REPUBLIC OF THE PHILIPPINES
Court Of Tax Appeals
QUEZON CITY

SECOND DIVISION

MATSUSHITA BUSINESS MACHINE CORPORATION OF THE PHILIPPINES, ***Petitioner,***	**C.T.A. CASE NO. 6580**
	Members:
-versus-	CASTAÑEDA, JR., Chairman, UY, and PALANCA-ENRIQUEZ, JJ.
COMMISSIONER OF INTERNAL REVENUE, ***Respondent.***	**Promulgated:** SEP 14 2006

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DECISION

PALANCA-ENRIQUEZ, J.:

Tax refunds are in the nature of tax exemptions and as such must be strictly construed against the claimant. Taxpayers have the burden of proving compliance with the mandatory provisions of the National Internal Revenue Code and its implementing rules and regulations. This principle shall be complied with in all actions involving taxation, more particularly, when claims for refunds or tax credits are involved (*Taganito Mining Corporation v. Commissioner of Internal Revenue, C.T.A. EB NO. 7, January 31, 2006 citing the cases of Commissioner of Internal Revenue v. Procter and Gamble*

Philippines Manufacturing Corporation and the Court of Tax Appeals, 204 SCRA 377 and Commissioner of Internal Revenue v. PLDT Company, 478 SCRA 61).

THE CASE

This is a Petition for Review filed by Matsushita Business Machine Corporation of the Philippines (hereafter "petitioner") praying for a refund or tax credit in the amount of PhP 13,232,769.21, representing unutilized and/or unapplied input VAT paid on purchases of goods and services attributable to zero-rated sales for the period from October 1, 2000 to March 31, 2001.

THE FACTS

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

Petitioner is a domestic corporation organized and existing under the laws of the Philippines, with principal office address at Lot C4-10, Carmelray Industrial Park II, Brgy. Punta, Calamba, Laguna.

Petitioner is registered with the Bureau of Internal Revenue (BIR) as a Value-Added Tax (VAT) enterprise with Tax Identification No. TIN/VAT Registration No. 004-649-223. Petitioner is also registered with the Board of Investments (BOI) during the period covering October 1, 2000 to March 31, 2001, in accordance with the provisions of the

Omnibus Investments Code of 1987 as a preferred pioneer enterprise for the production and export of plain paper copiers, sub-assemblies, parts, and components.

For the fourth quarter of 2000 and first quarter of 2001, petitioner filed with the Bureau of Internal Revenue its Quarterly VAT Returns on January 25, 2001 and April 25, 2001, respectively, reflecting the following:

Period Covered	Zero-rated Sales	Taxable Sales	Output VAT (a)	Input VAT this Quarter (b)	VAT Refund/ TCC Claimed (c)	Net Creditable Input Tax (b-c) = d	Excess Input VAT this Qtr (a-d)
4th Qtr-2000	413,908,050.29	396,916.63	39,691.66	24,530,553.75	6,673,381.01	17,857,172.74	(17,817,481.08)
1st Qtr-2001	811,895,380.55	1,017,686.10	101,768.61	21,634,988.28	-	21,634,988.28	(21,533,219.67)

On March 20, 2002, petitioner filed with the BIR, a written application for the refund of the amount of P13,232,769.21 representing unutilized input VAT for the period October 1, 2000 to March 31, 2001. The claimed amount is computed herein below:

4th Quarter 2000	P 9,496,392.16
1st Quarter 2001	3,736,377.05
Total *(Exhibit Z-1)*	P 13,232,769.21
	(Exhbits "J" & "M")

On December 27, 2002, petitioner filed the instant Petition for Review.

Respondent Commissioner of Internal Revenue (hereafter "respondent"), in his answer, alleged by way of special and affirmative defenses, that petitioner's claim for refund: is subject to administrative routinary investigation; petitioner failed to demonstrate that the taxes were erroneously or illegally collected; the amount of P13,232,769.21 representing alleged unutilized and/or unapplied input VAT for the period covering October 1, 2000 to March 31, 2001 was not properly documented; taxes paid and collected are presumed to have been paid in accordance with law and regulations; in action for refund 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/credit; it is incumbent upon petitioner to show that it has complied with the provisions of *Sections 204 (c) and 229 of the Tax Code* on the prescriptive period for claiming tax refund/credit; and well settled is the rule that claims for tax refund/credit are construed in *strictissimi juris* against the taxpayer as they partake the nature of exemption from tax.

Petitioner presented Elma Guillermo, Anna Marie A. Molano and Mary Ann C. Capuchino, as witnesses, and submitted its Formal Offer of Evidence, which were admitted by the Court except for Exhibits "A" to "D" which were denied admission for failure of petitioner to present the original copies thereof for comparison.

On the other hand, respondent submitted the case for decision without presenting any evidence.

On January 24, 2006, the case was deemed submitted for decision after respondent filed his memorandum within the period given by the Court and petitioner failed to submit its memorandum within the same period.

On March 3, 2006, petitioner filed a "Motion To Admit Memorandum For Petitioner". In the interest of justice, the motion is granted and the Memorandum For Petitioner is hereby admitted. The Resolution dated January 24, 2006 is lifted and set aside, and the case is now deemed submitted for decision.

THE ISSUES

As agreed upon by the parties in their Joint Stipulation of Facts and Issues, the following are the issues for this Court's consideration:

I

> WHETHER OR NOT FOR THE PERIOD OF OCTOBER 1, 2000 TO MARCH 31, 2001, PETITIONER GENERATED ZERO-RATED EXPORT SALES.

II

WHETHER OR NOT THE FOREIGN EXCHANGE PROCEEDS OF PETITIONER'S ZERO-RATED EXPORT SALES WERE DULY ACCOUNTED FOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BANGKO SENTRAL NG PILIPINAS (BSP).

III

WHETHER OR NOT FOR THE PERIOD OF OCTOBER 1, 2000 TO MARCH 31, 2001, PETITIONER PAID INPUT VAT IN THE TOTAL AMOUNT OF P13,232,769.21 ON ITS PURCHASES OF GOODS AND SERVICES.

IV

WHETHER OR NOT THE AFOREMENTIONED INPUT VAT IN THE TOTAL AMOUNT OF PHP P13,232,769.21 WAS APPLIED AGAINST PETITIONER'S OUTPUT VAT LIABILITY IN THE SUCCEEDING QUARTERS.

V

WHETHER OR NOT PETITIONER IS ENTITLED TO THE CLAIM FOR REFUND AND/OR ISSUANCE OF A TAX CREDIT CERTIFICATE IN THE AMOUNT OF P13,232,769.21 REPRESENTING UNUTILIZED AND/OR UNAPPLIED INPUT VAT ATTRIBUTABLE TO EXPORT SALES

FOR THE PERIOD OCTOBER 1, 2000 TO MARCH 31, 2001.

THE COURT'S RULING

Decisive Issue

The resolution of this case hinges on the last issue of whether petitioner is entitled to the claim for refund and/or issuance of a tax credit certificate in the amount of P13,232,769.21 representing unutilized input VAT attributable to export sales for the period October 1, 2000 to March 31, 2001.

Petitioner's Arguments

Petitioner anchors its claim for refund under *Sections 110 (B) and 112 (B)*, in relation to *Section 106 (A)(2)(a) and Section 229 of the National Internal Revenue Code* (hereafter "NIRC"). Petitioner argues that it complied with the requisites that this Court laid down to entitle a taxpayer the refund of its unutilized and/or unapplied input VAT attributable to its export sales, as follows:

1) that the claimed creditable input taxes are duly substantiated by VAT invoices or official receipts in accordance with *Section*

4.104-5 of Revenue Regulations No.7-95, in relation to *Sections 113 and 237 of the Tax Code of 1997*;

2) that the claimed creditable input taxes are directly attributable to zero-rated sales;
3) that the claimed creditable input taxes have not been applied against any output tax nor carried over to the succeeding months/quarters; and
4) that both the administrative and judicial claims for refund were filed within two-years after the filing of the quarterly VAT returns, as provided under *Section 4.106-2 (c) of Revenue Regulations No. 7-95.*

Respondent's Theory

Respondent opposes petitioner's claim by asserting that petitioner has to prove that it has complied with 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.* Respondent alleges that petitioner failed to show that its purchases of goods and services were made in the course of its trade and business. It further failed to show that said purchases were properly supported by VAT invoices and/or official receipts and other documents such as entries made in its 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 in pursuance to *Section 4.104-5(a) and (b) of Revenue Regulations No. 7-95* (Re: Substantiation of Claims for Input Tax Credit).

The Petition is partly meritorious.

To prove that it actually generated zero-rated export sales during the period October 1, 2000 to March 31, 2001 and that the foreign exchange proceeds thereof were duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas (BSP)*, petitioner presented its sales invoices, bills of lading/airway bills, export declarations and proofs of inward remittances *(Exhibits "FF-1" to "FF-1-101", "FF-2" to "FF-2-208", "FF-3" to "FF-3-233", "FF-4" to "FF-4-205", "FF-5" to "FF-5-324", "FF-6" to "FF-6-306" and "GG" to "GG-35").*

The Findings of the Commissioned Independent CPA

After examination and verification of the above-mentioned documentary evidence, the Commissioned Independent CPA in his Report summarized his findings, as follows:

	Findings	4th Quarter 2000	1st Quarter 2001	Total (Amounts in P)	Reference-Annex
1.	There are export sales supported by original invoices, original bills of lading/airway bills, original bank Remittance certificates/advices and photocopied export declarations.	81,656,812.76	638,726,172.90	720,382,985.66	Annex 6 AA1
2.	There are export sales supported by original invoices, original bills of lading/airway bills and original bank Remittance certificates/advices but with no supporting export declaration.	-	1,194,270.30	1,194,270.30	Annex 6 AA2
3.	There are export sales supported by original invoices, original bank Remittance certificates/advices, photocopied bills of lading/airway bills and photocopied export declarations.	36,342,918.65	74,038,588.77	110,381,507.42	Annex 6 AA3
4.	There are export sales supported by original invoices, original bank Remittance certificates/advices and photocopies export declaration but with no supporting bill of lading/airway bill.	2,156,101.45	176,673.59	2,332,775.04	Annex 6 AA4
5.	There are export sales supported by original invoices, original bill of lading/airway bill and photocopied but with no supporting bank Remittance certificates/advices.	226,909,064.55	38,320,131.28	265,229,195.83	Annex 6 BB1

6.	There is an export sale supported by an original invoice, photocopied bill of lading/airway bill, but with no export declaration and bank Remittance certificate/advice.	-	12,294.52	12,294.52	Annex 6 BB2
7.	There are export sales supported by original invoices, photocopied bills of lading/airway bills, but with no export Declaration and bank remittance certificate/advice.	1,201,173.86	1,225,881.93	2,427,055.79	Annex 6 BB3
8.	There are export sales supported by original invoices, photocopied bills of lading/airway bills and photocopied export declarations but with no bank Remittance certificate/advice.	12,335,575.36	9,395,540.53	21,731,115.89	Annex 6 BB4
9.	There are export sales supported by original invoices, photocopied export declarations but with no bill of lading/airway bill and bank Remittance certificate/advice.	119,482.15	167,450.80	286,932.95	Annex 6 BB5
10.	There are export sales supported by original invoices only.	-	689,243.90	689,243.90	Annex 6 BB6
11.	There is an export sale supported by photocopied invoice, photocopied bill of lading/airway bill, photocopied export declaration but with no bank Remittance certificate/advice.	489,801.72	-	489,801.72	Annex 6 BB7
12.	There are export sales supported by photocopied invoices, original bills of lading/airway bills and photocopied export declarations but with no Supporting bank remittance Certificates/advices.	-	30,311,867.85	30,311,867.85	Annex 6 BB8
13.	There are export sales supported by photocopied invoices, original bills of lading/airway bills, original bank	-	8,459,560.71	8,459,560.71	Annex 6 CC

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	Remittance certificates/advices, but with no supporting export declaration.				
14.	There are export sales supported by original bank remittance Certificates/advices only.	16,306,143.09	11,267,136.34	27,573,279.43	Annex 6 DD
15.	There are export sales supported by original invoices, original bank Remittance certificates/advices but with no supporting bill of lading/airway bill and export Declaration.	16,446.35	209,944.05	226,390.40	Annex 6 EE
16.	There are export sales which related Documents are not available.	-	-	104,947,038.51	
GRAND TOTAL				**1,296,675,315.92**	

(*Exhibit "CC"*)

Based on the above findings, it is clear that out of the total of P1,296,675,315.92 export sales, only the amount of P721,577,255.96 (the sum of the first two findings) was duly supported by the requisite evidence and that the foreign exchange proceeds thereof were duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP), and therefore, qualifies for zero-rating, under *Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.*

The rest of the export sales of P575,098,059.96 (P1,296,675,315.92 less P721,577,255.96) cannot qualify as such for the following reasons:

1) The photocopied bills of lading/airway bills, export declarations and invoices supporting the alleged export sales

cannot be given evidentiary value for being mere photocopies, in violation of the Best Evidence Rule;

2) The export sales are supported **only** by original invoices or bank remittance certificates/advices, and as such, are not competent evidence to prove the actual export sales. Petitioner failed to present the corresponding bills of lading/airway bills to prove actual shipment of goods abroad; and

3) Petitioner's failure to present the bills of lading/airway bills or export declaration and bank remittance certificate/advice is fatal to its claim.

This Court has repeatedly held that the certification of inward remittances, bank credit advices, export declarations, bills of lading/airway bills and duly registered VAT invoices or receipts, taken collectively, are the best means to prove exportation of goods and receipt of the corresponding foreign currency payments.

To prove that it actually paid input VAT in the total amount of P13,232,769.21 on its purchases of goods and services for the period October 31, 2000 to March 31, 2001, petitioner presented its "Schedule of

Input VAT summary/summary of Input VAT Per Department" (*Exhibits "AA" to "AA-75"*), various official receipts, invoices, Monthly Remittance Return of VAT and Import Entry and Internal Revenue Declarations supporting payment of input taxes (*Exhibits "BB-1" to "BB-1-107", "Bb-2" to "BB-2-127", "BB-3" to "BB-3-119, "BB-4 to "BB-4-121", "BB-5" to "BB-5-166", "BB-6" to "BB-6-136" and "DD" to "DD-91"*).

Upon examination and verification of the aforesaid documentary evidence, the Commissioned Independent CPA in his Report, noted the following findings:

	Findings	**4th Quarter 2000 (Amounts in P)**	**1st Quarter 2001 (Amounts in P)**	**Total (Amounts in P)**	**Reference-Annex**
1.	There are input taxes claimed on domestic purchases of goods which are supported by VAT invoices (original) issued in the name of the Company and dated within the same VAT-taxable quarter and VAT-taxable year.	173,966.36	213,298.60	387,264.96	Annex 4 A1
2.	There are input taxes claimed on domestic purchases of services which are supported by VAT OR s (original) issued in the name of the Company and dated within the same VAT-Taxable quarter and VAT-taxable year.	337,403.09	163,794.31	501,197.40	Annex 4 A2
3.	There are input taxes claimed on a domestic purchase of goods supported by a preprinted TIN-V invoices which was printed after July 31, 1991 but before January 1, 1996.	-	118.18	118.18	Annex 4 B1
4.	There are input taxes claimed on domestic purchases of services supported by preprinted TIN-V OR s	67,740.64	-	67,740.64	Annex 4 B2

	which were printed after July 31, 1991 but before January 1, 1996.				
5.	There are input taxes claimed on domestic purchases of goods supported by a document other than a VAT invoice.	728.18	1,081.82	1,810.00	Annex 4 C1
6.	There are input taxes claimed on domestic purchases of services supported by documents other than VAT OR s.	546,286.47	167,608.44	713,894.91	Annex 4 C2
7.	There are input taxes claimed on domestic purchases of goods supported by VAT invoices which are not original copies.	12,027.34	12,867.41	24,894.75	Annex 4 D1
8.	There are input taxes claimed on domestic purchases of services supported by VAT OR s which are not original copies.	285,400.00	470,399.20	755,799.20	Annex 4 D2
9.	There are input taxes claimed on a domestic purchase of goods supported by an original VAT invoice but was not issued in the name of the Company.	510.00	-	510.00	Annex 4 E1
10.	There are input taxes claimed on a domestic purchase of services supported by an original VAT OR but was not issued in the name of the Company.	-	3,952.80	3,952.80	Annex 4 E2
11.	There are input taxes claimed on domestic purchases of goods supported by VAT invoices not dated within the VAT-taxable quarter but within the taxable year.	16,415.13	-	16,415.13	Annex 4 F1
12.	There are input taxes claimed on domestic purchases of services supported by VAT OR s not dated within the VAT-taxable quarter but within the taxable year.	-	325,440.00	325,440.00	Annex 4 F2
13.	There are input taxes claimed on domestic purchases of services supported by VAT OR s not dated within the VAT-taxable quarter and not within the taxable year.	40,394.79	-	40,394.79	Annex 4 F3
14.	There are input taxes claimed on domestic purchases of goods supported by VAT invoices not dated within the	-	1,159,931.92	1,159,931.92	Annex 4 F4

	VAT-taxable quarter and not within the Taxable year.				
15.	There are input taxes claimed on domestic purchases of goods supported by VAT invoices which are not dated.	-	222.16	222.16	Annex 4 F5
16.	There are input taxes claimed on domestic purchases of services supported by VAT OR s which are not dated.	12,090.91	103,784.76	115,875.67	Annex 4 F6
17.	There are over-claimed input taxes due to erroneous computation.	1,769.03	-	1,769.03	Annex 4 G
18.	There are input taxes claimed on purchases of services supported by Non-VAT OR s.	-	313.09	313.09	Annex 4 H
19.	There are input taxes claimed on a purchase of goods supported by preprinted TIN only/TAN VAT/TIN-V/TIN NV OR.	207.27	-	207.27	Annex 4 I1
20.	There are input taxes claimed on a purchase of services supported by preprinted TIN only/TAN VAT/TIN-V/TIN NV OR.	393.57	-	393.57	Annex 4 I2
21	There are input taxes claimed on royalty payments made to Matsushita Graphics Communications Systems Inc. (resident of Japan) supported by photocopied Monthly Remittance Return of VAT and other percentage taxes withheld (BIR Form 1600) but with original bank OR s.	3,307,193.71	-	3,307,193.71	Annex 4 J
22.	There are input taxes claimed on importation of goods supported by photocopies of import entry and internal revenue declarations (IEIRDs) with original machine validation by the bank.	1,474,481.00	511,518.00	1,985,999.00	Annex 4 K1
23.	There are input taxes claimed on importation of goods supported by photocopies of IEIRDs and with photocopied machine validation by the bank.	3,105,651.00	112,294.00	3,217,945.00	Annex 4 K2
24.	There are input taxes claimed on an importation of goods supported by original Bureau of Customs (BOC) OR.	17,339.00	-	17,339.00	Annex 4 K3
25.	There are input taxes claimed by the	-	-	988,416.30	

Company which related documents are not available.			
TOTAL	9,399,997.49	3,246,624.69	13,635,038.48
Less: Amount of input VAT applied against The Output VAT Per "Summary of Input Tax Refund"			402,269.27
GRAND TOTAL – Amount of Input VAT being claimed for refund by the Company			**13,232,769.21**

(*Exhibit "CC"*)

Based on the above-quoted findings of the Commissioned Independent CPA, out of the total claimed input VAT of P13,232,769.21, only the amount of P3,810,725.80 *(Nos. 1, 2, 21 and 24 of the Findings)* is properly substantiated by the requisite evidence.

The remaining input VAT of P9,422,043.41 should be disallowed for the following reasons:

1) The P118.18 input tax *(No. 3 of the Findings)* on a domestic purchase of goods supported by a preprinted TIN-V invoices, as well as the P67,740.64 input tax *(No. 4 of the Findings)* on purchases of services supported by preprinted TIN-VORs, which was printed after July 31, 1991, but before January 1, 1996, violates *paragraph (c) of the Transitory Provisions of Revenue Regulations No. 7-95*, which provides as follows:

> "(c) Unused invoices or receipts. – Taxpayers who changed status from NON-VAT to VAT or from VAT to NON-VAT as a result of the implementation of RA 7716 should submit on or before January 31, 1996 an inventory of

> unused invoices or receipts of December 31, 1995 indicating the number of booklets and the corresponding serial numbers. Unused non-VAT invoices/receipts shall be allowed for use in transactions subject to VAT provided the phrase "VAT-registered as of ________" is stamped on all copies thereof. Likewise, unused VAT invoices/receipts shall be allowed in VAT-exempt transactions provided the phrase "Non-VAT registered as of _______" is stamped on all copies thereof. These unused invoices or receipts with the proper stamp shall be allowed for use in transactions subject to VAT/NON-VAT up to June 30, 1996."

2) The input taxes of P1,810.00 *(No. 5 of the Findings)* on domestic purchases of goods supported by a document other than a VAT invoice, as well as the amount of P713,894.91 input taxes *(No. 6 of the Findings)* on domestic purchases of services supported by documents other than VAT Ors, should be disallowed.

In this regard, in a long line of cases, this Court ruled that "the input VAT on domestic purchases of goods or properties shall be allowed as tax credit to the purchaser upon consummation of sale, which means upon issuance by the seller of the VAT sales invoices evidencing the sale of goods/properties. On the other hand, the input VAT on purchases of services shall be available as tax credit to the purchaser only upon payment of the compensation or fee, *i.e.*, upon issuance by the seller of the VAT official receipt evidencing receipt of the payment for services performed or yet to be performed." The Court also held that in order to be allowed as tax credit or refund, the input VAT on purchase of goods or properties must be supported by a VAT invoice, while the input VAT on purchase of services must be supported by a VAT official receipt.

3) The P24,894.75 input taxes *(No. 7 of the Findings)*on domestic purchases of goods, supported by VAT invoices which are not original copies, as well as the P755,799.20 input taxes *(No. 8 of the Findings)* on domestic purchases of services, supported by VAT ORs which are mere photocopies should be disallowed.

4) The P510.00 input taxes *(NO. 9 of the Findings)* on a domestic purchase of goods, supported by an original VAT invoice, as well as the P3,952.80 input taxes *(No. 10 of the Findings)* on domestic purchase of services supported by an original VAT OR, but which were not issued in the name of the petitioner, should be denied for non-compliance with *Section 4.108-1 of Revenue Regulations No. 7-95, implementing Section 113,* in relation to *Section 237 of the NIRC of 1997, as amended*, which provides that the duly registered VAT invoices or official receipts issued for every sale of goods or services must show, among others, the name of the VAT-registered purchaser, customer or client.

5) The aggregate input taxes of P1,542,181.84 *(Nos. 11 to 14 of the Findings)* on domestic purchases of goods supported by VAT invoices, as well as on domestic purchases of services supported by VAT Ors, which are not dated with the VAT-taxable quarter, should be disallowed, consistent with the ruling of this Court that input VAT supported by VAT invoices and official receipts dated earlier than the period of claims can no longer be claimed for refund.

Thus, pursuant to settled jurisprudence, a portion of petitioner's claim in the amount of P1,542,181.84 cannot be granted since those input taxes should have been declared in the corresponding taxable quarters when purchases of goods were consummated, as evidenced by VAT invoices or upon payment of the services, as evidenced by VAT official receipts.

6) The input taxes of P222.16 *(No. 15 of the Findings)* on domestic purchases of goods supported by VAT invoices, as well as the P115,875.67 input taxes *(No. 16 of the Findings)* on domestic purchases of services supported by VAT Ors, which are not dated, should be disallowed, pursuant to *Section 4.108-1 of Revenue Regulations No. 7-95 and Section 237 of the NIRC of 1997, as amended,* which provide that the

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date of transaction, among others, must be indicated in the VAT invoices and official receipts.

7) The over-claimed input taxes of P1,769.03 *(No. 17 of the Findings)* due to erroneous computation should be disallowed because clearly petitioner is entitled only to the amounts of VAT actually paid for in its purchases of goods and services, which are subject to VAT.

8) The input taxes of P313.09 *(No. 18 of the Findings)* on purchases of services supported by Non-VAT ORs should be disallowed. *Section 113 of the NIRC of 1997, as amended,* explicitly provides that "a statement that the seller is a VAT-registered person shall be indicated in the invoice or receipt." Moreover, *Section 4.108-1 of Revenue Regulations No. 7-95* provides that "only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoices or receipts and this shall be considered as a "VAT invoice". All purchases covered by invoices other than "VAT invoice" shall not give rise to any input tax.

9) The aggregate input taxes of P600.84 *(Nos. 19 & 20 of the Findings)* on a purchase of goods supported by preprinted TIN only/TAN VAT/TIN-V/TIN NV invoice, as well as on the purchase of services

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which were supported by preprinted TIN only/TAN VAT/TIN-V/TIN NV OR should be disallowed, for non-compliance with *Section 4.108-1* and the *Transitory Provision of Revenue Regulations No. 7-95*.

10) The input taxes of P5,203,944.00 *(Nos. 22 & 23 of the Findings)*on importation of goods which were supported by photocopies of import entry and internal revenue declarations should be disallowed, being supported by mere photocopies of the said documents.

11) The amount of P988,416.30 input taxes *(No. 25 of the Findings)* of which the related documents are not available, should be disallowed for lack of the requisite documents prescribed by law.

Fourth Issue

As regards the fourth issue, the Court finds that the claimed input VAT in the total amount of P13,232,769.21 was not applied against petitioner's output VAT liability in the succeeding quarters considering that said amount was already deducted from the "Total Available Input Tax" as "Any VAT Refund/TCC Claimed" for the first quarter of 2002 *(Exhibit "N")*.

Finally, petitioner's administrative claim filed on March 20, 2002 and the instant Petition for Review filed with this Court on December 27, 2002 were both filed within the two-year period, prescribed under *Section 204 (C)*, in relation to *Section 229 of the NIRC of 1997, as amended,* reckoned from January 25, 2001 and April 25, 2001, the respective dates petitioner filed its Quarterly VAT Returns for the 4th quarter of 2000 and 1st quarter of 2001.

For all the foregoing, considering that petitioner had taxable sales during the period from October 1, 2000 to March 31, 2001, its refundable amount of input should be the proportionate amount of the duly substantiated input VAT attributable to petitioner's zero-rated export sales, pursuant to *Section 112(A) of the NIRC of 1997, as amended.*

Therefore, petitioner is only entitled to a refund in the reduced amount of P3,806,333.21, computed as follows:

Substantiated Input VAT		P 3,810,725.80
Less: Input VAT attributable to taxable sales		
Substantiated Input VAT	3,810,725.80	
Multiply: Ratio of Taxable Sales to Total Sales *(P1,414,602.73/P1,227,218,033.57)*	0.001152691	4,392.59

	4th Qtr-2000	*1st Qtr-2001*	*Total*
Zero-rated	*413,908,050.29*	*811,895,380.55*	*1,225,803,430.84*
Taxable sales	*396,916.63*	*1,017,686.10*	*1,414,602.73*
Total Sales	*414,304,966.92*	*812,913,066.65*	*1,227,218,033.57*

Refundable input VAT	P 3,806,333.21

WHEREFORE, premises considered, the instant Petition For Review is **PARTIALLY GRANTED**. Respondent Commissioner of Internal Revenue is hereby **ORDERED to REFUND or to ISSUE A TAX CREDIT CERTIFICATE** the amount of P3,806,333.21 in favor of petitioner, representing unutilized input value-added taxes paid on purchases of goods and services attributable to zero-rated export sales for the period October 1, 2000 to March 31, 2001.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

JUANITO C. CASTANEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairman, Second Division

CERTIFICATION

I hereby certify that the decision was reached after due consultation with the members of the Division of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Justice