REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

HONDA TRADING PHILIPPINES CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 6282

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 2 1 2003

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DECISION

This is a claim for refund or issuance of tax credit certificate in the aggregate amount of P2,126,346.43, allegedly representing petitioner's unutilized input VAT for domestic purchases and importation of goods which are attributable to zero-rated export sales for the taxable years 1999 and 2000 and for the purchase of capital goods for the taxable year 2000.

Based on the records, the antecedent facts of the case are as follows:

Petitioner is a corporation duly organized and existing by virtue of Philippine laws with principal office located at Unit 207 Richville Corporate Center, 1314 Commerce Avenue Extension, Madrigal Business Park, Ayala Alabang, Muntinlupa City. It is a trading company principally engaged in exporting and importing wide range of products for its customers and from its suppliers, locally and abroad *(par. 1, Stipulation of Facts)*.

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Pursuant to Section 236 of the National Internal Revenue Code (NIRC), as amended, petitioner is registered with the Bureau of Internal Revenue (BIR) as a Value-Added Tax (VAT) taxpayer with Taxpayer Identification Number (TIN) 047-004-526-159 *(par. 3, Stipulation of Facts)*.

For calendar years 1999 and 2000, petitioner filed its Quarterly Value-Added Tax Returns *(Exhibits A to H)* on the following dates:

Quarter Involved	**Date Filed**	**Exhibits**
1999 1st Quarter	April 19, 1999	A
2nd Quarter	July 21, 1999	B
3rd Quarter	October 20, 1999	C
4th Quarter	January 25, 2000	D
2000 1st Quarter	April 25, 2000	E
2nd Quarter	July 24, 2000	F
3rd Quarter	October 24, 2000	G
4th Quarter	January 24, 2001	H

On January 23, 2002, petitioner simultaneously filed its amended Quarterly Value-Added Tax Returns for the third and fourth quarters of 2000 *(Exhibits N and O)*.

In summary, petitioner's quarterly returns reflected the following data:

Taxable Sales		**TAX BASE**		**TAX DUE**
1st Quarter 1999	P	3,388,286.35	P	338,828.64
2nd Quarter 1999		10,364,112.69		1,036,411.28
3rd Quarter 1999		12,473,264.80		1,247,326.46
4th Quarter 1999		10,775,808.25		1,077,580.82
Subtotal	P	37,001,472.09	P	3,700,147.20
1st Quarter 2000	P	27,395,176.13	P	2,739,517.62
2nd Quarter 2000		56,731,756.46		5,673,175.71
3rd Quarter 2000		45,575,143.83		4,557,514.38
4th Quarter 2000		59,531,237.17		5,953,123.73
Subtotal	P	189,233,313.59	P	18,923,331.44

Export Sales		
1st Quarter 1999	P	3,293,817.00
2nd Quarter 1999		5,449,756.00
3rd Quarter 1999		4,923,136.00

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4th Quarter 1999	4,031,697.00	
Subtotal	P 17,698,406.00	
1st Quarter 2000	P 4,302,073.00	
2nd Quarter 2000	7,769,940.43	
3rd Quarter 2000	13,170,143.97	
4th Quarter 2000	39,997,486.11	
Subtotal	P 65,239,643.51	
Exempt Sales		
3rd Quarter 2000	P 32,941,635.29	
4th Quarter 2000	32,724,018.63	
Subtotal	P 65,665,653.92	
TOTAL SALES	**P 374,838,489.11**	
TOTAL OUTPUT TAX FOR 1999 & 2000		**P 22,623,478.64**
Domestic Purchases		
1st Quarter 1999	P 2,747,189.09	P 274,718.94
2nd Quarter 1999	4,763,329.08	476,332.92
3rd Quarter 1999	3,824,174.88	382,417.52
4th Quarter 1999	3,424,981.64	342,498.20
Subtotal	P 14,759,674.69	P 1,475,967.58
1st Quarter 2000	P 3,634,350.92	P 363,435.19
2nd Quarter 2000	5,014,221.36	501,421.69
3rd Quarter 2000	6,264,971.29	626,497.23
4th Quarter 2000	1,432,364.25	143,236.38
Subtotal	P 16,345,907.82	P 1,634,590.49
Importation of Goods		
1st Quarter 1999	P 2,837,310.45	P 283,732.00
2nd Quarter 1999	9,667,656.00	966,765.00
3rd Quarter 1999	11,433,024.50	1,143,304.00
4th Quarter 1999	9,600,908.12	960,092.75
Subtotal	P 33,538,899.07	P 3,353,893.75
1st Quarter 2000	P 26,162,565.48	P 2,616,241.25
2nd Quarter 2000	53,819,173.88	5,381,937.00
3rd Quarter 2000	43,638,454.73	4,363,843.00
4th Quarter 2000	59,233,448.41	5,923,352.00
Subtotal	P 182,853,642.50	P 18,285,373.25
Purchases Not Qualified for Input Tax		
1st Quarter 2000	P 342,671.92	
2nd Quarter 2000	1,911,742.28	
3rd Quarter 2000	35,145,714.73	

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4th Quarter 2000	64,935,378.58
Subtotal	P 102,335,507.51
TOTAL PURCHASES	**P 349,833,631.59**
TOTAL INPUT TAX FOR 1999 & 2000	**P 24,749,825.07**

On December 8, 2000, pursuant to the procedure prescribed in Revenue Regulations (RR) No. 7-95, as amended, petitioner filed an administrative claim for refund of unutilized input VAT for calendar year 1999 with the BIR, Revenue District Office (RDO) No. 053 *(par. 6, Stipulation of Facts)*.

On March 30, 2001, petitioner, in accordance with RR No. 7-95, filed a letter reiterating its administrative claim for refund of unutilized input VAT for calendar year 1999 and in addition, claiming a refund of unutilized input VAT for calendar year 2000 with the BIR, RDO No. 053 *(par. 7, Stipulation of Facts and Issues; Exhibit L)*.

To toll the running of the two-year prescriptive period to file a judicial appeal, petitioner elevated the case to this court through a Petition for Review on April 18, 2001, invoking Section 106 (A)(2)(a)(1) in relation to Section 112 (A), of the National Internal Revenue Code, as amended, which allow a VAT-registered taxpayer to apply for the issuance of tax credit or refund of excess or unutilized creditable input tax attributable to zero-rated or effectively zero-rated sales. Petitioner computed its claim for refund as follows *(p. 12, Petitioner's Memorandum and p. 164, CTA Records)*:

Total Input VAT (1999 & 2000)	P	24,749,825.07
Less: Input VAT (0%/ 1999)		1,144,788.64
Input VAT (0%/ 2000)		1,176,403.34
Input VAT (capital goods/2000)		28,248.14
Total Input VAT (10%)	**P**	**22,400,384.95**
Total Output VAT (1999 & 2000)	P	22,623,478.64
Less: Input VAT (10%/ 1999 & 2000)		22,400,384.95
Output VAT Payable	**P**	**223,093.69**

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Input VAT (0%/ 1999)	P	1,144,788.64
Input VAT (0%/ 2000)		1,176,403.34
Less: Output VAT Payable		223,093.69
Net Input VAT (0%/ 1999 & 2000)	**P**	**2,098,098.29**
Net Input VAT (0%/ 1999 & 2000)	P	2,098,098.29
Add: Input VAT (capital goods/ 2000)		28,248.14
Excess/Unutilized Input VAT (0%/ capital goods)	**P**	**2,126,346.43**

Summons was issued to respondent and in his Answer filed through registered mail on May 30, 2001, he raised the following Special and Affirmative Defenses, to wit:

4. Assuming without admitting that petitioner filed a claim for refund, the same is subject to investigation by the Bureau of Internal Revenue.

5. Petitioner miserably failed to demonstrate that the subject of the case at bar was erroneously or illegally collected;

6. Taxes paid and collected are presumed to have been made in accordance with law and regulations, hence, not refundable.

7. In an action for tax refund/credit the burden of proof is on the taxpayer to establish its right to refund and failure to adduce sufficient proof is fatal to the action for tax refund/credit;

8. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code, as amended, as well as the requirements provided for in Revenue Regulations No. 5-87 as amended by Revenue Regulations No. 3-88;

9. Claims for refund are construed strictly against the claimant for the same partakes (sic) the nature of exemption from taxation **(Commissioner of Internal Revenue vs. Ledesma, G. R. No. L-13509, January 30, 1970, 31 SCRA 95)** and as such, they are looked upon with disfavor **(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 121).**

After trial on the merits, the case was submitted for decision on May 12, 2003, sans evidence from the respondent.

The issues we are tasked to resolve have been stipulated by the parties to be as follows:

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1. Whether petitioner has unutilized/excess VAT input taxes in the total amount of P2,126,346.43 arising from its (a) domestic purchases and importation of goods which are attributable to its zero-rated export sales during the four quarters of calendar year 1999 and 2000; and (b) purchases of capital goods during calendar year 2000.

2. Whether petitioner's unutilized/excess VAT input taxes for calendar years 1999 and 2000 are substantiated by documentary evidence in the form of invoices and official receipts.

3. Whether petitioner's unutilized/excess VAT input taxes for the calendar years 1999 and 2000 were carried over to the succeeding taxable quarters and/or applied against any output tax liability of the petitioner for the said period.

4. Whether the proceeds of the export sales were inwardly remitted through the Philippine Banking System.

5. Whether the export sales are supported by export documents

6. Whether petitioner's administrative and judicial claims for refund was filed within the legally prescribed period.

Petitioner anchored its claim for refund on Section 112(A) and (B) of the 1997 Tax Code, to wit:

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

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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.

To bolster its claim for refund, petitioner submitted the following documents:

DOCUMENTS	**EXHIBITS**
1. 1999 Quarterly VAT Returns	A, B, C & D (incl. of submarkings)
2. 2000 Quarterly VAT Returns	E, F, G & H (incl. of submarkings
3. Quarterly VAT Return- 1st Qtr. 2001	I (incl. of submarkings)
4. Quarterly VAT Return- 2nd Qtr. 2001	J (incl. of submarkings)
5. Letter-Claim for Refund (without stamp "Received" by BIR	K (incl. of submarkings)
6. Letter-Claim for Refund (with stamp "Received" by BIR	L (incl. of submarkings)
7. Amended Quarterly VAT Returns –3rd and 4th Quarters 2000	N & O (incl. of submarkings)
8. Quarterly VAT Return-3rd Qtr. 2001	P (incl. of submarkings)
9. Quarterly VAT Return-4th Qtr. 2001	Q (incl. of submarkings)
10. Amended Quarterly VAT Return- 4th Qtr. 2001	R (incl. of submarkings)
11. Quarterly VAT Return-1st Qtr. 2002	S (incl. of submarkings)
12. Schedule of VAT Purchases with Zero-Rated Export Sales for 1999 & 2000	T (incl. of submarkings)
13. Schedule of Input Taxes Claimed on Local Purchases of Capital Goods for 2000	U (incl. of submarkings)
14. Sales & Commission Schedule- 1999 & 2000	V (incl. of submarkings)
15. Quarterly VAT Returns 1999	W (incl. of submarkings)
16. Quarterly VAT Returns 2000	X (incl. of submarkings)
17. Supporting Documents for Input Taxes Claimed	Y, Z, AA to EE (incl. of submarkings)
18. Independent CPA Report	FF & FF-1
19. Schedule of Documents, Certified as True Copies by the Suppliers of petitioner	GG

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According to petitioner, its unutilized input VAT in the total amount of P2,126,346.43 arose from the VAT passed on to it by its suppliers relative to its domestic purchases of goods during the four quarters of the years 1999 and 2000, which were directly attributable to its zero-rated export sales and from its purchases of capital goods during the second up to the fourth quarter of 2000. Petitioner further asserted that it had export sales classified as zero-rated for the taxable years 1999 and 2000 as provided for in Section 106 (A)(2)(a)(1) of the 1997 Tax Code. These were supported by documentary evidence which, among others, include export sales invoices, airway bills, bills of lading and bank credit advices. Lastly, petitioner argued that its excess input VAT for the said years were not applied against any of its output liability for the succeeding quarters.

After carefully examining the records of the case, we find the Petition for Review bereft of merit for insufficiency of evidence.

As earlier shown in the table, petitioner reported in its Quarterly VAT Returns taxable sales, zero-rated sales and exempt sales in the total amount of P374,838,489.11. It also reported total purchases in the amount of P349,833,631.59. Moreover, petitioner applied its input VAT attributable to its taxable sales for the years 1999 and 2000 in the amount of P22,400,384.00 against its total output VAT liability in the amount of P22,623,478.64. Since petitioner's input VAT attributable to its taxable sales was not sufficient to totally offset its output VAT liability, it applied a portion of its input VAT directly attributable to zero-rated export sales leaving a balance of P2,126,346.43.

Considering, however, that petitioner reported taxable sales along with its zero-rated and exempt sales, the court finds it also necessary for the petitioner to submit invoices pertaining to the taxable sales and the corresponding input VAT. These documents are necessary to determine the veracity of such declaration for any discrepancy will affect petitioner's claim for refund. To illustrate, an underdeclaration of output VAT liability or overstatement of input VAT will reduce the excess VAT credit.

Based on the evidence submitted by petitioner, we cannot verify if the latter had indeed incurred any excess input VAT credits. Petitioner failed to present the invoices and/or official receipts pertaining to the said taxable sales and purchases of goods and services to support its taxable sales and the input VAT attributable thereto. As a consequence, the court cannot verify the amounts declared in the quarterly VAT returns. We cannot determine with accuracy the allocated input VAT for taxable sales. Petitioner's presentation of the abovementioned documents is material to its claim for refund. Its failure to do so is a fatal defect.

Well-settled is the rule that a claim for refund is construed *strictissimi* juris against the taxpayer as it partakes the nature of exemption from taxation (*Citibank N.A. vs. Court of Appeals, et al., G.R. No. 107434, October 10, 1997*). Besides, we believe that in claims for refund, the law mandates the court to observe a higher standard of caution in appreciating and evaluating evidence. If indeed a claim for refund is wanting in pertinent and supporting evidence, then the granting thereof could prove to be improper, if not difficult *(ECW Joint Venture, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6398, May 26, 2003).*

The foregoing conclusion makes it unnecessary for us to pass upon the other issues raised in the case.

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

SO ORDERED.

LOVELL R. BAUTISTA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

JUANITO C. CASTAÑEDA, JR.
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge

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