Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

GALILEO ASIA, LLC – PHILIPPINE BRANCH,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8868
For: Refund

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

Promulgated:
JAN 18 2017 11:08 a.m.

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DECISION

MINDARO-GRULLA, J.:

This Petition for Review filed by Galileo Asia, LLC-Philippine Branch seeks the refund or issuance of tax credit certificate (TCC) in the amount of Six Million Eighty Thousand Thirty-Five Pesos and 23/100 (₱6,080,035.23), representing petitioner's alleged excess and unutilized input value-added tax (VAT) on its domestic purchases of goods and services attributable to its zero-rated sales of services for the period covering February 1, 2012 to December 31, 2012.[1]

Petitioner Galileo Asia, LLC-Philippine Branch is a branch office in the Philippines of Galileo Asia, LLC which is a foreign corporation organized and existing under the laws of the State of Delaware, United States of America (USA).[2] It is licensed by the Securities and Exchange Commission (SEC) to do business and is actually doing business in the Philippines at 18th Floor, Pacific Star Building, Makati Ave., Makati City. Petitioner is established in the Philippines to provide travel reservations, products and services to travel agencies and to foreign and domestic airlines using a global computer reservation system

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[1] Par. 1.1, Brief Statement of the Case, Joint Stipulation of Facts and Simplification of Issues (JSFSI), Docket, vol. I, p. 446
[2] Exhibit "P-17", Docket, vol. I, p. 187

(CRS).[3] It is a VAT-registered taxpayer with Taxpayer Identification No. (TIN) 004-460-118-000.[4]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), empowered to perform the duties of the said office, including, among others, the power to decide, approve, and grant refunds or tax credits of erroneously or excessively paid taxes as provided by law. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

Petitioner and Travelport Global Distribution System B.V. ("Travelport" for brevity) entered into a Marketing Services Agreement on January 1, 2009.[5]

Petitioner filed its 1st, 2nd, 3rd, and 4th Quarterly VAT Returns for taxable year (TY) 2012 on April 25, 2012, July 25, 2012, October 25, 2012, and January 25, 2013, respectively.[6]

On March 19, 2014, petitioner filed its administrative claim for refund with respondent.[7] However, respondent failed to act on petitioner's administrative claim, prompting petitioner to file the present Petition for Review[8] before this Court on August 14, 2014.

In the Answer[9] filed through registered mail on October 10, 2014 and received by the Court on October 22, 2014, respondent interposed the following special and affirmative defenses:

"1. Respondent reiterates and repleads the preceding paragraphs of the answer as part of his Special and Affirmative Defenses;

2. Petitioner's claim for refund is still subject to investigation by the Bureau of Internal Revenue;

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[3] Par. 2.3, Admitted Facts/Documents, JSFSI, Docket, vol. I, p. 447
[4] Exhibit "P-45", Docket, vol. I, p. 295
[5] Exhibit "P-21", Docket, vol. 1, pp. 262 to 284
[6] Exhibits "P-35", "P-38", "P-41", and "P-44"
[7] Exhibits "P-14" and "P-15"
[8] Docket, vol. I, pp. 17-30
[9] Docket, vol. I, pp. 152 to 154

3. Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;

4. Taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence, not refundable;

5. It is incumbent upon the Petitioner to show that it has complied with the provision of Section 204(C) in relation to Section 229 of the 1997 Tax Code, as amended;

6. Petitioner's claim for refund or issuance of tax credit certificate in the amount of Php6,080,035.23 as alleged unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales for the period February 1, 2012 to December 31, 2012 was not fully substantiated by proper documents, such as sales invoices, official receipts and others.

7. In an action for tax credit or refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge the said burden is fatal to the claim (*Emmanuel & Zenaida Aguilar v. Commissioner, CA-GR No. Sp. 16432, March 30, 1990 cited in Aban, Law of Basic Taxation in the Philippines, 1st Edition, p. 206*);

8. Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95*) and as such, they are looked upon with disfavor. *(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 121).*"

Petitioner filed its Pre-Trial Brief[10] on January 13, 2015; while respondent's Pre-Trial Brief[11] was filed through registered mail on January 5, 2015 and received by this Court on January 14, 2015.

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[10] Docket, vol. I, pp. 327 to 364
[11] Docket, vol. I, pp. 366 to 369

On January 22, 2015, the Court granted petitioner's Urgent Motion to Take Deposition of Ms. Sheiryll Soldevilla.[12] Accordingly, the deposition of Ms. Sheiryll Soldevilla was taken on January 28, 2015.[13]

Thereafter, the Pre-Trial Conference was held on March 19, 2015.[14] On even date, the Court granted petitioner's Motion for the Appointment of an Independent Certified Public Accountant[15].

The parties then submitted their Joint Stipulation of Facts and Simplification of Issues[16] on March 31, 2015. Consequently, the Court issued a Pre-Trial Order[17] on May 6, 2015.

As trial ensued, petitioner presented Mr. Jerome Antonio B. Constantino as its witness. Thereafter, petitioner formally offered its pieces of documentary evidence which were later admitted by the Court.[18]

Petitioner's documentary evidence are as follows:

Exhibit	Description
P-1	The First Binder consisting of the Administrative Claim with annexes "A" to "N".
P-2	The Second Binder labeled Exhibit "M-001" to "N-172".
P-3	The Third Binder labeled Exhibit "N-173" to "N-314".
P-4	The Fourth Binder labeled Exhibit "N-315" to "N-461".
P-5	The Fifth Binder labeled Exhibit "N-462" to "N-615".
P-6	The Sixth Binder labeled Exhibit "N-616" to "N-765".
P-7	The Seventh Binder labeled Exhibit "N-766" to "N-939".
P-8	The Eighth Binder labeled Exhibit "N-940" to "N-1079".
P-9	The Ninth Binder labeled Exhibit "N-1080" to "N-1234".
P-10	The Tenth Binder labeled Exhibit "N-1235" to "N-1270".
P-11	The Eleventh Binder labeled "N-1271" to "N-1380".
P-12	The Twelfth Binder labeled Exhibit "N-1381" to "N-1527".
P-13	The Thirteenth Binder labeled Exhibit "N-1528" to "N-1647".
P-14	The Administrative Claim dated March 19, 2014 addressed to the BIR Revenue District Office No. 49, to the attention of the

[12] Resolution, Docket, vol. I, pp. 378 to 381
[13] Resolution, Docket, vol. I, pp. 385 to 386
[14] Resolution, Docket, vol. I, pp. 438 to 441
[15] Docket, vol. I, pp. 395 to 398
[16] Docket, vol. I, pp. 446 to 471
[17] Docket, vol. I, pp. 484 to 500
[18] Resolution dated August 28, 2015, Docket, vol. II, pp. 623 to 625; Resolution dated December 11, 2015, Docket, vol. II, pp. 668 to 671

	Revenue District Officer, consisting of 5 pages found in the first binder (Exh. P-1).
P-14-1	The name and signature of Mr. Richard R. Lapres appearing on page 5 of the Administrative Claim.
P-15	Application for Tax Credit/Refunds (BIR Form No. 1914) signed by Sheiryll Soldevilla attached as Annex F to the first binder (Exh. P-1).
P-15-1	The stamp "Received" by the Administrative Section of the BIR Revenue District Office No. 49 with an initial of a receiving officer and date "March 19, 2014".
P-15-2	The name Sheiryll Soldevilla and her signature appearing in the lower left portion in the Application.
P-16	Notarized Certification of Ms. Sheiryll Soldevilla dated February 24, 2014 attached as Annex L to the Administrative Claim found in the first binder (Exh. P-1).
P-16-1	The name Sheiryll Soldevilla and her signature appearing in the lower left portion in the Certification.
P-17	Amended SEC License No. AFO94-000080 of Petitioner dated 26 April 2002 with attached Petition for Amendment of License consisting of 41 pages, certified as a true copy by the Securities and Exchange Commission (SEC).
P-18	A copy of the "Amendment of the Articles of Association" of Travelport Global Distribution System B.V. together with the English translation, notarized and authenticated by the Philippines Embassy in the Netherlands.
P-19	A copy of the "Informal Translation of the Articles of Travelport Global Distribution System B.V." with the English translation, notarized and authenticated by the Philippine Embassy in the Netherlands.
P-20	The SEC Certification of Non-Registration of Travelport Global Distribution System B.V. dated September 23, 2014.
P-21	A copy of the Marketing Services Agreement between Travelport Global Distribution System B.V. and Galileo Asia LLC-Philippine Branch notarized and authenticated by the Philippine Embassy in the U.S.
P-22	The Certificate of Inward Remittance issued by Bank of America and notarized on October 28, 2014.
P-22-1	The name and signature of Ms. Eilee G. Canillas appearing in the lower left hand corner of the Certificate.
P-23	Official Receipt No. 0592 dated February 14, 2012 for the amount of USD 269,061.00.
P-23-1	Signature of Ms. Sheiryll Soldevilla.
P-24	Official Receipt No. 0593 dated March 12, 2012 in the amount of USD 223,048.00.
P-24-1	Signature of Ms. Sheiryll Soldevilla.
P-25	Official Receipt No. 0609 dated April 23, 2012 for the amount of USD 146,627.00.
P-25-1	Signature of Ms. Sheiryll Soldevilla.
P-26	Official Receipt No. 0716 dated May 21, 2012 for the amount of USD 128,275.00.
P-26-1	Signature of Ms. Sheiryll Soldevilla.

P-27	Official Receipt No. 0758 dated June 11, 2012 for the amount of USD 215,477.00
P-27-1	Signature of Ms. Sheiryll Soldevilla.
P-28	Official Receipt No. 0782 dated July 9, 2012 for the amount of USD 176,620.00
P-28-1	Signature of Ms. Sheiryll Soldevilla.
P-29	Official Receipt No. 0851 dated August 13, 2012 for the amount of USD 207,203.00.
P-29-1	Signature of Ms. Sheiryll Soldevilla.
P-30	Official Receipt No. 0001 dated September 17, 2012 in the amount of USD 149,931.00.
P-30-1	Signature of Ms. Sheiryll Soldevilla.
P-31	Official Receipt No. 0004 dated December 10, 2012 in the amount of USD 297,506.00.
P-31-1	Signature of Ms. Sheiryll Soldevilla.
P-32	Sworn Statement of Ms. Sheiryll Soldevilla.
P-32-1	The name Sheiryll Soldevilla and her signature appearing in the lower right portion of the Sworn Statement.
P-33	Monthly VAT Return (BIR Form 2550 M) for January 2012 consisting of two (2) pages in the First Binder (Exh. P-1).
P-33-1	BIR stamp "Received" and the date February 17, 2012.
P-33-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-34	Monthly VAT Return (BIR Form 2550M) for February 2012 consisting of two (2) pages in the First Binder (Exh. P-1)
P-34-1	BIR stamp "Received" and the date March 20, 2012.
P-34-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-35	Quarterly VAT Return (BIR Form 2550Q) for the first Quarter of 2012 consisting of four (4) pages in the First Binder (Exh. P-1).
P-35-1	BIR stamp "Received" and the date April 25, 2012.
P-35-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-36	Monthly VAT Return (BIR Form 2550 M) for April 2012 consisting of two (2) pages in the First Binder (Exh. P-1).
P-36-1	BIR stamp "Received" and the date May 21, 2012.
P-36-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-37	Monthly VAT Return (BIR Form 2550M) for May 2012 consisting of three (3) pages in the First Binder (Exh. P-1).
P-37-1	BIR stamp "Received" and the date June 20, 2012.
P-37-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-38	Quarterly VAT Return (BIR Form 2550 Q) for the second quarter 2012 consisting of four (4) pages in the First Binder (Exh. P-1).
P-38-1	BIR stamp "Received" and the date July 25, 2012.
P-38-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.

P-39	Monthly VAT Return (BIR Form 2550 M) for July 2012 consisting of three (3) pages in the First Binder (Exh. P-1).
P-39-1	BIR stamp "Received" and the date August 22, 2012.
P-39-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-40	Monthly VAT Return (BIR Form 2550 M) for August 2012 consisting of three (3) pages in the First Binder (Exh. P-1).
P-40-1	BIR stamp "Received" and the date September 20, 2012.
P-40-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-41	Quarterly VAT Return (BIR Form 2550 Q) for the third quarter 2012 consisting of four (4) pages in the First Binder (Exh. P-1).
P-41-1	BIR stamp "Received" and the date October 25, 2012.
P-41-2	The name Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-42	Monthly VAT Return (BIR Form 2550 M) for October 2012 consisting of three (3) pages in the First Binder (Exh. P-1).
P-42-1	BIR stamp "Received" and the date November 20, 2012.
P-43	Monthly VAT Return (BIR Form 2550 M) for November 2012 consisting of three (3) pages in the First Binder (Exh. P-1).
P-43-1	BIR stamp "Received" and the date December 20, 2012.
P-43-2	The name "Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-44	Quarterly VAT Return (BIR Form 2550 Q) for the fourth quarter 2012 consisting of one (1) page in the First Binder (Exh. P-1).
P-44-1	BIR stamp "Received" and the date January 25, 2013.
P-44-2	The name "Sheiryll Soldevilla and signature appearing in the lower left portion on the first page.
P-45	Petitioner's BIR Certificate of Registration (BIR Form No. 2303) OCN 9RC0000345327.
P-45-1	Petitioner's TIN 004-460-118-000.
P-46	PLDT's Permit to use computerized accounting system, with Permit No. 0909-116-00012-CAS issued on September 9, 2009 by the BIR Large Taxpayers Service consisting of eleven (11) pages, certified as a true copy by the BIR Large Taxpayers Assistant Division.
P-47	Judicial Affidavit of Sheiryll Soldevilla dated December 16, 2014.
P-47-1	Name and signature of Ms. Soldevilla appearing on page 22 of Ms. Soldevilla's Judicial Affidavit.
P-48	Judicial Affidavit of Mr. Richard R. Lapres dated December 10, 2014.
P-48-1	Name and signature of Mr. Lapres appearing in the last page of Mr. Lapres' Judicial Affidavit.
P-49	Part 1 of Mr. Jerome Antonio B. Constantino's (ICPA) Report dated April 20, 2015.
P-49-1	Part 2 of the ICPA Report.
P-49-2	The name Jerome Antonio B. Constantino and signature on page 27, Part 1 of the ICPA Report.

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P-50	Official Receipt No. 0002 dated October 9, 2012 for the amount of USD 340,134.00.
P-51	Petitioner's BIR Certificate of Registration with RDO Control No. 9RC0000063092.
P-52	Petitioner's Application for Registration Information Update – Change in Registered Address.
P-53	Official Receipt No. 0003 dated November 21, 2012 for the amount of USD 219,431.00.
P-54	Petitioner's general ledger of marketing fees.
P-55	Summary of zero-rated sales prepared by Petitioner.
P-56	Petitioner's general ledger of asset clearing.
P-57	Certificate of Inward Remittances issued by Bank of America notarized on February 7, 2014.
P-58	Petitioner's general ledger of input tax.
P-59	Petitioner's 2012 Audited Trial Balance Sheet.
P-60	Petitioner's 2012 Audited Financial Statements.
P-61	Summary List of local sales prepared by Petitioner.
P-62.1 to P-62.409	VAT Official Receipts.
P-63	Summary List of input tax prepared by Petitioner.
P-64.1	Petitioner's Monthly VAT Declaration for the month ended January 31, 2013.
P-64.2	Petitioner's Monthly VAT Declaration for the month ended February 28, 2013.
P-64.3	Petitioner's Quarterly VAT return for the quarter ended March 31, 2013.
P-64.4	Petitioner's Monthly VAT Declaration for the month ended April 30, 2013.
P-64.5	Petitioner's Monthly VAT Declaration for the month ended May 31, 2013.
P-64.6	Petitioner's Quarterly VAT Return for the quarter ended June 30, 2013 (2nd Quarter).
P-64.7	Petitioner's Monthly VAT Declaration for the month ended July 31, 2013.
P-64.8	Petitioner's Monthly VAT Declaration for the month ended August 31, 2013.
P-64.9	Petitioner's Quarterly Vat Return for the quarter ended September 30, 2013 (3rd Quarter).
P-64.10	Petitioner's Monthly VAT Declaration for the month ended October 31, 2013.
P-64.11	Petitioner's Monthly VAT Declaration for the month ended November 30, 2013.
P-64.12	Petitioner's Quarterly VAT Return for the quarter ended December 31, 2013 (4th Quarter).
P-65.1	Petitioner's Monthly VAT Declaration for the month ended January 31, 2014.
P-65.2	Petitioner's Monthly VAT Declaration for the month ended February 29, 2014.
P-65.3	Petitioner's Quarterly VAT Return for the quarter ended March 31, 2014 (1st Quarter).

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P-65.4	Petitioner's Monthly VAT Declaration for the month ended April 30, 2014.
P-65.5	Petitioner's Monthly VAT Declaration for the month ended May 31, 2014.
P-65.6	Petitioner's Quarterly VAT Return for the quarter ended June 30, 2014 (2nd Quarter).
P-65.7	Petitioner's Monthly VAT Declaration for the month ended July 31, 2014.
P-65.8	Petitioner's Monthly VAT Declaration for the month ended August 31, 2014.
P-65.9	Petitioner's Quarterly VAT Return for the quarter ended September 30, 2014 (3rd Quarter).
P-65.10	Petitioner's Monthly VAT Declaration for the month ended October 31, 2014.
P-65.11	Petitioner's Monthly VAT Declaration for the month ended November 30, 2014.
P-65.12	Petitioner's Quarterly VAT Return for the quarter ended December 31, 2014 (4th Quarter).
P-66.1 to P-66.205	Documents supporting input taxes for the 1st quarter of 2012 (excluding January) – i.e. sales invoices, official receipts, billing statements (Part 1 of 2).
P-66.206 to P-66.360	Documents supporting input taxes for the 1st Quarter of 2012 (excluding January) – i.e. sales invoices, official receipts, billing statements (Part 2 of 2).
P-67.1 to P-67.263	Documents supporting the input taxes for the 2nd quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 1 of 3).
P-67.264 to P-67.316	Documents supporting the input taxes for the 2nd quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 2 of 3).
P-67.317 to P-67.528	Documents supporting the input taxes for the 2nd quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 3 of 3).
P-68.1 to P-68.248	Documents supporting the input taxes for the 3rd quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 1 of 4).
P-68.249 to P-68.317	Documents supporting the input taxes for the 3rd quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 2 of 4).
P-68.318 to P-68.405	Documents supporting the input taxes for the 3rd quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 3 of 4).
P-68.406 to P-68.508	Documents supporting the input taxes for the 3rd quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 4 of 4).
P-69.1 to P-69.205	Documents supporting the input taxes for the 4th quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 1 of 3).
P-69.206 to P-69.249	Documents supporting the input taxes for the 4th quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 2 of 3).

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P-69.250 to P-69.441	Documents supporting the input taxes for the 4th quarter of 2012 – i.e. sales invoices, official receipts, billing statements (Part 3 of 3).
P-70	PLDT's Permit to use computerized accounting system, with Permit No. 0909-116-00012-CAS issued on September 9, 2009 by the BIR Large Taxpayers Service, certified as a true copy by the BIR Large Taxpayers Assistant Division.
P-71	Petitioner's Monthly VAT Declaration for the month ended January 31, 2015.
P-72	Certificate of Inward Remittance issued by Bank of America by order of Travelport Finance Ltd. Notarized on October 28, 2014.
P-73	Mr. Jerome Antonio B. Constantino's Judicial Affidavit dated May 6, 2015.
P-73-1	Name and signature of Mr. Constantino appearing in page 14 of Mr. Constantino's Judicial Affidavit

On the other hand, respondent's counsel manifested that she would not be presenting evidence on the ground that there is no report of investigation.[19]

On February 10, 2016, the case was deemed submitted for decision after petitioner filed its Memorandum[20] on January 13, 2016 and the Judicial Records Division of this Court issued a Records Verification[21] on February 2, 2016, stating that respondent failed to file a Memorandum.[22]

As stipulated by the parties, the sole issue submitted for this Court's resolution is whether petitioner is entitled to a refund or issuance of TCC in the amount of ₱6,080,035.23, representing its alleged unutilized input VAT on purchases of goods and services attributable to its VAT zero-rated sales of services for the period covering February 1, 2012 to December 31, 2012.[23]

Petitioner contends that it is entitled to a refund or issuance of a TCC in the amount of ₱6,080,035.23 when it incurred total accumulated input VAT from its domestic purchases of goods and services attributable to its VAT zero-rated sales of services to its foreign affiliate during the period of February 1, 2012 to December 31, 2012. Petitioner also states that the said amount was paid in the ordinary

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[19] Resolution dated May 19, 2015, Docket, vol. I, pp. 525 to 526
[20] Docket, vol. II, pp. 672 to 716
[21] Docket, vol. II, p. 717
[22] Resolution, Docket, vol. II, p. 719
[23] Simplification of Issues, JSFSI, Docket, vol. I, p. 449

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course of business. Petitioner further avers that its input VAT was neither applied against any output VAT, nor utilized, nor carried forward to the succeeding taxable quarters subsequent to the filing of petitioner's administrative claim for refund or issuance of TCC.

Petitioner points out that it is a registered VAT taxpayer since January 1, 1997 up to the present, including the period within which petitioner is claiming tax refund or issuance of TCC. Petitioner also asserts that it was engaged in zero-rated sales during the claimed period under Section 108(B)(2) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Petitioner likewise insists that it has filed its administrative claim within the two-year prescriptive period, and in support thereof, petitioner has allegedly submitted pertinent documents.

Section 112(A) and (C) of the NIRC of 1997, as amended, provides the basis for administrative and judicial claims for refund or tax credit of input tax attributable to zero-rated or effectively zero-rated sales, quoted hereunder for easy reference:

> "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

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> 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.
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> 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."

Pursuant to the afore-quoted provisions, and as laid down by the Supreme Court in a number of cases,[24] a taxpayer may claim a refund or tax credit certificate for input taxes paid on purchases of goods and services attributable to zero-rated sales upon compliance with the following requisites:

1. the taxpayer-claimant must be VAT-registered;
2. there must be zero-rated or effectively zero-rated sales;

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[24] *Commissioner of Internal Revenue vs. Toledo Power Company*, G.R. Nos. 195175 & 199645, August 10, 2015; *Luzon Hydro Corporation vs. Commissioner of Internal Revenue*, G.R. No. 188260, November 13, 2013; *Southern Philippines Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179632, October 19, 2011; *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007.

3. input taxes were incurred or paid;
4. the input taxes incurred or paid must be attributable to zero-rated or effectively zero-rated sales;
5. the input taxes were not applied against any output VAT liability; and
6. the claim for refund must be timely filed both in the administrative and judicial levels.

Petitioner's administrative and judicial claims were filed within the period prescribed by law.

The Court shall determine first the timeliness of the filing of petitioner's claim.

Pursuant to Section 112(A) of the NIRC of 1997, as amended, the application for tax credit certificate or refund of unutilized excess input VAT must be filed within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the four quarters of taxable year 2012. Counting from the close of the said taxable quarters, petitioner had until the following dates to file its administrative claim for refund or issuance of TCC of unutilized input VAT attributable to its zero-rated sales:

Quarter	Close of Taxable Quarter	2-year Prescriptive Period
1st	March 31, 2012	March 31, 2014
2nd	June 30, 2012	June 30, 2014
3rd	September 30, 2012	September 30, 2014
4th	December 31, 2012	December 31, 2014

Clearly, petitioner's administrative claim for refund or issuance of TCC, together with the supporting documents, was seasonably filed on March 19, 2014.[25]

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[25] Exhibits "P-14" and "P-15"

On the other hand, Section 112(C) of the NIRC of 1997, as amended, states the time requirements for filing of 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 the CTA.[26]

Note that the 120-day period begins to run from the date of submission of complete documents supporting the administrative claim. If there is no evidence showing that the taxpayer was required to submit - or actually submitted - additional documents after the filing of the administrative claim, it is presumed that the complete documents accompanied the claim when it was filed.[27]

Applying the foregoing to the instant case, the 120-day period provided for respondent to act on petitioner's administrative claim expired on July 17, 2014. Without petitioner receiving any decision from respondent on the said claim, petitioner had thirty (30) days from July 17, 2014, or until August 16, 2014, to appeal such inaction by respondent before this Court.

Thus, the Petition for Review filed on August 14, 2014 fell within the "120+30" day period.

The Court shall now proceed to determine petitioner's compliance with the other requisites.

Petitioner is a VAT-registered entity.

Petitioner is registered with the Bureau of Internal Revenue as a VAT taxpayer with TIN 004-460-118-000.[28]

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

[27] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016

[28] Par. 2.4, Admitted Facts/Documents, JSFSI, docket, vol. I, p. 447; Exhibit "P-45", Docket, vol. I, p. 295

Petitioner has zero-rated sales.

Petitioner avers that it rendered services in the Philippines to Travelport Global Distribution System, B.V. that is doing business outside the Philippines for the period February 1, 2012 to December 31, 2012. Petitioner posits that such services which were paid for in acceptable foreign currency and duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* are subject to zero-percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which states:

> "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.*[29] *(Burmeister case)*,

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

the Supreme Court held that in order for the sale of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

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

It is undisputed that petitioner is a branch office in the Philippines of Galileo Asia, LLC, a foreign corporation organized and existing under the laws of the State of Delaware, USA. Petitioner is licensed by the SEC to do business and is actually doing business in the Philippines.[30]

Pursuant to the Marketing Services Agreement[31] executed on January 1, 2009, petitioner was appointed by Travelport as its distributor for the marketing, promotion, distribution supply and support of Travelport Global Distribution Systems (TGDS) in the Philippines. The TGDS enables travel agencies and other organizations to make bookings with participating companies, such as airlines and other providers of travel-related services.

Petitioner's services clearly fall within the scope of "services other than processing, manufacturing or repacking of goods" as contemplated in Section 108(B)(2) of the NIRC of 1997, as amended.

Furthermore, Travelport is a corporation established in Amstelveen, Netherlands as evidenced by its Amended Articles of Association[32] with the corresponding Informal Translation[33] in English, and is not registered in the Philippines as a corporation or partnership as certified by the SEC.[34] With the foregoing, the Court finds that petitioner sufficiently proved that Travelport, as recipient of petitioner's services, is doing business outside the Philippines.

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[30] Par. 2.1, Admitted Facts/Documents, JSFSI, Docket, vol. I, p. 447; Exhibit "P-17", Docket, vol. I, p. 187

[31] Exhibit "P-21", Docket, vol. I, pp. 262 to 284

[32] Exhibit "P-18", Docket, vol. I, pp. 228 to 238

[33] Exhibit "P-19", Docket, vol. I, pp. 239 to 260

[34] Exhibit "P-20", Docket, vol. I, p. 261

Moreover, Section 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A)(2), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, as amended, provides 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

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

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

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

xxx xxx xxx

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

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

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

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

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

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) VAT, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;" *(Emphasis supplied)*

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

Records show that for the period covering February 1, 2012 to December 31, 2012, petitioner's sales of services to Travelport amounted to US$2,373,313.00 or equivalent to ₱100,552,650.29.[35] The said amount is duly supported by VAT zero-rated official receipts[36] (in US dollar denomination) that are compliant with the invoicing requirements. These US dollar receipts can also be traced to the inward remittances to petitioner's bank account as certified by the Bank of America.[37]

Evidently, petitioner's sales of services for the claimed period in the amount of ₱100,552,650.29, which was duly reported in its 2012 Quarterly VAT Returns[38], would qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

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[35] Exhibit "P-49", Findings and Observations, No. 3, p. 8; Exhibit "P-55"

[36] Exhibits "P-23" to "P-31", Docket, vol. I, pp. 286 to 294; Exhibits "P-50" and "P-53"

[37] Exhibit "P-57"

[38]

Exhibit	CY 2012	Zero-Rated Sales/Receipts
"P-35"	1st Quarter	₱ 21,336,512.44
"P-38"	2nd Quarter	20,863,762.02
"P-41"	3rd Quarter	22,629,400.94
"P-44"	4th Quarter	35,722,974.89
	Total	**₱ 100,552,650.29**

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Input taxes were incurred or paid.

Petitioner's total input VAT credits for taxable year 2012, excluding the month of January 2012, amounted to ₱7,125,127.22, computed as follows:[39]

DESCRIPTION	1st Quarter covering January to March 2012 (*Exhibit P-35*)	2nd Quarter covering April to June 2012 (*Exhibit P-38*)	3rd Quarter covering July to September 2012 (*Exhibit P-41*)	4th Quarter covering October to December 2012 (*Exhibit P-44*)	Consolidated Total
Input tax on domestic purchases of capital goods exceeding P1M	₱ -	₱ 142,714.27	₱ -	₱ -	₱ 142,714.27
Add: Input tax deferred on capital goods exceeding P1M from previous quarter	1,376,348.43	1,179,978.55	1,118,394.39	919,260.82	
Less: Input tax on domestic purchases of capital goods exceeding P1M deferred to the succeeding period	1,179,978.55	1,118,394.39	919,260.82	741,119.43	
(a) Amortized portion of the input tax on domestic purchases ofcapital goods exceeding P1M	196,369.88	204,298.43	199,133.57	178,141.39	777,943.27
(b) Input tax on domestic purchases of capital goods not exceeding P1M	96,503.57	103,258.93	151,382.14	17,164.29	368,308.93
(c) Input tax on domestic purchases of goods other than capital goods	12,264.32	3,929.36	11,625.14	13,736.14	41,554.96
(d) Input tax on domestic purchases of services	1,283,102.43	1,570,109.75	1,328,863.74	2,300,289.58	6,482,365.50
Less: Input tax for the month of January (Exhibit P-33)	545,045.44	-	-	-	545,045.44
Total input VAT credits (a+b+c+d)	**₱1,043,194.76**	**₱1,881,596.47**	**₱1,691,004.59**	**₱2,509,331.40**	**₱7,125,127.22**

Deducting the output tax liability of petitioner from these available input VAT yields an excess input VAT amounting to ₱6,713,052.06:

Input tax credits per VAT returns	₱ 7,125,127.22
Less: Output VAT liability	412,075.16[40]

[39] Exhibit "P-49", Annex 1

[40]

Exhibit	CY 2012	Output Tax Due
"P-35"	1st Quarter	₱ 35,918.41
"P-38"	2nd Quarter	94,528.90
"P-41"	3rd Quarter	116,362.43
"P-44"	4th Quarter	165,265.42

Unutilized excess input VAT per VAT returns	**₱6,713,052.06**

However, only the amount of ₱6,080,035.23 out of ₱6,713,052.06 is being claimed for refund by petitioner, as computed below:

Input tax per Summary List of input taxes prepared by petitioner:	
a) Input VAT on domestic purchases of services and goods other than capital goods	₱ 5,477,047.08
b) Input VAT on domestic purchases of capital goods not exceeding ₱1 Million	306,541.08
c) Amortization of input VAT on domestic purchases of capital goods exceeding ₱1 Million	708,522.23
Total input VAT per Summary List of Input Taxes[41]	**₱6,492,110.39**
Less: Output VAT liability	412,075.16
Excess Input VAT claimed for refund	**₱6,080,035.23**

Petitioner was not able to account for the difference of ₱633,016.83 between the excess input VAT per VAT returns of ₱6,713,052.06 and the amount claimed for refund of ₱6,080,035.23.

To prove that it incurred/paid the input VAT of ₱6,492,110.39 from February 1 to December 31, 2012, petitioner submitted various suppliers' invoices and official receipts which were examined by the Court-commissioned Independent Certified Public Accountant (ICPA), Mr. Jerome Antonio B. Constantino.

a) Input VAT on domestic purchases of services and goods other than capital goods, and b) Input VAT on domestic purchases of capital goods not exceeding ₱1 Million

Based on the ICPA Report[42] dated April 20, 2015, out of the ₱5,477,047.08 input VAT claim on domestic purchases of services and goods other than capital goods and ₱306,541.08 input VAT claim on

	Total	**₱ 412,075.16**

[41] Exhibit "P-63"
[42] Exhibit "P-49", pp. 16 to 20

domestic purchases of capital goods not exceeding ₱1 Million, totaling ₱5,783,588.16, only the amount of ₱1,185,686.34 was properly substantiated. With regard to the remaining input VAT claim of ₱4,597,901.82[43], the ICPA noted the following findings:

	FINDINGS	EXHIBIT P-49 ANNEX	INPUT TAX
1	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **petitioner's TIN not indicated**	5-A4, 5-B4, 5-C5, 5-D4	₱ 137,516.10
2	Input VAT on domestic purchase of goods supported by TIN No. VAT invoices but **petitioner's TIN not indicated**	5-A5, 5-B5, 5-C6, 5-D5	17,562.14
3	Input VAT on domestic purchase of capital goods not exceeding P1M supported by TIN No. VAT invoices but **petitioner's TIN not indicated**	5-A6, 5-B6	75,101.80
4	Input VAT on domestic purchases of services supported by VAT Reg. TIN/TIN No. VAT ORs dated not within the quarter of claim but within the period of claim and **petitioner's TIN not indicated**	5-A7, 5-B7, 5-C7, 5-D6	15,158.30
5	Input VAT on domestic purchase of goods supported by TIN No. VAT invoices dated not within the quarter of claim but within the period of claim and **petitioner's TIN not indicated**	5-B8, 5-C8, 5-D7	6,083.81
6	Input VAT on domestic purchase of goods supported by TIN No. VAT invoices dated not within the quarter of claim but within the period of claim and **petitioner's name and TIN not indicated**	5-D8	938.57
7	Input VAT on domestic purchase of capital goods not exceeding P1M supported by TIN No. VAT dated not within the quarter of claim but within the period of claim and **petitioner's TIN not indicated**	5-B9, 5-C9	121,178.57
8	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **no VAT breakdown**	5-A8, 5-B10, 5-C10, 5-D9	985,968.61
9	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **no VAT breakdown** and dated not within the quarter of claim but within period of claim	5-A9, 5-C11	17,500.66
10	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **no VAT breakdown** and **petitioner's TIN not indicated**	5-A10, 5-B-11, 5-C12, 5-D10	2,596,439.00
11	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **no VAT breakdown** and petitioner's TIN is altered but with countersignature	5-B12, 5-C13	6,964.17
12	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **no VAT breakdown** and **petitioner's TIN is altered but without countersignature**	5-B13, 5-C14	13,432.29
13	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but no VAT breakdown, dated not within the quarter of claim but within the period of claim and **petitioner's TIN not indicated**	5-A11, 5-B14, 5-C15, 5-D11	189,458.82
14	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **no VAT breakdown,** dated not within the quarter of claim but within the period of claim and **wrong petitioner's TIN**	5-A12	119.35
15	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **no VAT breakdown, no date indicated** and **petitioner's TIN not indicated**	5-B15	908.54
16	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **wrong petitioner's TIN**	5-B16, 5-C16	61,175.91
17	Input VAT on domestic purchase of services **supported by documents other than VAT OR**	5-A13, 5-B17, 5-C17, 5-D12	129,273.43
18	Input VAT on domestic purchase of services **supported by photocopied ORs**	5-B18, 5-C18, 5-D13	82,983.67
19	Input VAT on domestic purchase of goods **supported by photocopied invoices**	5-D14	1,894.93
20	Input VAT on domestic purchase of services **supported by photocopied ORs** and petitioner's TIN not indicated	5-B19	1,826.79

[43] ₱5,783,588.16 less ₱1,185,686.34

21	Input VAT on domestic purchase of goods **supported by photocopied invoices** but petitioner's TIN not indicated	5-A14, 5-C19	1,528.50
22	Input VAT on domestic purchase of goods **supported by photocopied invoices** but incomplete petitioner's TIN	5-B20	744.00
23	Input VAT on domestic purchase of goods **supported by photocopied invoices** dated not within the quarter of claim but within the period of claim	5-B21, 5-C20	644.25
24	Input VAT on domestic purchase of services supported by VAT Reg. TIN/TIN No. VAT ORs but **not within the period of claim**	5-A15	1,714.29
25	Input VAT on domestic purchase of services where documents are still being located by petitioner	5-A16, 5-B22, 5-C21, 5-D15	183,269.50
26	Overclaimed input VAT	5-A17, 5-B23, 5-C22, 5-D16	2,934.18[44]
	Underclaimed input VAT		(54,418.28)[45]
	Total		**₱4,597,901.90**[46]

For not being properly substantiated by VAT invoices or official receipts as prescribed under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-2, 4.110-3, 4.110-8, and 4.113-1 of RR No. 16-05, as amended, the above input taxes shall be disallowed.

However, it must be noted that in arriving at the above total input VAT of ₱4,597,901.90, the ICPA deducted the amount of ₱54,418.28 representing petitioner's underclaimed input VAT, *i.e.*, the excess of the input VAT reflected per petitioner's supporting invoices/official receipts over the input VAT shown per petitioner's summary list and VAT Returns. In effect, the deduction of the amount of ₱54,418.28 has reduced the input VAT disallowances and has increased the input VAT which may be refunded. The Court finds such deduction of ₱54,418.28 improper since petitioner cannot be allowed to refund more than what it declared in the VAT Returns.

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Exhibit P-49 Annex	Quarter	Overstatement
5-A17	1st Quarter	₱ 933.48
5-B23	2nd Quarter	1,309.23
5-C22	3rd Quarter	49.16
5-D16	4th Quarter	642.31
		₱ 2,934.18

45

Exhibit P-49 Annex	Quarter	Understatement
5-A17	1st Quarter	₱ (4,410.84)
5-B23	2nd Quarter	(3,306.34)
5-C22	3rd Quarter	(4,440.67)
5-D16	4th Quarter	(42,260.43)
		₱ (54,418.28)

46 Difference of ₱.08 due to rounding off

Likewise, it is erroneous to disallow input taxes which are more than those reflected per summary list/VAT Returns. Thus, the amount of ₱19,880.16, detailed below, representing the excess of the input VAT per supporting VAT invoices/official receipts as found by the ICPA over the input VAT reported per summary list/VAT Returns shall be taken out from the total amount of ₱4,597,901.90:

Exhibit P-49 Annex	Exhibit No.	Supplier	Input VAT per VAT Returns	Input VAT per ICPA Findings	Difference
5-A4, 5A-17	P-66.189	PRO FLIGHTS TRAVEL	₱ 555.10	₱ 555.11	₱ 0.01
5-B16, 5-B23	P-67.388	PLDT	960.00	977.14	17.14
	P-67.389	PLDT	900.00	916.07	16.07
	P-67.392	PLDT	600.00	610.71	10.71
	P-67.393	PLDT	480.00	488.57	8.57
	P-67.394	PLDT	960.00	977.14	17.14
	P-67.395	PLDT	1,080.00	1,099.29	19.29
	P-67.396	PLDT	2,496.00	2,540.57	44.57
	P-67.397	PLDT	160.71	163.58	2.87
	P-67.398	PLDT	160.71	163.58	2.87
	P-67.399	PLDT	160.71	163.59	2.88
	P-67.400	PLDT	160.71	163.58	2.87
	P-67.401	PLDT	160.71	163.58	2.87
5-B10, 5-B23	P-67.268	CENTURY PROPERTIES MGT INC	24,424.54	25,565.87	1,141.33
5-B17, 5-B23	P-67.453	GLOBE TELECOM	380.65	832.54	451.89
5-B17, 5-B23	P-67.454	GLOBE TELECOM	222.69	225.68	2.99
5-C4, 5-C22	P-68.253	PLDT	5,029.20	5,031.06	1.86
5-C10, 5-C22	P-68.281	CENTURY PROPERTIES MGT INC	25,242.54	25,565.87	323.33
5-C17, 5-C22	P-68.428	GLOBE TELECOM	259.00	259.62	0.62
	P-68.431	INSTONE PHILIPPINES INC	50.76	2,106.99	2,056.23
	P-68.434	SIM COMPUTER SALES INC	261.16	375.00	113.84
5-D9, 5-D16	P-69.224	EASTERN TELECOM	2,488.12	3,108.75	620.63
	P-69.189	STARS TRAVEL INC	480.00	830.46	350.46
5-D10, 5-D16	P-69.244	MARSMAN DRYSDALE TRAVEL INC	697,155.49	711,810.84	14,655.35
5-D13, 5-D16	P-69.349	PLDT	7,510.74	7,512.67	1.93
	P-69.350	PLDT	4,974.00	4,975.29	1.29
	P-69.357	PLDT	168.32	168.39	0.07
	P-69.358	PLDT	960.00	968.57	8.57
5-D12, 5-D16	P-69.417	INNOVE COMMUNICATIONS	104.70	106.61	1.91
					₱ 19,880.16

In addition, petitioner's claimed input VAT in the amount of ₱394,540.80, as detailed below, shall also be disallowed for non-compliance with the substantiation requirements as provided by law and revenue regulations:

ICPA REPORT ANNEX	EXHIBIT NO.	SUPPLIER	INVOICE/OR NO.	DATE	INPUT VAT
No description of service indicated in OR					
5-C1	P-68.251	GOLDEN WORLD TRAVEL AND TOURS	0182	8/24/2012	₱ 277.00
5-C1	P-68.252	GOLDEN WORLD TRAVEL AND TOURS	0179	7/26/2012	505.47

5-D1	P-69.167	GOLDEN WORLD TRAVEL AND TOURS	0188	12/21/2012	152.90
				SUBTOTAL	***₱ 935.37***
Overclaimed input VAT					
5-A1	P-66.178	WI-TRIBE TEELCOM	15724-BR1	2/7/2012	₱ 22.93
5-B1	P-67.179	PLDT	PBMOR000938619	6/21/2012	8.57
5-B1	P-67.190	PLDT	PBMOR000938627	6/21/2012	17.14
5-B1	P-67.223	PLDT	PBMOR000938687	6/21/2012	17.14
5-B1	P-67.231	PLDT	PBMOR000938668	6/21/2012	2.87
5-C1	P-68.160	PLDT	PQGOR033778766 PELOR000662374	8/16/2012 8/15/2012	0.01
5-C1	P-68.188	PLDT	PBMOR000957038 PELOR000637529	7/12/2012 7/6/2012	0.01
				SUBTOTAL	***₱ 68.67***
Petitioner's address incomplete and no description of service in OR					
5-C1	P-68.3	BAYANTEL	896734	7/23/2012	₱ 7,135.14
5-C1	P-68.4	BAYANTEL	904850	9/18/2012	7,345.83
5-D1	P-69.1	BAYANTEL	917109	10/23/2012	7,345.83
				SUBTOTAL	***₱ 21,826.80***
Petitioner's address not indicated and VAT not separately shown in OR					
5-B1	P-67.1	CENTURY PROPERTIES MGMT. INC	81462	6/11/2012	₱ 25,715.87
5-C1	P-68.2	TRAVEL HIGH TOURS CORP	0625	7/18/2012	466.80
5-D1	P-69.112	STARS TRAVEL INC	88053A	11/29/2012	5,777.22
5-D16	P-69.112	STARS TRAVEL INC	88053A	11/29/2012	818.38
				SUBTOTAL	***₱ 32,778.27***
Petitioner's address not indicated in OR					
5-A1	P-66.174	CAREER PHILIPPINES SHIPMANAGEMENT INC.	22936	2/28/2012	₱ 1,375.70
5-A1	P-66.175	CLASSIC TRAVELHAUS INC	95158	2/21/2012	550.69
5-A1	P-66.176	PHILIPPINE GLOBAL COMMUNICATIONS INC	12678	2/29/2012	432.01
5-A1	P-66.177	PROFLIGHTS TRAVEL	3547A	2/23/2012	368.26
5-A1	P-66.178	WI-TRIBE TEELCOM	15724-BR1	2/7/2012	1,261.28
5-A1	P-66.179	CAREER PHILIPPINES SHIPMANAGEMENT INC.	22923	2/7/2012	5,295.27
5-A1	P-66.180	PROFLIGHTS TRAVEL	3540A	2/7/2012	1,807.61
5-A1	P-66.181	CLASSIC TRAVELHAUS INC	95401	3/16/2012	257.70
5-A1	P-66.182	RG FINANCIAL SERVICES LTD	0815	3/2/2012	300.00
5-A1	P-66.183	TRAVELEXPERTS INC	0976	3/1/2012	320.91
5-B1	P-67.2	SURE TRAVEL INC	0248	5/23/2012	1,296.84
5-B1	P-67.3	RG FINANCIAL SERVICES LTD	0854	5/31/2012	300.00
5-B1	P-67.4	ROYAL BARGE TRAVEL AND TOURS	5116	4/2/2012	2,655.44
5-B1	P-67.5	CLASSIC TRAVELHAUS INC	95963	4/20/2012	6,225.62
5-B1	P-67.6	BUDGET TRAVEL AND TOURS	77101	6/22/2012	60,717.60
5-B1	P-67.7	CAREER PHILIPPINES SHIPMANAGEMENT INC.	23023	5/18/2012	1,473.17
5-B1	P-67.8	CAREER PHILIPPINES SHIPMANAGEMENT INC.	23001	4/27/2012	818.25
5-B1	P-67.239	INTELLICARE	15734400	5/24/2012	9,009.50
5-B1	P-67.240	INTELLICARE	16014800	6/29/2012	359.49
5-B2	P-67.264	CENTURY PROPERTIES MANAGEMENT INC	81342	5/16/2012	150.00
5-C1	P-68.5	SURE TRAVEL INC	0403	7/13/2012	1,848.61
5-C1	P-68.6	SURE TRAVEL INC	0423	7/24/2012	919.74
5-C1	P-68.7	QUISUMBING TORRES	13972	7/25/2012	5,515.72
5-C1	P-68.8	QUISUMBING TORRES	13973	7/25/2012	53,250.00
5-C1	P-68.9	QUISUMBING TORRES	13974	7/25/2012	1,693.18
5-C1	P-68.10	RG FINANCIAL SERVICES LTD	0896	9/10/2012	300.00
5-C1	P-68.13	CLASSIC TRAVELHAUS INC	96687	9/7/2012	126.90
5-C1	P-68.14	CLASSIC TRAVELHAUS INC	96742	9/14/2012	127.35
5-C1	P-68.15	BUDGET TRAVEL AND TOURS	77327	8/3/2012	264.00
5-C1	P-68.16	CAREER PHILIPPINES SHIPMANAGEMENT INC.	23158	9/27/2012	2,819.81
5-C1	P-68.17	CAREER PHILIPPINES SHIPMANAGEMENT INC.	23125	8/23/2012	2,651.67

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5-C1	P-68.249	INTELLICARE	16157500	7/26/2012	338.71
5-D1	P-69.113	SURE TRAVEL INC	0631	10/10/2012	1,927.79
5-D1	P-69.114	TRAVELEXPERTS INC	1418	10/8/2012	480.00
5-D1	P-69.115	PROFLIGHTS TRAVEL	3635	11/28/2012	40,935.00
5-D1	P-69.116	PROFLIGHTS TRAVEL	3636	11/28/2012	1,894.69
5-D1	P-69.118	SAFARI RENT-A-CAR INC	26005	11/9/2012	3,840.00
5-D1	P-69.119	CAREER PHILIPPINES SHIPMANAGEMENT INC.	23230	11/22/2012	4,897.11
5-D1	P-69.120	CAREER PHILIPPINES SHIPMANAGEMENT INC.	23215	11/6/2012	2,384.98
5-D1	P-69.121	TRAVEL HIGH TOURS CORP	067	12/12/2012	320.79
				SUBTOTAL	***₱ 221,511.39***
Petitioner's address not indicated in sales invoice					
5-C2	P-68.501	SIM COMPUTER SALES INC	27331	7/11/2012	₱ 32,625.00
5-C2	P-68.502	SIM COMPUTER SALES INC	27340	7/13/2012	15,133.93
5-C2	P-68.503	SIM COMPUTER SALES INC	27427	7/31/2012	18,423.21
5-C2	P-68.504	SIM COMPUTER SALES INC	27486	8/17/2012	1,821.43
5-C2	P-68.505	SIM COMPUTER SALES INC	24324	8/24/2012	13,339.29
5-C2	P-68.506	SIM COMPUTER SALES INC	24353	9/17/2012	14,566.07
5-D2	P-69.438	SIM COMPUTER SALES INC	24505	10/11/2012	12,235.71
5-D2	P-69.439	SIM COMPUTER SALES INC	24452	10/4/2012	787.50
5-D3	P-69.440	SIM COMPUTER SALES INC	24377	9/19/2012	155.36
5-D3	P-69.441	SIM COMPUTER SALES INC	24414	9/27/2012	1,173.21
				SUBTOTAL	***₱ 110,260.71***
Petitioner's address and description of service not indicated in OR					
5-D1	P-69.117	ROYAL BARGE TRAVEL AND TOURS	5291	10/22/2012	***₱ 1,662.28***
Petitioner's TIN and address and description of service not indicated in OR					
5-C4	P-68.254	TRAVEL HIGH TOURS CORP	0666	10/12/2012	₱ 320.06
5-D1	P-69.184	SKYCABLE	930640	10/4/2012	278.46
				SUBTOTAL	***₱ 598.52***
Petitioner's TIN not indicated in OR					
5-C1	P-68.164	PLDT	PBMOR000971385 PBMOR000949152	7/31/2012 7/10/2012	₱ 900.00
5-C1	P-68.165	PLDT	PBMOR000971836 PBMOR000949153	7/31/2012 7/10/2012	960.00
5-D1	P-69.165	PLDT	PBMOR001039576	10/1/2012	883.93
5-D1	P-69.166	PLDT	PBMOR001039577	10/1/2012	942.86
				SUBTOTAL	***₱ 3,686.79***
Wrong TIN of petitioner in OR					
5-C1	P-68.1	EASTERN COMMUNICATIONS	EHOCM0000018059	7/25/2012	***₱ 1,212.00***
				TOTAL	**₱ 394,540.80**

In sum, out of petitioner's input VAT claim of ₱5,783,588.16 arising from domestic purchases of services and goods other than capital goods and domestic purchases of capital goods not exceeding ₱1 Million, a total amount of ₱5,026,980.82 shall be disallowed, computed as follows:

Input VAT Not Properly Substantiated Per ICPA Report	₱ 4,597,901.90
Add: Underclaimed Input VAT Erroneously Deducted	54,418.28
Additional Input VAT Not Properly Substantiated per the Court's Verification	394,540.80
Less: Input VAT Disallowed by ICPA in Excess of the Input VAT per Return	19,880.16
Input VAT Not Properly Substantiated Per ICPA Report, As Adjusted	**₱5,026,980.82**

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c) Amortization of input VAT on domestic purchases of capital goods exceeding ₱1 Million

With reference to the claimed ₱708,522.23 amortization of input VAT on domestic purchases of capital goods exceeding ₱1 Million, records show that the amount of ₱680,772.27[47] arose from purchases prior to 2012, while the amount of ₱27,749.96[48] pertains to purchases in May 2012 with the related input VAT of ₱142,714.27[49].

However, petitioner failed to submit before this Court VAT invoices/official receipts in support of its claimed amortization of input tax on purchases prior to 2012 in the amount of ₱680,772.27. As to the claimed ₱27,749.96 amortization of input VAT on May 2012 purchases, the ICPA found that petitioner's TIN was not reflected in the supporting invoices.[50] As such, the entire claimed ₱708,522.23 amortization of input VAT on domestic purchases of capital goods exceeding ₱1 Million must be disallowed.

To recapitulate, out of the ₱6,492,110.39 total input VAT per petitioner's summary list, only the amount of ₱756,607.34 represents petitioner's valid input tax, as computed below:

Input tax per Summary List of Input Taxes:	
Input VAT on domestic purchases of services and goods other than capital goods	₱5,477,047.08
Input VAT on domestic purchases of capital goods not exceeding ₱1Million	306,541.08
Amortization of input VAT on domestic purchases of capital goods exceeding ₱1Million	708,522.23
Total input VAT per Summary List of Input Taxes	₱6,492,110.39
Less: Disallowances	
1) Input VAT on domestic purchases of services and goods other than capital goods and domestic purchases of capital goods not exceeding ₱1Million	₱5,026,980.82

[47] ₱708,522.23 less ₱27,749.96; Exhibit "P-49", Findings and Observations No. 1, p. 22
[48] Monthly amortization of ₱3,964.28 x 7 months (May, July to Dec. 2012); Exhibit "P-49", Findings and Observations No. 1, p. 22
[49] Exhibit "P-49", Findings and Observations No. 3, p. 23
[50] Exhibit "P-49", Annex 6

2) Amortization of input VAT on domestic purchases of capital goods exceeding ₱1Million	708,522.23
Total Disallowances	₱5,735,503.05
Valid Input VAT	**₱756,607.34**

Petitioner's excess input taxes were attributable to its zero-rated sales and remained unutilized in the succeeding quarters.

A portion of the ₱756,607.34 valid input VAT shall be applied against petitioner's reported output VAT liability for the four taxable quarters of 2012 in the amount of ₱412,075.16. Hence, only the remaining input VAT of ₱344,532.18 can be attributed to petitioner's zero-rated sales for taxable year 2012, as shown below:

Valid Input VAT	₱ 756,607.34
Less: Output VAT Due	412,075.16
Excess Input VAT Attributable to Zero-Rated Sales	**₱344,532.18**

Even though the input VAT claimed herein for refund or issuance of TCC amounting to ₱6,080,035.23 was carried over to petitioner's VAT Returns subsequent to December 2012,[51] the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in the November 2014 VAT Return[52]. Thus, it can be ascertained that it will no longer be utilized as credit for any future VAT liability.

WHEREFORE, premises considered, this Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱344,532.18** in favor of petitioner, representing the latter's unutilized excess input VAT attributable to its zero-rated sales of services for the period covering February 1, 2012 to December 31, 2012.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[51] Exhibits "P-64.1" to "P-65.11"
[52] Exhibit "P-65.11", Line 20D

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CERTIFICATION

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

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