REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

EMERSON ELECTRIC (ASIA) LIMITED - ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8384

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

MAR 3 1 2015
4:05 p.m.

x - x

DECISION

CASTAÑEDA, JR., *J.*:

STATEMENT OF THE CASE

This Petition for Review filed by Emerson Electric (Asia) Limited-ROHQ seeks the refund or the issuance of tax credit certificate in the amount of ₱16,888,043.74, representing its alleged unutilized input value-added tax (VAT) for the first (1st) quarter of fiscal year ending September 30, 2010.

STATEMENT OF FACTS

Petitioner Emerson Electric (Asia) Limited-ROHQ is a Regional Operating Headquarters in the Philippines duly registered with the Securities and Exchange Commission (SEC) under Certificate of Registration and License Company Reg. No. FS200703133.[1] It is

[1] Exhibits "T4", "T4-1", and "T4-2".

engaged in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistics services and product development; technical support and maintenance; data processing and communication; and business development. Petitioner is likewise registered with the Bureau of Internal Revenue (BIR) as evidenced by its Certificate of Registration No. OCN3RC0000537738 as of May 30, 2007.[2]

Respondent is the Commissioner of the Bureau of Internal Revenue, empowered to perform the duties of her office, including, among others, the duty to act upon claims for refund or issuance of tax credit certificate as provided by law. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner rendered services to its non-resident foreign clients during the 1st quarter of fiscal year ending September 30, 2010.[3]

Petitioner filed its Quarterly VAT Return for the 1st quarter of fiscal year ending September 30, 2010 on January 25, 2010[4] and filed its Amended Annual Income Tax Return (ITR) on February 24, 2011.[5]

On June 28, 2011, petitioner filed its Application for Tax Credits/Refunds[6] with the One Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center[7] of the Department of Finance (DOF-OSS), together with the transmittal letter[8] of the supporting documents.

Due to respondent's inaction on petitioner's administrative claim, petitioner filed the instant Petition for Review on November 24, 2011[9].

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[2] Exhibits "U4"and "U4-1".
[3] Exhibits "CC", "DD", "DD-2", "EE", "FF", "FF-2", "GG", "HH", "II", "JJ", "KK", "KK-2", "LL", "MM", "MM-2", "NN", "OO", "PP", "QQ", "RR", "RR-2", "SS", "TT", "UU", "UU-2", "VV", "VV-2", "WW", "XX", "YY", "YY-2", "ZZ", "AAA", "AAA-2", "BBB", "BBB-2", "CCC", "DDD", "EEE", "FFF", "GGG", "GGG-2", "HHH", "III", "JJJ", "KKK", "LLL", "MMM", "MMM-2", "NNN", "OOO", "PPP", "QQQ", "QQQ-2", "RRR", "RRR-2", "SSS", "SSS-2", "TTT", and "UUU".
[4] Exhibits "J", "J-1", and "J-2".
[5] Exhibits "G", "G-1", and "G-2".
[6] Exhibits "B", "B-1", "B-2".
[7] Exhibits "D", "D-1", "E", "E-1", "F", and "F-1".
[8] Exhibits "A", "A-1", and "A-2".
[9] Docket, p. 6.

Respondent filed her Answer[10] on January 20, 2012, interposing the following special and affirmative defenses:

> "3. She reiterates and re-pleads the preceding paragraphs of this Answer as part of her Special and Affirmative Defenses;
>
> 4. Petitioner's claim for the issuance of tax refund/tax credit certificate is subject to administrative investigation/examination by respondent's Bureau;
>
> 5. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable;
>
> 6. Moreover, in order to validly claim for tax credit/refund, it is imperative for petitioner to prove its compliance with the following, viz:
>
>> a. The registration requirements of a value-added taxpayer under the pertinent provision of the 1997 NIRC, as amended, and its implementing revenue regulations;
>>
>> b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT pursuant to the provisions of Sections 113 and 114 of the 1997 NIRC, as amended. Failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of the claim for input tax of the taxpayer claimant (Revenue Memorandum Circular No. 42-2003).
>>
>> c. The submission of complete documents in support of the administrative claim for tax refund pursuant to Section 112 (C) of the 1997 NIRC, as amended, otherwise, there would be no sufficient compliance with regard to the filing of administrative

[10] Docket, pp. 143 to 146.

claim for tax credit/refund which is a condition *sine qua non* prior to the filing of the such claim.

d. That the input taxes of P16,888,043.74 allegedly representing unutilized input VAT from its purchases of goods and services from VAT registered suppliers were:

i. paid by the petitioner;
ii. attributable to its zero-rated or effectively zero-rated sales; and
iii. such input taxes paid should not have been applied against any output tax.

e. That petitioner's claim for tax credit/refund allegedly representing unutilized input VAT in the amount of P16,888,043.74 was filed within two (2) years after the close of the taxable quarter when the sales were made in accordance with Section 112 (A) of the 1997 NIRC, as amended.

7. In an action for tax credit/refund, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund;

8. A tax credit or refund, like tax exemption, is strictly construed against the taxpayer. The taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund or credit, in this case VAT input tax, by submitting evidence that he has complied with the requirements laid down in the tax code and the BIR's revenue regulations under which such privilege of credit or refund is accorded *(Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 180173, April 6, 2011).*"

Petitioner filed its Reply (Re: Answer dated 18 November 2011)[11] on February 6, 2012. *qr*

[11] Docket, pp. 147 to 159.

Petitioner filed its Pre-Trial Brief[12] on February 24, 2012; while respondent's Pre-Trial Brief[13] was filed on February 27, 2012.

On March 15, 2012, petitioner filed an Omnibus Motion[14], praying, among others, for the early resolution of the issue of whether its claim for refund of excess and unutilized input taxes can be deemed granted should respondent fail to act within the 120-day period under Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended. The Court denied the said motion through its Resolution[15] dated April 13, 2012, and denied the Motion for Reconsideration[16] on June 25, 2012.[17]

Subsequently, petitioner moved to commission Emmanuel Y. Mendoza as the Independent Certified Public Accountant (CPA) for the case,[18] which the Court granted on August 2, 2012.[19]

On June 11, 2013, the parties jointly stipulated regarding the Application of Multinational Company for Registration and License to Establish a Regional Operating Headquarters in the Philippines as petitioner's evidence.[20]

During trial, petitioner presented Emmanuel Y. Mendoza, Pamela B. Ariaga, Ana Mae G. Santos, and Atty. Raquel Dujungco as witnesses. Petitioner also formally offered its documentary and testimonial evidence.

On April 7, 2014, respondent's counsel manifested that respondent will not present evidence and will rest the case.[21]

The Court declared the case submitted for decision on June 27, 2014[22], after petitioner filed its Memorandum[23] through registered mail

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[12] Docket, pp. 161 to 174.
[13] Docket, pp. 290 to 292.
[14] Docket, pp. 313 to 337.
[15] Docket, pp. 345 to 348.
[16] Docket, pp. 364 to 382.
[17] Docket, pp. 387 to 391.
[18] Motion to Commission an Independent Certified Public Accountant, docket, pp. 402 to 407.
[19] Minutes of the Hearing dated August 2, 2012, docket, p. 419.
[20] Exhibit "L^{10}".
[21] Minutes of the Hearing dated April 7, 2014, docket, p. 2239.
[22] Resolution, docket, p. 2295.
[23] Docket, pp. 2257 to 2281.

on May 27, 2014 and received by the Court on June 4, 2014 and respondent filed her Memorandum[24] on June 24, 2014.

STATEMENT OF ISSUE

The issue, as determined by this Court, is whether or not petitioner is entitled to the refund or issuance of tax credit certificate in the amount of ₱16,888,043.74 allegedly representing its unutilized input VAT for the 1st quarter of fiscal year ending September 30, 2010.

DISCUSSION/RULING

Petitioner contends that it filed the instant Petition for Review within the two-year prescriptive period as provided by law.

Respondent counter-argues that petitioner failed to prove that it submitted complete documents in support of its application on June 28, 2011. As such, the period of 120 days will not commence to run.

Section 112 of the NIRC of 1997, as amended, provides:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-rated or Effectively Zero-rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or

[24] Docket, pp. 2286 to 2294.

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."

In relation thereto is Section 4.112-1(c) of Revenue Regulations (RR) No. 16-2005, which states:

"SECTION 4.112-1. *Claims for Refund/Tax Credit Certificate of Input Tax.* –

xxx xxx xxx

(c) *Where to file the claim for refund/tax credit certificate*

> Claims for refunds/tax credit certificate shall be filed with the appropriate BIR office (Large Taxpayers Service (LTS) or Revenue District Office (RDO)) having jurisdiction over the principal place of business of the taxpayer; *Provided,* however, that **direct exporters may also file their claim for tax credit certificate with the One Stop Shop Center of the Department of Finance; *Provided,* finally, that the filing of the claim with one office shall preclude the filing of the same claim with another office.**" *(Emphasis supplied)*

The Supreme Court explained in *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*[25] *(Aichi case)* that in case of tax refunds under Section 112 of the NIRC of 1997, as amended, the phrase "within two years" applies only to the filing of the administrative claim for refund and not to the filing of the judicial claim. Pertinent portions of the decision are quoted as follows:

> "There is nothing in Section 112 of the NIRC to support respondent's view. Subsection (A) of the said provision states that 'any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, **within two 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.' **The phrase 'within two (2) years xxx apply for the issuance of a tax credit certificate or refund' refers to applications for refund/credit filed with the CIR and not to appeals made to the CTA. This is apparent in the first paragraph of subsection (D) of the same provision, which states that the CIR has '120 days from the submission of complete documents in support of the application filed in accordance with Subsections (A) and (B)' within which to decide on the claim.**
>
> **In fact, applying the two-year period to judicial claims would render nugatory Section 112(D) of the NIRC, which already provides for a specific period within which a taxpayer should appeal the decision or inaction of the CIR. The** $\mathscr{gr}$

[25] G.R. No. 184823, October 6, 2010, 632 SCRA 422.

> **second paragraph of Section 112(D) of the NIRC envisions two scenarios: (1) when a decision is issued by the CIR before the lapse of the 120-day period; and (2) when no decision is made after the 120-day period. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA. As we see it then, the 120-day period is crucial in filing an appeal with the CTA.**" *(Emphasis supplied)*

Applying the foregoing to the present case, the two-year period to file the administrative claim for refund or issuance of tax credit certificate for the alleged unutilized input VAT for the period of October to December 2009 or the 1st quarter of fiscal year ending September 30, 2010 would expire on December 31, 2011.

Petitioner filed its Application for Tax Credits/Refunds[26] with the DOF-OSS[27] and the transmittal letter[28] of the supporting documents on June 28, 2011. Therefore, the administrative claim was filed within the two-year prescriptive period provided by law.

From the date of submission of petitioner's documents in support of the claim for refund or issuance of tax credit certificate on June 28, 2011, respondent had one hundred twenty (120) days or until October 25, 2011 to act on the claim. Upon failure of respondent to act on the claim within the prescribed period, petitioner filed the instant Petition for Review on November 24, 2011. It is apparent that both the administrative and the judicial claims were timely filed.

As regards the issue of the submission of complete documents in support of petitioner's administrative claim for refund, the Court does not concur with respondent's arguments.

The term "complete documents" under Section 112(C) of the NIRC of 1997, as amended, should be understood to refer to those documents that are necessary to support the application for refund or tax credit certificate, as determined by the taxpayer. The BIR examiner can require the taxpayer to submit additional documents but the examiner cannot demand what type of supporting documents should be submitted. Otherwise, the taxpayer will be at the mercy of the

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[26] Exhibits "B", "B-1", and "B-2".
[27] Exhibits "D", "D-1", "E", "E-1", "F", and "F-1".
[28] Exhibits "A", "A-1", and "A-2".

examiner, who may require the production of documents that the taxpayer cannot submit. Moreover, it is basic that respondent ought to know the tax records of all taxpayers.[29]

Records disclose that on June 28, 2011, petitioner submitted its letter[30] dated June 27, 2011, stating that the pertinent documents are transmitted to the DOF-OSS as a mandatory requirement for VAT refund claims.

Likewise, the records do not show that a written notice was sent by the BIR to inform petitioner that the supporting documents are incomplete or to require petitioner to submit additional documents. Clearly, it is safe to say that on June 28, 2011, petitioner submitted the complete documents required by respondent in order for petitioner to claim a refund or tax credit.

The Court will now proceed to determine whether petitioner is entitled to a refund or issuance of tax credit certificate in the amount of ₱16,888,043.74, representing the alleged excess and unutilized input VAT paid for the 1st quarter of fiscal year ending September 30, 2010.

Petitioner posits that its sales of services for fiscal year 2010 were zero-rated and that it had no output VAT. It likewise asserts that its input VAT for the 1st quarter of fiscal year 2010 was incurred from its domestic purchases of goods and services attributable to its zero-rated sales.

On the other hand, respondent contends that petitioner failed to observe the strict substantiation requirements, as provided by law and Revenue Regulations.

Petitioner anchors its claim on the afore-quoted Section 112(A) of the NIRC of 1997, as amended.

As such, in order to be entitled to a refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied: *jr*

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[29] *Diageo Philippines, Inc. vs. Commissioner of Internal Revenue*, CTA Case Nos. 7846 and 7865, January 16, 2012.
[30] Exhibit "A".

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

Anent the timeliness of the instant claim, the Court has already found that both the administrative and the judicial claims were filed within the period prescribed by law.

As regards the other requisites, petitioner is VAT-registered as evidenced by its Certificate of Registration[31] with the BIR dated May 30, 2007 and Certification[32] issued by Revenue District No. 43A.

As to its zero-rated or effectively zero-rated sales, petitioner asserts that the services it rendered to its non-resident affiliates qualify for VAT zero-rating in accordance with Section 108(B)(2) of the NIRC of 1997, as amended by Republic Act No. 9337, which is quoted hereunder for easy reference:

> "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:
>
> xxx xxx xxx *gr*

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[31] Exhibit "U[4]".
[32] Exhibit "U[4]-1".

(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);"

For the first quarter of fiscal year 2010 covering the period October to December 2009, petitioner generated zero-rated sales in the amount of ₱487,383,195.28 per its Quarterly VAT Return for the same taxable period.[33]

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[34], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. the services 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 must be doing business outside the Philippines.

Petitioner complied with the first requisite as the services[35] it renders to the following non-resident clients are not in the same category as "processing, manufacturing or repacking of goods":[36]

1.	Air Comfort Products
2.	Alber Corporation
3.	ASCO Numatics
4.	ASCO Power Technologies, LP
5.	CIM - Industrial Motors Division
6.	Closetmaid
7.	EGS Electrical Group, LLC

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[33] Exhibits "J" or "F8" and "G8".
[34] G.R. No. 153205, January 22, 2007, 512 SCRA 124.
[35] Exhibit "T4".
[36] Exhibit "P8", Q7 A7.

8.	Electrical Reliability Services, Inc.
9.	Emerson Climate Technologies
10.	Emerson Electric Co.
11.	Emerson FZE
12.	Emerson Hermetic Motors
13.	Emerson Network Power (Australia) Pty. Ltd.
14.	Emerson Network Power (Hong Kong) Ltd.
15.	Emerson Network Power (Malaysia) SDN BHD
16.	Emerson Network Power (Singapore) Pte Ltd.
17.	Emerson Network Power (Thailand) Co Ltd.
18.	Emerson Network Power Connectivity Solutions
19.	Emerson Network Power Division/Emerson Japan Ltd.
20.	Emerson Network Power S.R.L.
21.	Emerson Network Power UK Ltd.
22.	Emerson Power Transmission
23.	Emerson Process Management (Australia)
24.	Emerson Process Management (Malaysia) SDN BHD
25.	Emerson Process Management Flow B.V.
26.	Emerson Process Management Ltd. Daniel Division - Europe
27.	Emerson Process Management Shared Services Ltd.
28.	Emerson Tool Company
29.	Fisher Rosemount Systems, Inc.
30.	Fusite
31.	Insinkerator
32.	Instrument & Valve Services Company
33.	Intermetro
34.	Kato Engineering, Inc.
35.	KNAACK L.L.C.
36.	Liebert Corporation
37.	Liebert Services
38.	LLLP Corporate Headquarters
39.	Micro Motion Inc.
40.	Regulator Technologies, Inc.
41.	Ridge Tool Company
42.	Therm-o-Disc
43.	Emerson Network Power - Energy Systems, N.A. Inc.
44.	Emerson Process Management Valve Automation Inc.
45.	Emerson (Thailand) Ltd.

Anent the second requisite, petitioner avers that for the services rendered for the period October to December 2009, it received foreign currency payments, which were accounted for in accordance with the BSP rules and regulations; as evidenced by the credit advices issued by Standard Chartered Bank[37] and the official receipts and invoices[38] issued by petitioner to its clients.

[37] Exhibits "EEEEEEEE-1" to "EEEEEEEE-285".
[38] Exhibits "DDDDDDDD-1" to "DDDDDDDD-206".

Examination of the Schedule of Zero-rated Sales[39] submitted by petitioner, which reflected sales in the amount of ₱487,383,178.98 ($10,364,098.07), is based on the invoices issued. However, the said documents indicate that the total remittances amounted to $14,154,386.04. The Independent CPA accounted for the difference in the following manner:[40]

Billings from export sales:	
Zero-rated sales (export) for first quarter of fiscal year ending Sept. 30, 2010	$ 10,364,098.08
Invoices not pertaining to first quarter of fiscal year ending Sept. 30, 2010 but traced to Schedule of Billings and Remittances and bank credit advices	3,790,287.96
Total	$ 14,154,386.04
Less: Bank charges	1,529.23
Balance	$ 14,152,856.81
Actual inward remittances	14,152,856.81
Difference	**$ -**

Moving on to the third requisite, petitioner submitted Certificates of Non-registration of its non-resident clients issued by the Securities and Exchange Commission, certificates of registration with their respective countries, as well as the service contracts between petitioner and its clients to prove that petitioner's clients are doing business outside the Philippines. A summary of the said documents is shown as follows:

	Client Name	**SEC Certificate of Non-Registration (Exhibit)**	**Foreign Registration/ Certificate of Incorporation (Exhibit)**	**Service Contract (Exhibit)**
A.	*With SEC Certificate of Non-registration, Certificate of Registration or Incorporation in Foreign Country and Service Contract with petitioner*			
1.	Air Comfort Products	I^5	Q^8	CC
2.	Alber Corporation	J^5	R^8, R^8-1, R^8-2	DD
3.	ASCO Numatics	K^5	S^8, S^8-1	EE
4.	ASCO Power Technologies, LP	H^5	T^8	FF
5.	Closetmaid	N^5	U^8, U^8-1	HH
6.	EGS Electrical Group, LLC	Q^5	W^8, W^8-1	II
7.	Electrical Reliability Services, Inc.	R^5	X^8, X^8-1, X^8-2	JJ
8.	Emerson Electric Co.	X^5	A^9, A^9-1, A^9-2	LL
9.	Emerson FZE	Y^5	B^9, B^9-1 to B^9-3	MM
10.	Emerson Hermetic Motors	A^6	C^9	NN
11.	Emerson Network Power (Hong Kong) Ltd.	C^6	D^9, D^9-1	PP
12.	Emerson Network Power (Malaysia) SDN BHD	L^6	E^9	QQ

[39] Exhibit "CCCCCCCC-1".
[40] Exhibit "Z^7", p. 12.

13.	Emerson Network Power (Singapore) Pte Ltd.	F^6	F^9, F^9-1, F^9-2	RR
B.	*With SEC Certificate of Non-registration and Certificate of Registration or Incorporation in Foreign Country*			
1.	Daniel Measurement & Control (CA)	O^5	V^8	
2.	Daniel Measurement & Control (TX)	P^5	V^8	
3.	Emerson Electric Asia-Pacific	J^6	Z^8, Z^8-1 to Z^8-5	
C.	*With SEC Certificate of Non-registration and Service Contract with petitioner*			
1.	CIM - Industrial Motors Division	M^5		GG
2.	Emerson Climate Technologies	U^5		KK
3.	Emerson Network Power (Australia) Pty. Ltd.	B^6		OO
4.	Emerson Network Power (Thailand) Co Ltd.	G^6		SS
5.	Emerson Network Power Connectivity Solutions	M^6		TT
6.	Emerson Network Power Division/Emerson Japan Ltd.	H^6		UU
7.	Emerson Network Power S.R.L.	N^6		VV
8.	Emerson Network Power UK Ltd.	O^6		WW
9.	Emerson Power Transmission	R^6		XX
10.	Emerson Process Management (Australia)	T^6		YY
11.	Emerson Process Management (Malaysia) SDN BHD	U^6		ZZ
12.	Emerson Process Management Flow B.V.	W^6		AAA
13.	Emerson Process Management Ltd. Daniel Division - Europe	Y^6		BBB
14.	Emerson Process Management Shared Services Ltd.	Z^6		CCC
15.	Emerson Tool Company	C^7		DDD
16.	Fisher Rosemount Systems, Inc.	F^7		EEE
17.	Fusite	G^7		FFF
18.	InSinkErator	I^7		GGG
19.	Instrument & Valve Services Company	J^7		HHH
20.	Intermetro	K^7		III
21.	Kato Engineering, Inc.	L^7		JJJ
22.	KNAACK L.L.C.	M^7		KKK
23.	Liebert Corporation	N^7		LLL
24.	Liebert Services	O^7		MMM
25.	LLLP Corporate Headquarters	P^7		NNN
26.	Micro Motion Inc.	CCCCC		OOO
27.	Regulator Technologies, Inc.	GGGGG		PPP
28.	Ridge Tool Company	FFFFF		QQQ
29.	Therm-o-Disc	BBBBB		RRR
30.	Emerson Network Power - Energy Systems, N.A. Inc.	P^6		SSS
31.	Emerson Process Management Valve Automation Inc.	A^7		TTT
32.	Emerson (Thailand) Ltd.	S^5		UUU
D.	*With SEC Certificate of Non-registration only*			
1.	Machinery Health Management	VVVV		
2.	Rosemount Analytical, Inc.	WWWW		
3.	Rosemount Tank Radar AB	XXXX		
4.	Process Systems & Solutions Global Service Center	YYYY		
5.	Stratos International Inc.	ZZZZ		
6.	Rosemount Measurement	AAAAA		
7.	Mallory Controls	DDDDD		
8.	Valves-Fisher Controls Marshall Town	EEEEE		

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9.	Asset Optimization	L^5		
10.	Emerson Appliance Motor DIV	T^5		
11.	Emerson Heating Products	Z^5		
12.	Emerson Network Power (Indonesia)	D^6		
13.	Emerson Network Power Electrical Reliability Service	I^6		
14.	Emerson Energy Systems	K^6		
15.	Emerson Process Management-Power & Water Solution	S^6		
16.	Emerson Process Management Asia Pacific Pte Ltd	V^6		
17.	Emerson Process Management GMBH & Co. OHG Argelsri	X^6		
18.	Emerson Process Management (Netherlands)	B^7		
19.	EPM Process Systems & Solutions	D^7		
20.	FCII	E^7		
21.	Hurst Manufacturing	H^7		
E.	*With Certificate of Registration in Foreign Country only*			
1.	Emerson Electric (Asia) Ltd		Y^8	

Petitioner's clients with SEC Certificate of Non-registration and Certificates of Registration or Incorporation in a foreign country (those under Items A and B only) are considered to have complied with the requisite of doing business outside the Philippines. Hence, petitioner's sales involving clients without the aforesaid documents cannot be considered zero-rated sales for failure to comply with the third requisite.

Examination of petitioner's Schedule of Zero-rated Sales shows that only sales to the following non-resident clients amounting to ₱215,816,767.89 qualify as zero-rated sales:

	Client	Invoice No.	Invoice Date	Amount in USD	Amount in PhP
1.	Alber Corporation	1271	10/28/2009	1,654.73	78,796.67
2.	ASCO Numatics	1272	10/28/2009	17,123.41	815,400.52
3.	ASCO Power Technologies, LP	1273	10/28/2009	29,167.45	1,388,926.26
4.	Closetmaid	1276	10/28/2009	11,085.69	527,890.03
5.	Daniel Measurement & Control (CA)	1277	10/28/2009	9,976.38	475,065.74
6.	Daniel Measurement & Control (TX)	1278	10/28/2009	57,251.53	2,726,263.47
7.	EGS Electrical Group	1279	10/28/2009	2,676.33	127,444.29
8.	Electric Reliability Services	1280	10/28/2009	4,815.86	229,326.68
9.	Emerson FZE	1286	10/28/2009	27,620.39	1,315,256.73
10.	Emerson Hermetic Motors	1288	10/28/2009	3,716.33	176,968.10
11.	Emerson Network Power (Hong Kong) Co. Ltd.	1294	10/28/2009	84,272.21	4,012,962.58
12.	Emerson Network Power (Malaysia) SDN BHD	1297	10/28/2009	31,852.01	1,516,762.46
13.	Emerson Network Power (Singapore) Pte. Ltd.	1299	10/28/2009	24,270.12	1,155,720.06
14.	Emerson Electric Co.	1335	10/28/2009	635,415.03	30,257,860.08
15.	Emerson Electric Asia-Pacific	1336	10/28/2009	429,310.32	20,443,349.59

16.	Air Comfort Products	1337	11/24/2009	2,534.90	118,122.08
17.	Alber Corporation	1338	11/24/2009	2,777.27	129,416.12
18.	ASCO Numatics	1339	11/24/2009	19,914.86	927,999.02
19.	ASCO Power Technologies, LP	1340	11/24/2009	36,282.41	1,690,699.35
20.	Closetmaid	1343	11/24/2009	13,821.27	644,047.96
21.	Daniel Measurement & Control (CA)	1344	11/24/2009	10,782.20	502,432.41
22.	Daniel Measurement & Control (TX)	1345	11/24/2009	58,388.53	2,720,807.41
23.	EGS Electrical Group	1346	11/24/2009	6,534.30	304,487.40
24.	Electric Reliability Services	1347	11/24/2009	5,897.30	274,804.27
25.	Emerson Electric Asia-Pacific	1352	11/24/2009	500,943.22	23,343,112.47
26.	Emerson Electric Co.	1353	11/24/2009	731,760.23	34,098,797.36
27.	Emerson FZE	1355	11/24/2009	40,306.31	1,878,206.33
28.	Emerson Hermetic Motors	1357	11/24/2009	4,983.88	232,240.44
29.	Emerson Network Power (Hong Kong) Co. Ltd.	1359	11/24/2009	163,495.31	7,618,606.77
30.	Emerson Network Power (Malaysia) SDN BHD	1361	11/24/2009	39,260.63	1,829,479.40
31.	Emerson Network Power (Singapore) Pte. Ltd.	1363	11/24/2009	27,873.44	1,298,855.48
32.	Air Comfort Products	1408	12/22/2009	2,521.86	118,397.19
33.	Alber Corporation	1409	12/22/2009	2,714.50	127,441.32
34.	ASCO Numatics	1410	12/22/2009	25,464.17	1,195,501.02
35.	ASCO Power Technologies, LP	1411	12/22/2009	34,233.93	1,607,226.87
36.	Closetmaid	1414	12/22/2009	12,173.23	571,513.18
37.	Daniel Measurement & Control (CA)	1415	12/22/2009	10,394.71	488,014.59
38.	Daniel Measurement & Control (TX)	1416	12/22/2009	59,168.75	2,777,875.78
39.	EGS Electrical Group	1417	12/22/2009	4,901.51	230,117.86
40.	Electric Reliability Services	1418	12/22/2009	5,492.51	257,864.34
41.	Emerson Electric Asia-Pacific	1423	12/22/2009	490,968.04	23,050,144.29
42.	Emerson Electric Co.	1424	12/22/2009	680,807.18	31,962,780.58
43.	Emerson FZE	1426	12/22/2009	26,462.77	1,242,383.65
44.	Emerson Hermetic Motors	1428	12/22/2009	4,941.18	231,980.30
45.	Emerson Network Power (Hong Kong) Co. Ltd.	1430	12/22/2009	138,947.27	6,523,346.45
46.	Emerson Network Power (Malaysia) SDN BHD	1432	12/22/2009	32,135.13	1,508,691.65
47.	Emerson Network Power (Singapore) Pte. Ltd.	1433	12/22/2009	22,650.02	1,063,381.29
	TOTAL			**4,589,740.61**	**215,816,767.89**

Notwithstanding, after checking the invoices and the corresponding official receipts, the Court found that the following zero-rated sales in the amount of $1,469,585.45 are not supported by official receipts:

Reference	Invoice No.	Invoice Date	Amount in USD	OR No.	OR Date	Amount in USD	Difference
Exh. CCCCCCCC-2, pp. 10-13				01862	4/13/2010	9,868.84	
				01609	1/27/2010	206,192.96	
	1335	10/28/2009	635,415.03			216,061.80	$ 419,353.23
Exh. CCCCCCCC-2, pp. 14-15	1336	10/28/2009	429,310.32			-	429,310.32

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Exh. CCCCCCCC-2, p. 15	1343	11/24/2009	13,821.27	01724	2/22/2010	1,217.52	12,603.75
Exh. CCCCCCCC-2, p. 16	1352	11/24/2009	500,943.20			-	500,943.20
Exh. CCCCCCCC-2, p. 20				01706	2/16/2010	1,385.77	
				01597	1/20/2010	21,911.80	
	1355	11/24/2009	40,306.31			23,297.57	17,008.74
Exh. CCCCCCCC-2, p. 20	1357	11/24/2009	4,983.88			-	4,983.88
Exh. CCCCCCCC-2, p. 20	1361	11/24/2009	39,260.63			-	39,260.63
Exh. CCCCCCCC-2, p. 20	1363	11/24/2009	27,873.44			-	27,873.44
Exh. CCCCCCCC-2, p. 26	1416	12/22/2009	59,168.75	01766	3/10/2010	58,673.71	495.04
Exh. CCCCCCCC-2, p. 28-88				01862	4/13/2010	4,939.76[41]	
				01728	2/23/2010	232,797.29	
				01609	4/13/2010	425,316.91	
	1424	12/22/2009	680,807.18			663,053.96	17,753.22
		TOTAL	**2,431,890.01**			**962,304.56**	**$1,469,585.45**

Using the foreign currency exchange rate on the invoice date per petitioner's Schedule of Zero-rated Sales,[42] the foregoing zero-rated sales not supported by official receipts amount to ₱69,352,401.65, to wit:

Invoice No.	Invoice Date	Client	Amount in USD	Exchange Rate	Amount in PhP
1335	10/28/2009	Emerson Electric Co.	419,353.23	47.61905	19,969,202.43
1336	10/28/2009	Emerson Electric Asia-Pacific	429,310.32	47.61905	20,443,349.59
1343	11/24/2009	Closetmaid	12,603.75	46.59832	587,313.58
1352	11/24/2009	Emerson Electric Asia-Pacific	500,943.20	46.59832	23,343,112.47
1355	11/24/2009	Emerson FZE	17,008.74	46.59832	792,578.71

[41] Petitioner claimed that $22,683.25 of Invoice No. 1424 was receipted with OR No. 01862, broken down as follows:

Exhibit "CCCCCCCC-2", pp. 28-29	$ 12,471.69
Exhibit "CCCCCCCC-2", pp. 31-32	10,211.56
Total	**$22,683.25**

However, after deducting other invoice amounts receipted by the same OR, the remaining amount in OR No. 01862 is only $4,939.76, computed as follows:

Official Receipt No. 01862 dated 4/13/10 *(Exhibits DDDDDDD-50c and DDDDDDD-112a)*		$23,131.75
Less: Invoice# 1335 *(Exhibit CCCCCCCC-2, pp. 10-12)*	$(9,868.84)	
Invoice # 1353 *(Exhibit CCCCCCCC-2, pp. 17-19)*	(8,323.15)	(18,191.99)
Remaining amount in the official receipt		**$4,939.76**

[42] Exhibit "CCCCCCCC-1".

1357	11/24/2009	Emerson Hermetic Motors	4,983.88	46.59832	232,240.44
1361	11/24/2009	Emerson Network Power (Malaysia) SDN BHD	39,260.63	46.59832	1,829,479.40
1363	11/24/2009	Emerson Network Power (Singapore) Pte. Ltd.	27,873.44	46.59832	1,298,855.48
1416	12/22/2009	Daniel Measurement & Control (TX)	495.05	46.94836	23,241.79
1424	12/22/2009	Emerson Electric Co.	17,743.49	46.94836	833,027.76
		TOTAL	**1,469,575.73**		**69,352,401.65**

Thus, petitioner's substantiated zero-rated sales for the first quarter of fiscal year 2010 is ₱146,464,366.24, computed as follows:

Sales considered to be zero-rated	₱ 215,816,767.89
Zero-rated sales without official receipts	69,352,401.65
Substantiated zero-rated sales	**₱146,464,366.24**

Since only a portion of petitioner's zero-rated sales is substantiated, only the portion of the claimed input tax attributable thereto will be refunded. The rate to be applied is 30.0512%, broken down as follows:

Substantiated zero-rated sales	₱146,464,366.24
Divided by total declared zero-rated sales	₱487,383,178.98
Rate of substantiated zero-rated sales	**30.0512%**

As regards the claimed input taxes, petitioner declared in its Amended Quarterly VAT Return for the 1st quarter of fiscal year 2010 input taxes from domestic purchases of services in the total amount of ₱16,888,043.74.[43] However, petitioner's Schedule of Input VAT for the 1st quarter of fiscal year ending September 30, 2010 shows a total of ₱17,266,835.61.[44] Concerning the difference of ₱378,791.88, the Independent CPA reported:[45]

> "According to the Company, the difference of **₱378,791.88** resulted from the transition of the Company's computer accounting system from BPCS to Oracle in year 2009. During this transition, additional accounts, which were not present in BPCS, were taken up in the Oracle." gr

[43] Exhibit "G8".
[44] Exhibit "A8".
[45] Exhibit "Z7", p. 4.

The Independent CPA examined the voluminous documents supporting petitioner's input taxes amounting to ₱17,266,835.61, and presented the following findings in his supplemental and consolidated report:[46]

Findings	Annex	Services	Annex	Goods	Annex	Capital Goods Exceeding P1M	Total
1. Input VAT on domestic purchases supported by documents such as VAT ORs and VAT invoices	A-1	₱4,124,063.76	A-3	₱ 539,243.46	A-3 and A-16	₱ 1,375,354.08	₱ 6,038,661.30
2. Input VAT on domestic purchases supported by certified true copies of ORs							
a. On our report dated Sept. 3, 2012	A-4	₱1,005,382.43		₱ -	A-4 and A-16	₱ 30,120.19	₱ 1,035,502.62
b. Additional findings presented as no. 2 on page 3 of this supplemental report	A-4	246,016.81		-		-	246,016.81
Sub-total		₱1,251,399.24		₱ -		₱ 30,120.19	₱ 1,281,519.43
3. Input VAT on domestic purchases supported by certified true copies of ORs dated outside the period of claim							
a. On our report dated Sept. 3, 2012	A-5	₱ 679,829.59		₱ -	A-5 and A-16	₱ 21,861.50	₱ 701,691.09
b. Additional findings presented as no. 2 on page 3 of this supplemental report	A-5	146,235.22		-		-	146,235.22
Sub-total		₱ 826,064.81		₱ -		₱ 21,861.50	₱ 847,926.31
4. Input VAT on domestic purchases supported by certified true copies of invoices		₱ -	A-6	₱ 3,983.10		₱ -	₱ 3,983.10
5. Input VAT on domestic purchases supported by documents such as invoices, provisional receipts, acknowledgement receipts, billing statements, and statement of accounts (presented as no. 2 on page 3 of this supplemental report)	A-7	2,802,486.53		-		-	2,802,486.53
6. Input VAT on domestic purchases supported by quotation reports, check reports, check vouchers, and statement of accounts							
a. On our report dated Sept. 3, 2012		₱ -	A-8	₱ 13,655.36		₱ -	₱ 13,655.36
b. Additional findings presented as no. 1 on page 3 of this supplemental report		-	A-8	4,039,235.49		-	4,039,235.49
Sub-total		₱ -		₱4,052,890.85		₱ -	₱ 4,052,890.85

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[46] Exhibit "Z^{7}-2", pp. 3-6.

7. Input VAT on domestic purchases supported by documents not issued under the Company's name	A-9	₱ 1,568.54		₱ -		₱ -	₱ 1,568.54
8. Input VAT on domestic purchases supported by documents with pre-printed TIN only	A-10	5,250.24		-		-	5,250.24
9. Input VAT on domestic purchases supported by documents with pre-printed Non-VAT/NV	A-11	18,712.97		-	A-11 and A-16	1,692.96	20,405.93
10. Input VAT on domestic purchases supported by documents dated outside the period of claim	A-12	305,079.19	A-12	381.22		-	305,460.41
11. Input VAT on domestic purchases supported by documents wherein the amount of input VAT in the supporting document does not tie-up to the amount of input VAT in the Company's schedule*	A-13	260,730.67		-		-	260,730.67
12. Input VAT on domestic purchases supported by documents with no BIR authority to print	A-14	3,404.23	A-14	7,283.57		-	10,687.80
13. No available supporting documents							1,635,264.52
TOTAL		**₱9,598,760.18**		**₱4,603,782.20**		**₱1,429,028.73**	**₱17,266,835.63**
Amount of input VAT per supporting documents is **₱254,390.45 resulting in a difference of **₱6,340.22***							

Based on the foregoing, only input taxes in the amount of ₱6,038,661.30 under Item No. 1 are properly supported. Documents supporting input taxes under Item Nos. 2, 3, and 4 cannot be given credence and probative value since they were merely handwritten with or stamped as "Certified True Copy", and the Court cannot ascertain whether the certifier whose name or signature appearing on each of the said document is actually the authorized custodian of the same. Therefore, it should be disallowed. Under Item No. 11, the amount of input VAT in the Company's Schedule does not tally with the amount of input VAT in the supporting documents, resulting in a difference of ₱6,340.22, representing the over-claimed input taxes; which should be also disallowed. The rest should likewise be disallowed for failure to comply with the invoicing requirements provided by Sections 110(A) and 113(A) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-2005.

Further scrutiny of the said report and petitioner's supporting documents shows that in addition to the disallowances found by the

Independent CPA, the following input taxes amounting to ₱1,841,184.48 should be disallowed for the reasons stated below:

Exhibit	OR/Invoice Number	OR/Invoice Date	Supplier	Input Tax
1. Input tax on purchase of services not separately indicated in the official receipt				
BBBBBBBB-1	0911	11/17/2009	Mrs. Myrna Pyun	₱ 1,054.76
BBBBBBBB-2	1691	11/25/2009	Ezra General Services, Inc.	1,126.67
BBBBBBBB-3	61220	11/13/2009	Veterans Philippine Scouts	1,305.24
BBBBBBBB-4	0379	10/23/2009	Geoscience Technologies, Inc.	6,300.00
BBBBBBBB-5	0825	11/27/2009	Assessment Analytics, Inc.	7,020.00
BBBBBBBB-6	1692	11/25/2009	Ezra General Services, Inc.	30,772.86
BBBBBBBB-7	0778	10/29/2009	DNXI Sound System Rental	1,607.14
BBBBBBBB-8	1439	10/30/2009	Hewitt Associates, Inc.	56,982.38
BBBBBBBB-9	0021	10/30/2009	Platinum 168 Inc.	1,500.00
BBBBBBBB-11	1032	12/4/2009	MDC Group Inc.	15,000.00
BBBBBBBB-12	1448940	10/23/2009	DHL Express (Phils)	107,923.81
BBBBBBBB-13	1437232	10/15/2009	DHL Express (Phils)	36,305.99
BBBBBBBB-14	147414	11/6/2009	EDSA Shangri-La Manila	15,597.62
BBBBBBBB-15	0373	10/9/2009	Geoscience Technologies, Inc.	11,983.81
BBBBBBBB-16	1437231	10/13/2009	DHL Express (Phils)	17,298.58
BBBBBBBB-17	2389	11/13/2009	Global Quest Consulting Group	7,429.05
BBBBBBBB-18	17223	10/16/2009	MMLDC Foundation Inc.	6,503.81
BBBBBBBB-20	11954	10/23/2009	SGV-Development Dimensions International Inc.	5,785.71
BBBBBBBB-21	19038	11/6/2009	Oracle (Phils) Corp.	5,478.10
BBBBBBBB-22	147415	11/6/2009	EDSA Shangri-La Manila	4,790.48
BBBBBBBB-23	4773	10/22/2009	Amberland Corporation	3,557.62
BBBBBBBB-24	2976	10/9/2009	Businessworks Inc.	6,887.62
BBBBBBBB-25	3985	11/20/2009	Ages Aviation Center Inc.	1,523.33
BBBBBBBB-27	1351868	10/6/2009	DHL Express (Phils)	945.24
BBBBBBBB-28	0073	10/16/2009	Goldengrace Marketing Inc.	915.24
BBBBBBBB-29	0754	10/16/2009	Mrs. Myrna Pyun	801.90
BBBBBBBB-33	7216	11/20/2009	Micro Image International	146.67
BBBBBBBB-36	1823	10/9/2009	Eon Stakeholder Relations Firm	23,100.00
BBBBBBBB-38	0646	11/19/2009	Electric Skye, Inc.	12,335.97
BBBBBBBB-39	0668	12/12/2009	Electric Skye, Inc.	12,335.97
BBBBBBBB-40	104642	11/6/2009	Toyota Pasong Tamo Inc.	652.38
BBBBBBBB-41	1438	10/30/2009	Hewitt Associates, Inc.	88,643.96
BBBBBBBB-42	14803	10/30/2009	Seagull Glass Works Inc.	271.67
BBBBBBBB-45	61219	11/13/2009	Veterans Philippine Scouts	553.58
BBBBBBBB-49	1453314	10/29/2009	DHL Express (Phils)	719.94
BBBBBBBB-50	1454385	11/9/2009	DHL Express (Phils)	19,290.78
BBBBBBBB-51	00009788	10/30/2009	Database Wizards Inc.	2,678.94
BBBBBBBB-52	1456662	11/12/2009	DHL Express (Phils)	501.40
BBBBBBBB-53	288	10/28/2009	Renato D. Nayona	2,512.58
BBBBBBBB-54	00720	11/27/2009	Quantuvis Resources Corporation	11,159.37
BBBBBBBB-55	0382	11/13/2009	Geoscience Technologies, Inc.	42,663.56
BBBBBBBB-56	0231	11/13/2009	JCL International Inc.	69,494.40

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BBBBBBBB-57	80541	11/20/2009	Astoria Plaza	8,899.81
BBBBBBBB-59	1440	11/13/2009	Hewitt Associates, Inc.	116,349.95
BBBBBBBB-60	26444	11/13/2009	The Peninsula Manila	683.60
BBBBBBBB-61	4448	11/25/2009	Amberland Corporation	3,557.78
BBBBBBBB-62	1525	11/3/2009	Seafood Ventures Corporation	219.48
BBBBBBBB-64	0141	12/4/2009	Woof Produxions, Inc.	360.21
BBBBBBBB-66	0454	12/15/2009	Alliance Fashion Wear	35,160.76
BBBBBBBB-67	1080	11/17/2009	Transport and Traffic Planners Inc.	64,285.64
BBBBBBBB-68	147719	11/20/2009	EDSA Shangri-La Manila	1,853.68
BBBBBBBB-72	0291	12/8/2009	Yellow Mango Affiliates Inc.	21,214.36
BBBBBBBB-74	2651	12/8/2009	Hire, Inc.	36,504.23
BBBBBBBB-78	0174	12/11/2009	Rhodelia's Duerme	10,115.96
BBBBBBBB-79	0271	11/27/2009	Yellow Mango Affiliates Inc.	30,170.88
BBBBBBBB-80	5326196	12/2/2009	Development Academy of the Philippines	4,899.06
BBBBBBBB-81	1082	12/4/2009	Transport and Traffic Planners Inc.	25,714.09
BBBBBBBB-83	5156	12/13/2009	Metro Phi 7 Corporation	3,568.08
BBBBBBBB-89	4449	12/28/2009	Amberland Corporation	3,557.75
BBBBBBBB-90	1458468	11/24/2009	DHL Express (Phils)	16,784.98
BBBBBBBB-91	1460305	12/1/2009	DHL Express (Phils)	14,986.86
BBBBBBBB-94	0009	12/18/2009	Isputing Enterprise	10,221.60
BBBBBBBB-95	1537A	12/11/2009	Environmental Compliance Consultants Int'l Corp.	9,600.00
BBBBBBBB-96	44181	12/18/2009	American Express Transnational Inc.	5,506.92
BBBBBBBB-99	1461979	12/11/2009	DHL Express (Phils)	5,717.37
BBBBBBBB-100	0454	12/15/2009	Alliance Fashion Wear	35,160.57
BBBBBBBB-104	0301874	12/29/2009	Innove Communications	42,248.36
	Subtotal			**₱1,150,800.11**
2. Input tax on purchase of services not supported with official receipts				
BBBBBBBB-56b	0428		JCL International Inc.	₱ 104,915.27
BBBBBBBB-56c	0429		JCL International Inc.	241,739.11
BBBBBBBB-56d	0435		JCL International Inc.	228,437.23
BBBBBBBB-112	0867	10/19/2009	Seafood Ventures Corporation	428.70
BBBBBBBB-113	0732	9/25/2009	The Topnotch Group Corp.	3,653.52
BBBBBBBB-114	0905	10/19/2009	Ace Millenium Graphic	47.89
BBBBBBBB-115	0910	10/29/2009	Ace Millenium Graphic	192.02
BBBBBBBB-116	0912	10/29/2009	Ace Millenium Graphic	144.13
BBBBBBBB-117	0913	10/29/2009	Ace Millenium Graphic	239.91
BBBBBBBB-118	0914	10/29/2009	Ace Millenium Graphic	192.02
	Subtotal			**₱ 579,989.80**
3. Input tax on purchase of goods not separately indicated in the invoice				
BBBBBBBB-43	277	9/18/2009	Promo One Trading	₱ 51,315.93
BBBBBBBB-111	0755	10/9/2009	Mrs. Myrna Pyun	805.24
BBBBBBBB-119	1115	11/13/2009	Mabanag Marketing Enterprises	2,035.68
BBBBBBBB-138	21482	9/8/2009	Files Enterprises	19.25
BBBBBBBB-275	1283	11/12/2009	Cedorada Glass & Aluminum Supplies	665.26
	Subtotal			**₱ 54,841.36**
4. Input taxes supported by official receipts or invoices dated outside the period of claim				
BBBBBBBB-84	11992	1/15/2010	Development Dimensions International Philippines Inc.	₱ 2,250.23
BBBBBBBB-101	0917	1/8/2010	DNXI Sound System Rental	11,279.81
	Subtotal			**₱ 13,530.04**

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5. Input tax supported by official receipts or invoices which are not duly registered				
BBBBBBBB-120	124	11/11/2009	Mrs. Myrna Pyun	₱ 287.79
BBBBBBBB-144	2999	10/21/2009	3D Networks Philippines Inc.	5,435.21
BBBBBBBB-354	133	12/4/2009	Mrs. Myrna Pyun	1,931.93
Subtotal				**₱ 7,654.93**
6. Overclaimed input taxes				
BBBBBBBB-73	791289	10/27/2009	Directories Philippines Corp.	₱ 54.24
BBBBBBBB-222	36802	9/11/2009	The New Albergus, Inc.	1,387.24
Subtotal				**₱ 1,441.48**
7. Not properly supported input taxes				
BBBBBBBB-98	9048	12/16/2009	Daiichi Properties and Development Inc.	₱ 32,926.76
Subtotal				**₱ 32,926.76**
TOTAL				**₱1,841,184.48**

In addition, the Independent CPA found that petitioner's input taxes on purchase of capital goods exceeding 1 million pesos for the period October to December 2009 amounting to ₱1,375,354.08 are properly substantiated.[47] The same should be amortized over the life of the asset, as shown below:[48]

Vendor	Description of Cost	Input Tax	Amortized Portion for Oct. to Dec. 2009	Deferred for Succeeding Periods
Neptel System Integrator Inc.	Building Improvement	₱ 857.14	₱ 14.29	₱ 842.85
RCW Construction and Development Corp.	Building Improvement	8,035.71	133.93	7,901.78
RCW Construction and Development Corp.	Building Improvement	107,678.57	1,794.64	105,883.93
Mannasoft Tachnology Corp.	Computer Equipment	40,031.46	667.19	39,364.27
3D Networks Phils. Inc.	Telephony	1,126,863.46	18,781.06	1,108,082.40
Accent Micro Technologies Inc.	Computer Equipment	4,124.41	68.74	4,055.67
Main Hardware Inc.	Office Equipment	39,275.65	654.59	38,621.06
Tri-Sky Link Sales and Services Inc.	Office Equipment	13,885.71	231.43	13,654.28
Accent Micro Technologies Inc.	Computer Equipment	2,458.93	40.98	2,417.95
RCW Construction and Development Corp.	Building Improvement	32,142.86	535.71	31,607.15
TOTAL		**₱1,375,353.90**	**₱22,922.56**	**₱1,352,431.34**

This means that petitioner can only claim the portion of the input taxes allocated for the subject quarter which amounts to ₱22,922.56, and the remaining ₱1,352,431.34 should be deferred to the succeeding taxable periods. However, the Court found that of the total

[47] Exhibit "Z[7]-2", Annex A-3.
[48] Exhibit "Z[7]-2", Annex A-16.

₱1,375,354.08 input taxes from purchase of capital goods, ₱152,838.51 should be disallowed for failure to comply with the substantiation requirements as provided by law:

Exhibit	OR/Invoice Number	OR/Invoice Date	Supplier	Input Tax
1. Input tax on purchase of goods not separately indicated in the invoice				
BBBBBBBB-393	1072	9/18/2009	Neptel System Integrator Inc.	₱ 857.28
	Subtotal			**₱ 857.28**
2. Input tax on purchase of services not supported with official receipts				
BBBBBBBB-394	3005	8/25/2009	RCW Construction and Development Corp.	₱ 8,035.68
BBBBBBBB-395	3048	10/19/2009	RCW Construction and Development Corp.	107,678.41
BBBBBBBB-398	105744	10/26/2009	Accent Micro Technologies, Inc.	4,124.41
BBBBBBBB-402	3073	11/12/2009	RCW Construction and Development Corp.	32,142.73
	Subtotal			**₱151,981.23**
	TOTAL			**₱152,838.51**

Consequently, the following input taxes in the amount of ₱2,547.31 should be disallowed, as previously discussed:

Vendor	Description of Cost	Input Tax	Amortized Portion for Oct.-Dec. 2009
Neptel System Integrator Inc.	Building Improvement	₱ 857.14	₱ 14.29
RCW Construction and Development Corp.	Building Improvement	8,035.71	133.93
RCW Construction and Development Corp.	Building Improvement	107,678.57	1,794.64
Accent Micro Technologies, Inc.	Computer Equipment	4,124.41	68.74
RCW Construction and Development Corp.	Building Improvement	32,142.86	535.71
TOTAL		**₱152,838.69**	**₱2,547.31**

Hence, petitioner's substantiated input taxes for the first quarter of fiscal year ended September 2010 amount to ₱2,836,157.95, computed as follows:

Claimed input taxes			₱ 16,888,043.74
Less: Disallowances			
Per ICPA:			
Claimed input taxes	₱16,888,043.74		
Less: Input tax on domestic purchases supported by documents such as VAT ORs and VAT invoices	6,038,661.30		
Disallowed input taxes	₱10,849,382.44		
Add: Overclaimed input taxes	6,340.22	₱10,855,722.66	
Per Court's findings	₱ 1,841,184.48		

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Add: Input tax on purchase of capital goods - deferred for succeeding periods	1,352,431.34		
Disallowed input tax on purchase of capital goods - amortized portion for the period Oct to Dec 2009	2,547.31	3,196,163.13	14,051,885.79
Substantiated input taxes			**₱2,836,157.95**

The substantiated input taxes of ₱2,836,157.95 forms part of the ₱99,371,673.22 excess input taxes at the end of the first quarter of fiscal year ending September 2010,[49] which was carried over to the succeeding taxable periods until the third quarter of fiscal year ending September 2011, when it was claimed for refund[50] and included in the deduction as VAT Refund/TCC claimed in the amount of ₱42,732,299.48.[51] Even so, it was not applied against petitioner's output taxes as evidenced by its Quarterly VAT Returns[52], which show that input taxes incurred for the succeeding taxable quarters would always exceed the output tax due.

In sum, petitioner has proven that it is entitled to a refund or issuance of tax credit certificate in the amount of ₱852,298.76, computed as follows:

Substantiated input taxes	₱2,836,157.95
Portion of substantiated zero-rated sales	x 30.0512%
Refundable input taxes	**₱852,298.76**

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱852,298.76** representing its excess unutilized input taxes for the period covering October 1, 2009 to December 31, 2009 or the 1st quarter of fiscal year ending September 30, 2010.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

49 Exhibit "G^{8}", Line 29.
50 Exhibits "A", "A-1", "A-2", and "B" with sub-markings.
51 Exhibit "M^{8}", Line 23D; Memorandum for the Petitioner, par. 48, docket, p. 2273.
52 Exhibits "H^{8}" to "L^{8}".

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
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, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice