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. 6495**
	Members:
	CASTAÑEDA, JR., Chairperson UY, and PALANCA-ENRIQUEZ, JJ.
-versus-	**Promulgated:**
COMMISSIONER OF INTERNAL REVENUE, ***Respondent.***	JAN 0 5 2007

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DECISION

PALANCA-ENRIQUEZ, J.:

Legal Principle Involved

Tax refund is in the nature of tax exemption. Laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority *(Sea Land Service Inc., vs. Court of Appeals, 357 SCRA 444)*. To him, therefore, who claims a refund or exemption from tax payments rests the burden of justifying the exemption by words too plain to be mistaken and too categorical to be misinterpreted *(Commissioner of Internal Revenue vs. Philippine Long Distance Telephone*

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Company, G.R. No. 140230, December 15, 2005). Petitioner has the burden to establish the factual basis of its claim for tax refund *(Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332)*.

THE CASE

This is a Petition for Review filed on June 28, 2002 by Matsushita Business Machine Corporation of the Philippines (hereafter "petitioner"), which seeks the refund or issuance of a tax credit certificate in the amount of P7,136,065.57, representing the alleged unutilized and/or unapplied input VAT for the period covering April 1, 2000 to September 30, 2000.

THE FACTS

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

> "1. Petitioner is a corporation duly organized and existing under and by virtue of Philippine laws, with principal office located at Lot C4 – 10 Carmelray Industrial Park II, Bgy. Punta, Calamba, Laguna;
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> 2. Respondent is the Commissioner of Internal Revenue vested with the authority to act as such, including *inter alia,* the power to decide, approve and grant claims for refunds or tax credits of overpaid internal revenue taxes as provided by law with office address at the BIR National Office Building, Agham Road, Diliman, Quezon City, where he may be served with summons, notices and other legal processes;
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> 3. Petitioner is duly registered with the Bureau of Internal Revenue (BIR) as a Value-Added Tax (VAT)

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> taxpayer with Taxpayer Identification Number (TIN) 004-649-223-000;
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> 4. Petitioner duly filed with the BIR its Quarterly VAT Return for the quarter April 1, 2000 to June 30, 2000;
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> 5. Petitioner duly filed with the BIR its Quarterly VAT Return for the quarter July 1, 2000 to September 30, 2000;
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> 6. Petitioner duly filed with the BIR an application for tax credit and/or refund on August 24, 2001 requesting for the refund of the amount of ₱8,321,089.01 representing unutilized and/or unapplied input VAT for the period April 1, 2000 to September 30, 2000.
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> 7. At the time of the filing of the subject Petition for Review respondent has not acted with finality upon petitioner's claim for refund of the unutilized and/or unapplied input VAT for the period April 1, 2000 to September 30, 2000 in the total amount of ₱7,136,065.57."

On June 28, 2002, petitioner filed the present Petition For Review.

In his Answer, respondent alleged by way of special and affirmative defenses, that the amount of P7,136,065.57 representing alleged unutilized and/or unapplied input VAT for the period covering April 1, 2000 to September 30, 2000 was not properly documented. It is incumbent upon petitioner to show that it has complied with the provisions of *Sections 204 (C) and 229 of the National Internal Revenue Code* (hereafter "NIRC") on the prescriptive period for claiming tax refund/credit. aw

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Petitioner presented Ana Ma. Molano, Elma Guillermo, Jose Fernan Mendoza, and Mary Ann Capuchino, the duly commissioned independent CPA, as witnesses, and documentary evidence.

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

Thereafter, both parties were granted thirty (30) days from August 31, 2005 within which to file their simultaneous memoranda.

Both parties having complied thereto, the case was deemed submitted for decision on December 2, 2005.

THE ISSUES

As stipulated, the following are the issues for the consideration of this Court:

I

WHETHER OR NOT THE UNAPPLIED OR UNUTILIZED CREDITABLE INPUT VAT OF PETITIONER FOR THE PERIOD APRIL 1, 2000 TO SEPTEMBER 30, 2000 ARE SUBSTANTIATED BY DOCUMENTARY EVIDENCE IN THE FORM OF INVOICES AND OFFICIAL RECEIPTS.

II

WHETHER THE UNUTILIZED AND UNAPPLIED CREDITABLE INPUT VAT FOR THE PERIOD APRIL 1, 2000 TO SEPTEMBER 30, 2000 WERE NOT CARRIED-OVER TO THE NEXT SUCCEEDING TAXABLE QUARTER/S AND APPLIED AGAINST ANY OF THE

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OUTPUT VAT LIABILITY OF THE PETITIONER FOR THE SAID PERIOD.

III

WHETHER OR NOT THE GOODS WERE ACTUALLY EXPORTED AND PAID FOR IN ACCEPTABLE FOREIGN CURRENCY.

The foregoing issues raised by both parties boil down to the principal issue of whether or not petitioner is entitled to a tax refund.

THE COURT'S RULING

The petition is partly meritorious.

SEC. 112(A) of the National Internal Revenue Code (hereafter "NIRC") *of 1997, as amended*, provides:

"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 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."

Pursuant to the above provision, in order to be entitled to a refund or tax credit of input VAT payments directly attributable to zero-rated or effectively zero-rated sales, the following requisites must be complied with:

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

As regards the first requisite, petitioner invokes *Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended*, which provides:

"**SEC. 106.** ***Value-Added Tax on Sale of Goods or Properties. -***
"(A) *Rate and Base of Tax.* – x x x

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"(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

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"(a) *Export Sales*. – The term 'export sales' means:

"(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

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Under the aforecited provision, in order for an export sale to qualify as zero-rated, the following requisites must be present:

1.) there was sale and actual shipment of goods from the Philippines to a foreign country;

2.) the sale was made by a VAT registered person;

3.) the sale was paid for in acceptable foreign currency or its equivalent in goods or services; and

4.) the payment was accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (hereafter "BSP").

The fact that Petitioner is a VAT registered entity is not disputed (*Joint Stipulation of Facts & Issues, par. 3*). To prove that it actually generated zero-rated export sales during the period April 1, 2000 to September 30, 2000 and that the foreign currency proceeds thereof were duly accounted for in accordance with the rules and regulations of the BSP, petitioner presented its sales invoices, bills of lading/airway bills, export

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declarations and proofs of inward remittances, Schedule of Export Sales Per Department (*Exhibits "K", "L", "GG-1" to "GG-11", "HH-1-1" to "HH-1-191", "HH-2-1" to "HH-2-155", "HH-3-1" to "HH-3-178", "HH-4-1" to "HH-4-205", "HH-5-1" to "HH-5-248", "HH-6-1" to "HH-6-272" and "II-1-1" to "II-1-74"*), which were verified by the commissioned auditing firm, SGV & Co.

In its final report dated January 14, 2005 (*Exhibit "JJ", page 20*), SGV & Co. noted that the zero-rated sales of P700,443,437.35 reflected in petitioner's "Summary of Export Sales Per Department" for the second and third quarters of 2000 erroneously included sales for the month of May 2000 in the amount of P2,534,281.02. Thus, petitioner's export sales for the period April 1, 2000 to September 30, 2000 amounted only to P697,909,156.33. Moreover, it was noted that the zero-rated sales amount of P315,490,155.98 reflected in petitioner's VAT returns is understated by P382,419,000.35 when compared against the total sales amount of P697,909,156.33 per the "Schedule of Export Sales Per Department". This difference is due to the erroneous presentation by petitioner of its export sales as exempt sales in its third quarter 2000 VAT return (*Exhibit "JJ", page 21*).

In addition, SGV & Co. grouped petitioner's reported exports into the following categories (*Exhibit "JJ", pages 22-26*):

Findings	2nd Quarter 2000	3rd Quarter 2000	Total (Amounts in ₱)	Reference-Annex
1. There are export sales supported by original invoices, original bills of lading/airway bills, original bank remittance certificates/advices and photocopies of export declarations.	257,667,199.71 (page 4)	319,208,680.17 (page 9)	576,875,879.88	Annex 5 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	5,423,059.61 (page 10)	5,962,259.06 (page 10)	11,385,318.67	Annex 5 AA2
3. There are export sales supported by original invoices, original bank remittance certificates/advices, photocopies of bills of lading/airway bills and photocopies of export declarations.	49,885,293.58 (page 12)	12,854,357.23 (page 12)	62,739,650.81	Annex 5 BB1
4. There is an export sale supported by original invoice, original bank remittance certificate/advice and photocopy of bill of lading/airway bill but with no supporting export declaration.	1,373,876.31 (page 13)		1,373,876.31	Annex 5 BB2
5. There are export sales supported by original bills of lading/airway bills, original bank remittance certificates/advices, photocopies of invoices and photocopies of export declarations.		15,496,535.40 (page 14)	15,496,535.40	Annex 5 BB3
6. There is an export sale supported by an original copy of bank remittance certificate, photocopy of invoice, photocopy of bill of lading/airway bill and photocopy of export declaration.		82,608.21 (page 15)	82,608.21	Annex 5 BB4
7. There are export sales supported by original invoices, original bank remittance certficates/advices and photocopies of export declarations but with no supporting bill of lading/airway bill.	617,418.09 (page 16)	146,676.38 (page 16)	764,094.47	Annex 5 CC1
8. There are export sales supported by	1,984,867.49	17,976.40	2,002,843.89	Annex 5

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original bank remittance certificates/ advices, photocopies of invoices and photocopies of export declarations but with no supporting bill of lading/airway bill.	(page 17)	(page 17)		CC2
9. There are export sales supported by original invoices, original bills of lading/airway bills, and photocopies of export declarations but with no supporting bank remittance certificate/advice	498,187.04 (page 18)	28,061,017.86 (page 18)	28,559,204.90	Annex 5 CC3
10. There are export sales supported by original invoices, photocopies of bills of lading/airway bills and photocopies of export declarations but with no supporting bank remittance certificate/advice.	574,526.46 (page 19)	567,716.53 (page 19)	1,142,242.99	Annex 5 CC4
11. There is an export sale supported by an original invoice and photocopy of export declaration but with no supporting bill of lading/airway bill and bank remittance certificate/advice.	-	19,630.47 (page 20)	19,630.47	Annex 5 CC5
12. There is an export sale supported by an original invoice only but with no supporting bank remittance certificate/advice, bill of lading/airway bill and export declaration.	-	1,541.22 (page 21)	1,541.22	Annex 5 CC6
GRAND TOTAL	**318,024,428.29**	**382,418,998.93**	**700,443,427.22**	

Pursuant to *Section 106(A)(2(a)(1) of the NIRC of 1997, as amended, and Revenue Regulations No. 3-88*, any person claiming zero-rated export sales must present at least three documents, to wit:

a) the sales invoice as proof of sale of goods,

b) the export declaration or the bill of lading/airway bill as proof of actual shipment of goods from the Philippines to a foreign country, and

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c) bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services.

In other words, only export sales supported by these documents shall qualify for VAT zero-rating.

In the case at bench, only the claimed export sales in the amounts of P263,090,259.32 and P325,170,939.23, for the second and third quarters of 2000, respectively, or in the sum of P588,261,198.55, as classified by SGV & Co. under categories 1 and 2, can be considered as export sales, subject to zero percent (0%) VAT under *Sec. 106 (A)(2)(a)(1)*, to wit:

Findings	2nd Quarter 2000	3rd Quarter 2000	Total (Amounts in P)
1. There are export sales supported by original invoices, original bills of Lading/airway bills, original bank remittance certificates/advices and photocopies of export declarations.	257,667,199.71	319,208,680.17	576,875,879.88
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	5,423,059.61	5,962,259.06	11,385,318.67
TOTAL:	**263,090,259.32**	**325,170,939.23**	**588,261,198.55**

The rest of petitioner's claimed zero-rated export sales classified by SGV & Co. under categories 3 to 12 amounting to P54,934,168.97

(P318,024,428.29 less P263,090,259.32) for the second quarter and P57,248,059.70 (P382,318,998.93 less P325,170,939.23) for the third quarter of 2000 or in the sum of P112,182,228.68 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 do not have either proof of foreign currency payments (bank remittance certificates/advices) or proof of actual shipment of goods abroad (bills of lading/airway bills/export declarations). 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, taken collectively, are the best means to prove exportation of goods and receipt of the corresponding foreign currency payments. This is a settled rule in this jurisdiction.

Having established that petitioner had zero-rated export sales for the second and third quarters of 2000 in the respective amounts of P263,090,259.32 and P325,170,939.23 totalling P588,261,198.55, We

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now proceed to the second and third requisites of whether or not petitioner incurred input VAT in the amount of P7,136,065.57 which is directly attributable to its zero-rated sales.

In its final and consolidated report dated January 14, 2005 *(Exhibit "JJ", pages 6 –8)* , SGV & Co. compared the figures of total input VAT, as reflected in the Quarterly VAT Returns [P8,491,129.11] (*Exhibits "B" & "C"*), the Summary of Input Tax Refund [P8,321,089.01] (*Exhibit "BB"*), and the Summary of Input VAT per Department [P7,346,018.73] *(Exhibit "CC")* of petitioner. The difference between the figures of the Quarterly VAT Returns and the Summary of Input Tax Refund was due to the application of the input VAT to output VAT, detailed as follows:

Quarterly VAT Returns	P 8,491,149.11
Summary of Input Tax Refund	8,321,089.01
Difference	P 170,060.10
Accounted for as follows:	
Input VAT applied in April	P 45,926.48
Input VAT applied in June	22,841.24
Input VAT applied in August	74,012.38
Unaccounted application of Input VAT	27,280.00
	P 170,060.10

The difference between the Summary of Input Tax Refund and the Summary of Input VAT, per Department, was due to the inclusion of the input VAT for March and an unsupported amount in the former, and also

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due to an overstatement and inclusion of input VAT already applied in the latter, as follows:

Summary of Input Tax Refund	P 8,321,089.01
Summary of Input VAT per Department	7,346,018.73
Difference	P 975,070.28
Accounted for as follows:	
Input VAT for March	P 1,185,023.44
Unsupported amount	123.64
Applied input VAT	(170,060.10)
Overstatement in the per department summary	(40,016.70)
	P 975,070.28

The amount of refund (P7,136,065.57) being claimed by petitioner was derived from the figure on the Summary of Input Tax Refund (P8,321,089.01), minus input VAT for March (P1,185,023.44).

In addition, the commissioned independent CPA examined and verified the supporting documents of petitioner, and accordingly classified petitioner's reported input VAT into the following categories:

Findings	2nd Quarter 2000	3rd Quarter 2000	Total (Amounts in ₱)	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	131,590.02 (page 4)	228,809.10 (page 9)	360,399.12	Annex 4 A1
2. There are input taxes claimed on domestic purchases of services which are supported by VAT ORs (original) issued in the name of the Company and dated within the same VAT-taxable quarter and VAT-taxable year.	264,027.04 (page 12)	267,157.62 (page 15)	531,184.66	Annex 4 A2

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3. There are input taxes claimed on domestic purchases of goods supported by preprinted TIN-V invoices which were printed after July 31, 1991 but before January 1, 1996.	1,154.45 (page 16)	6,382.28 (page 16)	7,536.73	Annex 4 B1
4. There are input taxes claimed on domestic purchases of services supported by preprinted TIN-V ORs which were printed after July 31, 1991 but before January 1, 1996	18,128.38 (page 17)	20,252.64 (page 17)	38,381.02	Annex 4 B2
5. There are input taxes claimed on domestic purchases of goods supported by a document other than a VAT invoice.	-	308.63 (page 18)	308.63	Annex 4 C1
6. There are input taxes claimed on domestic purchases of services supported by a document other than VAT ORs.	40,782.87 (page 19)	290,216.05 (page 20)	330,998.92	Annex 4 C2
7. There are input taxes claimed on domestic purchases of goods supported by VAT invoices which are not original copies.	207.27 (page 21)	850.55 (page 21)	1,057.82	Annex 4 D1
8. There are input taxes claimed on domestic purchases of services supported by VAT ORs which are not original copies.	69,910.66 (page 22)	58,530.56 (page 22)	128,441.22	Annex 4 D2
9. There are input taxes claimed on domestic purchases of services supported by original VAT ORs but were not issued in the name of the Company.	606.80 (page 23)	-	606.80	Annex 4 E
10. There are input taxes claimed on domestic purchases of goods supported by zero-rated VAT invoices.	-	9,942.55 (page 24)	9,942.55	Annex 4 F
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.	13,888.78 (page 25)	-	13,888.78	Annex 4 G1
12. There are input taxes claimed on domestic purchases of services	34,273.62	169,812.83	204,086.45	Annex 4 G2

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supported by VAT ORs not dated within the VAT-taxable quarter **but** within the taxable year.	(page 27)	(page 29)		
13. There are input taxes claimed on domestic purchases of services supported by VAT ORs not dated within the VAT-taxable quarter **and** not within the taxable year.	145.60 (page 30)	-	145.60	Annex 4 G3
14. There are input taxes claimed on domestic purchases of services supported by VAT ORs which are not dated.	22,432.93 (page 31)	89.09 (page 31)	22,522.02	Annex 4 G4
15. There are input taxes claimed on domestic purchases of goods supported by TIN-NV/NON-VAT invoices but stamped with "VAT"/"TIN VAT" or the word "NON" was erased.	396.36 (page 32)	1,350.00 (page 32)	1,746.36	Annex 4 H1
16. There are input taxes claimed on domestic purchases of services supported by TIN-NV/N0N-VAT ORs but stamped with "VAT"/"TIN VAT" or the word "NON" was erased.	168.09 (page 33)	-	168.09	Annex 4 H2
17. There are over-claimed input taxes due to erroneous computation.	6,722.79 (page 34)	8,763.55 (page 34)	15,486.34	Annex 4 I
18. There are input taxes claimed on purchases of vehicles with engine displacement of more than 2000 cc.	-	58,818.18 (page 35)	58,818.18	Annex 4 J
19. There are domestic purchases of service supported by original duplicate VAT ORs.	272,905.30 (page 36)	443,283.29 (page 36)	716,188.59	Annex 4 K
20. There are input taxes claimed on royalty payments made to Matsushita Graphics Communications Systems Inc. (resident of Japan) supported by original Monthly Remittance Return of VAT and other percentage taxes withheld (BIR Form 1600)	1,974,947.07 (page 37)	-	1,974,947.07	Annex 4 L
21. There are input taxes claimed on importation of goods supported by original import entry and internal	519,298.00 (page 38)	-	519,298.00	Annex 4 M1

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revenue declaration (IEIRDs) with original machine validation by the bank.				
22. There are input taxes claimed on imporation of goods supported by photocopied IEIRDs but with original machine validation by the bank.	1,540,160.00 (page 39)	-	1,540,160.00	Annex 4 M2
23. There are input taxes claimed on imporation of goods supported by photocopied IEIRDs with photocopied machine validation by the bank.	428,096.00 (page 40)	353,991.30 (page 40)	782,087.30	Annex 4 M2
24. There are input taxes claimed by the Company which related documents are not available.	-	-	47,725.42	Annex 4 M3
25. There are input taxes claimed by the Company which are not covered by the Petition for Review.	-	-	1,185,023.44	
GRAND TOTAL	**5,339,842.03**	**1,918,558.22**	**8,491,149.11**	

After a careful examination of the report of SGV & Co., the Court finds the same to be in order. Out of the reported input VAT of P8,491,149.11, the amount of P1,185,023.44 representing input VAT payment for March 2000 but reported in the 2000 second quarterly VAT return was not included in the subject claim. Hence, We shall use as reference point the input VAT amount of P7,306,125.67 (P8,491,149.11 less P1,185,023.44).

Of the total amount of P7,306,125.67, only the input taxes of P4,702,927.43 and P939,250.01 for the second and third quarters of 2000, respectively, or in the sum of P5,642,177.44 (under categories 1, 2, 19 to 22) represent petitioner's valid claim, to wit:

Findings	2nd Quarter 2,000.00	3rd Quarter 2,000.00	Total (Amounts in P)
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	131,590.02	228,809.10	360,399.12
2. There are input taxes claimed on domestic purchases of services which are supported by VAT ORs (original) issued in the name of the Company and dated within the same VAT-taxable quarter and VAT-taxable year.	264,027.04	267,157.62	531,184.66
19. There are domestic purchases of service supported by original duplicate VAT ORs.	272,905.30	443,283.29	716,188.59
20. There are input taxes claimed on royalty payments made to Matsushita Graphics Communications Systems Inc. (resident of Japan) supported by original Monthly Remittance Return of VAT and other percentage taxes withheld (BIR Form 1600)	1,974,947.07	-	1,974,947.07
21. There are input taxes claimed on importation of goods supported by original import entry and internal revenue declaration (IEIRDs) with original machine validation by the bank.	519,298.00	-	519,298.00
22. There are input taxes claimed on Imporation of goods supported by photocopied IEIRDs but with original machine validation by the bank.	1,540,160.00	-	1,540,160.00
GRAND TOTAL	**4,702,927.43**	**939,250.01**	**5,642,177.44**

The remaining portion of petitioner's claimed input VAT (under categories 3 to 18 & 23 to 25) in the amount of P1,663,948.23 (P7,306,125.67 less P5,642,177.44) is disallowed for non-compliance

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with the substantiation requirements prescribed under *Section 4.104-5*, in relation to *Section 4.104-1 of Revenue Regulations No. 7-95*.

From the substantiated input VAT of P5,642,177.44, petitioner's reported output VAT liabilities for the second and third quarters of 2000 in the respective amounts of P68,767.72 and P135,392.37 shall be deducted. The resulting net input VAT of P5,438,017.35 shall be further reduced by the amount of input VAT related to petitioner's export sales which We earlier denied zero-rating.

Consequently, out of the input VAT of P5,438,017.35, only the amount of P4,583,654.73 can be attributed to petitioner's zero-rated sales for the second and third quarters of 2000, computed as follows:

Substantiated Zero-Rated Export Sales	P 588,261,198.55
Divided by Total Reported Export Sales	÷ 697,909,156.32
Multiplied by Net Input VAT	x 5,438,017.35
Input VAT Attributable to Zero-Rated Export Sales	**P 4,583,654.73**

As regards the fourth requisite of whether or not the substantiated input VAT of P4,583,654.73 was applied against any output VAT in the succeeding quarters, We rule in the negative. While the input VAT of P4,583,654.73 was carried-over by petitioner in its VAT returns for the fourth quarter of 2000 to the third quarter of 2001, the same formed part of the input VAT of P8,321,089.01, deducted by petitioner as "Any VAT Refund/TCC Claimed" (*Exhibit "X-1"*) from the Total Available Input Tax

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of P37,809,120.92, reflected in its 2001 third quarterly VAT return (*Exhibit "X"*). Hence, the claimed input VAT of P4,583,654.73 was no longer included in the excess input tax of P29,312,414.95, as of the end of the third quarter of 2001, which was to be carried-over to the fourth quarter of 2001. In other words, petitioner could not have possibly utilized or credited against any output tax the claimed amount of P4,567,070.63 in the fourth quarter of 2001 or any succeeding quarter.

As to the fifth requisite, the two-year prescriptive period for the filing of claims for VAT refund is reckoned from the date of filing of the corresponding quarterly VAT returns. The subject claim covers the second and third quarters of 2000 for which petitioner filed its VAT returns on July 25, 2000 (*Exhibit "B"*) and October 25, 2000 (*Exhibit "C"*), respectively. Counting from the said dates, both the administrative claim filed on August 24, 2001 (*Exhibit "D"*) and the present Petition for Review filed with this Court on June 28, 2002 fall within the two-year prescriptive period.

In sum, petitioner has sufficiently proved that it is entitled to a refund or issuance of a tax credit certificate representing unutilized excess input VAT payments for the period April 1, 2000 to September 30, 2000,

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which are directly attributable to its zero rated sales for the same period, but in the reduced amount of P4,583,654.73.

WHEREFORE, foregoing premises considered, the instant Petition For Review is hereby **PARTIALLY GRANTED**. Respondent is hereby **ORDERED to REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **FOUR MILLION FIVE HUNDRED EIGHTY THREE THOUSAND SIX HUNDRED FIFTY FOUR PESOS AND 73/100 (P4,583,654.73),** representing unutilized excess input tax for the period of April 1, 2000 to September 30, 2000.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

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ATTESTATION

I attest 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's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ERNESTO D. ACOSTA
Presiding Justice

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