REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

INTEL PHILIPPINES MANUFACTURING, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. E.B. NO. 209
(C.T.A. CASE NO. 6263)

Present:

ACOSTA, *P.J.*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA, *and*
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:

FEB 2 0 2008 [handwritten signature] 3:05 p.m.

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DECISION

UY, J.:

This is a Petition for Review before the Court of Tax Appeals *En Banc* filed on August 31, 2006 pursuant to Republic Act No. 1125, as amended by Republic Act No. 9282, seeking a review of the denial of petitioner's claim for refund or issuance of tax credit certificate in the Decision dated March 6, 2006, as well as the Resolution dated June 22, 2006, both rendered by the Second Division of this Court (Court in Division)[1] in CTA Case No. 6263 entitled "Intel Philippines Manufacturing, Inc., petitioner, vs. Commissioner of Internal Revenue, respondent".

[1] Ponencia of Associate Justice Juanito C. Castañeda, Jr. and concurred by Associate Justice Erlinda P. Uy and Associate Justice Olga Palanca-Enriquez.

Petitioner's subject claim represents its alleged unutilized excess input value-added taxes (VAT) incurred from domestic purchases of goods and services and importation of goods/capital equipment which are attributable to zero-rated sales for the first quarter of the taxable year 1999 (period from January 1, 1999 to March 31, 1999) in the total amount of P64,457,520.45.

THE FACTS

The antecedent facts, as found by the Court in Division, are as follows:

Petitioner Intel Philippines Manufacturing, Inc. is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at No. 1321 Apolinario St., Bangkal, Makati City. It is primarily engaged in the business of designing, developing, manufacturing and exporting advance and large-scale integrated circuit components, commonly referred to in the industry as Integrated Circuits or "IC's". On the other hand, respondent Commissioner of Internal Revenue is the appointed government official vested with authority to exercise the functions of his office, including, among others, the power to refund any internal revenue tax erroneous or illegally assessed or collected under the National Internal Revenue Code (NIRC) of 1997, as amended, with office address at the BIR National Office Building, Diliman, Quezon City.

Petitioner is registered with the Bureau of Internal Revenue as a VAT taxpayer with Certificate of Registration bearing RDO Control No. 94-048-02621 dated July 6, 1994. It is likewise registered with the Board of Investments as a preferred pioneer enterprise enjoying a six-year income tax holiday in accordance with the provisions of the Omnibus Investments Code and now enjoying the preferential rate of 5%.

For the period January 1, 1999 to March 31, 1999, petitioner seasonably filed its Quarterly Value-Added Tax Return on April 22, 1999 reflecting, among others, output VAT in the amount of P145,316.96, input VAT on domestic purchases and importation of goods in the respective amounts of P20,041,888.41 and P44,560,949.00, and zero-rated export sales in the sum of P929,186,493.91.

On the belief that it is entitled to the refund of input taxes attributable to its recorded zero-rated export sales, petitioner, on August 6, 1999, filed with the One-Stop-Shop Inter Agency Tax Credit and Duty Drawback Center of the Department of Finance (DOF) a Claimant Information Sheet with No. 35420 together with an Application for Tax Credit/Refund of Value-Added Tax Paid covering the following input taxes for the first quarter of 1999:

	Amount
Tax Paid on Imported/Locally Purchased Capital Equipment	P44,560,949.00
Total VAT Paid on Purchases per Invoices Received During the Period for which this Application is Filed	19,896,571.45
Amount of Tax Credit/Refund Applied For	P64,457,520.45

On March 30, 2001, petitioner filed a Petition for Review with the Court in Division in order to toll the running of the two-year prescriptive period provided under Section 229 of the NIRC of 1997.

During the pendency of the trial, petitioner filed on August 26, 2002 a Manifestation[2] stating that it was granted by the DOF a tax credit certificate (TCC) equivalent to fifty percent (50%) of its total claimed input VAT on local purchases (P19,896,571.45) in the amount of P9,948,285.73 covered by Claimant Information Sheet No. 35420. Thus, the Court in Division limited its

[2] Docket, CTA Case No. 6263, pp. 77-80.

review on the remaining balance of the claimed input VAT on domestic purchases of goods and services, and the claimed input VAT on imported or locally imported capital equipment, in the amounts of P9,948,285.72 and P44,560,949.00, respectively.

On March 6, 2006, the Court in Division rendered a decision denying petitioner's claim for refund or issuance of a TCC for its failure to substantiate its claim. Specifically, it ruled that petitioner's export sales invoices are of no probative value in establishing its zero-rated sales for VAT purposes as the same were not duly registered with the Bureau of Internal Revenue and the required information, particularly the BIR authority to print, was likewise not indicated therein, in violation of the provisions of Sections 113, 237 and 238 of the NIRC of 1997. Consequently, the remaining input VAT on local purchases of goods and services attributable thereto in the amount of P9,948,285.73 was not granted.

With regard to the denial of claimed amount of P44,560,949.00 allegedly representing petitioner's input VAT paid on imported capital equipment, the Court in Division held that:

> "However, petitioner failed to comply with equally significant second requisite that the payment of input taxes on capital goods must be duly supported by VAT invoices and official receipts.
>
> It should be noted that petitioner is claiming input VAT on imported capital equipment. Hence, it must present duly machine validated Import Entry Revenue Declarations or Bureau of Customs official receipts or any other document proving actual payment of VAT on the imported goods as required in the afore-quoted Section 4.104-5 of Revenue Regulations (R.R.) No. 7-95. Lamentably, such documents were never presented. Neither did petitioner submit any evidence to prove that the subject imported capital equipment qualify as capital goods pursuant to Section 4.106-1(b) of R.R. No. 7-95.

> Without these documents, petitioner's claimed input VAT payment in the amount of P44,560,949.00 cannot be granted. Moreover, what was presented to prove payment of input VAT on importation of capital equipment was the 1999 first quarterly VAT return which carry no probative value in establishing actual payment (Exhibit D-3). The required evidence is the import entry or other equivalent document."[3]

On March 28, 2006, petitioner filed its Motion for Reconsideration seeking reconsideration of the aforesaid Decision. Subsequently, the Court in Division denied the said Motion in its Resolution[4] dated June 22, 2006 for lack of merit.

Hence, this recourse before the Court *En Banc* praying that the Decision and Resolution dated March 6, 2006 and June 22, 2006, respectively, be reconsidered and set aside, and a new one be issued granting petitioner's claim for refund/issuance of a TCC in its favor in the amount of P64,457,520.45 representing its excess and unutilized input VAT incurred which are attributable to its zero-rated sales for the first quarter of the taxable year 1999.

THE ASSIGNED ERROR

Petitioner points out the sole assigned error, to wit:

> "The Second Division of the Honorable Court of Tax Appeals erred in denying petitioner's claim for refund/issuance of TCC of its excess and unutilized input VAT in the amount of Php64,457,520.45 for the first quarter of 1999 for alleged failure to comply with invoicing requirements under the Tax Code".

In support of its Petition for Review, petitioner presents the following arguments:

> a. "There is no law requiring the imprinting of respondent Bureau's authority to print (ATP) on sales invoices.

[3] Docket, CTA EB Case No. 209, pp. 37-38.
[4] Ibid., at pp. 73-74.

Neither is the failure to imprint penalized by any law or statute such that the invoices are rendered inadmissible in evidence";

b. "Petitioner had proven by more than sufficient and competent evidence that its input VAT paid on domestic importation of goods/capital equipment were all attributable to its zero-rated sales"; and

c. "Petitioner's claim for refund of its unutilized input VAT for the first quarter of 1999 is duly substantiated/supported by documentary evidence".

THE ISSUES

From the foregoing arguments, the issues for the consideration of the Court *En Banc* may be summarized as follows:

(1) Whether or not the absence of the BIR authority to print in petitioner's export sales invoices operates to forfeit its entitlement to a tax refund / credit of its unutilized input VAT attributable to its zero-rated sales;

(2) Whether or not the petitioner has fully substantiated, by VAT invoices and official receipts, its claim for refund or issuance of tax credit certificate for its input VAT on imported / locally purchased capital equipment; and

(3) Whether or not petitioner's creditable input taxes due or paid attributable to its zero-rated sales or input taxes paid on capital goods imported or locally purchased have not been applied against output taxes pursuant to Section 112 (A) and (B) of the NIRC of 1997.

On October 9, 2006, this Court issued a Resolution requiring respondent to file a Comment to the instant Petition for Review. However, upon the expiration of the given period, respondent failed to file the same.

In a Resolution dated November 24, 2006, the parties were required to submit their respective memorandum within the period of thirty (30) days from notice.

After petitioner filed its Memorandum on January 5, 2007, this case was deemed submitted for decision on February 21, 2007 sans respondent's memorandum.

Hence, this Decision.

THE COURT EN BANC'S RULING

The pertinent provisions of the NIRC of 1997 in claiming for refund or issuance of a tax credit certificate for input taxes arising from domestic purchases of taxable goods and services and importation of goods/capital equipment, is Section 112 (A) and (B), which provides:

> "**Section 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.
>
> (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."

Based on the above-cited provisions, a taxpayer engaged in zero-rated or effectively zero-rated transactions may apply for a refund or issuance of a tax credit certificate for input taxes paid attributable thereto if the following requisites are complied with: (1) the taxpayer is engaged in sales which are zero-rated (like export sales) or effectively zero-rated; (2) the taxpayer is VAT-registered; (3) the claim must be filed within two years after the close of the taxable quarter when such sales were made; (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax; and (5) in case of zero-rated sales under Section 106(A)(2)(a)(1) and (2), Section 106(B), and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with BSP rules and regulations.[5]

To substantiate its claim and prove that it was engaged in export sales, petitioner presented its computer generated export sales invoices and other various documents to prove actual exportation of goods like certification of inward remittance, export declarations and airway bills, all covering the First quarter of 1999. However, the Court in Division found no probative value of petitioner's subject export sales invoices as they are not deemed duly registered VAT sales invoices, and that the same failed to reflect the BIR authority to print in violation of Section 113 in relation to Section 237 of the NIRC of 1997, as well as the related requirements under Revenue Regulation 7-95 entitled Consolidated Value-Added Tax Regulation.

[5] Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 166732, April 27, 2007, 522 SCRA 657.

Petitioner asserts that there is no legal basis in requiring the imprinting of the BIR authority to print number on its export sales invoices. It explained that there is allegedly nothing under the aforesaid tax provisions which states that absence of such information on the face of the official receipts or export sales invoices invalidates the same for purposes of proving the zero-rated export sales.

Moreover, petitioner stresses that its use of the computer generated export sales invoices is under the authority of the permit secured from no less than the respondent's bureau in a letter dated May 27, 1988, signed by the Regional Director of Revenue Region No. 4-B-2, Perfecto T. Domingo. The use of computer generated sales invoices finds support in Revenue Memorandum Order No. 21-00, pertinent portion of which states that:

> "Taxpayer requesting approval for a Computerized Books of Accounts with Computer-Generated Accounting Records, whether the accounting system to be used is off-the-shelf or customized, need not apply for an Authority to Print (ATP) invoices and receipts. The Permit to Adopt Computerized Accounting System shall include the Authority to Print (ATP) for the underlying accounting records (e.g., official receipts, sales and cash invoices, cash vouchers, journal vouchers, billing statements, sales tickets, as the case may be). However, taxpayer requesting approval for a Computerized Books of Accounts without Computer-Generated Accounting Records shall need an ATP for their official receipts, invoices and the like."

After careful evaluation of the records and thorough consideration of petitioner's allegations and arguments raised in the instant petition, and in line with the decision of the Supreme Court in ***Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue***,[6] the Court *En Banc* finds it

[6] Ibid.

necessary to review, and if needed, to recompute, petitioner's supporting sales invoices and other documentary evidence.

In the said ***Intel Technology Philippines*** case, the Supreme Court clarified the issue as to whether or not the provision of Section 113, in relation to Section 237 of the NIRC of 1997, was violated by reason of petitioner's failure to indicate the BIR Authority to Print on its sales invoices in the following manner:

> "It is clear from the foregoing *(pertaining to Sections 113, 237 and 238 of the NIRC of 1997, Section 4.108-1 of RR 7-95 and Section 19d of RR 2-90)* that **while entities engaged in business are required to secure from the BIR an authority to print receipts or invoices and to issue duly registered receipts or invoices, it is not required that the BIR authority to print be reflected or indicated therein**. Only the following items are required to be indicated in the receipts or invoices: (1) a statement that the seller is a VAT-registered entity followed by its TIN-V; (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; (3) date of the transaction; (4) quantity of merchandise; (5) unit cost; (6) description of merchandise or nature of service; (7) the name, business style, if any, and address of the purchaser, customer or client in the case of sales, receipt or transfers in the amount of ₱100.00 or more, or regardless of the amount, where the sale or transfer is made by a person liable to VAT to another person also liable to VAT, or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees; and (8) the TIN of the purchaser where the purchaser is a VAT-registered person.
>
> xxx xxx xxx
>
> It bears reiterating that while the pertinent provisions of the Tax Code and the rules and regulations implementing them require entities engaged in business to secure a BIR authority to print invoices or receipts and to issue duly registered invoices or receipts, **it is not specifically required that the BIR authority to print be reflected or indicated therein. Indeed, what is important with respect to the BIR authority to print is that it has been secured or obtained by the taxpayer, and that**

invoices or receipts are duly registered (*Emphasis and underscoring Ours*)."[7]

As gleaned from the foregoing jurisprudence, although entities engaged in business are required to secure from the BIR an authority to print receipts or invoices, and to issue duly registered receipts or invoices, it is not necessary that the BIR authority to print be reflected or indicated therein. It is sufficient that the BIR authority to print has been secured or obtained by the taxpayer, and that invoices or receipts are duly registered.

In view of the foregoing discussion and jurisprudential pronouncement, the invalidation of petitioner's sales invoices submitted in support of its claim for refund/tax credit by the Court in Division in the instant case must be set aside.

Correspondingly, it becomes essential to re-examine and re-evaluate petitioner's documentary substantiation of its input VAT paid, consisting of the subject sales invoices.

Upon perusal of said sales invoices, the Court *En Banc* was able to determine that out of the P929,186,493.91 declared zero-rated sales, only P483,014,584.74 is fully substantiated, details of which are as follows:

Exh.	Date	Invoice No.	Sales (USD)	Exchange Rate[8]	Sales (PhP)
N33-N35	2-Jan-99	3851	2,328.19		
N55-N57	5-Jan-99	3855	2,059.40		
N65-N67	7-Jan-99	3859	948.00		
N68-N70	13-Jan-99	3859a	355,132.56		
N88-N90	9-Jan-99	3866	2,328.19		
N117-N119	11-Jan-99	3879	83,216.26		
N120-N122	11-Jan-99	3880	205,215.00		
N123-N125	12-Jan-99	3881	431,005.56		
N126-N128	14-Jan-99	3882	1,079,276.27		
N157-N159	16-Jan-99	3893	397,768.69		

[7] Id.
[8] Exhibit N4.

N169-N171	19-Jan-99	3901	743,330.61		
N194-N196	21-Jan-99	3906	2,053.30		
N212-N214	22-Jan-99	3912	936,634.50		
N215-N217	22-Jan-99	3913	81,675.00		
N218-N220	23-Jan-99	3914	2,680.50		
N258-N260	25-Jan-99	3930	449,421.18		
N264-N266	26-Jan-99	3932	465,823.80		
N267-N269	27-Jan-99	3933	16,130.33		
N270-N272	27-Jan-99	3934	360,466.47		
N273-N275	28-Jan-99	3935	1,357,779.28		
N276-N278	28-Jan-99	3936	1,580.00		
N294-N296	30-Jan-99	3942	36,240.00		
N297-N299	30-Jan-99	3943	46,030.33		
Sub-total – January			*7,059,123.42*	38.65	272,835,120.18
N321-N323	2-Feb-99	3953	53,688.23		
N330-N332	4-Feb-99	3956	1,256,046.55		
N333-N335	4-Feb-99	3957	1,737.70		
N336-N338	5-Feb-99	3958	22,482.00		
N366-N368	8-Feb-99	3973	53,688.23		
N369-N371	8-Feb-99	3974	50,737.05		
N375-N377	9-Feb-99	3976	97,598.00		
N378-N380	9-Feb-99	3977	5,583.00		
N380-N382	9-Feb-99	3978	2,126.70		
N389-N391	11-Feb-99	3981	4,626.05		
N392-N394	11-Feb-99	3982	1,760.34		
N395-N397	12-Feb-99	3983	1,853.30		
N426-N428	17-Feb-99	4000	657,916.67		
N455-N457	23-Feb-99	4015	18,430.33		
N458-N460	27-Feb-99	4016	21,022.00		
Sub-total – February			*2,249,296.15*	38.62	86,867,817.31
N496-N498	2-Mar-99	4032	1,947.00		
N505-N507	4-Mar-99	4035	1,143.99		
N508-N510	5-Mar-99	4036	1,403.42		
N511-N513	5-Mar-99	4037	577,416.67		
N551-N553	8-Mar-99	4051	1,021,924.68		
N554-N556	10-Mar-99	4052	1,060.55		
N557-N559	12-Mar-99	4053	1,063,364.94		
N560-N562	18-Mar-99	4054	33,734.16		
N619-N620	16-Mar-99	4077	39,138.89		
N621-N623	17-Mar-99	4078	5,050.00		
N624-N626	18-Mar-99	4079	2,463.96		
N656-N658	26-Mar-99	4097	418,438.00		
N659-N660	25-Mar-99	4098	1,250.00		
Sub-total – March			*3,168,336.26*	38.92	123,311,647.24
		TOTAL	**12,476,755.83**		**483,014,584.74**

Moreover, invoices that do not bear the word "zero-rated",[9] those not supported by airway bills and export documents, and those pertaining to export sales outside the period of the subject claim,[10] are disallowed. Therefore, only the portion of the input VAT claimed attributable to the said sales will be considered for refund. The rate to be applied is based on the volume of sales and is computed as follows:

Substantiated zero-rated sales	**P 483,014,584.74**
Divided by declared zero-rated sales	P 929,186,493.91
Rate of supported zero-rated sales	**51.98%**

Although this Court now rules that a portion of petitioner's reported export sales are qualified to be subject to zero percent (0%) under Section 106(A)(2)(a)(1) of the NIRC of 1997 and its claim for refund or tax credit have zero-rated sales to be attributed with, there is still a need to properly substantiate its unutilized input VAT for the First quarter of 1999, through documentary evidence, in order for petitioner's claim to prosper.

Substantiation of input VAT is necessary in order to ascertain that what will be refunded to the petitioner are only those taxes that have actually been remitted and paid to the Government, in accordance with the requirements of

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[9] See Mirant (Navotas II) Corporation (Formerly: Southern Energy Navotas II Power, Inc) vs. Commissioner of Internal Revenue, CTA EB No. 226, September 11, 2007; Southern Philippines Power Corporation vs. Commissioner of Internal Revenue, CTA EB No. 214, July 31, 2007; Panasonic Communications Imaging Corporation of the Philippines, (formerly, MATSUSHITA BUSINESS MACHINE CORPORATION OF THE PHILIPPINES) vs. Commissioner of Internal Revenue, CTA EB No. 239, May 23, 2007; Kepco Philippines Corporation vs. Commissioner of Internal Revenue, CTA EB No. 186, May 17, 2007; Kepco Philippines Corporation vs. Commissioner of Internal Revenue, CTA EB No. 174, May 9, 2007; Applied Food Ingredients Co., Inc. vs. Commissioner of Internal Revenue, CTA EB No. 220, May 7, 2007; Intel Technology Philippines Inc. vs. Commissioner of Internal Revenue, CTA EB No. 181, March 27, 2007; and J.R.A. Philippines Inc. vs. Commissioner of Internal Revenue, CTA EB No. 128, January 15, 2007.

[10] CTA Case Nos. 6368 and 6480, December 15, 2004, cited in the cases of Mirant (Navotas II) Corporation (formerly Southern Energy Navotas II Power, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6418, April 11, 2006 (Entry of Judgment dated September 14, 2006) and Takenaka Corp. Phil. Branch vs. Commissioner of Internal Revenue, CTA Case No. 6752, January 2, 2007 (Entry of Judgment dated February 16, 2007).

the law and also, to determine whether or not such input VAT has been utilized by the petitioner in the succeeding quarters.

Records reveal that the input VAT refund being claimed by petitioner in the amount of P64,457,520,45 is composed of the input VAT on domestic purchases of goods and services in the amount of P19,896,571.45 and input VAT on importation of capital goods/equipment in the amount of P44,560,949.00.

A review and validation made by the Court-commissioned independent certified public accountant (ICPA), as contained in her Final Report and Supplemental Final Report dated September 12, 2003 and January 22, 2004, respectively,[11] reveal that out of petitioner's claimed input VAT on domestic purchases of goods and services in the amount of P19,896,571.45, the amount of P3,092,801.84 should be disallowed due to the following reasons:

Exception A	Missing Invoices and Official Receipts	P 2,657,606.44
Exception B	Purchases with No Official Receipts	195,126.46
Exception C	Claimant is Not the Actual Buyer	208,489.28
Exception D	Incorrect Computation of Input VAT	31,579.66
	Total	**P 3,092,801.84**

However, upon further verification of the aforesaid ICPA Reports[12] and petitioner's supporting documents, this Court rules that the amount of P2,101,718.23 should be further deducted from petitioner's claimed input VAT, based on the following reasons:

	Supplier	Exhibit No.	Claimed Input VAT
1.)	***Without supporting documents***		
	ALEJA BLOWER CORPORATION		P 24,545.46
	ALEJA BLOWER CORPORATION		8,181.82
	INPAM INC.		33,004.80

[11] Exhibits T and Y.
[12] Ibid.

JUNNA INDUSTRIAL CORP.		106,343.28
NCR CORPORATION (PHILIPPINES)		71,896.76
NCR CORPORATION (PHILIPPINES)		179,823.39
NCR CORPORATION (PHILIPPINES)		70,419.90
NCR CORPORATION (PHILIPPINES)		177,123.33
NCR CORPORATION (PHILIPPINES)		64,396.94
NCR CORPORATION (PHILIPPINES)		6,000.00
OLIVE MAINTENANCE SERVICES		121,202.55
OLIVE MAINTENANCE SERVICES		34,190.10
Sub-Total		P 897,128.33

2.) ***Invoices or Official Receipts with TIN-V only and not TIN-VAT***

CYTRONICS INTERNATIONAL, INC.	M-698	P 16,400.00
EARVIN CONSTRUCTION	M-1133	8,181.82
EARVIN CONSTRUCTION	M-1135	18,600.00
ENVIRONMENTAL SYSTEMS SPECIALISTS	M-1358	28,865.45
ENVIRONMENTAL SYSTEMS SPECIALISTS	M-1359	109,090.91
EOL SUPPLIES & SERVICES	M-1360	15,909.09
EOL SUPPLIES & SERVICES	M-1361	1,688.18
EOL SUPPLIES & SERVICES	M-1362	1,151.73
EOL SUPPLIES & SERVICES	M-1363	30,676.98
EOL SUPPLIES & SERVICES	M-1364	3,331.91
EOL SUPPLIES & SERVICES	M-1365	1,620.36
EOL SUPPLIES & SERVICES	M-1366	4,727.27
EOL SUPPLIES & SERVICES	M-1367	10,440.55
FOLGUERAS MARKETING	M-1438	5,818.18
FOLGUERAS MARKETING	M-1439	5,818.18
FOLGUERAS MARKETING	M-1440	23,409.09
FOLGUERAS MARKETING	M-1441	3,636.36
FOLGUERAS MARKETING	M-1442	3,225.00
FOLGUERAS MARKETING	M-1443	5,800.00
FOLGUERAS MARKETING	M-1444	1,800.00
FOLGUERAS MARKETING	M-1445	829.09
FOLGUERAS MARKETING	M-1446	6,012.81
FOLGUERAS MARKETING	M-1447	818.18
GRAJM ENGINEERING	M-1735	377.27
GRAJM ENGINEERING	M-1736	990.91
GRAJM ENGINEERING	M-1737	25,445.45
R.C.F. CONTRACTOR SERVICES	M-3875	13,090.00
R.C.F. CONTRACTOR SERVICES	M-3876	2,000.00
R.C.F. CONTRACTOR SERVICES	M-3203	24,545.45
R.C.F. CONTRACTOR SERVICES	M-3204	2,727.27
R.C.F. CONTRACTOR SERVICES	M-3204	32,727.27
R.C.F. CONTRACTOR SERVICES	M-3205	4,909.09
R.C.F. CONTRACTOR SERVICES	M-3205	7,909.10
R.C.F. CONTRACTOR SERVICES	M-3206	9,727.27
R.C.F. CONTRACTOR SERVICES	M-3207	16,363.64
R.C.F. CONTRACTOR SERVICES	M-3208	1,363.64
R.C.F. CONTRACTOR SERVICES	M-3209	4,181.82
ROADSTAR ENTERPRISES	M-3230	113,684.22
Sub-Total		P 567,893.54

3.)	***Invoices or Official Receipts Dated Outside the Period of Claim***		
	ATLAS LIFTING SERVICES, INC.	M-510	P 20,272.70
	AUTOMATED TOOL FABRICATION RESOURCES	M-544	16,620.00
	AUTOMATED TOOL FABRICATION RESOURCES	M-545	11,400.00
	AUTOMATED TOOL FABRICATION RESOURCES	M-547	21,660.00
	CONSOLIDATED INDUSTRIAL GASES, INC.	M-692	13,449.68
	CONSOLIDATED INDUSTRIAL GASES, INC.	M-721	73,923.10
	CONSOLIDATED INDUSTRIAL GASES, INC.	M-722	67,842.98
	CONSOLIDATED INDUSTRIAL GASES, INC.	M-723	59,414.90
	CONSOLIDATED INDUSTRIAL GASES, INC.	M-724	67,803.93
	CONSOLIDATED INDUSTRIAL GASES, INC.	M-725	59,042.87
	ECO-TRIANGLE TECHNOLOGIES, INC.	M-1148	13,660.01
	ECO-TRIANGLE TECHNOLOGIES, INC.	M-1149	7,394.20
	SM EQUICOM COMPUTER SERVICES, INC.	M-3384	17,275.75
	SM EQUICOM COMPUTER SERVICES, INC.	M-3385	17,275.75
	SM EQUICOM COMPUTER SERVICES, INC.	M-3386	31,366.25
	SM EQUICOM COMPUTER SERVICES, INC.	M-3387	77,839.62
	SM EQUICOM COMPUTER SERVICES, INC.	M-3388	16,236.38
	SM EQUICOM COMPUTER SERVICES, INC.	M-3389	44,218.24
	Sub-Total		P 636,696.36
	Total Additional Disallowances		**P2,101,718.23**

Thus, only the amount of P14,702,051.38 can be considered a proper subject for refund from the total claimed input taxes on domestic purchases of goods and services, detailed as follows:

Input VAT Claim on Domestic Purchases of Goods/Services	P19,896,571.45
Less: Disallowances	
1) per CPA reports	P 3,092,801.84
2) per this Court's further verification	2,101,718.23
Total Disallowances	P 5,194,520.07
Validly Supported Input VAT Claim on Domestic Purchases of Goods/Services	**P14,702,051.38**

With regard to petitioner's input VAT on its importation of goods for the First quarter of 1999 amounting to P44,560,949.00, as evidenced by various bank official receipts and Import Entry and Revenue Declarations (IERDs),[13] this Court finds that only the amount of P3,635,070.00 is validly supported in

[13] Exhibits M3890 to M5219.

order to prove actual payments of VAT. The said amount is composed of the following:

Exh.	Date	Bank OR No.	Input VAT
M5094	1/11/1999	4676665	P 3,727.00
M5100	1/11/1999	4676607	571,933.00
M5106	1/11/1999	4676667	181.00
M5111	1/11/1999	4676666	421.00
M5116	1/11/1999	4676670	17,432.00
M5121	1/11/1999	4676669	830.00
M5126	1/11/1999	4676668	181.00
M5131	1/13/1999	4879838	233,070.00
M5136	2/2/1999	4880942	7,953.00
M5144	2/2/1999	4880943	1,375,653.00
M5149	2/4/1999	4881203	1,793.00
M5165	2/15/1999	4881874	7,296.00
M5170	2/15/1999	4881873	3,700.00
M5175	2/15/1999	4881871	344.00
M5180	2/15/1999	4881872	576.00
M4921	2/24/1999	5006840	425.00
M4924	2/24/1999	5006847	1,313.00
M4929	2/24/1999	5006850	2,671.00
M4934	2/24/1999	5006851	222,914.00
M4941	2/24/1999	5006848	333.00
M4946	2/24/1999	5006842	5,207.00
M4951	2/24/1999	5006843	813,699.00
M4956	2/24/1999	5006845	20,018.00
M4966	2/24/1999	5006841	2,865.00
M4971	2/24/1999	5006849	24,557.00
M4976	2/24/1999	5006844	387.00
M4988	3/5/1999	5007564	427.00
M4993	3/5/1999	5007565	1,083.00
M4998	3/5/1999	5007566	3,156.00
M5002	3/5/1999	5007559	1,242.00
M5013	3/5/1999	5007560	2,666.00
M5018	3/5/1999	5007561	1,782.00
M5025	3/5/1999	5007562	1,388.00
M5030	3/5/1999	5007563	634.00
M4982	3/9/1999	5007799	258,829.00
M5038	3/17/1999	5008441	32,955.00
M5043	3/17/1999	5008443	813.00
M5048	3/17/1999	5008444	4,325.00
M5053	3/17/1999	5008442	1,705.00
M5058	3/17/1999	5008440	1,751.00
M5063	3/24/1999	5008914	425.00
M5068	3/24/1999	5008912	647.00
M5073	3/24/1999	5008911	1,388.00
M5077	3/24/1999	5008913	375.00
		TOTAL	**P 3,635,070.00**

This finding is based on the fact that the remaining claimed input VAT on importation of goods/capital equipment in the amount of P40,925,879.00[14] was disallowed on the grounds that the dates of said bank official receipts were found to be outside the subject period of claim and the IERDs were not machine validated.

Therefore, based on the foregoing discussion, petitioner's valid input VAT for refund is reduced to P9,531,635.69, computed as follows:

Validly Supported Input VAT Claim	
on Domestic Purchases of Goods/Services	P14,702,051.38
on Importations of Capital Goods/Equipment	3,635,070.00
Total Valid Input VAT Claim	P18,337,121.38
Multiplied by Rate of Substantiated Zero-Rated Sales	51.98%
Input VAT Claim Attributable to Substantiated Zero-Rated Sales	P 9,531,635.69

However, as previously mentioned and already established through petitioner's own admission,[15] the DOF already granted petitioner a TCC on January 24, 2002 covering 50% of the input tax on domestic purchases for the same period involved amounting to P9,948,285.73.[16]

Pursuant to Section 112(A) and (B) of the NIRC of 1997, in order to be entitled to a refund/tax credit of input VAT paid on goods or services purchased, one of the requirement is that petitioner must prove that the creditable input taxes due or paid attributable to zero-rated sales or input taxes paid on capital goods have not been applied against output tax liability. Hence, upon receipt of the TCC issued by the DOF on January 24, 2002, We could therefore conclude that such amount has been applied against output VAT liability of petitioner in periods subsequent to such issuance.

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[14] Total claimed input VAT on importation of good less Total input VAT on importation of goods validly supported (P44,560,949.00 – P3,635,070.00 = P40,925,879.00).
[15] Manifestation filed on August 26, 2002, Docket, CTA Case No. 6263, pp. 77-80.
[16] Total claimed input VAT on domestic purchases x 50% (P19,896,571.45 x 50% = P9,948,285.73).

Consequently, petitioner can no longer claim for the refund or issuance of a TCC of its input tax for the First quarter of taxable year 1999 since the amount of input tax covered by the TCC issued by the DOF on January 24, 2002 was even more than the amount found by this Court to be validly refundable to petitioner:

Input VAT Claim Attibutable to Substantiated Zero-Rated Sales	9,531,635.69
Tax Credit Certificate issued by DOF on January 24, 2002	9,948,285.73
Amount still Refundable	(416,650.04)

To emphasize, the rule in this jurisdiction to which our jurisprudence clung with unrelenting grasp is that "[t]ax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person claiming the exemption".[17]

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

(With Concurring and Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

[17] Commissioner of Internal Revenue vs. Procter and Gamble Philippine Manufacturing Corporation (204 SCRA 377 [1991]) and Commissioner of Internal Revenue vs. S. C. Johnson & Son, Inc. (309 SCRA 87 [1999]).

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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 *En Banc*.

ERNESTO D. ACOSTA
Presiding Justice