REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

DÖHLE SHIPMANAGEMENT PHILS. CORP.,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8960

Members:

CASTAÑEDA, JR., *Chairperson, and*
CASANOVA, *JJ.*

Promulgated:
DEC 16 2016
4:05 p.m.

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DECISION

CASTAÑEDA, JR., ***J.:***

THE CASE

This is a Petition for Review[1] filed by Döhle Shipmanagement Phils. Corp. on December 23, 2014 to seek the refund or issuance of tax credit certificate (TCC) in the amount of ₱8,718,593.13, allegedly representing its unapplied input value-added tax (VAT) paid on its domestic purchases of taxable goods and services attributable to its zero-rated sales for calendar year (CY) 2012.

[1] Petition for Review, Docket, Vol. I, pp. 14-26.

THE FACTS

Petitioner Döhle Shipmanagement Phils. Corp. is a corporation duly organized and existing under the laws of the Philippines, with office address at No. 30-38 Sen. Gil Puyat, Brgy. San Isidro, Makati City.[2] It is a duly registered VAT taxpayer with Certificate of Registration No. OCN 9RC0000306674[3] dated January 1, 1996 and Tax Identification No. (TIN) 004-500-132-000[4]. As stated in its Articles of Incorporation, its primary purpose is:[5]

> "To carry on the business of a shipmanager and to act as agents, brokers, ship chandler or representatives of any foreign shipping corporation and individual for the purpose of managing, operating, supervising, administering and developing the operation of vessels belonging to or which are or may be leased or operated by said foreign shipping corporation and individual and, for such purpose, to act as principal in and hire the services of a local manning agent for the overseas employment for seamen and to equip any and all kinds of ships, barges and vessels of every class and description owned by any foreign shipping corporation."

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.

On January 1, 2009, petitioner and Döhle (IOM) Ltd. ("DIOM" for brevity) entered into a Service Agreement[6], which provides that the former will act as Philippine representative for the latter and all its subsidiaries to carry out tasks which the latter will be requesting from time to time.

[2] Exhibit "P-2", Docket, Vol. II, pp. 543-558.
[3] Exhibit "P-11", Docket, Vol. II, p. 574.
[4] Exhibit "P-11-A", Docket, Vol. II, p. 574.
[5] Exhibit "P-2-A", Docket, Vol. II, p. 548.
[6] Exhibit "P-3", Docket, Vol. II, pp. 559-561.

On August 1, 2010, petitioner and DIOM executed Addendum No. 1 to the Service Agreement[7], which provides for additional services to be rendered by the former in favor of the latter.

Petitioner electronically filed its Quarterly VAT Returns for calendar year 2012 on the following dates:[8]

Quarterly VAT Returns	Filing Date
1st Quarter 2012[9]	April 25, 2012
1st Quarter 2012 (first amended)[10]	March 28, 2014
1st Quarter 2012 (second amended)[11]	March 31, 2014
2nd Quarter 2012[12]	July 24, 2012
2nd Quarter 2012 (amended)[13]	March 31, 2014
3rd Quarter 2012[14]	October 19, 2012
3rd Quarter 2012 (amended)[15]	March 31, 2014
4th Quarter 2012[16]	January 24, 2013
4th Quarter 2012 (amended)[17]	March 31, 2014

On March 31, 2014, petitioner filed an application for refund or tax credit of its unutilized and unapplied input VAT covering the four quarters of calendar year 2012.[18] On July 28, 2014, petitioner submitted additional documents in support of its application for refund or issuance of TCC.[19]

There being no action taken by respondent on petitioner's administrative claim for refund or issuance of TCC, petitioner filed the present Petition for Review before this Court on December 23, 2014.

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[7] Exhibit "P-4", Docket, Vol. II, pp. 562-563.
[8] Par. 1, Joint Stipulation, Docket, Vol. I, p. 280.
[9] Exhibit "P-24", Docket, Vol. II, pp. 605-606.
[10] Exhibit "P-25", Docket, Vol. II, pp. 607-608.
[11] Exhibit "P-26", Docket, Vol. II, pp. 609-610.
[12] Exhibit "P-27", Docket, Vol. II, pp. 611-612.
[13] Exhibit "P-28", Docket, Vol. II, pp. 613-614.
[14] Exhibit "P-29", Docket, Vol. II, pp. 615-616.
[15] Exhibit "P-30", Docket, Vol. II, pp. 617-618.
[16] Exhibit "P-31", Docket, Vol. II, pp. 619-620.
[17] Exhibit "P-32", Docket, Vol. II, pp. 621-622.
[18] Exhibits "P-5", "P-6", "P-7", and "P-8", Docket, Vol. II, pp. 564-567.
[19] Par. 2, Joint Stipulation, Docket, Vol. I, p. 281; Exhibits "P-9", "P-10", and "P-10-A", Docket, Vol. II, pp. 566-572.

Respondent filed his Answer[20] through registered mail on February 25, 2015 and received by the Court on March 6, 2015, interposing the following Special and Affirmative Defenses:

> "3. She reiterates and repleads the preceding paragraphs of this answer as part of her Special and Affirmative Defenses;
>
> 4. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable.
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> 5. Petitioner's claim for refund/tax credit in the amount of **Php8,718,593.13**, as alleged unutilized input VAT paid attributable to its zero-rated sales of services for taxable year 2012 were not fully substantiated by proper documents, such [as] sales invoices, official receipts, import documents and other pertinent records.
>
> 6. In an action for refund/credit, the burden of proof is upon petitioner to establish its right to the claimed refund and failure to adduce sufficient proof is fatal to its claim.
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> 7. Petitioner's sales of goods and services to various alleged clients/affiliates do not qualify as zero-rate[d] VAT under Section 108 (B)(2) of the 1997 Tax Code.
>
> 8. The amount subject of the claim for refund/tax credit of petitioner does not pertain in full to its input VAT attributable to its zero-rated sales of services for taxable year 2012.
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> 9. Petitioner failed to comply with the substantiation requirements under Section 113 and 237 of the 1997 Tax Code in relation to Revenue Regulations No. 16-2005.

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[20] Docket, Vol. I, pp. 110-112.

10. Petitioner failed to comply with the conditions/requirements under Section 112(A)(C) (D) of the 1997 Tax Code.

11. Claims for refund are construed strictly against herein petitioner for the same partakes 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 1211***)."

The Pre-Trial Conference[21] was set on April 16, 2015. Respondent's Pre-Trial Brief[22] was filed on April 10, 2015 while petitioner's Pre-Trial Brief[23] was filed on April 13, 2015.

The parties filed their Joint Stipulation[24] on May 4, 2015, which was approved by the Court upon issuance of the Pre-Trial Order[25] on May 7, 2015.

Petitioner filed its Formal Offer of Evidence[26] through registered mail on July 16, 2015 and received by the Court on July 23, 2015, offering Exhibits "P-1", "P-2", "P-2-A", "P-2-B", "P-3", "P-3-A", "P-3-B", "P-4", "P-4-A", "P-4-B", "P-5", "P-5-A", "P-5-B", "P-6", "P-6-A", "P-6-B", "P-7", "P-7-A", "P-7-B", "P-8", "P-8-A", "P-8-B", "P-9", "P-9-A", "P-10", "P-10-A", "P-11", "P-11-A", "P-11-B", "P-11-C", "P-12", "P-13", "P-14", "P-15", "P-16", "P-17", "P-18", "P-19", "P-20", "P-21", "P-22", "P-23", "P-24", "P-25", "P-26", "P-27", "P-28", "P-29", "P-30", "P-31", "P-32", "P-36", "P-36-A", "P-36-B", "P-36-B-1 (inclusive of submarkings)", "P-36-B-2 (inclusive of submarkings)", "P-36-B-3 (inclusive of submarkings)", "P-36-B-4 (inclusive of submarkings)", "P-36-B-5 (inclusive of submarkings)", "P-36-B-6 (inclusive of submarkings)", "P-36-B-7 (inclusive of submarkings)", "P-36-B-8 (inclusive of submarkings)", "P-36-B-9 (inclusive of submarkings)", "P-36-B-10 (inclusive of submarkings)", "P-36-B-11 (inclusive of submarkings)", "P-36-B-12 (inclusive of submarkings)", "P-36-B-13 (inclusive of

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[21] Notice of Pre-Trial Conference, Docket, Vol. I, p. 114.
[22] Docket, Vol. I, pp. 131-133.
[23] Docket, Vol. I, pp. 264-275.
[24] Docket, Vol. I, pp. 280-290.
[25] Docket, Vol. I, pp. 292-297.
[26] Docket, Vol. II, pp. 509-538.

submarkings)", "P-36-B-14 (inclusive of submarkings)", "P-36-B-15 (inclusive of submarkings)", "P-36-B-16 (inclusive of submarkings)", "P-36-B-17 (inclusive of submarkings)", "P-36-B-18 (inclusive of submarkings)", "P-36-B-19 (inclusive of submarkings)", "P-36-B-20 (inclusive of submarkings)", "P-36-B-21 (inclusive of submarkings)", "P-36-B-22 (inclusive of submarkings)", "P-36-B-23 (inclusive of submarkings)", "P-36-B-24 (inclusive of submarkings)", "P-36-C", "P-36-C-1", "P-36-D", "P-36-D-010001" to "P-36-D-010278", "P-36-D-020001" to "P-36-D-020332", "P-36-D-030001" to "P-36-D-030369", "P-36-D-040001" to "P-36-D-040251", "P-36-D-050001" to "P-36-D-050252", "P-36-D-060001" to "P-36-D-060331", "P-36-D-070001" to "P-36-D-070320", "P-36-D-080001" to "P-36-D-080304", "P-36-D-090001" to "P-36-D-090246", "P-36-D-100001" to "P-36-D-100268", "P-36-D-110001" to "P-36-D-110335", "P-36-D-120001" to "P-36-D-120284", "P-36-E", "P-36-E-1", "P-36-F", "P-36-F-1", "P-36-F-2", "P-36-F-3", "P-36-F-4", "P-36-F-5", "P-36-F-6", "P-36-F-7", "P-36-F-8", "P-36-F-9", "P-36-F-10", "P-36-F-11", "P-36-F-12", "P-36-F-13", "P-36-F-14", "P-36-F-15", "P-36-F-16", "P-36-F-17", "P-36-F-18", "P-36-F-19", "P-36-F-20", "P-36-F-21", "P-36-F-22", "P-36-F-23", "P-36-F-24", "P-36-F-25", "P-36-F-26", "P-36-F-27", "P-36-F-28", "P-36-F-29", "P-36-F-30", "P-36-F-31", "P-36-F-32", "P-36-F-33", "P-36-F-34", "P-36-F-35", "P-36-F-36", "P-36-F-37", "P-36-F-38", "P-36-F-39", "P-36-F-40", "P-36-F-41", "P-36-F-42", "P-36-F-43", "P-36-F-44", "P-36-F-45", "P-36-F-46", "P-36-F-47", "P-36-F-48", "P-36-H (inclusive of submarkings)", "P-36-I", "P-36-J", "P-36-J-1 (inclusive of submarkings)", "P-36-J-2 (inclusive of submarkings)", "P-36-J-3 (inclusive of submarkings)", "P-36-J-4 (inclusive of submarkings)", "P-36-J-5 (inclusive of submarkings)", "P-36-J-6 (inclusive of submarkings)", "P-36-J-7 (inclusive of submarkings)", "P-36-J-8 (inclusive of submarkings)", "P-36-K", "P-36-K-1" to "P-36-K-316", "P-36-L", "P-36-L-1" to "P-36-L-78", "P-36-M", "P-37 (inclusive of submarkings)", "P-38 (inclusive of submarkings)", "P-39 (inclusive of submarkings)", "P-40 (inclusive of submarkings)", and "P-41 (inclusive of submarkings)" as its documentary exhibits. Respondent, however, failed to file his comment to petitioner's Formal Offer of Evidence.[27]

During the hearing held on September 9, 2015, respondent manifested that he has no evidence to present in this case.[28]

[27] Records Verification dated August 4, 2015, Docket, Vol. II, p. 624.
[28] Minutes of the hearing dated September 9, 2015, Docket, Vol. II, p. 627.

In the Resolution[29] dated September 9, 2015, the Court admitted Exhibits "P-1", "P-2", "P-2-A", "P-2-B", "P-3", "P-3-A", "P-3-B", "P-4", "P-4-A", "P-4-B", "P-5", "P-5-A", "P-5-B", "P-6", "P-6-A", "P-6-B", "P-7", "P-7-A", "P-7-B", "P-8", "P-8-A", "P-8-B", "P-9", "P-9-A", "P-10", "P-10-A", "P-11", "P-11-A", "P-11-B", "P-11-C", "P-12", "P-13", "P-14", "P-15", "P-16", "P-17", "P-18", "P-19", "P-20", "P-21", "P-22", "P-23", "P-24", "P-25", "P-26", "P-27", "P-28", "P-29", "P-30", "P-31", "P-32", "P-36", "P-36-A", "P-36-B", "P-36-B-1 (inclusive of submarkings)", "P-36-B-2 (inclusive of submarkings)", "P-36-B-3 (inclusive of submarkings)", "P-36-B-4 (inclusive of submarkings)", "P-36-B-5 (inclusive of submarkings)", "P-36-B-6 (inclusive of submarkings)", "P-36-B-7 (inclusive of submarkings)", "P-36-B-8 (inclusive of submarkings)", "P-36-B-9 (inclusive of submarkings)", "P-36-B-10 (inclusive of submarkings)", "P-36-B-11 (inclusive of submarkings)", "P-36-B-12 (inclusive of submarkings)", "P-36-B-13 (inclusive of submarkings)", "P-36-B-14 (inclusive of submarkings)", "P-36-B-15 (inclusive of submarkings)", "P-36-B-16 (inclusive of submarkings)", "P-36-B-17 (inclusive of submarkings)", "P-36-B-18 (inclusive of submarkings)", "P-36-B-19 (inclusive of submarkings)", "P-36-B-20 (inclusive of submarkings)", "P-36-B-21 (inclusive of submarkings)", "P-36-B-22 (inclusive of submarkings)", "P-36-B-23 (inclusive of submarkings)", "P-36-B-24 (inclusive of submarkings)", "P-36-C-1", "P-36-D", "P-36-D-010001" to "P-36-D-010231", "P-36-D-020001" to "P-36-D-020286", "P-36-D-030001" to "P-36-D-030369", "P-36-D-040001" to "P-36-D-040251", "P-36-D-050001" to "P-36-D-050252", "P-36-D-060001" to "P-36-D-060331", "P-36-D-070001" to "P-36-D-070320", "P-36-D-080001" to "P-36-D-080304", "P-36-D-090001" to "P-36-D-090246", "P-36-D-100001" to "P-36-D-100268", "P-36-D-110001" to "P-36-D-110238", "P-36-D-120001" to "P-36-D-120284", "P-36-E", "P-36-E-1", "P-36-F", "P-36-F-1", "P-36-F-2", "P-36-F-3", "P-36-F-4", "P-36-F-5", "P-36-F-6", "P-36-F-7", "P-36-F-8", "P-36-F-9", "P-36-F-10", "P-36-F-11", "P-36-F-12", "P-36-F-13", "P-36-F-14", "P-36-F-15", "P-36-F-16", "P-36-F-17", "P-36-F-18", "P-36-F-19", "P-36-F-20", "P-36-F-21", "P-36-F-22", "P-36-F-23", "P-36-F-24", "P-36-F-25", "P-36-F-26", "P-36-F-27", "P-36-F-28", "P-36-F-29", "P-36-F-30", "P-36-F-31", "P-36-F-32", "P-36-F-33", "P-36-F-34", "P-36-F-35", "P-36-F-36", "P-36-F-37", "P-36-F-38", "P-36-F-39", "P-36-F-40", "P-36-F-41", "P-36-F-42", "P-36-F-43", "P-36-F-44", "P-36-F-45", "P-36-F-46", "P-36-F-47", "P-36-F-48", "P-36-H (inclusive of submarkings)", "P-36-I", "P-36-J", "P-36-J-1 (inclusive of submarkings)", "P-36-J-2 (inclusive of submarkings)", "P-36-J-3 (inclusive of submarkings)", "P-36-J-4 (inclusive of submarkings)", "P-36-J-5 (inclusive of submarkings)", "P-36-J-6

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[29] Docket, Vol. II, pp. 630-632.

(inclusive of submarkings)", "P-36-J-7 (inclusive of submarkings)", "P-36-J-8 (inclusive of submarkings)", "P-36-K", "P-36-K-1" to "P-36-K-316", "P-36-L", "P-36-M", "P-37 (inclusive of submarkings)", "P-38 (inclusive of submarkings)", "P-39 (inclusive of submarkings)", "P-40 (inclusive of submarkings)", and "P-41 (inclusive of submarkings)" as petitioner's documentary exhibits. However, the Court denied the admission of Exhibits "P-36-C", "P-36-L-1" to "P-36-L-78", "P-36-D-010232" to "P-36-D-010278", "P-36-D-020287" to "P-36-D-020332", and "P-36-D-110239" to "P-36-D-110335".

On September 24, 2015, petitioner filed a Motion for Partial Reconsideration of the Resolution dated September 9, 2015 on Petitioner's Formal Offer of Evidence[30], praying, among others, for the admission of Exhibits "P-36-C" and "P-36-L-1" to "P-36-L-78". Respondent failed to file his comment to petitioner's Motion for Partial Reconsideration.[31]

In the Resolution[32] dated December 4, 2015, the Court granted petitioner's Motion for Partial Reconsideration of the Resolution dated September 9, 2015 on Petitioner's Formal Offer of Evidence, and admitted Exhibits "P-36-C" and "P-36-L-1" to "P-36-L-78".

The case was declared submitted for decision on January 18, 2016,[33] considering the filing of the Memorandum for the Respondent[34] on October 9, 2015 and of petitioner's Memorandum[35] on January 7, 2016.

THE ISSUES

The parties submitted the following issues[36] for the Court's resolution:

1. Whether or not Petitioner's sales to Döhle (IOM) Limited ("**DIOM**") during the taxable year 2012

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[30] Docket, Vol. II, pp. 636-640.
[31] Records Verification dated October 28, 2015, Docket, Vol. II, p. 750.
[32] Docket, Vol. II, pp. 752-753.
[33] Resolution dated January 18, 2016, Docket, Vol. II, p. 808.
[34] Docket, Vol. II, pp. 740-747.
[35] Docket, Vol. II, pp. 759-806.
[36] Joint Stipulation, Docket, Vol. I, p. 281.

qualify as zero-rated sales, or are subject to zero percent rate under Section 108(B)(2) of the Tax Code.

2. Whether or not Petitioner is entitled to a refund of or the issuance of tax credit certificate for its unapplied input VAT payments for the period January to December 2012 in the total amount of ₱8,718,593.13, which are directly attributable to its zero-rated sales for the year 2012.

THE COURT'S RULING

Pertinent to the resolution of this case is Section 112(A) and (C) of the National Internal Revenue Code of 1997, as amended (1997 NIRC), quoted hereunder for ready 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 to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108 (B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

xxx xxx xxx

(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Thus, in order to be entitled to a refund or tax credit of excess input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

1. that there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input taxes are attributable to zero-rated or effectively zero-rated sales;
4. that the input taxes were not applied against any output VAT liability; and
5. that the claim for refund was filed within the prescribed period both in the administrative and judicial levels.

The Court shall first determine petitioner's compliance with the fifth requisite which pertains to the timeliness of the filing of the claim.

Pursuant to Section 112(A) of the 1997 NIRC, the application for refund or tax credit of unutilized excess input VAT must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the first quarter to fourth quarter of calendar year 2012, which respectively closed on March 31, 2012, on June 30, 2012, on September 30, 2012, and on December 31, 2012. Counting two years from the said dates, petitioner had until March 31, 2014, June 30, 2014, September 30, 2014, and December 31, 2014, within which to file its administrative claim for refund or issuance of tax credit certificate. Thus, petitioner's administrative claim filed on March 31, 2014 was seasonably filed, as shown below:

CY 2012	**Close of the Taxable Quarter**	**Last Day to File Administrative Claim**	**Date of Filing of Administrative Claim**
1st Quarter	March 31, 2012	March 31, 2014	March 31, 2014[37]
2nd Quarter	June 30, 2012	June 30, 2014	
3rd Quarter	September 30, 2012	September 30, 2014	
4th Quarter	December 31, 2012	December 31, 2014	

On the other hand, Section 112(C) of the 1997 NIRC states the time requirements for filing a judicial claim for the refund or tax credit of input VAT. The legal provision speaks of two periods: the period of 120 days, which serves as a waiting period to give time for the BIR Commissioner to act on the administrative claim for refund or tax credit; and the period of 30 days, which refers to the period for filing a judicial claim with the Court of Tax Appeals.[38]

It must be noted 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.[39]

[37] Exhibits "P-5", "P-6", "P-7", "P-8", and "P-9", inclusive of sub-markings, Docket, Vol. II, pp. 564 to 570 and 573.
[38] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.
[39] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

In this case, petitioner submitted several documents in support of its application for refund on March 31, 2014. On July 28, 2014, or 119 days after filing its application, petitioner submitted additional and complete documents as evidenced by the letter captioned "Annex B".[40]

Applying Section 112(C) of the 1997 NIRC, petitioner's judicial claim for the four quarters of calendar year 2012 was timely filed within the "120+30" day periods, as shown below:

Date of Filing of Administrative Claim	Date of Submission of Complete Documents	End of 120 days	End of 30 days	Date of Filing of Petition for Review
March 31, 2014	July 28, 2014	Nov. 25, 2014	Dec. 25, 2014	Dec. 23, 2014

The Court shall now proceed to discuss the remaining requisites.

Petitioner alleges that it is a VAT-registered entity which rendered services to DIOM, a non-resident foreign corporation engaged in business conducted outside the Philippines; and that it was paid for such services in acceptable foreign currency accounted for in accordance with the rules and regulation of the *Bangko Sentral ng Pilipinas* (BSP). Petitioner submits that the revenues it generated from rendering said services are subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the 1997 NIRC, which reads as follows:

> "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:

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[40] Exhibits "P-10" and "P-10-A", Docket, Vol. II, pp. 571 to 572.

(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.*[41], the Supreme Court held that in order for the sale of services to be VAT zero-rated under Section 108(B)(2) of the 1997 NIRC, 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.

Petitioner satisfied the first and third requisites. It is duly registered with the BIR as a VAT taxpayer with TIN No. 004-500-132-000 per Certificate of Registration No. OCN 9RC0000306674 dated January 1, 1996.[42] Petitioner is likewise licensed by the Securities and Exchange Commission (SEC) to carry on the business of a shipmanager and to set as agents, brokers, ship chandler or representatives of any foreign shipping corporation and individual for the purpose of managing operating, supervising, administering and developing the operation of vessels belonging to or which are or may be leased or

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[41] G.R. No. 153205, January 22, 2007.
[42] Exhibit "P-11", Docket, Vol. II, p. 574.

operated by said foreign shipping corporation and individual and for such purpose, to act as principal in and hire the services of a local manning agent for the overseas employment for seamen and to equip any and all kinds of ships, barges and vessels of every class and description owned by any foreign shipping corporation.[43]

Pursuant to the Service Agreement[44] and Addendum No. 1 to Service Agreement[45] entered into between petitioner and its affiliate-client DIOM, the former shall provide crewing services, commercial and technical representation services to the latter for a period of five (5) years effective January 1, 2009. These services clearly fall within the category of "services other than processing, manufacturing or repacking of goods" contemplated by the afore-mentioned provision.

It was likewise established that petitioner's affiliate-client, DIOM, is a non-resident foreign corporation doing business outside the Philippines as shown by the following documents:

	Exhibit
SEC Certificates of Non-Registration of Company certifying that the following companies are not registered as a corporation or partnership and not licensed and/or authorized to transact or to do business in the Philippines as a corporation or partnership:	
Döhle (IOM) Limited	"P-12"
Doehle (IOM) Limited	"P-13"
Döhle (IOM) Limited	"P-14"
Döhle (IOM) Ltd.	"P-15"
Doehle (IOM) Ltd.	"P-16"
Döhle (IOM) Ltd.	"P-17"
Authenticated Certificate of Incorporation of Midocean Maritime Limited	"P-18"
Authenticated Memorandum of Association of Midocean Maritime Limited with attached Articles of Association	"P-19"
Authenticated Certification of Change of Name of Midocean Maritime Limited to Döhle (IOM) Limited	"P-20"

In relation to the second requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the 1997 NIRC, as implemented by Sections 4.113-

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[43] Exhibits "P-2", "P-2-A", and "P-2-B", Docket, Vol. II, pp. 543 to 558.
[44] Exhibit "P-3", Docket, Vol. II, pp. 559 to 561.
[45] Exhibit "P-4", Docket, Vol. II, pp. 562 to 563.

1(A)(2), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, as amended, provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* – The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:
>
> xxx xxx xxx
>
> (c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;
>
> xxx xxx xxx

(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)*

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

For services rendered to DIOM for the four quarters of CY 2012, petitioner received US dollar payments with peso equivalent of ₱225,805,159.32 as evidenced by the various sales invoices[46] and VAT zero-rated official receipts[47] issued by petitioner to DIOM, and by bank certifications of inward remittances issued by Rizal Commercial Banking Corporation (RCBC)[48] and Metropolitan Bank and Trust Company (Metrobank)[49]; which are summarized as follows:

Exhibit	Invoice No.	Description	Amount in US Dollars	Amount in Philippine Pesos (*Exhs. P-36-I & P-36-M)*	Traced to VAT Zero-Rated Official Receipt	Official Receipt Traced to Bank Certificate issued by
For the month of January						
P-36-L-5	001/12	Crewing Services –Jan. 2012	165,000.00	7,282,110.00	OR No. 0011 (*Exh. P-36-K-1*)	RCBC (*Exh. P-39-a*)
P-36-L-6	002/12ACT	Commercial and Technical Representation - Jan. 2012	270,000.00	11,916,180.00		
P-36-L-10	019/12	Courier Charges - Jan. 2012	2,737.25	117,316.00	OR No. 0012 (*Exh. P-36-K-2*)	RCBC (*Exh. P-39-b*)
		subtotal		*19,315,606.00*		
For the month of February						
P-36-L-7	020/12	Crewing Services -Feb. 2012	165,000.00	7,081,635.00		
P-36-L-8	021/12ACT	Commercial and Technical Representation - Feb. 2012	270,000.00	11,588,130.00		
P-36-L-9	022/12	Advances	3,150.00	135,194.85		
P-36-L-17	046/12ACT	Courier Charges - Feb. 2012	3,896.94	166,457.60	OR No. 0014 (*Exh. P-36-K-4*)	RCBC (*Exh. P-39-c*)
P-36-L-18	047/12ACT	Travel Expenses	92.92	3,969.08		
P-36-L-19	048/12ACT	Travel Expenses	9.41	401.95		
P-36-L-20	049/12ACT	Travel Expenses	111.05	4,743.50		
P-36-L-21	050/12	Advances	3,150.00	134,552.25		
		subtotal		*19,115,084.23*		
For the month of March						
P-36-L-15	051/12	Crewing Services–Mar. 2012	165,000.00	7,049,130.00		

[46] Exhibits "P-36-L-1" to "P-36-L-78", Docket, Vol. II, pp. 644 to 721.
[47] Exhibits "P-36-K-1" to "P-36-K-13".
[48] Exhibit "P-39", inclusive of submarkings.
[49] Exhibit "P-40", inclusive of submarkings.

P-36-L-16	052/12ACT	Commercial and Technical Representation - Mar. 2012	270,000.00	11,534,940.00		
P-36-L-24	074/12ACT	Courier Charges - Mar. 2012	7,026.72	301,741.20		
P-36-L-25	076/12ACT	Travel Expenses	86.77	135,216.90		
P-36-L-26	075/12	Advances	3,150.00	3,708.68		
		subtotal		*19,024,736.78*		
Total for the First Quarter of 2012				**57,455,427.01**	OR No. 0015 (*Exh. P-36-K-5*)	RCBC (*Exh. P-39-d*)
For the month of April						
P-36-L-22	077/12	Crewing Services -Apr. 2012	165,000.00	7,084,110.00		
P-36-L-23	078/12ACT	Commercial and Technical Representation - Apr. 2012	270,000.00	11,592,180.00		
P-36-L-30	106/12ACT	Courier Charges - Apr. 2012	4,389.64	187,262.00		
P-36-L-31	107/12	Advances	3,150.00	134,167.95		
		subtotal		*18,997,719.95*		
For the month of May					OR No. 0016 (*Exh. P-36-K-6*)	RCBC (*Exh. P-39-e*)
P-36-L-28	108/12ACT	Crewing Services -May 2012	165,000.00	6,967,785.00		
P-36-L-29	109/12ACT	Commercial and Technical Representation - May 2012	270,000.00	11,401,830.00		
P-36-L-41	142/12ACT	Courier Charges - May 2012	5,174.50	224,273.00		
P-36-L-42	143/12ACT	Advances	6,300.00	274,528.80		
		subtotal		*18,868,416.80*		
For the month of June						
P-36-L-35	144/12ACT	Crewing Services- June 2012	165,000.00	7,198,950.00	OR No. 0017 (*Exh. P-36-K-7*)	RCBC (*Exh. P-39-f*)
P-36-L-36	145/12ACT	Commercial and Technical Representation - June 2012	270,000.00	11,780,100.00		
P-36-L-37	149/12ACT	Travel Expenses	105.99	4,624.34		
P-36-L-38	147/12ACT	Travel Expenses	54.80	2,390.92		
P-36-L-39	148/12ACT	Travel Expenses	131.95	5,756.98		
P-36-L-40	146/12ACT	Travel Expenses	191.10	8,337.69		
P-36-L-45	178/12ACT	Courier Charges - June 2012	4,922.52	209,222.00		
P-36-L-46	179/12ACT	Advances	3,150.00	133,456.05		
P-36-L-47	183/12ACT	Travel Expenses	73.53	3,136.79		
P-36-L-48	182/12ACT	Travel Expenses	119.08	5,079.95		
		subtotal		*19,351,054.72*		
Total for the Second Quarter of 2012				**57,217,191.47**	OR No. 0018 (*Exh. P-36-K-8*)	Metrobank (*Exh. P-40-a*)
For the month of July						
P-36-L-43	186/12ACT	Crewing Services - July 2012	165,000.00	6,975,540.00		
P-36-L-44	187/12ACT	Commercial and Technical Representation - July 2012	270,000.00	11,414,520.00		
P-36-L-51	217/12ACT	Courier Charges - July 2012	4,298.52	181,152.53		
P-36-L-52	218/12ACT	Advances	3,150.00	132,092.10		
P-36-L-53	219/12ACT	Travel Expenses	129.38	5,425.42		
		subtotal		*18,708,730.05*	OR No. 0019 (*Exh. P-36-K-9*)	RCBC (*Exh. P-39-g*)
For the month of August						
P-36-L-49	220/12ACT	Crewing Services -Aug. 2012	165,000.00	6,902,445.00		
P-36-L-50	221/12ACT	Commercial and Technical Representation - Aug. 2012	270,000.00	11,294,910.00		
P-36-L-56	254/12ACT	Courier Charges - Aug. 2012	1,036.94	43,719.60		RCBC

P-36-L-57	255/12ACT	Advances	3,150.00	132,810.30		(*Exh. P-39-h*)
P-36-L-58	256/12ACT	Travel Expenses	110.09	4,599.89		
		subtotal		*18,378,484.79*	OR No. 0020 (*Exh. P-36-K-10*)	
For the month of September						
P-36-L-54	258/12ACT	Crewing Services-Sept. 2012	165,000.00	6,959,370.00		
P-36-L-55	259/12ACT	Commercial and Technical Representation-Sept. 2012	270,000.00	11,388,060.00		
P-36-L-61	292/12ACT	Courier Charges -Sept. 2012	7,004.43	292,302.00		
P-36-L-62	293/12ACT	Advances	3,150.00	131,452.65		
P-36-L-63	294/12ACT	Travel Expenses	123.65	5,160.04		
P-36-L-64	295/12ACT	Travel Expenses	38.81	1,619.58		
P-36-L-65	296/12ACT	Travel Expenses	130.71	5,454.66		
P-36-L-66	297/12ACT	Travel Expenses	170.56	7,117.64		
P-36-L-67	298/12ACT	Travel Expenses	124.55	5,197.60	OR No. 0021 (*Exh. P-36-K-11*)	Metrobank (*Exh. P-40-b*)
P-36-L-68	299/12ACT	Travel Expenses	289.62	12,086.02		
		subtotal		*18,807,820.19*		
Total for the Third Quarter of 2012				**55,895,035.03**		
For the month of October						
P-36-L-59	301/12ACT	Crewing Services -Oct. 2012	165,000.00	6,886,935.00		
P-36-L-60	302/12ACT	Commercial and Technical Representation -Oct. 2012	270,000.00	11,269,530.00		
P-36-L-71	336/12ACT	Courier Charges -Oct. 2012	6,869.91	283,473.00		
P-36-L-72	337/12ACT	Advances	3,150.00	129,978.45		
P-36-L-73	339/12ACT	Travel Expenses	91.57	3,778.45		
P-36-L-74	338/12ACT	Travel Expenses	85.67	3,535.00	OR No. 0022 (*Exh. P-36-K-12*)	Metrobank (*Exh. P-40-c*)
		subtotal		*18,577,229.90*		
For the month of November						
P-36-L-69	342/12ACT	Crewing Services -Nov. 2012	165,000.00	6,799,320.00		
P-36-L-70	343/12ACT	Commercial and Technical Representation - Nov. 2012	270,000.00	11,126,160.00		
P-36-L-77	383/12ACT	Courier Charges - Nov. 2012	4,605.83	188,429.00		
P-36-L-78	384/12ACT	Advances	6,300.00	257,739.30		
		subtotal		*18,371,648.30*	OR No. 0023 (*Exh. P-36-K-13*)	Metrobank (*Exh. P-40-d*)
For the month of December						
P-36-L-75	387/12ACT	Crewing Services -Dec. 2012	165,000.00	6,746,685.00		
P-36-L-76	388/12ACT	Commercial and Technical Representation - Dec. 2012	270,000.00	11,040,030.00		
-	**417/12ACT**	**Courier Charges - Dec. 2012**		**236,590.00**[50]		
-	**418/12ACT**	**FALK Salaries for Dec. 2012**		**259,509.60**[51]	-	-
-	**419/12ACT**	**FALK Travel Expenses-MOL Generosity**		**4,587.96**[52]		
-	**420/12ACT**	**FALK Travel Recharges MV Adelina**		**1,225.05**[53]		
		subtotal		*18,288,627.61*		

[50] Exhibit "P-36-J-8".
[51] *Id.*
[52] *Id.*
[53] *Id.*

Total for the Fourth Quarter of 2012		**55,237,505.81**	
Total for the Four Quarters of CY 2012		**225,805,159.32[54]**	

However, the Court noted that part of the revenues for the month of December included courier charges, salaries, and travel expenses in the total amount of ₱501,912.61[55] for which petitioner failed to submit the corresponding invoices, VAT zero-rated official receipts, and proof of inward remittance. Hence, the same shall be denied VAT zero-rating.

Accordingly, out of the total amount of ₱225,805,159.32 sales/receipts derived by petitioner from services rendered to DIOM in CY 2012 per the above schedule, only the amount of ₱225,303,246.71 qualifies for VAT zero-rating under Section 108(B)(2) of the 1997 NIRC:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**Total**
Zero-Rated Sales/ Receipts per schedule	₱ 57,455,427.01	₱ 57,217,191.47	₱ 55,895,035.03	₱ 55,237,505.81	₱ 225,805,159.32
Less: Sales/Receipts without sales invoices, VAT zero-rated official receipts and proof of foreign currency remittance	-	-	-	501,912.61	501,912.61
Valid Zero-Rated Sales/Receipts	**₱57,455,427.01**	**₱57,217,191.47**	**₱55,895,035.03**	**₱54,735,593.20**	**₱225,303,246.71**

After resolving that petitioner had VAT zero-rated sales/receipts for the four quarters of CY 2012 in the total amount of ₱225,303,246.71, the Court shall proceed to determine whether

[54] This amount is ₱0.08 lower than the total amount of ₱225,805,159.40 zero-rated receipts reflected per petitioner's 2012 Quarterly VAT Returns:

Exhibit	**Taxable Quarter Covered – CY 2012**	**Amount of Zero-Rated Receipts**
P-26"	First Quarter	₱ 57,455,427.10
"P-28"	Second Quarter	57,217,191.47
"P-30"	Third Quarter	55,895,035.02
"P-32"	Fourth Quarter	55,237,505.81
	Total	**₱225,805,159.40**

[55] Sum of ₱236,590.00, ₱259,509.60, ₱4,587.96, and ₱1,225.05.

petitioner incurred or paid input taxes in connection thereto and if said input taxes were not applied against any output VAT liability of petitioner.

In its Quarterly VAT Returns for the four quarters of CY 2012, petitioner reflected the following input taxes totaling ₱11,595,472.96 arising from its amortization of input VAT on purchases of capital goods exceeding ₱1Million, domestic purchases of capital goods other than capital goods, and domestic purchases of services, broken down as follows:

	1st Quarter *(Exh. "P-26")*	**2nd Quarter** *(Exh. "P-28")*	**3rd Quarter** *(Exh. "P-30")*	**4th Quarter** *(Exh. "P-32")*	**CY 2012**
Input Tax Deferred on Capital Goods exceeding ₱1Million from Previous Quarter	₱ 1,282,772.18	₱ 1,409,857.35	₱ 1,298,891.95	₱ 1,187,926.65	₱ 1,282,772.18
Add:					
Input Tax on Capital Goods exceeding ₱1Million Purchased this Quarter	228,186.97	-	-	-	228,186.97
Total Unamortized Input Tax on Capital Goods exceeding ₱1Million	₱ 1,510,959.15	₱ 1,409,857.35	₱ 1,298,891.95	₱ 1,187,926.65	₱ 1,510,959.15
Less:					
Input Tax on Purchases of Capital Goods exceeding ₱1Million deferred for the succeeding period	1,409,857.35	1,298,892.01	1,187,926.65	1,076,961.30	1,076,961.30
Amortization of Input Tax on Capital Goods exceeding ₱1Million	*₱ 101,101.80*	*₱ 110,965.34*	*₱ 110,965.30*	*₱ 110,965.35*	*₱ 433,997.79*[56]
Add: Input Tax on -					
Domestic Purchases of Goods other than Capital Goods	*339,444.39*	*243,085.35*	*226,879.01*	*211,933.46*	*1,021,342.21*
Domestic Purchases of Services	*1,647,526.09*	*3,067,041.26*	*3,114,838.37*	*2,310,727.24*	*10,140,132.96*
Total	**₱2,088,072.28**	**₱3,421,091.95**	**₱3,452,682.68**	**₱2,633,626.05**	**₱11,595,472.96**

In support of the said input VAT, petitioner presented its Schedule of Input Tax[57], Schedule of Input VAT Deferred[58], Schedule

[56] The difference between ₱1,510,959.15 and ₱1,076,961.30 is ₱433,997.85, which is higher by ₱.06 when compared with ₱433,997.79 representing the sum of ₱101,101.80, ₱110,965.34, ₱110,965.30 and ₱110,965.35. The ₱.06 difference was due to the amount of Input Tax Deferred on Capital Goods exceeding ₱1Million carried over from the second quarter (₱1,298,892.01) to the third quarter (₱1,298,891.95).

[57] Exhibit "P-36-D".

[58] Exhibit "P-36-E".

of PPE Acquired in 2012 with Amortized Input Tax[59], and the related invoices, official receipts, and other documents[60]; which were all examined by the Court-commissioned Independent Certified Public Accountant (CPA), Ms. Myra Celeste O. Dabalos.

After careful scrutiny of the Independent CPA Report[61] and petitioner's supporting documents, the Court finds that out of the ₱1,021,342.21 input VAT claim on domestic purchases of goods other than capital goods and ₱10,140,132.96 input VAT claim on domestic purchases of services totaling ₱11,161,475.17, the amount of ₱1,094,126.24 should be disallowed for not being properly substantiated by VAT invoices or receipts as prescribed under Sections 110(A) and 113(A) and (B) of the 1997 NIRC, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-05, as amended. Below is the breakdown of the disallowed input VAT of ₱1,094,126.24:

Exhibit	Findings	Disallowed Input VAT
P-36-F-11	Input taxes claimed on domestic purchases of services supported by VAT ORs but without OR date	₱ 4,017.60
P-36-F-15	Input taxes claimed on domestic purchases of goods supported by VAT invoices with alterations in the name of the petitioner without counter signature	1,732.62
P-36-F-17	Input taxes claimed on domestic purchases of goods supported by VAT invoices but with correction in the invoice amount without counter signature	9,910.29
P-36-F-18	Input taxes claimed on domestic purchases of services supported by VAT ORs but with correction in the OR amount without counter signature	8,770.72
P-36-F-21	Input taxes claimed on domestic purchases of goods supported by VAT Invoices but the TIN indicated is incorrect and supported by VAT ORs with TIN and address	1,340.92

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59 Exhibit "P-36-E-1".
60 Exhibits "P-36-D-010001" to "P-36-D010278", "P-36-D020001" to "P-36-D-020332", "P-36-D-030001" to "P-36-D-030369", "P-36-D-040001" to "P-36-D-040251", "P-36-D-050001" to "P-36-D-050252", "P-36-D-060001" to "P-36-D-060331", "P-36-D-070001" to "P-36-D-070320", "P-36-D-080001" to "P-36-D-080304", "P-36-D-090001" to "P-36-D-090246", "P-36-D-100001" to "P-36-D-100268", "P-36-D-110001" to "P-36-D-110335", and "P-36-D-120001" to "P-36-D-120284".
61 Exhibit "P-36".

P-36-F-22	Input taxes claimed on domestic purchases of services supported by VAT ORs issued in the name of the petitioner but the TIN of the petitioner indicated is incorrect and supported by VAT Invoices with TIN and address	14,512.42
P-36-F-23	Input taxes claimed on domestic purchases of goods supported by VAT Invoices issued in the petitioner's name but without the petitioner's TIN and/or address and supported by VAT ORs with TIN and address	7,478.36
P-36-F-24	Input taxes claimed on domestic purchases of services supported by VAT ORs issued in the petitioner's name but without the petitioner's TIN and/or address and supported by VAT Invoices with TIN and address	1,578.64
P-36-F-25	Input taxes claimed on domestic purchases of goods supported by VAT invoices not issued in the complete name of the petitioner but with TIN and address of the petitioner	22,462.58
P-36-F-26	Input taxes claimed on domestic purchases of services supported by VAT ORs not issued in the complete name of the petitioner but WITH TIN and address of the petitioner	6,506.11
P-36-F-27	Input taxes claimed on domestic purchases of goods supported by VAT Invoices not issued in the name of the Company but within TIN and address of the Company	3,591.31
P-36-F-28	Input taxes claimed on domestic purchases of services supported by VAT ORs not issued in the name of the petitioner but with TIN and address of the petitioner	3,635.25
P-36-F-29	Input taxes claimed on domestic purchases of goods supported by VAT invoices bearing the incomplete name of the petitioner and without TIN and/or address of the petitioner	2,211.72
P-36-F-30	Input taxes claimed on domestic purchases of goods supported by VAT Invoices not issued in the name/in the complete name of the petitioner (e.g. DÖHLE) and without TIN and/or address of the petitioner	573.18
P-36-F-31	Input tax claimed on domestic purchase of services supported by a VAT OR not issued in the complete name and/or not issued in the name of the petitioner or named after DÖHLE, and without TIN and/or address of the petitioner	621.43
P-36-F-32	Input tax claimed on domestic purchase of goods supported by TIN # only; TIN-V; TAN-V; TAN-VAT; TIN-NV/NON VAT Invoice; stamped/handwritten TIN-V/VAT	139.25

P-36-F-33	Input taxes claimed on domestic purchases of services supported by TIN OR only; OR only; OR with stamped TIN VAT; stamped TIN VAT OR	171,468.16
P-36-F-34	Input tax claimed on domestic purchase of goods supported by tape receipt without the petitioner's name and/or TIN	2,280.27
P-36-F-35	Input tax claimed on domestic purchases of services supported by a VAT ORs issued in the name of the petitioner, but the TIN of the petitioner indicated is incorrect (i.e., Supported by VAT OR or any other document without TIN and/or address)	102,867.97
P-36-F-36	Input tax claimed on domestic purchase of goods supported by a VAT Invoice but not dated within the VAT taxable year	307.50
P-36-F-37	Input taxes claimed on domestic purchases of services supported by VAT ORs not dated within the VAT-taxable year	358,531.85
P-36-F-38	Input taxes claimed on domestic purchases of services supported by VAT ORs. However, the sentence "THIs is not a source of input tax." is printed in the VAT ORs	146,117.86
P-36-F-39	Input taxes claimed on domestic purchases of services supported by VAT ORs without BIR Permit to Print	2,137.29
P-36-F-40	Input taxes claimed on domestic purchases of goods supported by documents other than VAT Invoices	13,265.81
P-36-F-42	Input taxes claimed on domestic purchases of services supported by documents other than VAT ORs	152,613.14
P-36-F-43		720.00
P-36-F-44	Input taxes claimed on domestic purchases of goods and services without supporting documents	32,740.40
P-36-F-45	Over-claimed portion of input taxes on domestic purchases of goods/services due to erroneous computation (i.e, arithmetical error)	20,334.41
P-36-F-46	Over-claimed portion of input taxes arising from forex rates used on foreign currency denominated purchases of goods and services	1,659.18
	Total	**₱ 1,094,126.24**

With regard to the claimed ₱433,997.79 amortization of input VAT on purchases of capital goods exceeding ₱1Million, petitioner's Schedule of Input VAT Deferred[62] shows that said amount arose from calendar years 2008 to 2012 purchases, as follows:

[62] Exhibit "P-36-E".

Particulars	Input VAT	Amortization for the year 2012				
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Purchases for CY 2008						
71 units Dell Optiplex	₱188,893.14	(₱ 2,257.30)	₱ -	₱ -	₱ -	(₱ 2,257.30)
Purchases for CY 2009						
Grandia	208,097.70	10,404.89	10,404.89	10,404.89	10,404.89	41,619.56
Purchases for CY 2010						
Montero	180,000.00	9,000.00	9,000.00	9,000.00	9,000.00	36,000.00
Mitsubishi Fuzion	117,321.43	5,866.07	5,866.07	5,866.07	5,866.07	23,464.28
Purchases for CY 2011						
1 unit Dell LCD	867.86	72.32	72.32	72.32	72.32	289.28
42 units Dell LCD	215,550.00	17,962.50	17,962.50	17,962.50	17,962.50	71,850.00
Typewriter	744.64	62.05	62.05	62.05	62.05	248.20
Computer set	185,217.86	15,434.82	15,434.82	15,434.82	15,434.82	61,739.28
Various Purchases	145,111.63	12,092.64	12,092.64	12,092.64	12,092.64	48,370.56
Davies Car	573,214.29	28,660.71	28,660.71	28,660.71	28,660.71	114,642.84
subtotal		*97,298.70*	*99,556.00*	*99,556.00*	*99,556.00*	*395,966.70*
Purchases for CY 2012						
Furniture Cliff, BSS & CMBP	99,615.54	1,660.26	4,980.78	4,980.78	4,980.78	16,602.60
Roof Deck Furniture	128,571.43	2,142.86	6,428.57	6,428.57	6,428.57	21,428.57
subtotal		*3,803.12*	*11,409.35*	*11,409.35*	*11,409.35*	*38,031.17*
Total		**₱101,101.82**	**₱110,965.35**	**₱110,965.35**	**₱110,965.35**	**₱433,997.87**[63]

However, petitioner failed to submit before this Court VAT invoices/official receipts in support of its claimed amortization of input tax from previous years in the amount of ₱395,966.70. In addition, the sales invoice supporting the purchase of "Furniture Cliff, BSS & CMCP" during the CY 2012 reflects an input VAT of only ₱49,807.77, which is lower than the claimed amount of ₱99,615.54. Consequently, only the properly supported amount of ₱178,379.20 represents petitioner's valid input tax on purchases of capital goods exceeding ₱1Million and only the amount of ₱29,729.87 is creditable for CY 2012, computed as follows:

Payee	Input Tax	Monthly Input Tax Credit	Input Tax Creditable for the Four Quarters of CY 2012
Athens Interior and Design Studio (*Invoice No. 572, dated Feb. 29, 2012, Exhibit P-36-D-030367*)	₱ 49,807.77	₱ 830.13	₱ 8,301.30

[63] Difference of ₱0.08 due to rounding off.

Philippine & Scandinavian Design Filtra Inc. (*Invoice No. 1983, dated Mar. 15, 2012, Exhibit P-36-D-030182*)	128,571.43	2,142.86	21,428.57
Total	**₱178,379.20**	**₱2,972.99**	**₱29,729.87**

In sum, petitioner's properly substantiated input VAT amounted to ₱10,097,078.72, as computed below:

Input VAT per Quarterly VAT Returns arising from:	
Amortization of Input VAT from Purchases of Capital Goods exceeding ₱1Million	₱ 433,997.79
Domestic Purchases of Goods Other than Capital Goods	1,021,342.21
Domestic Purchases of Services	10,140,132.96
Total Input VAT per Quarterly VAT Returns	**₱11,595,472.96**
Less: Disallowances	
a) Input VAT claimed on Domestic Purchases of Goods Other than Capital Goods and Domestic Purchases of Services	₱ 1,094,126.24
b) Claimed Amortization of Input Tax on Purchases of Capital Goods exceeding ₱1Million	
From CYs 2008 to 2011 Purchases	395,966.70
From CY 2012 Purchases	8,301.30
Total Disallowances	**₱ 1,498,394.24**
Properly Substantiated Input VAT	**₱10,097,078.72**

The substantiated input VAT of ₱10,097,078.72 is not entirely attributable to petitioner's declared zero-rated sales/receipts since petitioner had also reported VATable and exempt sales/receipts in its Quarterly VAT Returns for CY 2012 as follows:

	1st Qtr *(Exh. "P-26")*	**2nd Qtr** *(Exh. "P-28")*	**3rd Qtr** *(Exh. "P-30")*	**4th Qtr** *(Exh. "P-32")*	**CY 2012**
VATable Sales/Receipts	₱4,605,702.92	₱ 6,073,353.91	₱6,091,810.92	₱ 7,203,131.47	₱ 23,973,999.22
Zero-Rated Sales/Receipts	57,455,427.10	57,217,191.47	55,895,035.02	55,237,505.81	225,805,159.40
Exempt Sales/Receipts	81,110.75	65,071.48	44,307.67	-	190,489.90
Total Sales/Receipts	₱62,142,240.77	₱63,355,616.86	₱62,031,153.61	₱62,440,637.28	₱249,969,648.52

Allocating the substantiated input VAT of ₱10,097,078.72 based on the percentage of each type of sales/receipts to total sales/receipts would show that the amount of ₱9,120,997.22 is attributable to petitioner's declared zero-rated sales/receipts, while the rest of the input VAT pertains to VATable sales/receipts and exempt sales/receipts, *i.e.*, input VAT attributable to VATable sales/receipts in the amount of ₱968,387.00 and input VAT attributable to exempt sales/receipts in the amount of ₱7,694.50, as shown below:

	Amount	Allocation Factor (Percentage to Total Sales/Receipts)
VATable Sales/Receipts	₱ 23,973,999.22	₱ 9.5907641%
Zero-Rated Sales/Receipts	225,805,159.40	90.3330307%
Exempt Sales/Receipts	190,489.90	0.0762052%
Total Sales/Receipts	₱249,969,648.52	100.0000000%
Properly Substantiated Input VAT		10,097,078.72
Allocated as follows:		
VATable Sales/Receipts		968,387.00
Zero-Rated Sales/Receipts		9,120,997.22
Exempt Sales/Receipts		7,694.50
Total		₱10,097,078.72

After deducting the input VAT attributable to VATable sales in the amount of ₱968,387.00 from petitioner's output VAT liability of ₱2,876,879.91[64], petitioner still has a net output VAT payable of ₱1,908,492.91 for CY 2012, computed as follows:

Output VAT Payable	₱ 2,876,879.91
Less: Input VAT Attributable to VATable sales	968,387.00
Net Output VAT Payable	**₱1,908,492.91**

Thus, by deducting the net amount of ₱1,908,492.91 output VAT payable from its total input VAT attributable to zero-rated sales/receipts of ₱9,120,997.22, petitioner's excess input VAT attributable to zero-rated sales/receipts amounts to ₱7,212,504.31; while the excess input VAT attributable to the properly substantiated

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Exhibit	Taxable Quarter Covered – CY 2012	Output VAT
P-26"	First Quarter	₱ 552,684.35
"P-28"	Second Quarter	728,802.47
"P-30"	Third Quarter	731,017.31
"P-32"	Fourth Quarter	864,375.78
	Total	**₱2,876,879.91**

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zero-rated sales/receipts amounts only to ₱7,196,472.58, computed as follows:

Net Output VAT Payable		₱ 1,908,492.91
Less: Input VAT Attributable to Declared Zero-Rated Sales/Receipts		9,120,997.22
Excess Input VAT Attributable to Declared Zero-Rated Sales/Receipts		₱ 7,212,504.31
Less: Excess Input VAT Attributable to Disallowed Zero-Rated Sales/Receipts		
Disallowed Zero-Rated Sales/Receipts	₱ 501,912.61	
Total Declared Zero-Rated Sales/Receipts	÷ ₱225,805,159.40	16,031.73
Excess Input VAT Attributable to Properly Substantiated Zero-Rated Sales/Receipts		**₱7,196,472.58**

Even though the claimed input VAT was carried over by petitioner in its succeeding Quarterly VAT Returns[65], the same remained unutilized until it was deducted in its Quarterly VAT Return for the first quarter of 2014 as "VAT Refund/TCC claimed"[66] from the total available input tax of ₱14,479,994.98[67]. Thus, the claimed input taxes for the four quarters of CY 2012 could not have been carried over/utilized in the succeeding second quarter of 2014.[68]

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱7,196,472.58** representing unutilized excess input VAT attributable to petitioner's zero-rated sales/receipts for the four quarters of calendar year 2012.

SO ORDERED.

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

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[65] Exhibits "P-36-B-15" to "P-36-B-19".
[66] Exhibit "P-36-B-19-a".
[67] Exhibit "P-36-B-19", line 22.
[68] Exhibit "P-36-B-20".

I CONCUR:

CAESAR A. CASANOVA
Associate Justice

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

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