REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION
****

CHEVRON HOLDINGS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8946

Members:

DEL ROSARIO, P.J., Chairperson,
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
MAR 14 2018 ; 3:00 pm

x - x

DECISION

UY, J.:

This is a *Petition for Review*[1] filed on December 15, 2014 by Chevron Holdings, Inc. against the Commissioner of Internal Revenue to seek the refund or issuance of tax credit certificate (TCC) of the amount of ₱32,400,108.14, allegedly representing excess and unutilized input value added tax (VAT) on purchases of goods and services attributable to its zero-rated sales for the third and fourth quarters of calendar year (CY) 2012.

THE FACTS

Petitioner Chevron Holdings, Inc. is the Philippine branch of

---

[1] Docket - Vol. I, pp. 14 to 23.

Chevron Holdings, Inc. (CHI), a multinational company organized and existing under and by virtue of the laws of the State of Delaware, United States of America,[2] with registered office address at the 35th Floor, Yuchengco Tower, RCBC Plaza, 6819 Ayala Avenue, Makati City. It is also registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer and was issued a Certificate of Registration with Taxpayer Identification Number (TIN) 201-056-391-000 on July 30, 1998.[3]

Petitioner is licensed by the Securities and Exchange Commission (SEC) to transact business in the Philippines as a Regional Operating Headquarters (ROHQ) under SEC Registration No. A199802486 dated June 3, 1998, with purposes limited to general administration and planning; business planning and coordination; sourcing and 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 and product development; technical support and maintenance; data processing and communication; and business development.[4]

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue vested under appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide, approve, and grant refunds and/or tax credits of overpaid and erroneously paid or collected internal revenue taxes. He holds office at the 5th Floor, Bureau of Internal Revenue (BIR) National Office Building, Agham Road, Diliman, Quezon City.

Petitioner filed its Quarterly VAT Returns for the third and fourth quarters of CY 2012 on October 24, 2012[5] and on January 25, 2013, respectively.[6]

On May 2, 2014, petitioner filed an administrative claim for refund or issuance of TCC for unutilized input VAT for the third quarter of CY 2012 in the total amount of ₱18,025,207.76 with the

---

[2] Par. 2, Joint Stipulation of Facts and Issues (JSFI), Docket - Vol. III, p. 1677.
[3] Exhibit "P-3", Docket - Vol. IV, p. 2189.
[4] Exhibit "P-1", Docket - Vol. IV, pp. 2157 to 2169.
[5] Exhibit "P-4", Docket - Vol. IV, pp. 2190 to 2191.
[6] Exhibit "P-5", Docket - Vol. IV, pp. 2192 to 2193.

BIR.[7] It submitted all relevant documents in support of its claim when it filed its administrative claim for refund.

On May 27, 2014, petitioner filed an administrative claim for refund or issuance of TCC for unutilized input VAT for the fourth quarter of CY 2012 in the total amount of ₱14,374,900.38 with the BIR.[8] Petitioner likewise submitted all relevant supporting documents when it filed its administrative claim.

On June 9, 2014, petitioner received Letter of Authority (LOA) No. LOA-124-2014-00000045 (eLA201100060743) dated May 27, 2014,[9] authorizing concerned revenue officers to examine its books of accounts and other accounting records for all internal revenue taxes for the period covering July 1, 2012 to September 30, 2012.

On July 7, 2014, petitioner received LOA No. LOA-124-2014-00000048 (eLA201100060745) dated June 27, 2014,[10] authorizing revenue officers to examine its books of accounts and other accounting records for all internal revenue taxes for the period covering October 1, 2012 to December 31, 2012.

For the period July 1, 2012 to September 30, 2012 (Third Quarter of CY 2012), the BIR requested petitioner to submit certain supporting documents in its letters dated June 16, 2012[11], July 7, 2014[12] and July 14, 2014[13] pursuant to LOA No. LOA-124-2014-00000045 (eLA201100060743) dated May 27, 2014.

As regards the letter dated June 16, 2012, it is observed that the year 2012 should be 2014, based on the first paragraph of said letter marked as Exhibit "P-8.1" for the petitioner, which is quoted in full as follows:

---

[7] Exhibit "P-6.1", Docket - Vol. IV, pp. 2194 to 2204.
[8] Exhibit "P-6.2", Docket - Vol. IV, pp. 2205 to 2210.
[9] Exhibit "P-7.1", Docket - Vol. IV, p. 2212.
[10] Exhibit "P-7.2", Docket - Vol. IV, p. 2213.
[11] Exhibit "P-8.1", Docket - Vol. IV, p. 2214.
[12] Exhibit "P-8.2", Docket - Vol. IV, pp. 2215 to 2216.
[13] Exhibit "P-8.4", Docket - Vol. IV, pp. 2219 to 2220.

"June 16, **2012**

The President
CHEVRON HOLDINGS, INC.
35th Floor, Yuchengco Tower, RCBC Plaza,
6819 Ayala Avenue, Makati City

Attention: The Chief Finance Officer/ Chief Accountant/ Tax Compliance Officer/ Chief, MIS

Subject: Data Files request for Tax Audit

Sir:

Pursuant to our Letter of Authority No. 124-2014-00000045, dated **May 27, 2014**, for the examination of your books of accounts and other accounting records for the year beginning July 1, 2012 to September 30, 2012, we hereby request for the reproduction of the following master and transaction files in electronic form in accordance with Revenue Regulations 16-2006 dated 16, 2006.

- General Ledger/Subsidiary Ledger (Transaction file)
- Journal Book (Transaction file)
- Account Payable (Transaction file)
- Sales Book (Transaction file) Customer Master File
- Account Receivable (Transaction file)
- Inventory Module (Transaction file)
- Purchase Book (Transaction file & Vendor Supplier File)
- Chart of Accounts (Master file)
- Capital Assets File (Master file)
- Other records (as needed)

We request that each of the above files reflect all transactions captured by the system from July 1, 2012 to September 30, 2012 and that the data should be given in any of the following formats: **delimited text files (tab delimited or csv), .mdb, spreadsheet format e.g. excel (flat file) or .dbf file** on a storage media preferably on a CD-R or DVD-R. ***The above enumerated files may differ from your electronic records and as such you may submit whatever electronic files in your computerized accounting systems in lieu of our requests.***

Together with the data, please document the file record layouts. For each field, document the field name, data type, and formats of numeric and date items. We also require documentation of key control information, the number of records in the file and control totals of numeric fields where applicable

In case your books of accounts are still in manual (handwriting) form, kindly present or submit the same for examination. We also require you to submit an affidavit that you are not using a computerized accounting system or any components thereof such as but not limited to inventory module, sales module, etc.

> This represents our ***initial*** data request associated with this audit. We anticipate a necessity for subsequent data requests, but we will endeavor to keep these requests to a minimum, in consideration of your time and resources. The documents supporting entries in your books of accounts should be presented to us upon our request which will be made after our data analysis.
>
> We appreciate your assistance with this data access, and look forward to working with you during the course of our audit. We expect our files **Five (5) days** from receipt of this notice in accordance with RR-16-2006.
>
> Very truly yours,
>
> Signed
> **LINDAGRACE B. SAGUN**
> Chief, ELTEAD 2 "

Subsequently, for the period October 1, 2012 to December 31, 2012 (Fourth Quarter of CY 2012), the BIR also requested petitioner to submit specific supporting documents in its letters dated July 7, 2014[14] and July 15, 2014[15] pursuant to LOA No. LOA-124-2014-00000048 (eLA201100060745) dated June 27, 2014.

On July 11, 2014, petitioner submitted supporting documents as requested by the BIR in connection with its claim for refund of excess input VAT for the third[16] and fourth[17] quarters of CY 2012.

On July 18, 2014, petitioner submitted the final batch of supporting documents requested by the BIR pertaining to its claim for refund of excess input VAT for the third[18] and fourth[19] quarters of CY 2012.

There being no action taken by respondent on petitioner's administrative claim for refund or issuance of TCC, petitioner filed the instant *Petition for Review* on December 15, 2014.

Respondent filed his *Answer*[20], through registered mail on April 6, 2015 and received by the Court on April 16, 2015, interposing the

---

[14] Exhibit "P-8.3", Docket - Vol. IV, pp. 2217 to 2218.
[15] Exhibit "P-8.5", Docket - Vol. IV, pp. 2221 to 2222.
[16] Exhibit "P-9.1", Docket - Vol. IV, pp. 2223 to 2226.
[17] Exhibit "P-9.2", Docket - Vol. IV, pp. 2291 to 2294.
[18] Exhibit "P-9.3", Docket - Vol. IV, pp. 2346 to 2354.
[19] Exhibit "P-9.4", Docket - Vol. IV, pp. 2355 to 2359.
[20] Docket - Vol. I, pp. 85 to 91.

following Special and Affirmative Defenses:

"**SPECIAL AND AFFIRMATIVE DEFENSES**

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

5. In a claim for tax refund or tax credit, the applicant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefor. (Western Mindanao Power Corporation v. CIR, G.R. No. 181136, June 13, 2012, 672 SCRA 350, 362)

6. To support its claim, it is imperative for petitioner to prove the following, *viz*:

a. The registration requirements of a value-added taxpayer in compliance with section 6 (a) and (b) of Revenue Regulations No. 6-97 in relation to Section 4.107-1 (a) of Revenue Regulations No. 7-95, and Section 236 of the Tax Code, as amended;

b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT in compliance with the provisions of Section 113 and 114 of the Tax Code, as amended;

c. Proof of compliance with the prescribed checklist of requirements to be submitted involving claim for VAT refund pursuant to Revenue Memorandum Order No. 53-98, otherwise there would be no sufficient compliance with the filing of an administrative claim for refund which is a condition sine qua non prior to the filing of a judicial claim in accordance with Section 112 of the Tax Code, as amended. This requires the submission of complete documents in support of the application filed with the Bureau of Internal Revenue before the 120-day audit period shall apply;

d. That the input taxes in the aggregate amount of P26,520,184.81 allegedly paid by petitioner on its purchases of goods and services for the 1st to 4th quarter of calendar years 2009, 2010 and 2011 were attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over to the succeeding taxable quarter or quarters;

e. That petitioner's administrative and judicial claims for tax credit or refund of the unutilized input tax (VAT) were filed within the periods provided in Sections 112 (A) and (D) of the Tax Code, as amended;

f. That petitioner's domestic purchases of goods and services were made in the course of its trade or business, properly supported by VAT invoices and /or official receipts and other documents, such as subsidiary purchase Journal showing that it actually paid VAT in accordance with Sections 110 (A) (2) and 113 of the Tax Code, as amended, and pursuant to Section 4.104-5 (a) and (b) of Revenue Regulations No. 7-95 (Re: Substantiation of Claims for Input Tax Credits);

g. The requirements as enumerated under Section 4.104-5 of Revenue Regulations No. 7-95. (Re: Substantiation of Claims for Input Tax Credits).

h. The requirements as enumerated under Revenue Memorandum Circular 54-2014 (Re: Clarifying Issues Relative to the Application for Value Added Tax Refund/Credit under Section 112 of the Tax Code, as amended).

7. Petitioner must prove that the aggregate amount of P32,400,108.14 allegedly representing excess and unutilized input VAT for the 3rd to 4th quarter of taxable years 2012 are properly documented.

8. In Revenue Memorandum Circular 54-2014 issued on June 11, 2014, the administrative claim for VAT refund or TCC must be filed within two (2) years from the close of the taxable quarter when the zero-rated sales and/or effectively zero-rated sales were made. The application for VAT refund must be accompanied by complete supporting documents as specifically enumerated in Annex 'A' of the RMC. In addition, the taxpayer should attach a sworn statement/affidavit (i) attesting to the completeness of the submitted documents; (ii) stating that the attached supporting documents are the only documents which the taxpayer will present to support the claim; and, additionally, (iii) in the case of corporations or other juridical persons, there should be a sworn statements that the officer signing the affidavit (which should at the very least be the Chief Finance Officer) has been authorized by the company's Board of Directors.

9. Corollary thereto, Section 112 (D) [now Section 112(c) of the Tax Code of 1997] provides as follows, *to wit:*

> **'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; xxx

X X X

> **(D) 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 Subsections (A) and (B) 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**.' (Emphasis supplied)

Pursuant to the aforequoted provision of law, the application for tax refund must be filed within two (2) years after the close of the taxable quarter when the sales were made and the CIR has a 120-day period within which to decide whether to grant the claim. It logically follows that a taxpayer must first submit the complete supporting documents before the 120-day period should commence. If the claim is not acted upon by respondent, within the 120-day period, such inaction shall be deemed a denial of the claim. It cannot be overemphasized that respondent cannot decide the claim for refund without the complete supporting documents.

10. Under RMC 54-2014, the taxpayer may appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day period, or (2) file the judicial claim within thirty days from the expiration of the 120-day period if the Commissioner does not act within the 120-day period. In this case, petitioner's administrative claim for refund was allegedly filed on May 2, 2014 for its 3rd quarter claim and on May 27, 2014 for its 4th

quarter claim. Thus, the 120-day period expired on August 30, 2014 and September 24, 2014 respectively. Counting thirty days from each expiration, petitioner's judicial claim should have been filed on or before September 29, 2014 and October 23, 2014. Therefore, the instant petition was filed out of time.

11. All in all, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund. Hence, a taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund. Failure to comply therewith warrants a dismissal of the taxpayer's claim for refund. Respondent humbly submits that petitioner failed to establish its right to refund.

12. It can never be emphasized enough that in this jurisdiction tax refunds/ credits are in the nature of tax exemptions, hence, laws relating to them call for a strict application against the claimant. As held by the Honorable Supreme Court:

> 'Tax refunds are in the nature of tax exemptions, and are to be construed **strictissimi juris** against the entity claiming the same. Thus, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence, its entitlement to a claim for refund.'

13. Taxes collected are presumed to be in accordance with laws and regulations.

14. Claims for refund are construed strictly against the claimant for the same partake of the nature of exemption from taxation and as such, they are looked upon with disfavor. Basic is the rule that tax refunds are regarded as tax exemptions that are in of the sovereign authority and are to be construed in *strictissimi juris* against the person or entity claiming the exemption. The law does not look with favor on tax exemptions and that he who would seek to be thus

M

privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.

15. Based on the foregoing, petitioner's claim for refund has no basis in fact and in law. Thus, the instant petition should be dismissed for lack of jurisdiction and/or for lack of merit."

As agreed upon during the pre-trial conference held on July 30, 2015 [21], the parties filed their *Joint Stipulation of Facts and Issues* (or JSFI) [22] on August 24, 2015. Said JSFI was approved by the Court in its Resolution[23] dated September 15, 2015 and thereafter, a Pre-Trial Order[24] was issued on November 4, 2015.

During trial, petitioner presented Ma. Nerita C. Ferreol[25], Carolyn C. Ardina[26], Jennifer A. Valdez[27], and the Independent Certified Public Accountant[28] (ICPA) Czarina R. Miranda as its witnesses.

On April 19, 2016, petitioner filed its *Formal Offer of Evidence*[29], offering Exhibits "P-1" to "P-59.1", inclusive of submarkings". Respondent failed to file his comment to petitioner's Formal Offer of Evidence.[30] In the Resolution dated July 21, 2016,[31] the Court admitted all the formally offered exhibits of petitioner except for Exhibits "P-32.1", "P-32.2", "P-50.1", "P-50.2", "P-21.1", "P-21.2", and "P-54".

Petitioner filed its *Motion for Reconsideration (Re: Resolution dated July 21, 2016)* on August 5, 2016.[32] Respondent, however,

---

[21] Order dated June 18, 2015, Docket - Vol. I, p. 103.
[22] Docket - Vol. III, pp. 1676 to 1684.
[23] Docket - Vol. III, p. 1699.
[24] Docket - Vol. III, pp. 1757 to 1779. Pre-Trial Order was amended as per Court's Resolution dated March 7, 2016, Docket - Vol. III, pp. 2083 to 2086.
[25] Minutes of the hearing dated November 5, 2015, Docket - Vol. III, pp. 1780 to 1784.
[26] Minutes of the hearing dated January 26, 2016 and March 8, 2016, Docket - Vol. III, pp. 1855 to 1857 and 2087 to 2089, respectively.
[27] Minutes of the hearing dated March 8, 2016, Docket - Vol. III, pp. 2087 to 2089.
[28] Minutes of the hearing dated January 26, 2016, Docket - Vol. III, pp. 1855 to 1857.
[29] Docket - Vol. IV, pp. 2099 to 2156.
[30] Records Verification dated May 19, 2016, Docket - Vol. V, p. 3624.
[31] Docket - Vol. V, pp. 3630 to 3633.
[32] Docket - Vol. V, pp. 3634 to 3639.

failed to file his comment thereto.[33] In the Resolution dated November 22, 2016,[34] petitioner's *Motion* was granted and its withdrawal of Exhibits "P-32.1", "P-32.2", "P-50.1" and "P-50.2" was noted; while Exhibits "P-21.1", "P-21.2" and "P-54" were admitted.

During the hearing held on January 24, 2017 for the presentation of respondent's evidence, respondent's counsel manifested that he will no longer present evidence on the ground that there is no report of investigation as regards petitioner's claim for refund.[35]

Upon the filing of petitioner's *Memorandum*[36] on March 20, 2017 and taking into consideration the Records Verification dated March 23, 2017 issued by the Court's Judicial Records Division stating that respondent failed to file his *Memorandum*[37], this case was considered submitted for decision on March 30, 2017.[38] Hence, this decision.

THE ISSUES

The parties submitted the following issues for the Court's resolution:[39]

> "Whether or not petitioner is entitled to the claim for refund or issuance of TCC for the excess or unutilized input VAT in the aggregate amount of ₱32,400,108.14 for the 3rd and 4th quarters of CY 2012.
>
> The main issue may be broken down to the following sub-issues:
>
> 1. Whether or not petitioner incurred input VAT on its purchases of goods and services attributable to zero-rated sales for the 3rd and 4th quarters of CY 2012.

---

[33] Records Verification dated September 8, 2016, Docket - Vol. V, p. 3645.
[34] Docket - Vol. V, pp. 3653 to 3655.
[35] Minutes of the hearing dated January 24, 2017.
[36] Docket - Vol. V, pp. 3669 to 3698.
[37] Records Verification dated March 23, 2017, Docket - Vol. V, p. 3699.
[38] Resolution dated March 30, 2017, Docket - Vol. V, p. 3703.
[39] JSFI, Docket - Vol. III, p. 1677.

2. Whether or not the input VAT incurred by petitioner for the 3rd and 4th quarters of CY 2012 is duly supported by VAT invoices and official receipts.

3. Whether or not the input VAT incurred by petitioner for the 3rd and 4th quarters of CY 2012 amounting to ₱32,400,108.14 was applied against any output VAT or carried over to succeeding taxable periods.

4. Whether or not petitioner's administrative and judicial claims for refund or issuance of TCC for its excess and unutilized input VAT on purchases of goods and services attributable to its zero-rated sales were filed within the period prescribed by law."

THE COURT'S RULING

Section 112(A) of the NIRC of 1997, as amended, provides the basis for the refund or tax credit of excess input VAT attributable to zero-rated or effectively zero-rated sales, to wit:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of

> sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> 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."

Based on the foregoing provisions, in order to be entitled to refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

1. That the taxpayer is VAT-registered;
2. That there must be zero-rated or effectively zero-rated sales;
3. That input taxes are due or paid;
4. That such input taxes were attributable to zero-rated sales or effectively zero-rated sales;
5. That the input taxes were not applied against any output VAT liability; and
6. That the claim for refund was filed within the two (2)-year prescriptive period.

Petitioner's administrative and judicial claims were timely filed.

As explicitly stated under Section 112(A) of NIRC of 1997, as amended, the application for the issuance of TCC or the refund of unutilized excess input VAT must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the third and fourth quarters of CY 2012 which closed on September 30, 2012 and December 31, 2012, respectively. Counting two years from the said dates, petitioner had until September 30, 2014 and December 31, 2014, respectively, within which to file its administrative claims for tax credit or refund for the third and fourth quarters of CY 2012. Clearly, petitioner's administrative claims filed with the BIR on May 2, 2014 and on May 27, 2014 were seasonably filed.

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, states the time requirements for filing a judicial claim for the refund or tax credit of input VAT. The legal provision speaks of two periods: the period of 120 days, which serves as a waiting period to give time for the BIR Commissioner to act on the administrative claim for refund or tax credit; and the period of 30 days, which refers to the period for filing a judicial claim with this Court.[40]

From date of submission of complete documents by the taxpayer, respondent has 120 days within which to grant or deny the claim. In case of respondent's inaction on the claim, petitioner is given a period of 30 days from the expiration of the 120-day period to appeal the claim before this Court.

The reckoning of the 120-day period under Section 112(C) of the NIRC of 1997, as amended, was ruled upon by the Supreme Court in the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*[41], viz:

> "Lest it be misunderstood, the benefit given to the taxpayer to determine when it should complete its submission of documents is not unbridled. Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are

---

[40] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.
[41] G.R. No. 207112, December 8, 2015.

required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/ processing office. **Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.**

Moreover, under Section 112(A) of the NIRC, as amended by RA 9337, a taxpayer has two (2) years, after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must be able to submit his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, 'officially received' as provided under RMC No. 49-2003.

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." *(Emphases and underscoring supplied)*

M

Thus, upon filing of the application for tax credit or refund for excess creditable input taxes, the taxpayer is given 30 days within which to complete the required documents, unless given further extension by the head of the processing unit. But, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the claim, the taxpayer shall submit the same within 30 days from request of the investigating/processing office. It must be noted that notice, by way of a request from the tax collection authority to produce the complete documents, is important. Furthermore, the 120-day period begins to run only upon the submission of these documents. Nevertheless, 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 of 1997.

In this case, evidence show that when petitioner respectively filed its administrative claims on May 2, 2014[42] and May 27, 2014[43], petitioner deemed that it has already submitted complete documents in support of the said administrative claims.

However, from the point of view of the BIR, the latter finds the necessity to submit other documents, and thus, it still requested petitioner to submit certain supporting documents in its letters dated June 16, 2012[44] (*should be 2014 as earlier observed by the Court*), July 7, 2014[45] and July 14, 2014[46] pursuant to LOA No. LOA-124-2014-00000045 (eLA201100060743) dated May 27, 2014 for the period July 1, 2012 to September 30, 2012, as well as, in its in letters dated July 7, 2014[47] and July 15, 2014[48] pursuant to LOA No. LOA-124-2014-00000048 (eLA201100060745) dated June 27, 2014 for the period October 1, 2012 to December 31, 2012. Thereafter, in compliance with the said letters, petitioner subsequently submitted certain documents for the third and fourth quarters of CY 2012,[49] the final batch of which were attached to petitioner's letters dated July 18, 2014, which were filed with the BIR on the same date.[50] Since the

---

[42] Exhibit "P-6-1", Docket – Vol. IV, pp. 2194 to 2199.
[43] Exhibit "P-6-2", Docket – Vol. IV, pp. 2205 to 2210.
[44] Exhibit "P-8-1", Docket – Vol. IV, p. 2214.
[45] Exhibit "P-8-2", Docket – Vol. IV, pp. 2215 to 2216.
[46] Exhibit "P-8-4", Docket – Vol. IV, pp. 2219 to 2220.
[47] Exhibit "P-8-3", Docket – Vol. IV, pp. 2217 to 2218.
[48] Exhibit "P-8-5", Docket – Vol. IV, pp. 2221 to 2222.
[49] Exhibit "P-9.1", Docket - Vol. IV, pp. 2223 to 2226; Exhibit "P-9.2", Docket - Vol. IV, pp. 2291 to 2294.
[50] Exhibit "P-9.3", Docket - Vol. IV, pp. 2346 to 2354; and Exhibit "P-9.4", Docket - Vol. IV, pp. 2355 to 2359.

submission of the said additional documents were made within the two-year prescriptive period, the said date of the submission of the final batch of documents must be the reckoning date of the 120-day period under Section 112(C) of the NIRC of 1997.

Counting 120 days from July 18, 2014, respondent had until November 15, 2014, within which to grant or deny the claim. Due to the inaction of respondent during the said 120-day period, petitioner had 30 days from November 15, 2014 or until December 15, 2014 to file its appeal before the Court. Clearly, the instant *Petition for Review* filed on December 15, 2014 was filed on time.

Petitioner is a VAT-registered entity and had zero-rated sales during the subject periods.

Petitioner complied with the first requisite it appearing that it is a VAT-registered taxpayer with Taxpayer's Identification No. 201-056-391-000, as evidenced by its BIR Certificate of Registration No. OCN 8RC0000039799 dated July 30, 1998.

As regards the second requisite, *i.e.,* the existence of zero-rated sales, petitioner claims that the services it rendered to its affiliates located and doing business outside the Philippines, which were paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP), are subject to zero percent (0%) VAT in accordance with Section 108(B)(2) of the NIRC of 1997, as amended, which states that:

> "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);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[51], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108 (B) (2) of the NIRC of 1997, as amended, the following requisites must be satisfied:

1. the services 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 fulfilled the first requisite. Petitioner is licensed by the Securities and Exchange Commission to transact business in the Philippines as a regional operating headquarters (ROHQ) to engage in general administration and planning; business planning and coordination; sourcing and 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 and product development; technical support and maintenance; data processing and communication; and business development.[52] These services clearly fall within the scope of "services other than processing,

[51] G.R. No. 153205, January 22, 2007.
[52] Exhibits "P-1" and "P-2", Docket - Vol. IV, pp. 2157 to 2187.

manufacturing or repacking of goods" contemplated by the afore-mentioned provision.

In relation to the second requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, 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:

> "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 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

ǹ

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

"SEC. 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)*

Pursuant to 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.

It was established that for services rendered to its affiliates for the third and fourth quarters of CY 2012, petitioner was paid in US dollars which were accounted for in accordance with the BSP rules and regulations, as evidenced by the Certificate of Inward Remittance[53] and Bank Statements[54] for CY 2012 issued by JPMorgan Chase Bank N.A – Manila Branch and duly supported by VAT zero-rated official receipts[55] issued by petitioner to its client-affiliates. Thus, the second requisite has also been satisfied.

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:

1. Certification of Non-Registration of Company issued by the SEC;[56]
2. Articles/Certificate of Incorporation/Registration and/or other similar documents;[57]
3. Tax Residence Certificates;[58]
4. Screenshot of Chevron Subsidiary Governance Website;[59]
5. Screenshot of US SEC Website;[60] and
6. Service Agreements.[61]

However, each of the aforesaid documents, standing alone, is insufficient proof that petitioner's client is a non-resident foreign corporation doing business outside the Philippines.

---

[53] Exhibit "P-35.1".
[54] Exhibit "P-35.2".
[55] Exhibit "P-33", pp. 1 to 113.
[56] Exhibits "P-14.1" to "P14.41", Docket - Vol. IV, pp. 2376 to 2416.
[57] Exhibits "P-15.1" to "P-15.32", Docket - Vol. IV, pp. 2417 to 3115; Exhibits "P-15.33" to "P-15.40" (Separate Folders 1-8).
[58] Exhibits "P-16.1" to "P-16.8", Docket, Vol. IV, pp. 3116 to 3129.
[59] Exhibits "P-17.1" to "P-17.39", Docket, Vol. IV, pp. 3130 to 3171.
[60] Exhibits "P-18.1" to "P-18.9", Docket, Vol IV, pp. 3172 to 3180.
[61] Exhibits "P-19.1" to "P-19.25", Docket, Vol. IV, pp. 3181 to 3589; Exhibit "P-19.26" (Separate Folder)

While the SEC Certificates of Non-Registration of Company show that the named entities are not registered corporations or partnerships in the Philippines, the same do not prove that such entities are non-resident foreign corporations doing business outside the Philippines.

The same holds true with the Articles/Certificates of Incorporation/Registration and Tax Residence Certificates which only prove that therein named entities were incorporated/organized abroad. However, these documents do not necessarily establish that such entities are not doing business in the Philippines.

Likewise, the service agreements only indicate the names and addresses of petitioner's customers to whom it renders services but they do not establish that such customers are non-resident foreign corporations doing business outside the Philippines.

In the case of *Sitel Philippines Corporation (formerly Clientlogic Phils., Inc.) vs. Commissioner of Internal Revenue*[62], the Supreme Court held that while Sitel's documentary evidence, which included Certifications issued by the Securities and Exchange Commission and Agreements between Sitel and its foreign clients, may have established that Sitel rendered services to foreign corporations and received payment therefor through inward remittances, said documents failed to specifically prove that such foreign clients were doing business outside the Philippines or have a continuity of commercial dealings outside the Philippines.

Therefore, 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 **and** proof of incorporation/registration in a foreign country (*e.g.*, Articles/Certificate of Incorporation/Registration and/or Tax Residence Certificate) and that there is no other indication which would disqualify said entity in being classified as a non-resident foreign corporation.

In this regard, the Court cannot give credence or probative value to the printed screenshots of Chevron Subsidiary Governance Website[63] as the information contained therein was retrieved from the

---

[62] G.R. No. 201326, February 8, 2017.
[63] Exhibits "P-17.1" to "P-17.39".

database set-up and maintained by petitioner's group of companies. The said documents are self-serving and can be easily manipulated to favor petitioner in view of its affinity with the entities that maintain or keep the said database.

As a result, only the following clients of petitioner for the third and fourth quarters CY 2012 shall be considered as non-resident foreign corporations doing business outside the Philippines:

Client	SEC Registration of Non-Registration	Articles/Certificate of Incorporation/Registration and/or other similar document		Tax Residence Certificate	Screenshot of US SEC Website
		Exhibit No	Document		
Asia Pacific Marine Services (EF) BV	"P-14.1"	-	-	P-16.1	-
Chevron (Cambodia) Limited	P-14.8	P-15.5	Articles of Incorporation	-	-
Chevron (Thailand) Limited	P-14.33	P-15.28	Certificate of Change of Name and Incorporation	P-16.7	P-18.8
Chevron Asia South Ltd.	P-14.4	P-15.2	Certification Document	-	-
Chevron Bangladesh Blocks Thirteen & Fourteen, Ltd.	P-14.7	P-15.4	Certification of Incorporation on Change of Name	-	-
Chevron Corporation	P-14.10	P-15.7	Restated Certificate of Incorporation	P-16.3	-
Chevron Hong Kong Limited	P-14.12	P-15.9	Certificate of Change of Name	-	-
Chevron International Limited	P-14.14	P-15.11	Certificate of Incorporation	-	-
Chevron International Pte. Ltd.	P-14.15	P-15.12	Certificate of Incorporation on Change of Name	-	-
Chevron Kuo Pte. Ltd.	P-14.16	P-15.14	Certificate Confirming Incorporation of Company	-	-
Chevron Lubricants Lanka PLC	P-14.18	P-15.15	Articles of Association	-	-
Chevron Malaysia Limited	P-14.19	P-15.16	Certificate of Registration of Change of Name	-	-
Chevron Neftegaz Inc.	P-14.22	P-15.18	Certificate of Amendment of Certificate	-	-
Chevron New Zealand	P-14.23	P-15.19	Certificate of Incorporation	P-16.4	-
Chevron North Sea Limited	P-14.24	P-15.20	Certificate of Incorporation on Change of Name	P-16.5	-
Chevron Oronite Pte. Ltd.	P-14.26	P-15.22	Memorandum and Articles of Association	-	P-18.6
Chevron Overseas Services Corporation	P-14.27	P-15.23	Certificate of Amendment of Certificate of Incorporation	-	
Chevron Singapore Pte. Ltd.	P-14.31	P-15.26	Memorandum and Articles of Association	-	-
Chevron South Africa (Pty) Limited	P-14.32	P-15.27	Certificate of Change of Name of Company	-	-
Chevron Trading Pte. Ltd.	P-14.34	P-15.29	Certificate Confirming Incorporation of Company	-	-
Chevron USA Inc. (Singapore Branch)	P-14.36	P-15.36	Certificate of Registration of Foreign Company	-	-
PT Chevron Oil Products Indonesia	P-14.39	P-15.31	Domicile Information Letter	-	-

Accordingly, out of the ₱1,239,280,756.49[64] zero-rated sales declared per petitioner's Quarterly VAT Returns for the third and

64

fourth quarters of CY 2012, only the amount of ₱290,091,249.42, broken down below, qualifies for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended:

OR No.	Date	Client	Amount in USD	Amount in PHP	Exhibit P-33
THIRD QUARTER OF CY 2012					
3528	7/25/2012	Chevron Corporation	232,178.40	9,739,026.85	page 4
3529	7/25/2012	Chevron Singapore Pte. Ltd.	207,400.52	8,699,686.24	page 5
3530	7/25/2012	Chevron New Zealand	203,589.07	8,539,809.98	page 6
3531	7/25/2012	Chevron (Thailand) Limited	179,782.71	7,541,221.06	page 7
3532	7/25/2012	Chevron Hong Kong Limited	169,928.24	7,127,862.42	page 8
3533	7/25/2012	Chevron International Pte. Ltd.	161,061.04	6,755,916.11	page 9
3534	7/25/2012	Chevron USA Inc. (Singapore Branch)	106,767.28	4,478,493.29	page 10
3535	7/25/2012	Chevron Neftegaz Inc.	10,261.85	430,446.73	page 11
3537	7/26/2012	Chevron Oronite Pte. Ltd.	3,421.08	143,682.49	page 13
3538	7/27/2012	Chevron Kuo Pte. Ltd.	1,468.53	61,832.84	page 14
3539	7/30/2012	Chevron Lubricants Lanka PLC	6,824.75	287,600.08	page 15
3540	8/2/2012	Chevron Kuo Pte. Ltd.	1,468.53	61,265.33	page 16
3543	8/24/2012	Chevron Corporation	227,350.97	9,621,285.23	page 19
3544	8/24/2012	Chevron New Zealand	203,597.43	8,616,057.13	page 20
3545	8/24/2012	Chevron North Sea Limited	193,746.20	8,199,162.08	page 21
3546	8/24/2012	Chevron International Pte. Ltd.	182,375.24	7,717,953.45	page 22
3547	8/24/2012	Chevron Malaysia Limited	117,510.45	4,972,934.83	page 23
3548	8/24/2012	Chevron Singapore Pte. Ltd.	113,508.65	4,803,582.31	page 24
3549	8/24/2012	Chevron USA Inc. (Singapore Branch)	106,086.44	4,489,481.17	page 25
3550	8/24/2012	Asia Pacific Marine Services (EF) BV	11,154.55	472,050.36	page 26
3551	8/24/2012	Chevron Neftegaz Inc.	10,261.85	434,272.11	page 27
3554	8/28/2012	Chevron (Cambodia) Limited	150,923.17	6,370,754.33	page 30
3557	8/28/2012	Chevron Oronite Pte. Ltd.	2,345.85	99,022.79	page 33
3558	8/30/2012	Chevron Lubricants Lanka PLC	6,824.75	288,695.01	page 34
3560	9/26/2012	Chevron Neftegaz Inc.	10,261.85	427,933.69	page 36
3561	9/26/2012	Chevron Oronite Pte. Ltd.	2,283.99	95,245.62	page 37
3562	9/27/2012	Chevron Lubricants Lanka PLC	7,272.49	302,768.11	page 38
3565	9/25/2012	Chevron New Zealand	203,593.58	8,468,950.92	page 41
3566	9/25/2012	Chevron Corporation	194,565.49	8,093,406.41	page 42
3567	9/25/2012	Chevron (Thailand) Limited	178,713.02	7,433,985.86	page 43
3568	9/25/2012	Chevron International Pte. Ltd.	177,551.92	7,385,687.19	page 44
3569	9/25/2012	Chevron Hong Kong Limited	169,826.73	7,064,339.85	page 45
3571	9/25/2012	Chevron South Africa (Pty) Limited	133,141.37	5,538,326.54	page 46
3573	9/25/2012	Chevron USA Inc. (Singapore Branch)	106,252.00	4,419,800.33	page 48
3574	9/25/2012	Chevron North Sea Limited	103,798.58	4,317,744.59	page 49

Exhibit	CY 2012	Zero-Rated Sales
"P-4"	3rd Quarter	₱ 722,922,912.26
"P-5"	4th Quarter	516,357,844.23
	Total	**₱1,239,280,756.49**

3577	9/27/2012	Chevron (Cambodia) Limited	21,389.11	890,470.86	page 52
		subtotal	**3,918,487.68**	**164,390,754.19**	
FOURTH QUARTER OF CY 2012					
3580	10/18/2012	Chevron International Limited	28,374.15	1,173,455.33	page 55
3581	10/22/2012	Chevron Kuo Pte. Ltd.	2,937.06	121,115.88	page 56
3585	10/29/2012	Chevron Oronite Pte. Ltd.	92,817.52	3,822,797.36	page 60
3586	10/29/2012	Chevron South Africa (Pty) Limited	43,605.65	1,795,949.34	page 61
3587	10/29/2012	Chevron Overseas Services Corporation	26,371.86	1,086,155.68	page 62
3588	10/29/2012	BUT Chevron Indonesia Company	16,138.63	664,688.22	page 63
3589	10/29/2012	Chevron Bangladesh Blk Thirteen/Fourteen	2,259.11	93,044.07	page 64
3591	10/30/2012	Chevron Hong Kong Limited	84,910.64	3,502,914.19	page 66
3595	10/25/2012	Chevron New Zealand	217,832.88	9,008,803.97	page 69
3596	10/25/2012	Chevron Corporation	210,060.40	8,687,361.46	page 70
3597	10/25/2012	Chevron International Pte. Ltd.	197,217.70	8,156,232.42	page 71
3598	10/25/2012	Chevron Singapore Pte. Ltd.	187,535.15	7,755,796.11	page 72
3599	10/25/2012	Chevron Malaysia Limited	147,639.65	6,105,858.15	page 73
3600	10/25/2012	Chevron USA Inc. (Singapore Branch)	106,224.81	4,393,085.61	page 74
3601	10/25/2012	Chevron North Sea Limited	105,890.91	4,379,276.67	page 75
3603	10/25/2012	Chevron (Thailand) Limited	89,356.49	3,695,471.05	page 77
3607	10/25/2012	Chevron Trading Pte. Ltd.	19,206.28	794,304.38	page 81
3609	10/25/2012	Chevron Neftegaz Inc.	10,261.85	424,394.13	page 83
3612	10/25/2012	Chevron Asia South Ltd.	613.62	25,377.17	page 86
3613	10/25/2012	PT Chevron Oil Products Indonesia	194.03	8,024.40	page 87
3614	10/31/2012	Chevron Lubricants Lanka PLC	6,824.74	281,548.68	page 88
3621	11/23/2012	Chevron New Zealand	202,852.26	8,330,688.30	page 94
3626	11/26/2012	Chevron International Pte. Ltd.	167,436.99	6,870,619.20	page 98
3627	11/26/2012	Chevron Corporation	152,399.02	6,253,550.27	page 99
3628	11/26/2012	Chevron USA Inc. (Singapore Branch)	102,635.28	4,211,542.06	page 100
3629	11/26/2012	Chevron North Sea Limited	100,841.70	4,137,944.19	page 101
3630	11/26/2012	Chevron Neftegaz Inc.	10,261.85	421,085.35	page 102
3631	11/26/2012	Chevron Oronite Pte. Ltd.	3,427.02	140,624.54	page 103
3632	12/3/2012	Chevron Lubricants Lanka PLC	6,824.75	278,674.97	page 104
3635	12/21/2012	Chevron Corporation	212,831.35	8,715,452.50	page 106
3636	12/21/2012	Chevron (Thailand) Limited	164,145.41	6,721,761.26	page 107
3637	12/21/2012	Chevron Hong Kong Limited	142,479.55	5,834,543.41	page 108
3638	12/21/2012	Chevron Malaysia Limited	117,378.40	4,806,650.29	page 109
3640	12/26/2012	Chevron (Cambodia) Limited	54,740.53	2,248,994.66	page 111
3641	12/26/2012	Chevron Lubricants Lanka PLC	11,737.10	482,214.46	page 112
3645	12/21/2012	Chevron Oronite Pte. Ltd.	6,605.50	270,495.50	page 113
		subtotal	**3,052,869.84**	**125,700,495.23**	
VALID ZERO-RATED SALES			**6,971,357.52**	**290,091,249.42**	

The rest of petitioner's declared zero-rated sales in the amount of ₱949,189,507.07, detailed below, shall be denied VAT zero-rating for its failure to prove that the entities to whom it rendered services are non-resident foreign corporations doing business outside the Philippines:

OR No.	Date	Client	Amount in USD	Amount in PHP	Exhibit P-33
THIRD QUARTER OF CY 2012					
3525	7/17/2012	Chevron Products Company	604,599.26	25,360,707.21	page 1
3526	7/25/2012	Chevron Information Technology Company	2,074,954.21	87,036,669.88	page 2
3527	7/25/2012	Chevron Services Company	1,496,385.28	62,767,838.93	page 3
3536	7/26/2012	Chevron Australia Pty. Ltd. - Other	182,671.35	7,672,043.26	page 12
3541	8/17/2012	Chevron Products Company	589,109.29	24,856,932.07	page 17
3542	8/24/2012	Chevron Information Technology Company	2,192,118.93	92,768,469.32	page 18
3552	8/28/2012	Chevron Services Company	1,442,695.83	60,898,937.53	page 28
3553	8/28/2012	Chevron Australia Pty. Ltd. - Other	182,671.35	7,710,905.45	page 29
3555	8/28/2012	CPUK - Trading and Marine Lubricants Branch	141,018.58	5,952,662.73	page 31
3556	8/28/2012	Chevron Australia Pty. Ltd. – Gorgon	115,751.72	4,886,100.46	page 32
3559	9/20/2012	Chevron Products Company	587,456.67	24,528,462.21	page 35
3563	9/25/2012	Chevron Information Technology Company	1,921,269.26	79,919,686.36	page 39
3564	9/25/2012	Chevron Services Company	1,394,234.77	57,996,454.66	page 40
3572	9/25/2012	Chevron Energy Technology Company	123,006.90	5,116,759.57	page 47
3575	9/25/2012	CGEI - Global Dnstrm Cost Allocation	79,155.06	3,292,639.77	page 50
3576	9/26/2012	Chevron Australia Pty. Ltd. - Other	186,249.99	7,766,888.66	page 51
		subtotal	**13,313,348.45**	**558,532,158.07**	
FOURTH QUARTER OF CY 2012					
3578	10/11/2012	UECSL - Chuandongbei Branch	18.74	776.63	page 53
3579	10/16/2012	Chevron Products Company	587,786.21	24,308,776.26	page 54
3582	10/23/2012	Chevron Al Khalij, A Branch of Caphl	91,588.83	3,783,099.13	page 57
3583	10/29/2012	Chevron Australia Pty. Ltd. - Other	182,671.35	7,523,531.71	page 58
3584	10/29/2012	CPUK - Trading and Marine Lubricants Branch	142,424.11	5,865,902.39	page 59
3590	10/29/2012	CPUK Limited – BRES	142.61	5,873.56	page 65
3592	10/25/2012	Chevron Information Technology Company	2,464,798.03	101,935,402.40	page 67
3593	10/25/2012	Chevron Services Company	1,377,833.97	56,982,380.89	page 68
3602	10/25/2012	Chevron Liberia Limited	90,985.75	3,762,851.53	page 76
3604	10/25/2012	Chevron Upstream	59,000.26	2,440,043.84	page 78
3605	10/25/2012	Chevron Energy Technology Company	39,974.32	1,653,197.68	page 79
3606	10/25/2012	Chevron Products Company	22,885.10	946,447.48	page 80
3608	10/25/2012	Chevron Canada Limited – Downstream	16,210.37	670,404.05	page 82
3610	10/25/2012	Chevron N.A. Exploration Production Co.	4,246.78	175,631.93	page 84
3611	10/25/2012	Chevron Malampaya LLC - Field Branch	2,800.00	115,798.18	page 85
3615	10/29/2012	Chevron Australia Pty. Ltd. – Gorgon	26,452.02	1,089,457.17	page 89
3616	10/29/2012	Chevron Australia Pty. Ltd. – Gorgon	3,827.84	157,654.04	page 90
3617	10/29/2012	Chevron Australia Pty. Ltd. - Other	13,902.37	572,585.26	page 91

3619	10/29/2012	Chevron Products Company	588,245.28	24,197,666.80	page 92
3620	10/19/2012	Chevron Pakistan Limited - Branch	12,885.99	530,287.65	page 93
3622	11/23/2012	Chevron Australia Pty. Ltd. - Other	191,427.37	7,861,493.63	page 95
3623	11/26/2012	Chevron Information Technology Company	2,075,306.37	85,158,242.51	page 96
3624	11/26/2012	Chevron Services Company	1,430,878.89	58,714,767.75	page 97
3634	12/17/2012	Chevron Marine Products LLC - Int'l	12,868.81	527,626.49	page 105
3639	12/21/2012	Chevron Energy Technology Company	40,963.33	1,677,450.04	page 110
		subtotal	**9,480,124.70**	**390,657,349.00**	
TOTAL INVALID ZERO-RATED SALES			**22,793,473.15**	**949,189,507.07**	

Petitioner incurred/paid input taxes attributable to zero-rated sales and said input taxes were not applied against any output VAT liability.

Having resolved that petitioner had valid VAT zero-rated sales for the third and fourth quarters of CY 2012 in the amount of ₱290,091,249.42, the Court shall proceed to determine whether petitioner incurred input taxes in connection therewith and if said input taxes were not applied against any output VAT liability of petitioner.

In its Quarterly VAT Returns for the third and fourth quarters of CY 2012, petitioner reflected a total amount of ₱33,778,989.54 allowable input VAT arising from its amortization of input VAT on purchases of capital goods exceeding ₱1 Million, domestic purchases and importation of goods other than capital goods, domestic purchases of services and purchases of services rendered by non-residents, detailed as follows:

	3rd Qtr CY 2012 *(Exhibit "P-4")*	**4th Qtr CY 2012 *(Exhibit P-5")***	**Consolidated**
Input Tax Deferred on Capital Goods exceeding ₱1Million from Previous Quarter	₱ 38,649,658.55	₱ 36,325,894.53	₱ 38,649,658.55
Add: Input Tax on Capital Goods exceeding ₱1Million Purchased this Quarter	1,219,454.71	11,259,442.23	12,478,896.94
Total Unamortized Input Tax on Capital Goods exceeding ₱1Million	₱ 39,869,113.26	₱ 47,585,336.76	₱ 51,128,555.49
Less: Input Tax on Purchases of Capital Goods exceeding ₱1Million deferred for the succeeding period	36,325,894.53	44,187,976.62	44,187,976.62
Amortization of Input Tax on Capital Goods exceeding ₱1Million	₱ 3,543,218.73	₱ 3,397,360.14	₱ 6,940,578.87
Add: Input Tax on -			
Domestic Purchases of Goods Other than Capital Goods	1,883,983.41	399,090.58	2,283,073.99
Importation of Goods other than Capital Goods	111,892.00	142,212.00	254,104.00

Domestic Purchase of Services	9,923,817.53	7,620,790.19	17,544,607.72
Services Rendered by Non-Residents	3,278,626.85	3,477,998.11	6,756,624.96
Total Allowable Input Tax	**₱18,741,538.52**	**₱15,037,451.02**	**₱33,778,989.54**

Out of the ₱33,778,989.54 input VAT, petitioner is claiming refund of the amount of ₱32,400,108.14[65] allegedly representing input VAT attributable to its zero-rated sales for the third and fourth quarters of CY 2012.

In support of its input VAT claim, petitioner presented various summary lists[66] and schedules[67], and the corresponding invoices, official receipts, import documents, BIR Forms No. 1600 and other documents[68]; which were all examined by the ICPA.

A review of the Independent CPA report[69] and the documents supporting the ₱26,838,410.67[70] input VAT claim on domestic purchases and importation of goods other than capital goods, domestic purchases of services and purchases of services rendered by non-residents shows that input taxes amounting to ₱2,102,853.13 should be disallowed for not being properly substantiated by VAT

[65] Per *Petition for Review*, Docket - Vol. I, p. 16:

CY 2012	Input VAT Claim
3rd Quarter	₱ 18,025,207.76
4th Quarter	14,374,900.38
Total	**₱ 32,400,108.14**

[66] Exhibits "P-36.1" to "P-36.2" (*Summary List of Purchases*), Exhibits "P-37.1" to "P-37.2" (*Summary List of Importations*).
[67] Exhibits "P-38.1" to "P-38.2" (*Schedule of Domestic Purchases of Goods*), Exhibits "P-39.1" to "P-39.2" (*Schedule of Domestic Purchases of Services and Services Rendered to Non-Residents*), Exhibits "P-40.1" to "P-40.2" (*Schedule of Capital Goods*), Exhibits "P-41.1" to "P-41.2" (*Schedule of Importation of Goods*), and Exhibit "P-45" (*Schedule of Input Tax on Purchases from Prior Quarters*)
[68] Exhibits "P-42.1" to "P-42.2".
[69] Exhibit "P-56".
[70]

	3rd Qtr CY 2012 *(Exhibit "P-4"*	**4th Qtr CY 2012 *(Exhibit P-5")***	**Total**
Domestic Purchases of Goods Other than Capital Goods	₱ 1,883,983.41	₱ 399,090.58	₱ 2,283,073.99
Importation of Goods other than Capital Goods	111,892.00	142,212.00	254,104.00
Domestic Purchase of Services	9,923,817.53	7,620,790.19	17,544,607.72
Services Rendered by Non-Residents	3,278,626.85	3,477,998.11	6,756,624.96
Total Allowable Input Tax	**₱15,198,319.79**	**₱11,640,090.88**	**₱26,838,410.67**

ny

invoices or official receipts as prescribed under Sections 110(A) and 113(A) and (B) and 237 and 238 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of RR No. 16-05, as amended, to wit:

Findings	3rd Qtr CY 2012	4th Qtr CY 2012	Total	Reference to ICPA Report
	Amount in PHP			
DOMESTIC PURCHASES OF GOODS				
a. Supported by original copies of sales invoice dated outside the period of claim but within CY 2012	44,203.30	-	44,203.30	Annex B-6
b. Supported by original copy of charge invoice dated outside the period of claim but within CY 2012	594.64	-	594.64	Annex B-7
c. Supported by original copies of retail invoice dated outside the period of claim but within CY 2012	1,146.75	-	1,146.75	Annex B-8
d. Supported by original copies of service invoice stamped with "Not Valid Source of Input VAT"	1,301.79	-	1,301.79	Annex B-9
e. Domestic purchase of goods without supporting documents	2,951.78	30,071.75	33,023.53	Annex B-10
Subtotal	*50,198.26*	*30,071.75*	*80,270.01*	
DOMESTIC PURCHASES OF SERVICES				
a. Supported by original copies of newly issued VAT ORs showing all the information required under the Tax Code, as amended	210,991.72	95,715.24	306,706.96	Annex C-3
b. Supported by original copies of VAT ORs dated outside the period of claim but within CY 2012	857,771.17	165,575.59	1,023,346.76	Annex C-6
c. Supported by original copies of VAT ORs dated outside the period of claim but within CY 2012 and where actual amount was not indicated in words	-	3,233.10	3,233.10	Annex C-7
d. Services supported by original copies of VAT ORs dated outside the period of claim but within CY 2012 and where amount per OR differs from amount per Schedule	30,384.96	3,763.69	34,148.65	Annex C-8
e. Supported by original copies of VAT ORs where the amount of Input VAT was not indicated	4,296.72	71,431.19	75,727.91	Annex C-13
f. Supported by original copies of VAT ORs where the amount of Input VAT was not indicated and where actual payment was not indicated in words	-	1,603.54	1,603.54	Annex C-14
g. Supported by original copies of VAT ORs dated outside the period of claim but within CY 2012	-	1,123.49	1,123.49	Annex C-15
h. Supported by original copies of VAT ORs with incorrect Company TIN	7,800.00	-	7,800.00	Annex C-16
i. Supported by original copies of VAT ORs with incorrect Company name and where actual payment was not indicated in words	7,761.97	-	7,761.97	Annex C-17
j. Supported by original copies of VAT ORs stamped with "Not Valid Source of Input VAT" and where Company TIN was not indicated	307.50	-	307.50	Annex C-18
k. Supported by original copies of VAT ORs stamped with "Not Valid Source of Input VAT" and where input VAT was indicated in sales invoice	2,881.07	55,637.24	58,518.31	Annex C-19
l. Supported by original copies of VAT ORs dated outside CY 2012		5,571.43	5,571.43	Annex C-20
m. Supported by original copies of VAT ORs dated outside CY 2012 and where actual payment was not indicated in words		12,564.12	12,564.12	Annex C-21
n. Supported by original copies of sales invoice dated outside the period of claim	2,869.60	12,829.56	15,699.16	Annex C-22
o. Supported by Certified True Copies of VAT ORs where amount of input VAT was not indicated	-	183,879.12	183,879.12	Annex C-23
p. Domestic purchase of services without supporting documents	20,062.32	10,424.78	30,487.10	Annex C-24
Subtotal	*1,145,127.03*	*623,352.09*	*1,768,479.12*	
IMPORTATION OF GOODS				
a. Supported by IEIRDs but without proof of VAT Payment	111,892.00	142,212.00	254,104.00	Annex E-1

Subtotal	*111,892.00*	*142,212.00*	*254,104.00*	
TOTAL	**1,307,217.29**	**795,635.84**	**2,102,853.13**	

In addition, the Court finds that the following amounts of input VAT claimed by petitioner were higher than the amounts reflected in the official receipts, thus, the difference of ₱23,257.67 should likewise be disallowed:

Supplier	**OR No.**	**OR Date**	**Input VAT per Schedule**	**Input VAT per Official Receipt**	**Difference**	**Exhibit P-41**
			Amount in PHP			
Supported by original copies of VAT ORs where amount per OR differs from amount per Schedule (Annex C-10 of the ICPA Report)						
Third Quarter of CY 2012						
Ayala Foundation, Inc.	1789	8/22/2000	2,280.00	2,239.29	40.71	Folder 19, Page 2
DMJ Multi-Print and Services	664	8/29/2012	482.14	482.00	0.14	Folder 19, Page 3
North Park Noodle House, Inc.	46469	9/26/2012	26,690.98	4,453.18	22,237.80	Folder 19, Page 7
North Park Noodle House, Inc.	46471	9/26/2012	4,621.00	4,238.62	382.38	Folder 19, Page 8
subtotal			*34,074.12*	*11,413.09*	*22,661.03*	
Fourth Quarter of CY 2012						
Ilustrado Restaurant	18330	10/31/2012	499.83	176.79	323.04	Folder 19, Page 18
MoneyDoctors, Inc.	22	11/22/2012	9,120.00	8,846.40	273.60	Folder 19, Page 21
subtotal			*9,619.83*	*9,023.19*	*596.64*	
Total			**43,693.95**	**20,436.28**	**23,257.67**	

As a consequence, out of the ₱26,838,410.67 input VAT claim on domestic purchases and importation of goods other than capital goods, domestic purchases of services and purchases of services rendered by non-residents, only the amount of ₱24,712,299.87 represents petitioner's valid input VAT, computed as follows:

Input VAT per Returns	**3rd Qtr CY 2012**	**4th Qtr CY 2012**	**Total**
	Amount in PHP		
Domestic Purchases of Goods Other than Capital Goods	1,883,983.41	399,090.58	2,283,073.99
Importation of Goods other than Capital Goods	111,892.00	142,212.00	254,104.00
Domestic Purchases of Services	9,923,817.53	7,620,790.19	17,544,607.72
Services Rendered by Non-Residents	3,278,626.85	3,477,998.11	6,756,624.96
Total	**15,198,319.79**	**11,640,090.88**	**26,838,410.67**
Less: Disallowances			
Not properly substantiated by VAT invoices and official Receipts	1,307,217.29	795,635.84	2,102,853.13

Excess of petitioner's claim over the input VAT shown in the supporting official receipts	22,661.03	596.64	23,257.67
Total Disallowances	**1,329,878.32**	**796,232.48**	**2,126,110.80**
Properly Substantiated Input VAT Claim on Domestic Purchases of Goods Other than Capital Goods and Domestic Purchases of Services and Purchases of Services Rendered by Non-residents	**13,868,441.47**	**10,843,858.40**	**24,712,299.87**

The Court shall now look into the substantiation of the ₱6,940,578.87 amortization of input VAT on capital goods purchases exceeding ₱1 Million which originated from the ₱38,649,658.55 input tax deferred on capital goods exceeding ₱1 Million from previous quarter and ₱12,478,896.94 input VAT from purchases during the third and fourth quarters of CY 2012, as shown below:

	3rd Qtr CY 2012	**4th Qtr CY 2012**	**Consolidated**
Input Tax Deferred on Capital Goods exceeding ₱1 Million from Previous Quarter	₱38,649,658.55	₱36,325,894.53	₱38,649,658.55
Add: Input Tax on Capital Goods exceeding ₱1 Million Purchased this Quarter	1,219,454.71	11,259,442.23	12,478,896.94
Total Unamortized Input Tax on Capital Goods exceeding ₱1 Million	₱39,869,113.26	₱47,585,336.76	₱51,128,555.49
Less: Input Tax on Purchases of Capital Goods exceeding ₱1 Million deferred for the succeeding period	36,325,894.53	44,187,976.62	44,187,976.62
Amortization of Input Tax on Capital Goods exceeding ₱1 Million	**₱3,543,218.73**	**₱3,397,360.14**	**₱6,940,578.87**

The Court notes that petitioner failed to present the VAT invoices/official receipts in support of the ₱38,649,658.55 input tax deferred on capital goods exceeding ₱1 Million from previous quarter. Hence, any claimed amortization of input tax related to the said amount shall be denied.

In addition, the Court finds that the following purchases of capital goods during the fourth quarter of CY 2012, in the total amount of ₱1,769,951.48, are not properly substantiated by VAT invoices, thus, shall likewise be disallowed, to wit:

Domestic Purchases of Capital Goods Exceeding ₱1M	**Input VAT**	**Reference to ICPA Report**
a. Supported by original copies of sales invoice dated outside the period of claim but within CY 2012	₱ 13,500.06	Annex F-7
b. Represents capitalized purchases of services supported by VAT ORs dated outside CY 2012	1,263,296.85	Annex F-8
c. Represents capitalized purchases of services supported by Certified True Copy of VAT ORs dated outside CY 2012	493,154.57	Annex F-9
Total	**₱1,769,951.48**	

Consequently, only the amount of ₱10,708,945.46 *(₱12,478,896.94 less ₱1,769,951.48)* representing input VAT on petitioner's purchases of capital goods exceeding ₱1 Million during the third and fourth quarters of CY 2012 is properly substantiated by VAT invoices.

Pursuant to Section 110(A)(2) of the NIRC of 1997, as amended, 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 ₱1 Million, 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 exceed ₱1 Million, the total input taxes shall be allowed as credit/refund in the month of acquisition.

Applying the provisions of Section 110(A)(2) to the present case, out of the ₱10,708,945.46 substantiated input VAT on current purchases of capital goods exceeding ₱1 Million, only the amount of ₱418,686.24 is creditable for the third and fourth quarters of CY 2012, computed as follows:

Supplier	Period	Input VAT	Monthly Input Tax Credit	Allowable Input Tax 3rd Qtr 2012	Allowable Input Tax 4th Qtr 2012	Total
		Amount in PHP				
Annex F-1 of the ICPA Report *(Supported by original copies of sales invoice showing all the information required under the Tax Code, as amended)*						
Fourth Quarter of CY 2012						
Citimex, Inc.	November	275,892.86	4,598.21	-	9,196.43	9,196.43
Equicom, Inc.	December	1,410,081.53	23,501.36	-	23,501.36	23,501.36
One Sky Trading & Construction	December	12,000.00	200.00	-	200.00	200.00
Phil-Data Business Systems, Inc.	December	923,517.00	15,391.95	-	15,391.95	15,391.95
Schneider Electric	October	408,432.30	6,807.21	-	20,421.62	20,421.62
subtotal		*3,029,923.69*	*50,498.73*	-	*68,711.35*	*68,711.35*
Annex F-2 of the ICPA Report *(Supported by original copies of charge invoice showing all the information required under the Tax Code, as amended)*						
Third Quarter of CY 2012						
Microdata Systems and Management, Inc.	September	355,758.27	5,929.30	5,929.30	17,787.91	23,717.22
Fourth Quarter of CY 2012						
Microdata Systems and Management, Inc.	October	577,275.92	9,621.27	-	28,863.80	28,863.80

subtotal		*933,034.19*	*15,550.57*	*5,929.30*	*46,651.71*	*52,581.01*
Annex F-3 of the ICPA Report *(Supported by original copies of sales invoice dated outside the quarter of claim but within the period of claim)*						
Fourth Quarter of CY 2012						
Phil-Data Business Systems, Inc.	August	764,409.24	12,740.15	-	38,220.46	38,220.46
subtotal		*764,409.24*	*12,740.15*	-	*38,220.46*	*38,220.46*
Annex F-4 of the ICPA Report *(Supported by original copies of sales invoice dated outside the quarter of claim but within the period of claim and where amount per invoice differs from amount per Schedule)*						
Fourth Quarter of CY 2012						
Phil-Data Business Systems, Inc.	October	1,549,176.29	25,819.60	-	77,458.81	77,458.81
subtotal		*1,549,176.29*	*25,819.60*	-	*77,458.81*	*77,458.81*
Annex F-5 of the ICPA Report *(Represents capitalized purchases of services supported by original copies of VAT ORs)*						
Third Quarter of CY 2012						
JLGT Marketing	September	9,168.00	152.80	152.80	458.40	611.20
One Sky Trading & Construction	August	43,908.00	731.80	1,463.60	2,195.40	3,659.00
One Sky Trading & Construction	July	151,029.28	2,517.15	7,551.46	7,551.46	15,102.93
One Sky Trading & Construction	July	234,618.75	3,910.31	11,730.94	11,730.94	23,461.88
One Sky Trading & Construction	September	47,959.47	799.32	799.32	2,397.97	3,197.30
Worry No-More Incorporated	August	61,947.04	1,032.45	2,064.90	3,097.35	5,162.25
Worry No-More Incorporated	September	151,121.22	2,518.69	2,518.69	7,556.06	10,074.75
Fourth Quarter of CY 2012						
Arkigrafix Corporation	October	11,740.18	195.67	-	587.01	587.01
Date Center Design Corp.	December	181,635.97	3,027.27	-	3,027.27	3,027.27
Date Center Design Corp.	November	448,660.71	7,477.68	-	14,955.36	14,955.36
E.E. Black, Ltd.	November	1,368,916.78	22,815.28	-	45,630.56	45,630.56
One Sky Trading & Construction	October	137,046.12	2,284.10	-	6,852.31	6,852.31
One Sky Trading & Construction	November	152,400.68	2,540.01	-	5,080.02	5,080.02
One Sky Trading & Construction	December	166,473.42	2,774.56	-	2,774.56	2,774.56
One Sky Trading & Construction	December	29,332.80	488.88	-	488.88	488.88
One Sky Trading & Construction	December	13,847.86	230.80	-	230.80	230.80
One Sky Trading & Construction	December	160,161.90	2,669.37	-	2,669.37	2,669.37
One Sky Trading & Construction	December	54,400.44	906.67	-	906.67	906.67
One Sky Trading & Construction	December	15,000.00	250.00	-	250.00	250.00
Santa Fe Moving and Relocation	October	864.00	14.40	-	43.20	43.20
Santa Fe Moving and Relocation	December	4,945.68	82.43	-	82.43	82.43
Trends and Technologies, Inc.	October	448,449.48	7,474.16	-	22,422.47	22,422.47
Ultra Modular Concepts, Inc.	December	227,787.84	3,796.46	-	3,796.46	3,796.46
Ultra Modular Concepts, Inc.	December	147,041.75	2,450.70	-	2,450.70	2,450.70
subtotal		*4,268,457.37*	*71,140.96*	26,281.71	147,235.64	173,517.36
Annex F-6 of the ICPA Report *(Represents capitalized purchases of services supported by original copies of ORs dated outside the quarter of claim but within the period of claim)*						
Third Quarter of CY 2012						
JLGT Marketing	October	3,984.00	66.40	-	199.20	199.20

One Sky Trading & Construction	October	152,400.68	2,540.01	-	7,620.03	7,620.03
RSB - Design and Management	October	7,560.00	126.00	-	378.00	378.00
subtotal		*163,944.68*	*2,732.41*	-	*8,197.23*	*8,197.23*
TOTAL		**10,708,945.46**	**178,482.42**	**32,211.02**	**386,475.22**	**418,686.24**

In sum, petitioner's total allowable input VAT amounts only to ₱25,130,986.11, as computed below:

	3rd Qtr CY 2012	4th Qtr CY 2012	Total
Input VAT Claim on Domestic Purchases of Goods Other than Capital Goods and Domestic Purchases of Services and Purchases of Services Rendered by Non-residents	₱ 13,868,441.47	₱ 10,843,858.40	₱ 24,712,299.87
Amortization of Input VAT on Purchases of Capital Goods exceeding ₱1Million	32,211.02	386,475.22	418,686.24
Total Allowable Input VAT	**₱13,900,652.49**	**₱11,230,333.62**	**₱25,130,986.11**

Since petitioner did not submit VAT invoices/receipts proving the existence of its reported input VAT carry-over from previous quarter in the amount of ₱184,844,401.26[71], its output VAT liability for the third and fourth quarters of CY 2012 in the aggregate amount of ₱6,303,439.59, shall be offset against the total allowable input VAT of ₱25,130,986.11. Hence, only the remaining input VAT of ₱18,827,546.52 can be attributed to the entire zero-rated sales declared by petitioner in the amount of ₱1,239,280,756.49 and only the input VAT of ₱4,415,655.04 is attributable to the valid zero-rated sales of ₱290,091,249.42, as computed below:

	3rd Qtr CY 2012	4th Qtr CY 2012	Total
Total Allowable Input VAT	₱ 13,900,652.49	₱ 11,230,333.62	₱ 25,130,986.11
Less: Output VAT[72]	3,447,518.15	2,855,921.44	6,303,439.59
Excess Input VAT	₱ 10,453,134.34	₱ 8,374,412.18	₱ 18,827,546.52
Valid Zero-Rated Sales	₱164,390,754.19	₱125,700,495.23	₱ 290,091,249.42
Total Declared Zero-Rated Sales	₱722,922,912.26	₱516,357,844.23	₱1,239,280,756.49
% of Valid Zero-Rated Sales to Total Declared Zero-Rated Sales	22.73973496%	24.34367883%	

[71] Exhibit "P-4", Line 20A, Docket, Vol. IV, p. 2190
[72] Exhibits "P-4" and "P-5", Line 15B, Docket - Vol. IV, pp. 2190 to 2192.

Excess Input VAT Attributable to Valid Zero-Rated Sales	**₱ 2,377,015.04**	**₱ 2,038,640.00**	**₱ 4,415,655.04**

Although the claimed input VAT was carried over by petitioner in its succeeding Quarterly VAT Returns[73], the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed"[74] in its amended Quarterly VAT Return for the second quarter of CY 2014, thus, preventing the carry-over or application of the claimed input VAT in the next taxable quarters.

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the amount of **Four Million Four Hundred Fifteen Thousand Six Hundred Fifty Five Pesos and Four Centavos (₱4,415,655.04)** representing petitioner's unutilized excess input value-added tax attributable to its zero-rated sales for the Third and Fourth Quarters of Calendar Year 2012.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

[73] Exhibits "P-10.1" to "P-10.2" (1st Qtr of CY 2013), "P-11.1" to "P-11.2" (2nd Qtr of CY 2013), "P-12.1" to "P-12.2" (3rd Qtr of CY 2013), "P-13.1" to "P-13.2" (4th Qtr of CY 2013), Docket, Vol. IV, pp. 2360-2375; "P-20.1" to "P-20.2" (1st Qtr of CY 2014), "P-21.1" to "P-21.2" (2nd Qtr of CY 2014), Docket - Vol. IV, pp. 3590 to 3597.
[74] Exhibit "P-21.2" (2nd Qtr of CY 2014), Line 23D, Docket - Vol. IV, p. 3597.

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, 1st Division