REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ROHM ELECTRONICS PHILIPPINES, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5909

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 22 2002

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DECISION

This Petition for Review is seeking for the refund of alleged unutilized input value-added tax (VAT, for brevity) on importation and domestic purchases of goods and services attributable to zero-rated export sales in the amount of P18,960,206.19 (originally in the amount of P45,709,892.97) for the quarter ended March 31, 1998.

The facts as borne out by the records and pleadings of the case are as follows:

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines with office address located at the People's Technology Complex, Carmona, Cavite (*par. 1, Joint Stipulation of Facts & Issues, CTA Records, p. 64*). It is engaged in the business of manufacturing and exporting microchip resistors, capacitors, integrated circuits and other electronic products.

Petitioner is registered with the Bureau of Internal Revenue as a VAT taxpayer with Certificate of Registration bearing RDO Control No. 94-540-000165 dated June 13, 1994 (*Exhibit "D"*). It is likewise registered with the Board of Investments in accordance with the provisions of the Omnibus Investments Code of 1987 enjoying a six-year income tax holiday from the start of its commercial operations (*Exhibits "A", "B" and "C"*).

For the period April 1, 1997 to March 31, 1998, petitioner seasonably filed its quarterly Value-Added Tax Returns (Exhibits "E", "F", "G", and "H"). These VAT returns were simultaneously amended on June 24, 1999 reflecting, among others, a total output VAT in the amount of P20,193.12 with an aggregate input VAT in the sum of P69,211,519.52, and zero-rated export sales of P7,738,538,025.25, detailed as follows:

Period Covered	Exh.	Output VAT	Input Domestic	VAT Importation	Zero-Rated Sales
2nd Qtr. 1997	I, I-1,I-2	P 3,220.40	P 3,901,640.51	P 4,219,638.00	P 1,671,131,740.55
3rd Qtr. 1997	L, L-1, L-2	4,412.91	19,599,985.99	6,689,199.00	1,867,786,505.06
4th Qtr. 1997	O, O-1, O-2	3,726.43	10,131,996.83	5,708,853.00	1,986,165,606.20
1st Qtr. 1998	R, R,-1, R-2	8,833.38	9,756,407.19	9,203,799.00	2,213,454,173.44
Total		P20,193.12	P43,390,030.52	P25,821,489.00	P7,738,538,025.25

Pursuant to BIR Revenue Audit Memorandum Order No. 2-93, petitioner filed on different occasions seven (7) separate Applications for Tax Credit/Refund of Value-Added Tax Paid with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance covering the aforementioned input taxes in the following manner:

Period Covered	Exhibit	Date of Filing	Input VAT Domestic	Credits Importation	Total
2^{nd} Qtr. 1997	U, U-1, U-2	02-16-98	P 3,901,645.57	P 4,209,625.00	P 8,111,270.57
Additional	Y, Y-1 to Y-3	06-25-99		10,013.00	10,013.00
3rd Qtr. 1997	V, V-1, V-2	03-02-98	19,624,863.89	6,034,613.00	25,659,476.89
Additional	Z, Z-1 to Z-3	06-25-99		664,599.00	664,599.00
4th Qtr. 1997	W, W-1 to W-3	04-30-98	10,131,996.83	6,142,794.00	16,274,790.83
Additional	AA, AA-1 to AA-3	06-25-99		230,658.00	230,658.00
1st Qtr. 1998	X, X-1 to X-3	07-16-98	9,756,609.32	9,434,457.00	19,191,066.32
Total			P43,415,115.61	P26,726,759.00	P70,141,874.61

Petitioner anchored its claims for refund on the provisions of Section 112(A) and (B) of the Tax Code, as amended, to quote:

> **Section 112.** *Refunds or tax credits of input tax.* –
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> *(A) Zero-rated or Effectively Zero-rated Sales.* - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided*, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.
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> *(B) Capital Goods.* - A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.
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Finding petitioner's claims for refund meritorious, the Department of Finance subsequently issued tax credit certificates in the amount of P23,501,626.36 (*p. 350, CTA Records*) representing a portion of the input VAT claimed for the second and third quarters of 1997. Hence, the remaining input VAT of petitioner amounted to P45,709,892.97, computed as follows:

Total input VAT per amended returns		
Domestic	P43,390,030.33[1]	
Importation	25,821,489.00	P69,211,519.33
Less: TCCs received		23,501,626.36
Unrefunded input VAT		P45,709,892.97

Since there was no action on the part of the respondent as to the rest of its claim, petitioner was compelled to file the instant petition for review on July 20, 1999 in order to preserve its right to judicially claim for the refund of unutilized input VAT payments.

During the pendency of this case, the Department of Finance again processed, approved and caused the issuance of various tax credit certificates in favor of petitioner (Exhibits CC, BB, EE, III and JJJ). Thus, out of the original claim of petitioner in the amount of P70,141,874.61, petitioner reduced its claim for refund or issuance of a tax credit certificate to P18,960,206.19 representing its unutilized input VAT only for the quarter ended March 31, 1998.

Therefore, what is left for Us to resolve is whether or not petitioner is still entitled to the remaining amount of P18,960,206.19.

As a VAT-registered taxpayer whose sales are zero-rated, petitioner is legally entitled to claim for the refund of its unutilized input VAT attributable to the latter's export sales pursuant to the aforequoted Section 112(A) and (B) of the Tax Code, as amended. Thus, We now determine whether petitioner was able to substantiate its remaining claim.

Due to the voluminous nature of the documents to be presented, petitioner, pursuant to CTA Circular 1-95, as amended, engaged the services of SGV & Company to

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[1]Should be P43,390,030.52.

conduct a special audit and examination of various receipts, invoices and other long accounts relative to the present case. In its amended report dated August 16, 2000, the auditing firm presented to the Court the following findings: (Exhibit "YY")

Exceptions	**Annex**	**1st Quarter 1998**
Purchases of Goods Not Supported by VAT invoices	A1	P 2,598.64
Purchases of Services Not Supported by VAT Official Receipts	A2	17,651.86
Purchases of Goods Supported by Non-VAT Invoices Printed After July 31, 1991	B1	17,525.46
Purchases of Services Supported by Non-VAT Official Receipts Printed After July 31, 1991	B2	3,755.18
Purchases of Services Supported by Non-VAT Official Receipts printed on or before July 31, 1991	C1	1,185.37
Purchases of Services Supported by VAT Official Receipts Issued Not in the Company's Name	E1	60,000.00
Purchases of Goods Supported by Invoices Without BIR Permit	F1	1,726.36
Purchases of Services Supported by Official Receipt Without BIR Permit	F2	436.36
Purchases of Services Outside the Period of Claim	H1	2,130.00
Input Taxes Claimed Without Any Supporting Document	I1	10,494.32
Erroneous Computation of Input Tax on Importation of Goods	J1	8,247.51
Total		**₱ 125,751.06**

After verification of the above report together with the evidence on record, the Court finds the same to be in order and is hereby adopted. It should be noted though that out of the total input taxes in the amount of P19,191,066.32 reflected in the 1997 first quarterly VAT return, only the sum of P18,960,206.00 was verified to have supporting documents. Thus, the excepted input VAT in the amount of P125,751.06 should be deducted against the amount verified of P18,960,206.00.

In sum, petitioner is entitled to the refund of unutilized input VAT for the first quarter of 1998 in the reduced amount of P18,825,621.49, computed as follows:

Input Tax Verified	P18,960,206.00
Less: Exceptions Noted	125,751.06
Properly Supported Input Taxes	P18,834,454.94
Less: Output Tax – First Quarter of 1998	8,833.45
Excess Input VAT	P18,825,621.49

It is also important to note that the input taxes claimed for the first quarter of 1998 in the total amount of P19,191,066.32 (importation and domestic) were already deducted from the accumulated input taxes as of September 30, 1998, as evidenced by the 1998 third quarterly Value-Added Tax (VAT) Return (Exhibits "HH", "HH-1", "HH-2", and "HH-3").

WHEREFORE, in view of the foregoing, the instant petition for review is hereby *PARTIALLY* **GRANTED**. Respondent is **ORDERED to REFUND** or, in the alternative, **ISSUE** a **TAX CREDIT CERTIFICATE** in the amount of P18,825,621.49 in favor of petitioner.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge