of Facts and Issue (ACJSFI), Docket—Vol. III (CTA Case No. 8305), p. 1502.
[2] Par. 3, Stipulation of Facts, ACJSFI, Docket—Vol. III (CTA Case No. 8305), pp. 1502 to 1503.
[3] *Id.*
[4] Par. 2, Stipulation of Facts, ACJSFI, Docket—Vol. III (CTA Case No. 8305), p. 1502.
[5] Pars. 2 and 2.1, Petition for Review, vis-à-vis Par. 1, Answer, Docket—Vol. I (CTA Case No. 8305), pp. 1 to 2, and 78; Pars. 2 and 2.1, Petition for Review, vis-à-vis Par. 1, Answer, Docket—Vol. I (CTA Case No. 8322), pp. 6 to 7, and 62; Pars. 2 and 2.1, Petition for Review, vis-à-vis Par. 1, Answer, Docket—Vol. I (CTA Case No. 8348), pp. 6 to 7, and 80; Pars. 2 and 2.1, Petition for Review, vis-à-vis Par. 1, Answer, Docket (CTA Case No. 8408), pp. 6 to 7, 101.
[6] Exhibits "D" and "D-2".
[7] Exhibits "E" and "E-2".
[8] Exhibits "F" and "F-2".
[9] Exhibits "G" and "G-2".
[10] Exhibits "H" and "H-2".

Thereafter, petitioner filed with respondent, through the Revenue District Office (RDO) No. 38, applications for refund or issuance of tax credit certificate for its alleged excess/unutilized input VAT, on the following dates:[12]

TAXABLE PERIOD (2009)	DATE FILED	AMOUNT
1st Quarter	February 1, 2011[13]	₱ 4,085,030.49
2nd Quarter	March 28, 2011[14]	₱ 5,736,852.20
3rd Quarter	May 13, 2011[15]	₱ 8,033,790.00
4th Quarter	August 12, 2011[16]	₱ 4,346,213.61

Respondent failed to rule on petitioner's applications for refund or issuance of TCC for its purported excess/unutilized input VAT for the four quarters of 2009.[17]

Thus, petitioner filed separate Petitions for Review for the refund or issuance of TCC of its alleged excess and unutilized input VAT for each of the taxable quarters of CY 2009, the details of which are as follows:

CTA CASE NO.	TAXABLE PERIOD (2009)	DATE FILED
8305	1st Quarter	June 30, 2011[18]
8322	2nd Quarter	August 18, 2011[19]
8348	3rd Quarter	October 6, 2011[20]
8408	4th Quarter	January 3, 2012[21]

On August 26, 2011, within the extension period granted by the Court,[22] respondent filed her Answer in CTA Case No. 8305,[23] interposing the following Special and Affirmative Defenses:

"SPECIAL AND AFFIRMATIVE DEFENSES

---

[11] Exhibits "I" and "I-2".
[12] Par. 4, Stipulation of Facts, ACJSFI, Docket—Vol. III (CTA Case No. 8305), p. 1503.
[13] Exhibits "C" and "C-1".
[14] Exhibits "II", and "II-1"; Exhibits "RR" and "RR-1".
[15] Exhibits "JJ" and "JJ-1".
[16] Exhibit "KKK".
[17] Refer to Par. 5, Stipulation of Facts, ACJSFI, Docket—Vol. III (CTA Case No. 8305), p. 1503.
[18] Petition for Review, Docket—Vol. I (CTA Case No. 8305), pp. 1 to 14.
[19] Petition for Review, Docket—Vol. I (CTA Case No. 8322), pp. 6 to 18.
[20] Petition for Review, Docket—Vol. I (CTA Case No. 8348), pp. 6 to 18.
[21] Petition for Review, Docket (CTA Case No. 8408), pp. 6 to 19.
[22] Order dated July 26, 2011, Docket—Vol. I (CTA Case No. 8305), p. 77.
[23] Docket—Vol. I (CTA Case No. 8305), pp. 78 to 81.

3. She reiterates and re-pleads the preceding paragraphs of this Answer as part of her Special and Affirmative Defenses.

4. Petitioner's claim for the issuance of tax refund/tax credit certificate is subject to administrative investigation/examination by respondent's Bureau.

5. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable.

6. Moreover, in order to validly claim for tax credit/refund, it is imperative for petitioner to prove its compliance with the following, viz:

a. The registration requirements of a value-added taxpayer under the pertinent provision of the 1997 NIRC, as amended, and its implementing revenue regulations;
b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT pursuant to the provisions of Sections 113 and 114 of the 1997 NIRC, as amended. Failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of the claim for input tax of the taxpayer claimant (Revenue Memorandum Circular No. 42-2003).
c. The submission of complete documents in support of the administrative claim for tax refund pursuant to Section 112 (C) of the 1997 NIRC, as amended, otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax credit/refund which is a condition *sine qua non* prior to the filing of the such claim.
d. That the input taxes of P4,085,030.49 allegedly representing unutilized input VAT from its purchases of goods and services from VAT registered suppliers were:

i. paid by the petitioner;
ii. attributable to its zero-rated or effectively zero-rated sales; and

iii. such input taxes paid should not have been applied against any output tax.

e. That petitioner's claim for tax credit/refund allegedly representing unutilized input VAT in the amount of P4,085,030.49 was filed within two (2) years after the close of the taxable quarter when the sales were made in accordance with Section 112 (A) of the 1997 NIRC, as amended.

7. In an action for tax credit/refund, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund.

8. A tax credit or refund, like tax exemption, is strictly construed against the taxpayer. The taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund or credit, in this case VAT input tax, by submitting evidence that he has complied with the requirements laid down in the tax code and the BIR's revenue regulations under which such privilege of credit or refund is accorded (*Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 180173, April 6, 2011*)."

Likewise, within the extension period granted by the Court,[24] respondent filed her Answers[25] in CTA Case Nos. 8322 and 8348, on October 20, 2011 and on November 28, 2011, respectively, interposing substantially the same Special and Affirmative Defenses as those alleged in the Answer in CTA Case No. 8305, except for the amounts involved therein (*i.e.*, ₱5,736,852.20 and ₱8,033,790.00) and periods (*i.e.*, April 1, 2009 to June 30, 2009 and July 1, 2009 to September 30, 2009) of the claim.

Respondent also contends, in both cases, that petitioner's citation in Paragraph 15 of the law is misleading and confusing considering that the laws on VAT had been amended. Respondent alleges that under Republic Act. (RA) No. 9337, there are only two kinds of VAT-registered taxpayers who may apply for the issuance of

---

[24] Resolution dated September 20, 2011, Docket—Vol. I (CTA Case No. 8322), p. 61; Order dated November 3, 2011, Docket—Vol. I (CTA Case No. 8348), p. 65.

[25] Docket—Vol. I (CTA Case No. 8322), pp. 62 to 65; CTA Case No. 8348, Docket—Vol. I, pp. 80 to 83.

a tax credit certificate or refund of input taxes, namely: (1) those with zero-rated and effectively zero-rated sales; and (2) those who would be cancelling their VAT registration. Thus, input taxes derived from importation or local purchases of capital goods to the extent that such input taxes have not been applied against output taxes are no longer entitled to this remedy except only when the VAT taxpayer would already be canceling its VAT registration.

As regards respondent's Answer in CTA Case No. 8408 filed on March 26, 2012[26], also within the extension period granted by the Court[27], respondent interposes the following special and affirmative defenses:

"**SPECIAL AND AFFIRMATIVE DEFENSES**

4. She reiterates and re-pleads the foregoing paragraphs of this Answer as part of her Special and Affirmative Defenses;
5. Petitioner's claim for issuance of tax credit certificate is subject to administrative investigation/examination by Respondent's Bureau;
6. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable;
7. It is incumbent upon the taxpayer to prove its compliance with the pertinent provisions of the NIRC, particularly Sections 112, 113, and 114 to validly claim for tax a credit/refund;
8. Taxpayer must establish by sufficient and competent evidence that it is entitled to a tax credit/refund;
9. Claims for refund are strictly construed against the taxpayer as the same partakes the nature of a tax exemption;
10. The Petitioner should prove its legal basis for claiming the amount to be refunded."

Thereafter, the four (4) cases were set for Pre-Trial Conference as follows: for CTA Case No. 8305, on September 23, 2011;[28] for CTA Case No. 8322, on November 17, 2011;[29] for CTA Case No. 8348, on January 13, 2012;[30] and for CTA Case No. 8408, on April 26, 2012.[31]

---

[26] Docket (CTA Case No. 8408), pp. 101 to 103.
[27] Resolution dated February 29, 2012, Docket (CTA Case No. 8408), p. 100.
[28] Docket—Vol. I (CTA Case No. 8305), p. 82.
[29] Docket—Vol. I (CTA Case No. 8322), p. 66.
[30] Docket—Vol. I (CTA Case No. 8348), p. 84.
[31] Docket (CTA Case No. 8408), p. 104.

Petitioner filed a Reply in each of the four cases to refute respondent's arguments contained in her Answers. In CTA Case No. 8305, petitioner filed "Reply (Re: Answer dated 26 August 2011)" on September 9, 2011[32]; in CTA Case No. 8322, it filed a Reply (Re: Answer dated 19 October 2011) through registered mail on November 8, 2011,[33] which was received by the Court on November 15, 2011; in CTA Case No. 8348, petitioner filed its Reply (Re: Answer dated 28 November 2011) on December 8, 2011[34] ; and in CTA Case No. 8408, petitioner filed its Reply (Re: Answer dated 23 March 2012) on April 10, 2012.[35]

On October 27, 2011, a Joint Stipulation of Facts and Issue was filed in CTA Case No. 8305.[36] In the Resolution dated November 3, 2011, the Court ordered the parties to file a Supplemental Joint Stipulation of Facts and Issues, as they failed to indicate the list of documents to be presented. Hence, on November 18, 2011, the parties submitted their Supplemental Joint Stipulation of Facts and Issue.[37] These were approved by the Court in the Resolution dated November 23, 2011,[38] which also terminated the Pre-Trial. Thereafter, the Pre-Trial Order was issued on January 16, 2012[39] in CTA Case No. 8305.

Meanwhile, the Joint Stipulation of Facts and Issue in CTA Case Nos. 8322 and 8348, were submitted on December 7, 2011[40] and July 20, 2012[41], respectively. These were approved by the Court through the Pre-Trial Order issued on January 3, 2012[42] and the Resolution dated July 26, 2012[43], which also terminated the Pre-Trial.

Petitioner filed a Motion for Consolidation on January 9, 2012,[44] seeking the consolidation of CTA Case No. 8322 with CTA Case No. 8305. This was granted by the Third Division of the Court in the Resolution dated February 8, 2012.[45] The First Division of the Court

---

[32] Docket—Vol. I (CTA Case No. 8305), pp. 83 to 94.
[33] Docket—Vol. II (CTA Case No. 8322), pp. 654 to 667.
[34] Docket—Vol. I (CTA Case No. 8348), pp. 66 to 78.
[35] Docket (CTA Case No. 8408), pp. 106 to 115.
[36] Docket—Vol. III (CTA Case No. 8305), pp. 1148 to 1152.
[37] Docket—Vol. III (CTA Case No. 8305), pp. 1156 to 1165.
[38] Docket—Vol. III (CTA Case No. 8305), pp. 1168 to 1169.
[39] Docket—Vol. III (CTA Case No. 8305), pp. 1199 to 1206.
[40] Docket—Vol. II (CTA Case No. 8322), pp. 681 to 685.
[41] Docket—Vol. II (CTA Case No. 8348), 815 to 819.
[42] Docket—Vol. II (CTA Case No. 8322), pp. 692 to 699.
[43] Docket—Vol. II (CTA Case No. 8348), p. 824.
[44] Docket—Vol. II (CTA Case No. 8322), pp. 700 to 703.
[45] Docket—Vol. II (CTA Case No. 8322), pp. 948-949; Docket—Vol. III (CTA Case No.

affirmed the consolidation of CTA Case No. 8322 with CTA Case No. 8305 in the Resolution dated April 2, 2012.[46]

In both CTA Case Nos. 8305 and 8348 petitioner separately filed an Omnibus Motion A. For Leave of Court for Early Resolution of the Issue Whether Petitioner's Claim for Refund of Excess and Unutilized Input Taxes as Deemed Granted if Respondent Fails to Act Within the 120-day Period Under Section 112 of the 1997 NIRC; B. To Allow Petitioner to File its Formal Offer of Evidence Relative to this Issue; C. Postponement of Petitioner's Presentation of Evidence Until Resolution of this Motion, on January 24, 2012[47] and on February 14, 2012[48]. These were denied by the Court for lack of merit in the Resolutions dated March 29, 2012[49] and April 3, 2012[50]. Thereafter, petitioner filed Motions for Reconsiderations on April 19, 2012[51] and on April 20, 2012[52], respectively. The Court, however, denied petitioner's Motions for Reconsideration in the Resolutions dated June 18, 2012[53] and June 6, 2012[54].

Meanwhile, on April 25, 2012, petitioner filed an Omnibus Motion[55] A. For Leave of Court for Early Resolution of the Issue Whether Petitioner's Claim for Refund of Excess and Unutilized Input Taxes as Deemed Granted if Respondent Fails to Act Within the 120-day Period Under Section 112 of the 1997 NIRC; B. Postponement of Pre-Trial Conference on 26 April 2012 and Suspension of Proceedings until Resolution of this Motion. This was denied by the Court for lack of merit in the Resolution[56] dated June 26, 2012. Thereafter, on July 12, 2012, petitioner filed a Motion for Reconsideration (Re: Resolution of 26 June 2012)[57], which was also denied in the Resolution[58] dated November 22, 2012.

8305), pp. 1246 to 1247.
[46] Docket—Vol. II (CTA Case No. 8322), p. 973; Docket—Vol. III (CTA Case No. 8305), p. 1295.
[47] Docket—Vol. III (CTA Case No. 8305), pp. 1207 to 1233.
[48] Docket—Vol. II (CTA Case No. 8348), pp. 673 to 688.
[49] Docket—Vol. III (CTA Case No. 8305), pp. 1287 to 1293.
[50] Docket—Vol. II (CTA Case No. 8348), pp. 716 to 727.
[51] Motion for Reconsideration (Resolution of 29 March 2012), Docket—Vol. III (CTA Case No. 8305), pp. 1296 to 1303.
[52] Motion for Reconsideration (Resolution of 03 April 2012), Docket—Vol. II (CTA Case No. 8348), pp. 728 to 738.
[53] Docket—Vol. III (CTA Case No. 8305), pp. 1313 to 1321.
[54] Docket—Vol. II (CTA Case No. 8348), pp. 747 to 750.
[55] Docket (CTA Case No. 8408), pp. 120 to 144.
[56] Docket (CTA Case No. 8408), pp. 188 to 190.
[57] Docket (CTA Case No. 8408), pp. 192 to 199.
[58] Docket (CTA Case No. 8408), pp. 207 to 212.

On July 4, 2012, pursuant to the consolidation of CTA Case Nos. 8305 and 8322, the parties filed a Consolidated Joint Stipulation of Facts and Issue.[59]

Thereafter, petitioner filed an Urgent Motion for Consolidation on July 19, 2012,[60] seeking to consolidate CTA Case No. 8348 with CTA Case No. 8305. This was granted by the Court in the Resolution dated August 15, 2012,[61] which consolidated CTA Case No. 8348 with CTA Case Nos. 8305 and 8322.

Consequently, the Court ordered the parties to file a Consolidated Joint Stipulation of Facts and Issues.[62] The parties complied with the order by submitting their Amended Consolidated Joint Stipulation of Facts and Issue on August 30, 2012.[63] This was approved by the Court in the Resolution dated September 18, 2012.[64] Thereafter, a Consolidated Pre-Trial Order was issued on February 21, 2013.[65]

On January 18, 2013, petitioner filed a Motion for Consolidation in CTA Case No. 8408,[66] seeking to consolidate CTA Case No. 8408 with CTA Case Nos. 8305, 8322 and 8348. This was granted by the Third Division of the Court in the Resolution dated February 20, 2013,[67] which consolidated CTA Case No. 8408 with CTA Case Nos. 8305, 8322, and 8408. This was affirmed by the First Division of the Court in the Resolution dated March 22, 2013.[68]

The parties again filed an Amended Consolidated Joint Stipulation of Facts and Issue on April 18, 2013.[69] This was approved by the Court in the Resolution[70] dated April 24, 2013. Thereafter, the Court issued an Amended Consolidated Pre-Trial Order on April 25, 2013.[71]

---

[59] Docket—Vol. III (CTA Case No. 8305), pp. 1323 to 1327.
[60] Docket—Vol. II (CTA Case No. 8348), pp. 761 to 764.
[61] Docket—Vol. II (CTA Case No. 8348), p. 835.
[62] Docket—Vol. III (CTA Case No. 8305), pp. 1354 to 1355.
[63] Docket—Vol. III (CTA Case No. 8305), pp. 1356 to 1360.
[64] Docket—Vol. III (CTA Case No. 8305), pp. 1369 to 1370.
[65] Docket—Vol. III (CTA Case No. 8305), pp. 1479 to 1491.
[66] Docket (CTA Case No. 8408), pp. 215 to 218.
[67] Docket (CTA Case No. 8408), pp. 229 to 230.
[68] Docket—Vol. III (CTA Case No. 8305), pp. 1496.
[69] Docket—Vol. III (CTA Case No. 8305), pp. 1502 to 1506.
[70] Docket—Vol. IV (CTA Case No. 8305), p. 1810.
[71] Docket—Vol. IV (CTA Case No. 8305), pp. 1817 to 1829.

On May 10, 2013, upon Motion[72] of petitioner, the Court commissioned Katherine O. Constantino as an Independent Certified Public Accountant (CPA) for the instant consolidated cases.[73]

During trial, petitioner presented the following witnesses: (1) Agnes N. Neria – its Accounting Specialist; (2) Lourdes Rosario V. Mantaring – its Vice President and General Manager; (3) Amelia Villamor – its Vice President for Operations; and (4) Katherine O. Constantino – the Independent CPA.

On April 10, 2014, petitioner filed its Formal Offer of Evidence.[74] In the Resolution dated September 25, 2014,[75] the Court admitted as petitioner's evidence, Exhibits "A" to "M-2", "N" to "U-1", "W" to "Y-3", "AA" to "BB-1", "DD", "FF" to "KK-2", "LL", "LL-1", "LL-2", "LL-3" to "SS", "SS-1", "SS-2" "SS-3", "TT-1", "TT-2", "UU" to "XX-2", "XX-4" to "YY-3", "ZZ" to "ZZ-4", "BBB" to "EEE", "EEE-2" to "JJJ", "NNN" to "PPP-597", "PPPa" to PPP-233a", "PPP-235-a" to "PPP-243a", "PPP-245a" to "PPP-261a", "QQQ" to "VVV-300", "VVV-109A", "VVV-271A", "VVV-272A", "WWW" to "EEEE", "F^4", "F^4-1", "IIIII", "IIIII-1", "K^5", and "K^5-1". However, the Court denied the admission of Exhibits "V" and "CC", for failure of petitioner to have the said exhibits identified; Exhibits "Z" to "Z-5", "EE", "KKK" to "MMM", "G^5", "H^5" and "JJJJJ", for failure of petitioner to submit the originals for comparison; and Exhibits "PPP-234a" and "PPP-244a", for not being found in the records of the case.

On October 17, 2014, petitioner filed a Motion for Partial Reconsideration (Re: Resolution dated 25 September 2014; with Prayer for Reopening of Trial),[76] praying that the Court would grant its request to reopen the case and recall its witnesses Katherine O. Constantino and Agnes N. Neria to testify regarding the excluded exhibits and after due hearing allow petitioner to submit a supplemental formal offer of documentary exhibits. This was granted by the Court in the Resolution dated December 18, 2014.[77]

Consequently, petitioner's witnesses Katherine O. Constantino and Agnes N. Neria were recalled to testify on February 10, 2015.[78]

---

[72] Motion to Commission an Independent Certified Public Accountant, Docket—Vol. IV (CTA Case No. 8305), pp. 1834 to 1836.
[73] Docket—Vol. IV (CTA Case No. 8305), p. 1856.
[74] Docket—Vol. V (CTA Case No. 8305), pp. 2071 to 2098.
[75] Docket—Vol. V (CTA Case No. 8305), pp. 2175 to 2177.
[76] Docket—Vol. V (CTA Case No. 8305), pp. 2178 to 2184.
[77] Docket—Vol. V (CTA Case No. 8305), pp. 2192 to 2194.
[78] Minutes of the Hearing dated February 10, 2015, Docket—Vol. V (CTA Case No.

Thereafter, petitioner filed its Supplemental Formal Offer of Exhibits on February 20, 2015.[79] In the Resolution dated April 7, 2015,[80] the Court admitted petitioner's Exhibits "L[5]", "L[5]-1", "M[5]", "M[5]-1", "V", "CC", "Z", "Z-1", "Z-2", "Z-3", "Z-4", "Z-5", "EE", "KKK", "LLL", "LLL-1", "LLL-2", "LLL-3", "MMM", "G[5]", "H[5]", "JJJJJ", "PPP-234a", "PPP-244", and "PPP-244a".

During the February 10, 2015 hearing, respondent's counsel manifested that she will not be presenting evidence for respondent. In view therefore, both parties were given thirty (30) days from receipt of the Court's Resolution of petitioner's Supplemental Formal Offer of Evidence to file their Memoranda.[81]

Within the extended time granted by the Court,[82] the Memorandum for the Petitioner was filed on May 29, 2015;[83] while respondent's Memorandum was filed on June 15, 2015.[84] Hence, the instant consolidated cases were submitted for decision in the Resolution dated July 1, 2015.[85]

Hence, this Decision.

THE ISSUE

The sole issue[86] for the Court's resolution, as stipulated by the parties, is:

> "Whether or not petitioner is entitled to its claim for refund or issuance of a tax credit certificate for its unutilized/ excess input VAT payments for the 1st to 4th Quarters of 2009 amounting to, as follows:

Taxable Period	Amount (Php)
1st Quarter of 2009	4,085,030.49
2nd Quarter of 2009	5,736,852.20
3rd Quarter of 2009	8,033,790.00

8305), pp. 2212 to 2215.
[79] Docket—Vol. V (CTA Case No. 8305), pp. 2219 to 2232.
[80] Docket—Vol. V (CTA Case No. 8305), pp. 2240 to 2241.
[81] Resolution dated February 10, 2015, Docket—Vol. V (CTA Case No. 8305), pp. 2217 to 2218.
[82] Order dated May 21, 2015, Docket—Vol. V (CTA Case No. 8305), p. 2249.
[83] Docket—Vol. V (CTA Case No. 8305), pp. 2250 to 2276.
[84] Docket—Vol. V (CTA Case No. 8305), pp. 2278 to 2286.
[85] Docket—Vol. V (CTA Case No. 8305), p. 2288.
[86] Issue, ACJSFI, Docket—Vol. III (CTA Case No. 8305), p. 1504.

4th Quarter of 2009	4,346,213.61
Total	**22,201,886.21**"

Petitioner's arguments:

Petitioner argues that it is entitled to a refund or issuance of tax credit certificate for its excess or unutilized input VAT for the first to fourth quarters of CY 2009. It primarily contends that having fully complied with the two-year prescriptive period under Section 112(A) of the Tax Code, and the 120-day and 30-day periods under Section 112(C) of the same Code, this Court acquires jurisdiction over these cases.

Moreover, petitioner asserts that its sales for CY 2009 were zero-rated as it rendered services to four (4) foreign companies, all engaged in business outside the Philippines; and its services were paid for in US Dollars inwardly remitted to the Philippines and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP). It also avers that it generated minimal output VAT.

Furthermore, petitioner alleges that its input VAT for the first to fourth quarters of CY 2009 results from its domestic purchases of goods and services. It claims that its input VAT for CY 2009 is directly attributable to its alleged zero-rated sales for the said quarters. Petitioner also contends that its input VAT for the same quarters remains unutilized.

Lastly, petitioner argues that it has complied with the submission of complete documents in support of its administrative claim for refund.

Respondent's counter-arguments:

Respondent counter-argues that petitioner's judicial claim for refund is not valid due to its failure to prove the submission of complete documents in support of its administrative claim for refund; and that petitioner's judicial claim for refund was prematurely filed.

Furthermore, respondent maintains that petitioner failed to observe the strict substantiation requirements for VAT-registered entities.

Respondent also stresses that basic is the rule that a tax credit or refund, like tax exemption, is strictly construed against the taxpayer. The taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund or credit, in this case input VAT, by submitting evidence that he has complied with the requirements laid down in the Tax Code and the BIR's revenue regulations under which such privilege of credit or refund is accorded.

THE COURT'S RULING

The consolidated Petitions for Review are partly meritorious.

Petitioner's refund claim finds legal basis on Sections 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by RA No. 9337, which provide as follows:

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

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

xxx xxx xxx

(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) 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."

In the application of the foregoing legal provisions, certain requisites have been jurisprudentially developed which a taxpayer-applicant must comply with to successfully obtain a credit/refund of excess input VAT. The said requisites may be classified under several categories, to wit:

> **Timeliness of the filing of the administrative and judicial claims:**
>
> 1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[87]
> 2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 120 days, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[88]
>
> **Taxpayer's registration with the BIR:**
>
> 3. the taxpayer is VAT-registered;[89]

---

[87] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

[88] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

[89] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.

Taxpayer's OUTPUT VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[90]
5. for zero-rated sales under Section 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;[91]

Taxpayer's INPUT VAT subject of refund claim:

6. the input taxes are due or paid;[92]
7. the input taxes are not transitional input taxes;[93]
8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales;[94]
9. 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;[95] and
10. the input taxes have not been applied against output taxes during and in the succeeding quarters.[96]

The first and second requisites:

The first and second requisites pertain to the timeliness of the filing of petitioner's administrative and judicial claims for issuance of tax credit certificate or refund of its input VAT. Petitioner's claims cover the four quarters of CY 2009, which respectively closed on March 31, 2009, on June 30, 2009, on September 30, 2009, and on December 31, 2009.

Counting two years from said dates, petitioner had until March 31, 2011, June 30, 2011, September 30, 2011, and December 31,

---

[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] *Id.*
[94] *Id.*
[95] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, *supra*; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
[96] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.

2011, respectively, within which to file its administrative claims for issuance of TCC or refund before the BIR.

As shown below, petitioner's administrative claims were timely filed on February 1, 2011, on March 28, 2011, on May 13, 2011, and on August 12, 2011, thus complying with the first requisite as shown below, to wit:

CTA Case No.	CY 2009	Close of Taxable Quarter	Last Day to File Administrative Claim	Filing Date of Administrative Claim	Reference
8305	1st Quarter	March 31, 2009	March 31, 2011	February 1, 2011	Exhibit "C"
8322	2nd Quarter	June 30, 2009	June 30, 2011	March 28, 2011	Exhibits "II" & "RR"
8348	3rd Quarter	September 30, 2009	September 30, 2011	May 13, 2011	Exhibit "JJ"
8408	4th Quarter	December 31, 2009	December 31, 2011	August 12, 2011	Exhibit "KKK"

Anent the second requisite, respondent contends that since petitioner failed to prove that it submitted complete documents in support of its claims for refund, the counting of the 120-day period within which the BIR Commissioner shall grant a refund did not start to run. As such, the running of the 30-day period within which petitioner may appeal its claim with this Court has allegedly yet to commence. Therefore, the Petitions for Review were allegedly filed prematurely and should be dismissed accordingly.[97]

The Court disagrees with respondent.

In the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*,[98] the Supreme Court held that it is the taxpayer and not the BIR who would determine what relevant supporting documents to submit as basis of its claim. Likewise, the question of "when should the submission of documents be deemed 'completed' for purposes of determining the running of the 120-day period" had already been clarified therein, to wit:

> "xxx for purposes of determining ***when*** the supporting documents have been completed - *it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day*

[97] Respondent's Memorandum, Docket—Vol. V (CTA Case No. 8305), pp. 2280 and 2281.
[98] G.R. No. 207112, December 8, 2015.

period. After all, he may have already completed the necessary documents the moment he filed his administrative claim, in which case, the 120-day period is reckoned from the date of filing. xxx

Then, except in those instances where the BIR would require additional documents to fully appreciate a claim for tax credit or refund, in terms ***what*** additional document must be presented in support of a claim for tax credit or refund - it is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund. After all, in a claim for tax credit or refund, it is the taxpayer who has the burden to prove his cause of action. As such, he enjoys relative freedom to submit such evidence to prove his claim.

The foregoing conclusion is but a logical consequence of the due process guarantee under the Constitution. Corollary to the guarantee that one be afforded the opportunity to be heard, it goes without saying that the applicant should be allowed reasonable freedom as to when and how to present his claim within the allowable period.

Thereafter, whether these documents are *actually* complete as required by law - is for the CIR and the courts to determine. Besides, as between a taxpayer-applicant, who seeks the refund of his creditable input tax and the CIR, it cannot be denied that the former has greater interest in ensuring that the complete set of documentary evidence is provided for proper evaluation of the State.

xxx xxx xxx

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.
>
> 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." *(Emphasis supplied)*

Records show that petitioner, upon the filing of its administrative claims,[99] simultaneously submitted the documents in support thereof. In all its letter-requests for refund/issuance of tax credit certificate filed with the BIR for the four quarters of 2009, petitioner enumerated and stated that it attached therewith the complete set of documents in support of its applications in accordance with Annex B-1 of Revenue Memorandum Order No. 53-1998.

As the records do not show that a written notice was sent by the BIR informing petitioner that the submitted documents were incomplete or that petitioner must submit additional documents, the 120-day period started and continued to run from the dates when petitioner filed its administrative claims together with the supporting documents.

Hence, petitioner's judicial claims for the four (4) quarters of CY 2009 were likewise timely filed within the required periods, as shown below, to wit:

CTA Case No.	CY 2009	Filing Date of Administrative Claim	End of 120 Days for CIR to decide on refund claim	End of 30 Days from expiration of 120 days	Filing Date of Petition for Review
8305	1st Quarter	February 1, 2011	June 01, 2011	July 01, 2011	June 30, 2011[100]
8322	2nd Quarter	March 28, 2011	July 26, 2011	August 25, 2011	August 18, 2011[101]
8348	3rd Quarter	May 13, 2011	September 10, 2011	October 10, 2011	October 06, 2011[102]
8408	4th Quarter	August 12, 2011	December 10, 2011	January 09, 2012	January 03, 2012[103]

[99] Exhibits "C", "II", "JJ", and "KKK".
[100] Docket—Vol. I (CTA Case No. 8305), p. 1.
[101] Docket—Vol. I (CTA Case No. 8322), p. 6.
[102] Docket—Vol. I (CTA Case No. 8348), p. 6.
[103] Docket (CTA Case No. 8408), p. 6.

With the timely filing of petitioner's administrative and judicial claims of its excess and unutilized input VAT paid for the four (4) quarters of CY 2009, it has complied with both the first and second requisites.

The third requisite:

Petitioner has complied with the third requisite that the taxpayer is VAT-registered as evidenced by its Certificate of Registration[104] issued by the BIR with Taxpayer's Identification No. 244-027-271-000, indicating that it is subject to VAT.

The fourth and fifth requisites:

The fourth and fifth requisites require that the taxpayer is engaged in zero-rated or effectively zero-rated sales and for zero-rated sales under Section 106(A)(2)(a)(1) and (2), 106(B), and 108(B)(1) and (2) of the NIRC of 1997, as amended by RA No. 9337, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations.

In its Quarterly VAT Returns for CY 2009, petitioner reflected a total amount of ₱848,488,331.30 zero-rated sales/receipts, broken down as follows:

EXHIBIT	PERIOD COVERED (2009)	ZERO-RATED SALES/RECEIPTS
"D"	1st Quarter	₱ 165,418,912.30
"F"	2nd Quarter	201,108,061.66
"G"	3rd Quarter	234,150,877.61
"I"	4th Quarter	247,810,479.73
TOTAL		**₱ 848,488,331.30**

Petitioner alleges that its sales of services to its foreign affiliates who are all engaged in business conducted outside the Philippines, and which services were paid for in United States Dollars inwardly remitted to the Philippines and accounted for in accordance with the rules and regulations of the BSP qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended by RA No. 9337, which states that:

---

[104] Exhibit "B".

"SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –

xxx xxx xxx

(B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)".

Based on the foregoing and the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*,[105] in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended by RA 9337, the following requisites must be met:

1. the services by a VAT-registered person must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

Petitioner complied with the above-stated first requisite. Petitioner is a multinational company organized and existing under the laws of Barbados and had established regional operating

[105] G.R. No. 153205, January 22, 2007.

headquarters in the Philippines, under Securities and Exchange Commission Certificate of Registration and License No. FS200603505, to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services; product development; technical support and maintenance; data processing and communication and business development.[106]

Pursuant to the service agreements entered into between petitioner and its client-affiliates, petitioner shall provide its client-affiliates with administrative and business process outsourcing (BPO) services,[107] information technology, reports and support services and other services including but not limited to, business processing, data processing, data entry, data imaging and call center services.[108] These services clearly fall within the scope of "services other than processing, manufacturing or repacking of goods" contemplated by the afore-mentioned provision.

Corollary to the second requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended by RA No. 9337, as implemented by Sections 4.113-1(A)(2), (B)(1) and (2)(c) of Revenue Regulations No. 16-2005, provide that a VAT taxpayer, like herein petitioner, shall, for every lease of goods or properties and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information. The said provisions read as follows:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (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*

---

[106] Exhibit "A".
[107] Exhibit "W-2".
[108] Exhibit "X-2".

Official Receipt. – The following information shall be indicated in the VAT invoice or VAT official receipt:

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

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

xxx xxx xxx

(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;

xxx xxx xxx

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

"SECTION 4.113-1. *Invoicing Requirements.* –

(A) ***A VAT-registered person shall issue: –***

xxx xxx xxx

(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 invoices/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:

xxx xxx xxx

(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;" *(Emphasis supplied)*

Based on the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must likewise be supported by VAT zero-rated official receipts.

To prove that it rendered services to its foreign affiliates and was paid in US dollars duly accounted for in accordance with the rules and regulations of the BSP for the four quarters of CY 2009, petitioner presented VAT zero-rated official receipts,[109] VAT zero-rated invoices,[110] Schedule of Zero-Rated Sales,[111] Summary/List of Bank Remittances,[112] Customer's Advices issued by Citibank,[113] and Bank Statements of Citibank dollar account,[114] which were examined by the Court-commissioned Independent CPA. In her Report dated June 7, 2013, the Independent CPA made the following findings:

Client	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
	Amounts in Philippine Pesos				
Zero-rated sales/receipts properly supported by zero-rated official receipts[115]					
Manulife (International) Limited	₱17,832,623.69	₱18,933,241.44	₱ 19,476,259.33	₱ 19,580,406.10	₱ 75,822,530.56
The Manufacturer's Life Insurance Company	81,118,188.15	91,947,708.20	129,852,606.76	141,219,869.30	444,138,372.41

[109] Exhibits "PPP" to "PPP-597".
[110] Exhibits "PPPa" to "PPP-261a".
[111] Exhibits "O", "SS", "LL", and "QQQ".
[112] Exhibits "S", "QQ", "XX", and "EEE".
[113] Exhibits "S-2" to "S-72, "QQ-2" to "QQ-13", "XX-2" to "XX-18", and "EEE-2" to "EEE-20".
[114] Exhibits "RRR" to "RRR-11".
[115] Exhibit "OOO", Annexes 5, 6, 7, and 8.

John Hancock Life Insurance Company	64,678,680.32	76,717,399.03	69,588,719.78	73,703,520.36	284,688,319.49
Elliot and Page Limited	-	-	4,247,566.52	5,624,849.01	9,872,415.53
Manulife Insurance Berhad	-	-	-	1,026,171.20	1,026,171.20
subtotal	**₱163,629,492.16**	**₱187,598,348.67**	**₱223,165,152.39**	**₱241,154,815.97**	**₱815,547,809.19**
Zero-rated sales/receipts supported by zero-rated official receipts in the name of Customer's Department[116]					
The Manufacturer's Life Insurance Company	₱1,505,886.35	₱12,307,892.42	₱8,413,620.86	₱5,798,503.64	₱28,025,903.27
John Hancock Life Insurance Company	-	1,208,848.54	2,574,038.11	1,121,755.20	4,904,641.85
subtotal	**₱1,505,886.35**	**₱13,516,740.96**	**₱10,987,658.97**	**₱6,920,258.84**	**₱32,930,545.12**
Zero-rated sales/receipts without supporting documents[117]					
The Manufacturer's Life Insurance Company	-	-	₱36,521.74	-	₱36,521.74
subtotal	-	-	**₱36,521.74**	-	**₱36,521.74**
TOTAL	**₱165,135,378.51**	**₱201,115,089.63**	**₱234,189,333.10**	**₱248,075,074.81**	**₱848,514,876.05**

Petitioner's sales which are supported by VAT zero-rated official receipts issued in the name of "Customer's Department" and sales without supporting documents in the respective amounts of ₱32,930,545.12 and ₱36,521.74 shall be disallowed for non-compliance with the invoicing requirements provided by the afore-quoted VAT law and regulations.

Further, it was noted that petitioner's declared zero-rated receipts from John Hancock Life Insurance Company in the amount of ₱538,849.96 ($11,122.44) for the first quarter of 2009 although supported by VAT zero-rated Official Receipt No. 742[118] it does not have corresponding Citibank Customer Advice-Bank Credit Memo or Bank Statement; hence, the same shall also be disallowed.

In sum, petitioner's declared zero-rated receipts for CY 2009 which are duly supported by VAT zero-rated official receipts and Citibank Customer Advices-Bank Credit Memos and Bank Statements for CY 2009 amounted only to ₱815,008,959.23, detailed as follows:

Client	1st Quarter[119]	2nd Quarter[120]	3rd Quarter[121]	4th Quarter[122]	Total
	Amounts in Philippine Pesos				
Zero-rated sales/receipts properly supported by zero-					

[116] *Id.*, Annexes 9, 10, 11, and 12.
[117] *Id.*, Annex 13.
[118] Exhibit "PPP-97".
[119] Exhibit "OOO", Annex 5.
[120] *Id.*, Annex 6.
[121] *Id.*, Annex 7.
[122] *Id.*, Annex 8.

rated official receipts per ICPA report					
Manulife (International) Limited	₱17,832,623.69	₱18,933,241.44	₱ 19,476,259.33	₱ 19,580,406.10	₱75,822,530.56
The Manufacturer's Life Insurance Company	81,118,188.15	91,947,708.20	129,852,606.76	141,219,869.30	444,138,372.41
John Hancock Life Insurance Company	64,678,680.32	76,717,399.03	69,588,719.78	73,703,520.36	284,688,319.49
Elliot and Page Limited	-	-	4,247,566.52	5,624,849.01	9,872,415.53
Manulife Insurance Berhad	-	-	-	1,026,171.20	1,026,171.20
Total	**₱163,629,492.16**	**₱187,598,348.67**	**₱223,165,152.39**	**₱241,154,815.97**	**₱815,547,809.19**
Less: Receipts from John Hancock Life Insurance Company per OR No. 742 not supported by Citibank customer advice-bank credit memo/bank statement	*₱538,849.96*				*₱538,849.96*
Zero-rated official receipts properly supported by zero-rated official receipts and Citibank customer advices-bank credit memos and bank statements	**₱163,090,642.20**	**₱187,598,348.67**	**₱223,165,152.39**	**₱241,154,815.97**	**₱815,008,959.23**

In compliance with the third requisite of proving that its clients for the subject period of claim are non-resident foreign corporations doing business outside the Philippines, petitioner presented the following documents:

EXHIBIT	DOCUMENTS
Manulife (International) Limited	
"W"	Business Processing Services Agreement
"AA"	SEC Certification of Non-Registration of Company
"FF"	Certified Documents (such as Certificate of Incorporation, Memorandum of Association, First Schedule to the Companies, Certificate of Deposit of Memorandum of Association and By-Laws)
"FF-1"	Certificate of Registration of Change of Name of Oversea Company
John Hancock Life Insurance	
"X"	Service Agreement
"Y"	Addendum to the Service Agreement
"BB"	SEC Certification of Non-Registration of Company
The Manufacturer's Life Insurance Company	
"Z"	Master Administrative Services Agreement
"DD"	Amended General Information Sheet
"EE"	Certificate of Filing of Amended General By-laws of a Foreign Corporation
"GG"	Certification of Articles of Incorporation or Amendments to Articles of Incorporation
"HH"	Letters Patent
Manulife Insurance Berhad	
"LLL"	Service Agreement
"MMM"	SEC Certification of Non-Registration of Company

In order to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by **both** SEC Certificate of Non-Registration of Company **and** proof of incorporation or registration in a foreign country, and that there is no indication that said foreign corporation is doing business in the Philippines.

A careful consideration of the evidence presented by petitioner however failed to establish that the following entities are non-resident foreign corporations doing business outside the Philippines:

CLIENT	GROUND FOR DISALLOWANCE
The Manufacturer's Life Insurance Company	A corporation organized and residing in Canada which conducts business in the Philippines through its Philippine branch office (*Exhibits "DD", "EE", and "HH"*)
Elliot and Page Limited	Without SEC Certificate of Non-Registration of Company *and* Proof of Incorporation or Registration in a Foreign Country
Manulife Insurance Berhad	Without Proof of Incorporation or Registration in a Foreign Country

Hence, petitioner's declared zero-rated receipts from the afore-mentioned entities for CY 2009 in the total amount of ₱455,036,959.14, detailed below, shall be disallowed.

Client	1st Quarter[123]	2nd Quarter[124]	3rd Quarter[125]	4th Quarter[126]	Total
	Declared Zero-Rated Receipts In Philippine Pesos				
The Manufacturer's Life Insurance Company	₱81,118,188.15	₱91,947,708.20	₱129,852,606.76	₱141,219,869.30	₱444,138,372.41
Elliot and Page Limited	-	-	4,247,566.52	5,624,849.01	9,872,415.53
Manulife Insurance Berhad				1,026,171.20	1,026,171.20
Total	**₱81,118,188.15**	**₱91,947,708.20**	**₱134,100,173.28**	**₱147,870,889.51**	**₱455,036,959.14**

In sum, only the amount of ₱359,972,000.09, representing gross receipts derived by petitioner from services rendered to the following entities, qualifies for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended:

[123] *Id.*, Annex 5.
[124] *Id.*, Annex 6.
[125] *Id.*, Annex 7.
[126] *Id.*, Annex 8.

Client	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Zero-rated sales/ receipts properly supported by zero-rated official receipts per ICPA report			***Amounts in Philippine Pesos***		
Manulife (International) Limited	₱17,832,623.69	₱18,933,241.44	₱19,476,259.33	₱19,580,406.10	₱ 75,822,530.56
John Hancock Life Insurance Company	64,678,680.32	76,717,399.03	69,588,719.78	73,703,520.36	284,688,319.49
Total	82,511,304.01	95,650,640.47	89,064,979.11	93,283,926.46	360,510,850.05
Less: Receipts from John Hancock Life Insurance Company per OR No. 742 not supported by Citibank Customer Advice-Bank Credit Memo	*538,849.96*				*538,849.96*
Zero-rated sales/receipts properly supported by zero-rated official receipts and Citibank Customer Advice-Bank Credit Memos	**₱81,972,454.05**	**₱95,650,640.47**	**₱89,064,979.11**	**₱93,283,926.46**	**₱359,972,000.09**

A comparison of the amount of zero-rated receipts as reflected in the Summary of Zero-Rated Sales/Receipts as accounted for by the Independent CPA *vis-à-vis* the amount declared in petitioner's Quarterly VAT Returns shows the following discrepancies:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Per Summary of Zero-Rated Sales/Receipts[127]	₱165,135,378.51	₱201,115,089.63	₱234,189,333.10	₱248,075,074.81	₱848,514,876.05
Per Quarterly VAT Returns[128]	165,418,912.30	201,108,061.66	234,150,877.61	247,810,479.73	848,488,331.30
Difference	**(₱283,533.79)**	**₱ 7,027.97**	**₱ 38,455.49**	**₱ 264,595.08**	**₱ 26,544.75**

For the first quarter of 2009, petitioner failed to provide supporting documents for its declared zero-rated receipts in the amount of ₱283,533.79, whereas for the second, third and fourth quarters of 2009, petitioner failed to declare its zero-rated receipts in the respective amounts of ₱7,027.97, ₱38,455.49, and ₱264,595.08.

Accordingly, for purposes of input VAT allocation, the basis of petitioner's total amount of zero-rated receipts per quarter is the higher between the amount per Summary of Zero-Rated Sales/Receipts and per Quarterly VAT Returns, to wit:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Zero-Rated Receipts	₱165,418,912.30	₱201,115,089.63	₱234,189,333.10	₱248,075,074.81	₱848,798,409.84

[127] *Id.*, Annex 3.
[128] Exhibits "D", "F", "G", and "I".

Consequently, only the portion of the input VAT claim attributable to the substantiated zero-receipts will be considered for refund using the following rate:

CY 2009	Valid Zero-Rated Receipts	Should-be Total Amount of Declared Zero-Rated Receipts[129]	Rate of Valid Zero-Rated Receipts to Should-Be Total Amount of Declared Zero-Rated Receipts
1st Quarter	₱ 81,972,454.05	₱ 165,418,912.30	49.554463%
2nd Quarter	95,650,640.47	201,115,089.63	47.560151%
3rd Quarter	89,064,979.11	234,189,333.10	38.031185%
4th Quarter	93,283,926.46	248,075,074.81	37.603103%
Total	**₱359,972,000.09**	**₱ 848,798,409.84**	

The sixth, seventh, eighth, ninth, and tenth requisites:

Having found that petitioner had VAT zero-rated receipts for the subject period of claim, the Court shall proceed to determine whether petitioner complied with the following remaining requisites:

a) *sixth requisite*: the input taxes are due or paid;
b) *seventh requisite*: the input taxes are not transitional input taxes;
c) *eight requisite*: the input taxes claimed are attributable to zero-rated or effectively zero-rated sales;
d) *ninth requisite*; 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 attributed to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and
e) *tenth requisite*: the input taxes have not been applied against output taxes during and in the succeeding quarters.

In its Quarterly VAT Returns for CY 2009, petitioner reflected a total amount of ₱22,109,898.38 excess input VAT arising from its amortization of input VAT on purchases of capital goods exceeding

[129] Higher between the amount per Summary of Zero-Rated Sales/Receipts (Exhibit "OOO", Annex 3) and per Quarterly VAT Returns (Exhibits "D", "F", "G", and "I").

₱1Million, domestic purchases of goods not exceeding ₱1Million, domestic purchases of goods other than capital goods, and domestic purchases of services for the said period, broken down as follows:

	1st Quarter *Exhibit "D"*	**2nd Quarter** *Exhibit "F"*	**3rd Quarter** *Exhibit "G"*	**4th Quarter** *Exhibit "I"*	**CY 2009**
	Amounts in Philippine Pesos				
Input Tax Deferred on Capital Goods Exceeding ₱1Million from Previous Quarter	₱20,942,297.70	₱20,208,563.33	₱ 19,116,089.82	₱21,254,644.84	₱20,942,297.70
Add: Input Tax on Capital Goods Exceeding ₱1Million Purchased this Quarter	699,756.44	383,671.86	3,761,992.45	3,557,539.16	8,402,959.91
Total Unamortized Input Tax on Capital Goods Exceeding ₱1Million	₱21,642,054.14	₱20,592,235.19	₱22,878,082.27	24,812,184.00	29,345,257.60
Less: Input Tax on Purchases of Capital Goods exceeding ₱1Million Deferred for the succeeding period	20,208,563.33	19,116,089.82	21,254,644.84	22,991,003.97	22,991,003.96
Amortization of Input Tax on Capital Goods exceeding ₱1Million	₱1,433,490.81	₱1,476,145.37	₱1,623,437.43	₱1,821,180.03	₱6,354,253.64
Add: Input Tax on -					
Domestic Purchases of Capital Goods not Exceeding ₱1Million	370,752.22	319,569.64	606,290.67	633,629.38	1,930,241.91
Domestic Purchases of Goods Other than Capital Goods	224,173.93	72,196.78	97,184.00	177,032.24	570,586.95
Domestic Purchase of Services	3,024,164.85	3,868,940.41	6,717,378.26	1,718,405.91	15,328,889.43
Total Allowable Input Tax	**₱5,052,581.81**	**₱5,736,852.20**	**₱9,044,290.36**	**₱4,350,247.56**	**₱24,183,971.93**
Less: Output Tax Due	967,551.32	-	1,010,500.36	96,021.87	2,074,073.55
Excess Input Tax	**₱ 4,085,030.49**	**₱5,736,852.20**	**₱8,033,790.00**	**₱4,254,225.69**	**₱22,109,898.38**

As can be seen in the returns, the above input taxes do not include transitional input taxes, which are equivalent to two percent (2%) of the value of the beginning inventory on hand or actual VAT on such goods, materials and supplies, whichever is higher, which amount shall be creditable against the output tax of VAT-registered person.[130]

In support of its input VAT claim, petitioner submitted various suppliers' invoices and official receipts[131] that were examined by the

[130] Section 4.111-1(a), Revenue Regulations No. 16-05.
[131] Exhibits "UUU" to "UUU-164", "VVV" to "VVV-300", "WWW-WWW-91", and

Independent CPA.

As can be gleaned from the immediately preceding table, part of the amount of the claim is ₱17,829,718.29, computed as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Purchase of Capital Goods not exceeding ₱1M	₱370,752.22	₱319,569.64	₱ 606,290.67	₱633,629.38	₱1,930,241.91
Domestic Purchases of Goods other than Capital Goods	224,173.93	72,196.78	97,184.00	177,032.24	570,586.95
Domestic Purchases of Services	3,024,164.85	3,868,940.41	6,717,378.26	1,718,405.91	15,328,889.43
Total	**₱3,619,091.00**	**₱4,260,706.83**	**₱7,420,852.93**	**₱2,529,067.53**	**₱17,829,718.29**

However, a review of the Independent CPA Report together with the documents supporting the said amount of ₱17,829,718.29 shows that input taxes amounting to ₱1,206,671.45 should be disallowed for not being properly substantiated by VAT invoices or official receipts as prescribed under Sections 110(A), 113(A) and (B), 237, and 238 of the NIRC of 1997, as amended by RA No. 9337, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-2005, as amended. Below is the breakdown of the said amount of ₱1,206,671.45, to wit:

FINDINGS	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
	Amounts In Philippine Pesos				
INPUT VAT ON PURCHASES OF CAPITAL GOODS NOT EXCEEDING ₱1MILLION					
1. Supported by TIN VAT invoices dated outside the period of claim[132]	₱245,727.99	-	-	₱8,568.00	₱254,295.99
2. Supported by TIN VAT invoice with petitioner's TIN handwritten on a printed invoice[133]	-	-	-	605.57	605.57
3. Supported by VAT REG TIN invoice with incomplete petitioner's address[134]	-	-	-	1,071.32	1,071.32
4. Supported by collection receipts with indication of "not valid as source of input tax"[135]	-	-	25,935.85	-	25,935.85

"XXX to XXX-17".

[132] Exhibit "OOO", Annexes 112 and 126.

[133] *Id.*, Annex 127.

[134] *Id.*, Annex 128.

[135] *Id.*, Annex 120.

5. No supporting documents [136]	-	22,554.49	111,618.94	41,990.56	176,163.99
Total	**₱245,727.99**	**₱22,554.49**	**₱137,554.79**	**₱52,235.45**	**₱458,072.72**
INPUT VAT ON DOMESTIC PURCHASES OF GOODS (OTHER THAN CAPITAL GOODS)					
1. Supported by TIN VAT invoices dated outside the period of claim[137]	₱16,473.86	-	-	-	₱16,473.86
2. Supported by VAT REG TIN invoices but without invoice date[138]	-	-	-	₱ 360.54	360.54
3. Supported by VAT REG TIN invoices with alteration in the petitioner's name[139]	-	-	-	237.64	237.64
4. Supported by VAT REG TIN invoices with name of the petitioner handwritten on a printed invoice (Annex 56)	-	-	-	540.00	540.00
5. Supported by TIN VAT invoices without petitioner's TIN[140]	215.92	-	-	-	215.92
6. Supported by TIN VAT invoices with incorrect petitioner's TIN[141]	-	401.46	-	-	401.46
7. Supported by TIN VAT invoices with alteration on the input VAT amount[142]	-	135.86	-	-	135.86
8. Supported by Statement of Accounts[143]	-	807.04	28.80	1,121.25	1,957.09
9. No supporting documents [144]	(627.83)	5,921.49	-	62,679.99	67,973.65
Total	**₱16,061.95**	**₱7,265.85**	**₱28.80**	**₱64,939.42**	**₱88,296.02**
INPUT VAT ON DOMESTIC PURCHASES OF SERVICES					
1. Supported by official receipts dated outside the period of claim					
a. VAT REG TIN official receipts[145]	-	-	-	₱37,050.26	₱37,050.26
b. TIN VAT official receipts[146]	-	-	-	13,039.93	13,039.93
2. Supported by VAT REG TIN official receipts but without petitioner's TIN indicated therein[147]	-	3,535.71	-	-	3,535.71
3. Supported by VAT REG TIN official receipts with incorrect petitioner's TIN indicated therein[148]	-	-	16,208.64	-	16,208.64
4. Supported by VAT REG TIN official receipts with alteration in the petitioner's TIN[149]	11,522.40	-	-	-	11,522.40
5. Supported by official receipts but the amount of VAT is not shown separately in the official receipt:					
a. VAT REG TIN official receipts[150]	-	-	8,035.71	9,672.00	17,707.71

[136] *Id.*, Annexes 115, 121, and 130.
[137] *Id.*, Annex 33.
[138] *Id.*, Annex 54.
[139] *Id.*, Annex 55.
[140] *Id.*, Annex 34.
[141] *Id.*, Annex 41.
[142] *Id.*, Annex 42.
[143] *Id.*, Annexes 43, 49, and 59.
[144] *Id.*, Annexes 38, 44, and 60.
[145] *Id.*, Annex 102.
[146] *Id.*, Annex 103.
[147] *Id.*, Annex 77.
[148] *Id.*, Annex 88.
[149] *Id.*, Annex 66.
[150] *Id.*, Annexes 89 and 104.

b. TIN VAT official receipt[151]	41,089.69	37,903.01	123,842.65	-	202,835.35
6. Supported by tape receipts[152]	-	924.19	-	-	924.19
Supported by provisional receipts[153]	53,000.57	-	9,400.18	-	62,400.75
7. Supported by official receipts with "VAT Exempt Sale" indicated in the official receipt:					
a. VAT REG TIN official receipts[154]	-	-	19.44	-	19.44
b. TIN VAT official receipts [155]	80,717.82	-	40,876.86	-	121,594.68
8. Supported by collection receipts with indication of "not valid as source of input tax"[156]	-	-	12,589.29	52,223.49	64,812.78
9. Supported by VAT REG TIN official receipts with the word "Zero-rated"[157]	-	-	-	3,600.00	3,600.00
10. Supported by Statement of Accounts[158]	-	906.54	-	-	906.54
11. Supported by NON VAT REG TIN official receipt[159]	-	-	-	34,200.00	34,200.00
12. No supporting documents[160]	(7,191.39)	8,413.44	(8,262.35)	76,984.63	69,944.33
Total	**₱179,139.09**	**₱51,682.89**	**₱202,710.42**	**₱226,770.31**	**₱660,302.71**
GRAND TOTAL	**₱440,929.03**	**₱81,503.23**	**₱340,294.01**	**₱343,945.18**	**₱1,206,671.45**

In addition to the foregoing exceptions found by the Independent CPA, the following input VAT totaling ₱135,880.05 shall also be disallowed for non-compliance with the substantiation requirements under the VAT law and regulations:

Exhibit	Vendor's Name	Invoice / O.R. No.	Date	Amount
Input VAT on domestic purchase of service supported by documents other than VAT Official Receipt				
2nd Quarter				
VVV-81	STANDARD INSURANCE CO.,INC.	26888	5/13/2009	₱ 2,314.80
3rd Quarter				
VVV-205	UP NORTH PROPERTY HOLDINGS, INC.	1000000840	10/7/2009	43,640.82
	subtotal			**₱ 45,955.62**
Input VAT on domestic purchases of services supported by VAT Official Receipts but the amount of VAT is not separately indicated				
2nd Quarter				

[151] *Id.*, Annexes, 67, 78, and 90.
[152] *Id.*, Annex 79.
[153] *Id.*, Annexes 68 and 91.
[154] *Id.*, Annex 94.
[155] *Id.*, Annexes 70 and 95.
[156] *Id.*, Annexes 96 and 106.
[157] *Id.*, Annex 107.
[158] *Id.*, Annex 81.
[159] *Id.*, Annex 108.
[160] *Id.*, Annexes 71, 82, 97, and 109.

VVV-120	UPS DELBROS INTERNATIONAL EXPRESS LTD. INC		89927	5/5/2009	₱ 3,522.51
3rd Quarter					
VVV-144	ANSCOR-CASTO TRAVEL CORPORATION		36981	8/27/2009	72.00
4th Quarter					
VVV-223	GUTHRIE JENSEN CONSULTANTS, INC.		33868	11/25/2009	1,200.00
		subtotal			**₱ 4,794.51**
Input VAT on domestic purchases of services supported by VAT Official Receipts where the amount reflected therein is lower than the amount of claim					
2nd Quarter					
VVV-83	EAGLEWATCH SECURITY SERVICES		12634	6/10/2009	
	Per Claim	Per Official Receipt / Difference			
	₱1,238.69	₱814.84 / ₱423.85			₱ 423.85
3rd Quarter					
VVV-191	ABS-CBN BROADCASTING CORPORATION		193573	7/31/2009	
	Input VAT Per Claim	Input VAT Per OR / Difference			
	₱277,029.07	₱193,028.40 / ₱84,000.67			84,000.67
		subtotal			**₱ 84,424.52**
Input VAT on domestic purchase of goods (other than capital goods) supported by VAT Invoice where the amount reflected therein is lower than the amount of claim					
1st Quarter					
UUU-39	SAN-MOR TRADING, INC.		29885	2/3/2009	
	Input VAT Per Claim	Input VAT Per Invoice / Difference			
	₱3,843.23	₱3,169.97 / ₱673.26			₱ 673.26
		subtotal			**₱ 673.26**
Input VAT on purchase of capital goods not exceeding ₱1Million supported by VAT Invoice where the amount reflected therein is lower than the amount of claim					
4th Quarter					
WWW-91	88 LIVING CORPORATION		333	12/20/2009	
	Input VAT Per Claim	Input VAT Per Invoice / Difference			
	₱1,562.14	₱1,530.00 / ₱32.14			₱ 32.14
		subtotal			**₱ 32.14**
		Total			**₱ 135,880.05**

Hence, out of the ₱17,829,718.29 input VAT claim on purchases of capital goods not exceeding ₱1million, domestic purchases of goods other than capital goods and domestic purchases of services, only the amount of ₱16,487,166.79 represents petitioner's valid input VAT, computed as follows:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
	Amounts in Philippine Pesos				
Input VAT per VAT Returns					
Purchases of Capital Goods not exceeding ₱1Million	₱370,752.22	₱319,569.64	₱606,290.67	₱633,629.38	₱1,930,241.91
Domestic Purchases of Goods other than Capital Goods	224,173.93	72,196.78	97,184.00	177,032.24	570,586.95
Domestic Purchases of Services	3,024,164.85	3,868,940.41	6,717,378.26	1,718,405.91	15,328,889.43
Total	₱3,619,091.00	₱4,260,706.83	₱7,420,852.93	₱2,529,067.53	₱17,829,718.29
Less: Disallowances					
Per ICPA report	₱440,929.03	₱81,503.23	₱340,294.01	₱343,945.18	₱1,206,671.45
Per this Court's further verification	673.26	6,261.16	127,713.49	1,232.14	135,880.05
Total	₱441,602.29	₱87,764.39	₱468,007.50	₱345,177.32	₱1,342,551.50
Properly Substantiated Input VAT on Purchases of Capital Goods not exceeding ₱1Million, Domestic Purchases of Goods other than Capital Goods and Domestic Purchases of Services	**₱3,177,488.71**	**₱4,172,942.44**	**₱6,952,845.43**	**₱2,183,890.21**	**₱16,487,166.79**

The Court shall now proceed to determine the substantiation of the amortization of input VAT on capital goods purchases exceeding ₱1Million in the amount of ₱6,354,253.64, which originated from the ₱20,942,297.70 input tax deferred on capital goods exceeding ₱1Million from previous quarter and ₱8,402,959.91 input VAT from purchases during the four quarters of CY 2009, as shown below:

Input Tax Deferred on Capital Goods exceeding ₱1Million from Previous Quarter	₱20,942,297.70
Add: Input Tax on Capital Goods exceeding ₱1Million Purchased this Quarter	8,402,959.91
Total Unamortized Input Tax on Capital Goods exceeding ₱1Million	29,345,257.61
Less: Input Tax on Purchases of Capital Goods exceeding ₱1Million deferred for the succeeding period	22,991,003.97
Amortization of Input Tax on Capital Goods exceeding ₱1Million	**₱6,354,253.64**

It is indicated in the Independent CPA Report that the ₱20,942,297.70 input tax deferred on capital goods exceeding ₱1Million from previous quarter pertains to petitioner's purchases in the years 2006, 2007 and 2008[161]. However, petitioner presented only a Lapsing Schedule[162] for the said periods without providing the supporting invoices and/or official receipts to establish the existence of the said input VAT. Hence, the claimed amortization of input VAT on purchases from previous quarters of taxable years 2006 to 2008 shall be denied.

---

[161] *Id.*, Annex 27.
[162] Exhibit "ZZZ".

As regards the substantiation of the ₱8,402,959.91 input VAT on purchases of capital goods exceeding ₱1Million for taxable year 2009, the Independent CPA noted the following findings:[163]

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
	Amounts in Philippine Pesos				
Properly Substantiated for VAT Purposes					
1. Input tax claimed on purchases of capital goods exceeding ₱1Million which are substantiated for VAT purposes:					
a. Properly supported by VAT REG TIN invoice[164]	-	-	₱794,235.27	₱815,787.00	₱1,610,022.27
b. Properly supported by TIN VAT invoice[165]	₱521,074.67	₱383,671.86	2,709,337.63	1,714,121.26	5,328,205.42
subtotal	₱521,074.67	₱383,671.86	₱3,503,572.90	₱2,529,908.26	₱6,938,227.69
Other Findings					
2. Input tax claimed on purchases of capital goods exceeding ₱1Million without supporting documents	₱178,681.77	-	₱258,419.55	₱1,027,630.90	₱1,464,732.22
subtotal	₱178,681.77	-	₱258,419.55	₱1,027,630.90	₱1,464,732.22
Total	**₱ 699,756.44**	**₱ 383,671.86**	**₱3,761,992.45**	**₱3,557,539.16**	**₱8,402,959.91**

From the above findings of the Independent CPA, the unsupported amount of ₱1,464,732.22 shall be disallowed. In addition, petitioner's input VAT claim in the amount of ₱465,336.43, which relates to purchases of services, must be denied for petitioner's failure to substantiate the same with VAT official receipts, to wit:

Exhibit	Supplier's Name	Invoice No.	Date	Amount of Purchase	Input VAT
Third Quarter					
XXX-5	IBMS TECHNOLOGY PHILS. CORP.	01901	7/23/2009	₱ 1,312,500.00	₱ 157,500.00
Fourth Quarter					
XXX-15	TOTAL VENTURES, INC.	1316	12/2/2009	2,565,303.58	307,836.43
TOTAL				**₱3,877,803.58**	**₱465,336.43**

Thus, out of the ₱8,402,959.91 input VAT on purchases of capital goods exceeding ₱1Million, only the amount of ₱6,472,891.26 was properly substantiated by VAT invoices/official receipts, computed as follows:

---

[163] Exhibit "OOO", p. 22.
[164] *Id.*, Annexes 20 and 23,
[165] *Id.*, Annexes 17, 19, 21, and 24.

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Input VAT on Purchases of Capital Goods exceeding ₱1Million	₱ 699,756.44	₱ 383,671.86	₱ 3,761,992.45	₱ 3,557,539.16	₱ 8,402,959.91
Less: Disallowances					
Per ICPA findings	178,681.77	-	258,419.55	1,027,630.90	1,464,732.22
Per this Court's findings	-	-	157,500.00	307,836.43	465,336.43
Properly substantiated Input VAT on Purchases of Capital Goods exceeding ₱1Million	**₱521,074.67**	**₱383,671.86**	**₱3,346,072.90**	**₱2,222,071.83**	**₱6,472,891.26**

Pursuant to Section 110(A)(2) of the NIRC of 1997, as amended by RA No. 9337, input VAT claim on capital goods purchases attributable to zero-rated sales may be claimed either in full during the month of acquisition, or spread over a period of time, depending on the aggregate acquisition cost of the capital goods in the calendar month. If the aggregate acquisition cost exceeds ₱1Million, the claim for input tax should be spread over 60 months or the estimated useful life of the capital goods, whichever is shorter. On the other hand, if aggregate acquisition cost does not exceeds ₱1 million, the total input taxes shall be disallowed as credit/refund in the month of acquisition.

Applying the said Section 110(A)(2) to the present case, out of the ₱6,472,891.26 input VAT properly substantiated by VAT invoices, only the amount of ₱565,565.77 is creditable for the year 2009, computed as follows:

Date of Purchase[166]	Supplier	Exhibit No. (Invoice /O.R.)	Amount of Purchase net of VAT	Input Tax	Est. Useful Life (in mos.)[167]	Monthly Amortization	Allowable Input Tax for CY 2009
			Amounts in Philippine Pesos				
FIRST QUARTER							
3/9/09	Accent Micro Tech. Inc.	XXX	₱ 3,309,371.65	₱397,124.60	48	₱8,273.43	₱82,734.30
3/9/09	Jebsen & Jessen Communications	XXX-1	1,032,917.25	123,950.07	60	2,065.83	20,658.30
	subtotal		**₱4,342,288.90**	**₱521,074.67**		**₱10,339.26**	**₱103,392.60**
SECOND QUARTER							
05/12/09	Accent Micro Tech. Inc.	XXX-2	3,197,265.50	383,671.86	48	7,993.16	63,945.28
	subtotal		**₱3,197,265.50**	**₱383,671.86**		**₱7,993.16**	**₱63,945.28**
THIRD QUARTER							
8/7/09	Barrington Carpets Inc.	XXX-3A	₱1,692,180.00	₱203,061.60	60	₱3,384.36	₱16,921.80
9/23/09	Trends & Technologies	XXX-4	3,613,947.27	433,673.67	60	7,227.89	28,911.56

[166] Per Schedules attached to the Quarterly VAT Returns (Exhibits "D", "F", "G", and "I").
[167] *Id.*

7/29/09	Total Ventures Inc.	XXX-6A	7,695,910.67	923,509.28	60	15,391.82	92,350.92
9/3/09	Total Ventures Inc.	XXX-7A	7,695,910.67	923,509.28	60	15,391.82	61,567.28
7/14/09	Accent Micro Tech. Inc.	XXX-8	2,660,210.55	319,225.27	60	5,320.42	31,922.52
7/14/09	Accent Micro Tech. Inc.	XXX-9	4,525,781.66	543,093.80	48	11,314.45	67,886.70
	subtotal		**₱27,883,940.82**	**₱3,346,072.90**		**₱58,030.76**	**₱299,560.78**
FOURTH QUARTER							
10/6/09	Futureproof Asia Inc.	XXX-10	₱2,058,000.00	₱246,960.00	60	₱4,116.00	₱12,348.00
10/14/09	Barrington Carpets Inc.	XXX-11A	2,115,225.00	253,827.00	60	4,230.45	12,691.35
11/16/09	IBMS Technology Phils.	XXX-12A	2,625,000.00	315,000.00	60	5,250.00	10,500.00
10/14/09	Total Ventures Inc.	XXX-13A	7,695,910.67	923,509.28	60	15,391.82	46,175.46
10/14/09	Hoffsman Systematic Designs Inc.	XXX-14	1,139,775.00	136,773.00	60	2,279.55	6,838.65
12/10/09	Accent Micro Tech. Inc.	XXX-16	1,796,620.14	215,594.42	60	3,593.24	3,593.24
10/14/09	Teledatacom Phils. Inc.	XXX-17	1,086,734.45	130,408.13	60	2,173.47	6,520.41
	subtotal		**₱18,517,265.26**	**₱2,222,071.83**		**₱37,034.53**	**₱98,667.11**
TOTAL			**₱53,940,760.48**	**₱6,472,891.26**		**₱113,397.71**	**₱565,565.77**

Therefore, petitioner's properly substantiated input VAT for the four quarters of taxable year 2009 amounted only to ₱17,052,732.56, computed as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
	Amounts in Philippine Pesos				
Input VAT on Purchases of Capital Goods not exceeding ₱1Million, Domestic Purchases of Goods other than Capital Goods and Domestic Purchases of Services	₱3,177,488.71	₱4,172,942.44	₱6,952,845.43	₱2,183,890.21	₱16,487,166.79
Amortization of Input VAT on Purchases of Capital Goods Exceeding ₱1Million	103,392.60	63,945.28	299,560.78	98,667.11	565,565.77
Total Valid Input VAT	**₱3,280,881.31**	**₱4,236,887.72**	**₱7,252,406.21**	**₱2,282,557.32**	**₱17,052,732.56**

A portion, however, of the ₱17,052,732.56 substantiated input VAT shall be applied against petitioner's reported output VAT liability for the four taxable quarters of 2009 in the total amount of ₱2,074,073.55.[168] Consequently, only the remaining input VAT of

168

Exhibit	Period Covered (CY 2009)	Output Tax
"D"	1st Quarter	₱ 967,551.32
"F"	2nd Quarter	-
"G"	3rd Quarter	1,010,500.36

₱14,978,659.01 can be attributed to the should-be total amount of declared zero-rated receipts of ₱848,798,409.84 and only the input VAT of ₱6,357,504.39 is attributable to the valid zero-rated receipts of ₱359,972,000.09 as computed below:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Valid Input VAT	₱ 3,280,881.31	₱ 4,236,887.72	₱ 7,252,406.21	₱2,282,557.32	₱17,052,732.56
Less: Output VAT	967,551.32	-	1,010,500.36	96,021.87	2,074,073.55
Excess Input VAT	₱ 2,313,329.99	₱ 4,236,887.72	₱ 6,241,905.85	₱2,186,535.45	₱14,978,659.01
Multiply by Rate of Valid Zero-Rated Receipts to Should-be Total Amount of Declared Zero-Rated Receipts	49.554463%	47.560151%	38.031185%	37.603103%	
Excess Input VAT Attributable to Valid Zero-Rated Receipts	**₱1,146,358.25**	**₱2,015,070.20**	**₱2,373,870.76**	**₱ 822,205.18**	**₱6,357,504.39**

Even though the claimed input VAT was carried over by petitioner in its succeeding Quarterly VAT Returns[169], the same remained unutilized until it was deducted as "VAT Refund/TCC claimed" in its Quarterly VAT Returns for the fourth quarter of 2010[170] and the first[171] and second[172] quarters of 2011, thus, preventing the carry-over or application of the claimed input VAT in the next taxable quarters.

In sum, petitioner has sufficiently proven its entitlement to the refund or issuance of TCC in the amount of ₱6,357,504.39, representing unutilized excess input VAT attributable to its zero-rated receipts for the four quarters of CY 2009.

WHEREFORE, in light of the foregoing, the consolidated Petitions for Review are hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TCC** in favor of petitioner in the amount of **SIX MILLION THREE HUNDRED FIFTY-SEVEN THOUSAND FIVE HUNDRED**

"I"	4th Quarter	96,021.87
Total		**₱2,074,073.55**

[169] Exhibits "J", "K", "L", "M", "III" and "JJJ".
[170] Exhibit "N", line 23D, input VAT claim for the 1st quarter of 2009 in the amount of ₱4,085,030.49 was deducted.
[171] Exhibit "JJJ", line 23D, input VAT claim for the 2nd quarter of 2009 in the amount of ₱5,736,852.20 was deducted.
[172] Exhibit "III", line 23D, input VAT claim for the third and fourth quarters of 2009 in the total amount of ₱12,380,003.61 (₱8,033,790.00 and 4,346,213.61) was deducted.

FOUR PESOS AND THIRTY-NINE CENTAVOS (₱6,357,504.39), representing its unutilized excess input VAT attributable to its zero-rated receipts for the four (4) quarters of CY 2009.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(On Official Business)
CIELITO N. MINDARO-GRULLA
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 these cases were assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Chairperson
Presiding Justice