Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

AIR LIQUIDE PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8017

For: Refund or issuance of a Tax Credit Certificate

Present:
CASTAÑEDA, JR., Chairperson
CASANOVA, and
MINDARO-GRULLA, JJ.

Promulgated:
JUL 03 2012
4:05 p.m.

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DECISION

MINDARO-GRULLA, J.:

This is a Petition for Review filed by Air Liquide Philippines, Inc. as petitioner, against the Commissioner of Internal Revenue (CIR) as respondent, for the Court in Division, pursuant to Section 7(a)(2) of Republic Act (RA) No. 1125, An Act Creating the Court of Tax Appeals, as amended[1], as well as Rule 4, Section 3 (a) (2), in relation to Rule 8,

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1 Sec. 7. *Jurisdiction.* – The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
x x x x x x
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of

Section 4(a), of the Revised Rules of the Court of Tax Appeals (RRCTA)[2]. It involves a claim for refund or issuance of a tax credit certificate (TCC) in the amount of ₱23,254,465.64, allegedly

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> Internal Revenue, where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial;
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> x x x x x x

[2] Rule 4. Sec. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

x x x x x x

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided,* that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; P*rovided, further,* that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further,* that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;

x x x x x x

Rule 8. Sec. 4. *Where to appeal; mode of appeal.* –

(a) An Appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected; the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.

representing unutilized/excess input value-added tax (VAT) payments for the fourth (4th) quarter of 2007.

Petitioner Air Liquide Philippines, Inc. is a domestic corporation, with principal place of business at Lot 37, DBP Avenue, FTI Complex, Taguig, Metro Manila.[3] Petitioner is authorized to engage in the manufacture, production, purchase, wholesale, importation, marketing and generally deal in all kinds of industrial, medical and specialty liquid, gases, other chemicals and their residual components, under Securities and Exchange Commission Certificate of Registration No. AS094-00011713 and its Articles of Incorporation.[4] It is likewise registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer as evidenced by its BIR Certificate of Registration No. OCN9RC0000057089.[5] It sells products and renders related services to Philippine Economic Zone Authority (PEZA)-registered entities.[6]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue, with authority to act as such, including the power to decide, approve and grant claims for issuance of tax credit certificate or refund of overpaid internal revenue taxes as provided by law. She

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[3] Par. 3, Stipulation of Facts, Joint Stipulation of Facts and Issue (JSFI), Docket, p. 455.
[4] Exhibits "A-1" and "A-1-a".
[5] Exhibit "B".
[6] Par. 2, Stipulation of Facts, JSFI, Docket, p. 454.

holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On January 22, 2008, petitioner filed with the BIR its Quarterly VAT Return for the fourth quarter of 2007.[7]

On December 23, 2009, petitioner filed with respondent, through the BIR Revenue District Office (RDO) No. 121, an application for the issuance of a tax credit certificate for its unutilized input VAT in the amount of ₱23,254,465.64 attributable to its transactions with PEZA-registered enterprises for the 4th quarter of 2007.[8]

On December 29, 2009, petitioner filed the instant Petition for Review before this Court.

Respondent, in her Answer[9] filed on March 12, 2010, interposed the following defenses:

> "4. He reiterates and re-pleads the preceding paragraphs of this Answer as part of his Special and Affirmative Defenses.
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> 5. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau.
>
> 6. Petitioner failed to demonstrate that the tax subject in the case at bar was erroneously or illegally collected.
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> 7. Petitioner must prove that its sales are VAT zero-rated as contemplated under Section 112(A) of the Tax Code of 1997, as amended.

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[7] Exhibit "M"; Par. 5, Stipulation of Facts, JSFI, Docket, p. 455.
[8] Exhibit "C"; Par. 6, Stipulation of Facts, JSFI, Docket, p. 455.
[9] Docket, pp. 114-123.

8. Petitioner must prove compliance with the following in order to be entitled to a claim for refund:

a) Registration requirements of a value-added taxpayer under the pertinent provision of the Tax Code of 1997, as amended and its implementing regulations;

b) Invoicing and accounting requirements of VAT-registered persons as well as the filing and payment of VAT pursuant to the provisions of Sections 113 and 114 of the Tax Code 1997, 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 claim for input tax of the taxpayer claimant (Revenue Memorandum Circular No. 42-2003);

c) Submission of complete documents in support of the administrative claim for refund pursuant to Section 112 (c) of the Tax Code of 1997, as amended, otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax credit/refund which is a condition sine qua non prior to the filing of judicial claim in accordance with Section 229 of the Tax Code of 1997, as amended;

d) That the input taxes in the amount of Twenty Three Million Two Hundred Fifty Four Thousand Four Hundred Sixty Five and 64/100 (P23,254,465.64) allegedly representing unutilized input VAT for the 4th Quarter of 2007 were:

1. attributable to its zero-rated or effectively zero-rated sales;
2. incurred or paid by petitioner; and
3. not applied against any output VAT liability.

e.) That the claim for refund in the amount of Twenty Three Million Two Hundred Fifty Four Thousand Four Hundred Sixty Five and 64/100 (P23,254,465.64) representing unutilized input tax was filed within two (2) years after the close of the taxable quarter when sales are made in accordance with Section 112 (a) of the Tax Code of 1997, as amended; and

f.) Petitioner must likewise prove that it has complied with the governing rules and regulations with regard to recovery of taxes erroneously or illegally received as provided in Sections 112(a) and 229 of the Tax Code of 1997, as amended.

9. For the judicial claim for refund to prosper, petitioner must not only prove that it is a VAT-registered entity, it must substantiate

the input VAT paid by purchase invoices or official receipts *(Commissioner of Internal Revenue vs. Manila Mining Corporation, 468 SCRA 571).* Such that failure to comply with the requirements for a valid request for refund including the requirements for a valid sales invoice is fatal to the claim for refund. *(EG & G Omni, Inc. v. CIR, CTA Case No. 5987, March 26, 2004).*

10. Corollary thereto, Section 112 of the National Internal Revenue Code 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. xxx
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> (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 purchases was made.'
>
> xxx
>
> (d) 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 Subsections (A) and (B) 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. (Emphasis supplied).'

As provided by law, petitioner has to file its judicial claim with the Honorable Court within (30) days from receipt of the decision denying the claim or after the expiration of the one hundred twenty (120) day period from the date of submission of complete documents in support of the application for tax refund. This requirement is jurisdictional, failure to do so would deprive this Honorable Court of jurisdiction to decide on the case.

In the case at hand, petitioner filed its administrative claim for refund with the Large Taxpayers Audit and Investigation Division (LTAID) II (Excise) on December 23, 2009 in the amount of Twenty Three Million Two Hundred Fifty Four Thousand Four Hundred Sixty Five Pesos and 64/100 (₱23,254,465.64) representing the alleged unutilized and unapplied input VAT for the 4th quarter of 2007.

Ergo, respondent humbly manifests that it should be given an opportunity to act on the administrative claim filed within a period of 120 days from December 23, 2009 or until April 22, 2010 as expressly provided for by law under Section 112(d) of the NIRC of 1997, on the assumption that the complete documents were attached therein in support of the application filed for, otherwise, it would be fatal to its claim for refund.

In addition, it is only in case of full or partial denial of the claim for tax refund or tax credit or in case of failure on the part of respondent to act on the application within the period prescribed by law that petitioner may elevate the case with the Court of Tax Appeals via petition for review within thirty (30) days from April 22, 2010 or until May 22, 2010. Hence, in the light of the foregoing circumstances and on the basis of the aforequoted provision of law, respondent humbly submits that the petition for review which petitioner filed before this Honorable Court on December 29, 2009 or six (6) days after the filing of the administrative claim for refund with respondent on December 23, 2009 was *premature.* Hence, this Honorable Court is bereft of jurisdiction to try and hear the case at hand.

10. Lastly, it bears stressing that the administrative claim for refund was allegedly filed with respondent only on December 23, 2009 or when the two (2) year prescriptive period provided under Section 112 of the NIRC of 1997, as amended, was about to expire while the Petition for Review was filed before the Honorable Court of Tax Appeals (CTA) on December 29, 2009 or barely six (6) days after the filing of the administrative claim. Undoubtedly, respondent was not given ample time to appropriately act on the refund being claimed before the case was elevated by petitioner to the Honorable CTA.

It is without doubt that petitioner was very much aware of the aforesaid existing provision of law as the pertinent provision of

Section 112 was cited in its petition for review which led respondent to challenge the intention of petitioner in filing the administrative claim when the two - (2) year prescriptive period is about to expire. If petitioner was cognizant of the prescriptive periods provided by law why then did petitioner have to wait for the lapse of 23 months and 23 days to finally come to senses that it has to file the administrative claim for refund with respondent. If petitioner claims that it was entitled to lay claim on the refund filed then it could have filed the same at a much earlier date to give respondent the opportunity to act on the refund claim it filed. How can it expect respondent to act on the refund claim barely eight (8) days prior to the 2 year prescriptive period? Suffice it to say that it would be difficult and definitely impossible to issue a letter of authority relative to the case at hand, to review the pertinent documents subject of the instant case and for respondent to subsequently grant the administrative claim for refund all to be accomplished within the period of eight (8) days. Whatever motive or intentions petitioner had in filing the administrative claim for refund 12 days prior to the prescriptive period has certainly an appalling effect on the delay or inaction of respondent to act on the administrative claim. Ergo, respondent cannot be faulted for not being able to act on the matter at hand timely because petitioner must equally be held answerable for contributing to the delay of respondent in acting on the claim for refund.

11. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund.

12. Taxes collected are presumed to be in accordance with laws and regulations.

13. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.

14. Basic is the rule that tax refunds are regarded as tax exemptions that are in derogation of the sovereign authority and are to be construed in strictissimi juris against the person or entity claiming the exemption *(Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue, G.R. No. 141973, June 28, 2005).* The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted (Sea-Land Service Vs. Court of Appeals, 357 SCRA 444)."

During trial, petitioner presented three (3) witnesses, namely: Ms. Leah R. Acasio, Mr. Armando L. Magpantay, Jr., and Ms. Djhoanna R. O'Santos.

On May 6, 2011, petitioner filed its Formal Offer of Exhibits, offering Exhibits "A-1" to "PPPP-1" and Exhibits "1" to "5702". This Court in its Resolution dated July 1, 2011, admitted Exhibits "A-1" to "FF-5", "HH" to "PPPP-1", "1" to "124", "126" to "373", "375" to "691", "698" to "706", "711" to "727". "736" to "974", "978" to "1893", "1895" to "1899", "1905" to "2063", "2099" to "2030", "2034" to "2148", "2152" to "3152", "3154" to "3443, "3445" to "4925", "4927" to "5301", "5303" to "5417", "5419" to "5460", and "5463" to "5702", inclusive of their sub-markings.

Further, this Court in another Resolution dated August 3, 2011, (upon petitioner's Motion for Reconsideration) admitted Exhibits "GG" to "GG-3", "125", "374", "692" to "697, "707" to "710", "728" to "735, "975" to "977", "1900", "1901", "1903" to "1904", "2064" to "2098", "2031" to "2033", "3153", "3444", "4926", "5302", "5418", "5461" and "5462". Thereafter, petitioner was deemed to have formally rested its case.

The documentary evidence formally offered are as follows:

Exhibits	Description
"A-1"	Certificate of Filing Amended Articles of Incorporation of ALPHIL issued by the Securities and Exchange Commission ("SEC") with attached Amended Articles of Incorporation consisting of 11 pages
"A-1-a"	Primary Purpose as stated in the Amended Articles of Incorporation
"B"	Certificate of Registration Number issued by the Bureau of Internal Revenue ("BIR") with OCN 9RC000057089
"B-1"	Value-Added Tax ("VAT") as one of the Registered Activities of ALPHIL
"C"	BIR Form No. 1914 or Application for Tax Credits/Refunds with attached Letter Application for Issuance of Tax Credit Certificate/Refund Excess Input Taxes for the 4th Quarter of 2007 dated 23 December 2009 duly stamped as received by the BIR Large Taxpayer's Audit and Investigation Division II on the same date consisting of 4 pages .
"D"	ALPHIL's Schedule of Local Purchases for *October 2007* consisting of 8 pages
"D-1"	Total Amount of Purchase and Input VAT
"D-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio
"E"	ALPHIL's Schedule of Local Purchases for *November 2007* consisting of 9 pages
"E-1"	Total Amount of Purchase and Input VAT
"E-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio
"F"	ALPHIL's Schedule of Local Purchases for *December 2007* consisting of 8 pages
"F-1"	Total Amount of Purchase and Input VAT
"F-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio
"G"	ALPHIL's Schedule of Importation for *October 2007*
"G-1"	Total Amount of Input VAT
"G-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio
"H"	ALPHIL's Schedule of Importation for *November 2007*
"H-1"	Total Amount of Input VAT
"H-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio
"I"	ALPHIL's Schedule of Importation for *December 2007* with attached Entry & Internal Revenue Declaration from the Bureau of Customs
"I-1"	Total Amount of Input VAT
"I-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio
"J"	ALPHIL's Schedule of Sales for *October 2007* consisting of 10 pages
"J-1"	Grand Total of Sales
"J-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio in page 10
"K"	ALPHIL's Schedule of Sales for *November 2007* consisting of 10 pages
"K-1"	Grand Total of Sales
"K-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio in page 10
"L"	ALPHIL's Schedule of Sales for *December 2007* consisting of 10

	pages
"L-1"	Grand Total of Sales
"L-2"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio in page 10
"M"	*Amended* Quarterly VAT Return for the 4th Quarter of 2007 consisting of 2 pages
"M-1"	Date and Time of Filing of Return
"M-2"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"M-3"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php115,821,590.73
"M-4"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"M-5"	Block 23D (VAT Refund Claim/TCC Claimed)
"M-6"	Block 29 (Total Amount Payable [Overpayment])
"N"	Quarterly VAT Return for the 1st Quarter of 2008 consisting of 7 pages with attachments
"N-1"	Date and Time of Filing of Return
"N-2"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"N-3"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php132,189,153.79
"N-4"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"N-5"	Block 23D (VAT Refund Claim/TCC Claimed)
"N-6"	Block 29 (Total Amount Payable [Overpayment])
"O"	Quarterly VAT Return for the 2nd Quarter of 2008 consisting of 3 pages with attached Filing Reference No.
"O-1"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"O-2"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php147,266,988.89
"O-3"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"O-4"	Block 23D (VAT Refund Claim/TCC Claimed)
"O-5"	Block 29 (Total Amount Payable [Overpayment])
"O-6"	Date of Filing stated in attached Filing Reference No.
"P"	Quarterly VAT Return for the 3rd Quarter of 2008 consisting of 3 pages with attached Filing Reference No.
"P-1"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"P-2"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php161,680,652.95
"P-3"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"P-4"	Block 23D (VAT Refund Claim/TCC Claimed)
"P-5"	Block 29 (Total Amount Payable [Overpayment])
"P-6"	Date of Filing stated in attached Filing Reference No.
"Q"	Quarterly VAT Return for the 4th Quarter of 2008 consisting of 3 pages with attached Filing Reference No.
"Q-1"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"Q-2"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php174,370,925.82
"Q-3"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"Q-4"	Block 23D (VAT Refund Claim/TCC Claimed)
"Q-5"	Block 29 (Total Amount Payable [Overpayment])
"Q-6"	Date of Filing stated in attached Filing Reference No.
"R"	Quarterly VAT Return for the 1st Quarter of 2009 consisting of 3

	pages with attached Filing Reference No.
"R-1"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"R-2"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php184,190,750.03
"R-3"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"R-4"	Block 23D (VAT Refund Claim/TCC Claimed)
"R-5"	Block 29 (Total Amount Payable [Overpayment])
"R-6"	Date of Filing stated in attached Filing Reference No.
"S"	Quarterly VAT Return for the 2nd Quarter of 2009 consisting of 3 pages with attached Filing Reference No.
"S-1"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"S-2"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php191,908,928.75
"S-3"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"S-4"	Block 23D (VAT Refund Claim/TCC Claimed)
"S-5"	Block 29 (Total Amount Payable [Overpayment])
"S-6"	Date of Filing stated in attached Filing Reference No.
"T"	Quarterly VAT Return for the 3rd Quarter of 2009 consisting of 3 pages with attached Filing Reference No.
"T-1"	Date of Filing stated in attached Filing Reference No.
"U"	*Amended* Quarterly VAT Return for the 3rd Quarter of 2009 consisting of 3 pages with attached Filing Reference No.
"U-1"	Blocks 15A to 19B (VATable Sales, Sales to Government, Zero Rated Sales, Exempt Sales, Total Sales)
"U-2"	Block20F (Total of Item 20A, 20B, 20C, 20D and 20E) in the amount of Php196,163,269.38
"U-3"	Second Column of Section 21 (Current Transactions- Output VAT Due for the Quarter)
"U-4"	Block 23D (VAT Refund Claim/TCC Claimed)
"U-5"	Block 29 (Total Amount Payable [Overpayment])
"U-6"	Date of Filing stated in attached Filing Reference No.
"V"	ALPHIL's Annual Income Tax Return for 2007 consisting of 7 pages
"V-1"	Date and Time of Filing
"W"	Audited Financial Statement of ALPHIL for Year Ended 31 December 2006 consisting of 29 pages
"W-1"	Note 10 on page 15 of the Audited Financial Statements (Property, Plant and Equipment)
"X"	ALPHIL List of Clients Accredited/Registered with PEZA
"X-1"	Name and Signature of ALPHIL's Accounting Manager, Leah R. Acasio
"Y"	Certification from PEZA consisting of 6 pages dated 28 April 2010
"Y-1"	Certificate of Registration and Tax Exemption issued to **NIDEC SUBIC PHILIPPINES CORPORATION** effective from 2 December 2006 until 2 December 2007
"Y-2"	Certificate of Registration and Tax Exemption issued to **NIDEC SUBIC PHILIPPINES CORPORATION** effective from 3 December 2007 until 3 December 2008
"Y-3"	Certificate of Registration and Tax Exemption issued to **HHIC-PHIL., INC.** effective from 3 March 2007 until 3 March 2008
"Y-4"	Certification as to registration of **SHINKOZAN CORPORATION** and **TEAM PACIFIC CORPORATION** with BOI effective from 01 January 2007 until 31 December 2007
"Y-5"	Certification as to registration and VAT Zero-Rating from PEZA of the following:

--2Pi Microwave Technology, Inc.

–AGC Flat Glass Philippines, Inc. *(Formerly: Asahi Glass Philippines, Inc.)*
–Aichi Forging Company of Asia, Inc.;
–Air Liquide Philippines Utilities Services (ALPLUS), Inc.
–Air Water Philippines, Inc.
–Amkor Technology Philippines, Inc.
–Analog Devices Gen. Trias, Inc.
–Austriamicrosystems (Philippines), Inc.
–Bell Electronics Corporation
–CAM Mechatronic (Phils.), Inc.
–CASTEM Philippines Corporation
–CIRTEK Electronics Corp.
–Continental Temic Electronics (Philippines), Inc.
–Coral Bay Nickel Corporation
–CPL Packaging, Inc.
–Fastech Electonique, Inc. *(Formerly: Fasteck Elektronik, Inc.)*
–Franke Foodservice Systems Philippines, Inc.
–Fuji Industries Manila *(Formerly:Fujielastromers Manila Corporation)*
–Fujitsu Ten Corporation of the Philippines
–GF Micro Optics Philippines, Inc. *(Formerly: NSG Micro Optics Philippines, Inc.);*
–Heraeus Electronic Materials Philippines, Inc.
–Hitachi Industrial Machinery Philippines Corporation;
–Hoya Glass Disk Philippines, Inc.;
–Ibiden Philippines, Inc.;
–Imasen Philippine Manufacturing Corporation;
–Integrated Microelectronics, Inc.;
–I-Omni Precision, Inc.;
–Ionics Ems, Inc.;
–ISPL (Phil.), Inc. *(Formerly: ATEC);*
–Ju-Young Electronics (Phils.), Inc.;
–Katolec Philippines Corporation;
–Kedica Philippines Corporation;
–Komyo Philippine Logistic -Service Corporation;
–Kuy Corp. *(Formerly: Eightech Tectron Philippines, Inc.);*
–Kyocera Kinseki Philippines, Inc.;
–Laguna Electronics, Inc.;
–Littelfuse Philippines, Inc.;
–Luzon Electronics Technology Inc.;
–Luzon Magnetics, Inc.;
–Maeno Giken, Inc.;
–Masuda Philippines, Inc.;
–MME Technologies Inc.;
–MSM Manila Inc. (Formerly: Precision Springs Manila Incorporated)
–N.T. Philippines, Inc.;
–NIDEC Philippines Corporation;
–Nikko Metals Philippines, Inc. *(Formerly: Nikko Materials);*
–NXP Semiconductors Philippines, Inc. *(Formerly: Philips Semiconductors Philippines, Inc.)*
–On Semiconductor Philippines, Inc.;
–Optodev, Inc.;
–Orient Semiconductor Electronic Philippines, Inc.;
–Philippine Associated Smelting and Refining Corporation;
–Philippine Toei Chemical Corporation;
–Pricon Microelectronics, Inc. *(Formerly: Pricon Micro-Electronics, Inc.);*
–Pros Technology, Inc.;
–Psi Technologies, Inc.;
–Samsung Electro-Mechanics Philippines Corporation;
–Sanritsu Great International Corporation;
–Shi Manufacturing & Services (Philippines), Inc.;
–Shindengen Philippines Corporation;
–Shin-etsu Magnetics Philippines, Inc.;
–Showa Aluminium Manufacturing Philippines Corporation;
–Tann Philippines, Inc.;
–Technol Eight Philippines Corporation;
–Temic Automotive (Phils.), Inc.;

–Temic Semiconductor Test, Inc.;
–Tokyo Steel Philippines Corporation;
–Tong Shing Electronics (Philippines), Inc.;
–Vishay (Phils), Inc.;
–YKY Parts Corporation; and
–Yutaka Manufacturing (Phils.), Inc.

"Z"	Supply Agreement for Compressed Gas Cylinders between ALPHIL and Amkor Technology Phils. consisting of 3 pages with notarial page
"Z-1"	Purpose
"Z-2"	Duration
"Z-3"	Signatories and Date
"AA"	Memorandum of Agreement for Use of Liquid Gas Container between ALPHIL and Amkor Technology Phils. consisting of 4 pages with notarial page
"AA-1"	Purpose
"AA-2"	Duration
"AA-3"	Signatories and Date
"BB"	Memorandum of Agreement between Analog Devices Gen. Trias, Inc. and ALPHIL dated 1 October 2006 consisting of 3 pages with notarial page
"BB-1"	Sections 1 and 2
"BB-2"	Signatories
"CC"	Gas Supply Agreement of Nitrogen between ALPHIL and Austriamicrosystems (Philippines), Inc. consisting of 7 pages with notarial page
"CC-1"	Sections I and II (Scope of Agreement and Period)
"CC-2"	Section IV (Prices)
"CC-3"	Prices in Schedule A
"CC-4"	Signatories and Date
"CC-5"	Section III of the Agreement
"DD"	Gas Supply Agreement of Nitrogen between ALPHIL and Bell Electronics Corporation consisting of 8 pages with notarial page
"DD-1"	Sections I and II (Scope of Agreement and Period)
"DD-2"	Section IV (Prices)
"DD-3"	Prices in Schedule A
"DD-4"	Signatories and Date
"DD-5"	Section III of the Agreement
"EE"	Gas Supply Agreement of Nitrogen between ALPHIL and Cirtek Electronics Corporation consisting of 9 pages with attached schedules
"EE-1"	Sections I and II (Scope of Agreement and Period)
"EE-2"	Section IV (Prices)
"EE-3"	Prices in Schedule A
"EE-4"	Signatories and Date
"EE-5"	Section III of the Agreement
"FF"	Gas Supply Agreement of Nitrogen between ALPHIL and Continental Temic Electronics Philippines, Inc. consisting of 6 pages
"FF-1"	Sections I and II (Scope of Agreement and Period)
"FF-2"	Section IV (Prices)
"FF-3"	Prices in Schedule A
"FF-4"	Signatories and Date
"FF-5"	Section III of the Agreement
"GG"	Supply Agreement for Compressed Gas in Cylinders between ALPHIL and Continental Temic Electronics Philippines, Inc., consisting of 3 pages with notarial page
"GG-1"	Purpose and Charges
"GG-2"	Duration
"GG-3"	Signatories and Date

"HH"	Gas Supply Agreement of Nitrogen between ALPHIL and **Fujielastromers Manila Corporation** consisting of 7 pages with notarial page
"HH-1"	Sections I and II (Scope of Agreement and Period)
"HH-2"	Section IV (Prices)
"HH-3"	Prices in Schedule A
"HH-4"	Signatories and Date
"HH-5"	Section III of the Agreement
"II"	Gas Supply Agreement of Nitrogen between ALPHIL and **Fujitsu Ten Corporation of the Philippines** consisting of 8 pages with notarial page
"II-1"	Sections I and II (Scope of Agreement and Period)
"II-2"	Prices
"II-3"	Signatories and Dates
"II-4"	Section III of the Agreement
"JJ"	Supply Agreement for Compressed Gas in Cylinders between **Heraeus Electronic Materials** and ALPHIL consisting of 3 pages with notarial page
"JJ-1"	Purpose
"JJ-2"	Duration
"JJ-3"	Signatories and Date
"LL"	Gas Supply Agreement of Nitrogen between ALPHIL and **Ibiden Philippines, Inc.** consisting of 6 pages with notarial page
"LL-1"	Sections I and II (Scope of Agreement and Period)
"LL-2"	Section IV of the Agreement
"LL-3"	Pricing
"LL-4"	Signatories and Date
"MM"	Supply Agreement for Compressed Gas in Cylinders between **Imasen Philippine Manufacturing Corporation** and ALPHIL consisting of 6 pages with notarial page
"MM-1"	Purpose
"MM-2"	Duration
"MM-3"	Signatories and Date
"NN"	Gas Supply Agreement of Nitrogen between Air Liquide Philippines, Inc and **Integrated Microelectronics, Inc.** consisting of 8 pages including notarial page
"NN-1"	Sections I and II (Scope of the Agreement and Period)
"NN-2"	Section IV (Prices)
"NN-3"	Schedule A- Prices
"NN-4"	Signatories to the Agreement and Date
"NN-5"	Section III of the Agreement
"PP"	Supply Agreement for Compressed Gas in Cylinders between **I-Omni Precision, Inc.** and ALPHIL consisting of 3 pages with notarial page
"PP-1"	Purpose
"PP-2"	Duration
"PP-3"	Signatories and Date
"QQ"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Ionics Ems, Inc.** consisting of 10 pages with notarial page
"QQ-1"	Sections I and II (Scope of Agreement and Period)
"QQ-2"	Section IV (Prices)
"QQ-3"	Prices in Schedule A
"QQ-4"	Signatories and Date
"QQ-5"	Section III of the Agreement
"RR"	Memorandum of Agreement between **ISPL (Phils), Inc.** (Formerly: Automated Technology, Phils.) and ALPHIL consisting of 2 pages
"RR-1"	Section 2 of the Agreement
"RR-2"	Signatories

"SS"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Katolec Philippines Corporation** consisting of 6 pages
"SS-1"	Sections I and II (Scope of Agreement and Period)
"SS-2"	Section IV (Prices)
"SS-3"	Prices in Schedule A
"SS-4"	Signatories and Date
"SS-5"	Section III of the Agreement
"TT"	Supply Agreement between **Komyo Philippine Logistic Service Corp** and ALPHIL consisting of 3 pages
"TT-1"	Paragraph 1 of the Agreement
"TT-2"	Supply Contract in page 2
"TT-3"	Signatories
"UU"	Supply Agreement for Compressed Gas In Cylinders/Bundles between **Komyo Philippines Logistic Service Corp.** and Air Liquide Philippines, Inc. consisting of 3 pages including notarial page
"UU-1"	Purpose
"UU-2"	Duration
"UU-3"	Signatories and Date of Signing
"VV"	Gas Supply of Nitrogen between Air Liquide Philippines, Inc. and **Laguna Electronics, Inc.** consisting of 7 pages including notarial page
"VV-1"	Sections 1 and 2 (Scope of Agreement and Period)
"VV-2"	Section IV (Prices)
"VV-3"	Schedule A (Prices)
"VV-4"	Signatories and Date
"VV-5"	Section III of the Agreement
"WW"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Luzon Electronics Technology**, Inc. consisting of 8 pages with notarial page
"WW-1"	Sections I and II (Scope of Agreement and Period)
"WW-2"	Section IV (Prices)
"WW-3"	Prices in Schedule A
"WW-4"	Signatories and Date
"WW-5"	Section III of the Agreement (Additional marking)
"XX"	Supply Agreement for Compressed Gas in Cylinders/Bundles between **Luzon Magnetics Inc.** and ALPHIL consisting of 3 pages with notarial page
"XX-1"	Purpose
"XX-2"	Duration
"XX-3"	Signatories and Date
"YY"	Supply Agreement for Compressed Gas in Cylinders/Bundles between **Masuda Philippines, Inc.** and ALPHIL consisting of 3 pages with notarial page
"YY-1"	Purpose
"YY-2"	Duration
"YY-3"	Signatories and Date
"ZZ"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **MME Technologies, Inc.** consisting of 7 pages with notarial page
"ZZ-1"	Sections I and II (Scope of Agreement and Period)
"ZZ-2"	Section IV (Prices)
"ZZ-3"	Prices in Schedule A
"ZZ-4"	Signatories and Date
"ZZ-5"	Section III of the Agreement
"AAA"	Gas Supply Agreement of Nitrogen between ALPHIL and **NSG Philippines, Inc.** consisting of 11 pages with notarial page
"AAA-1"	Sections I and II (Scope of Agreement and Period)
"AAA-2"	Section IV (Prices)
"AAA-3"	Prices in Schedule A
"AAA-4"	Signatories and Date
"AAA-5"	Section III of the Agreement

"BBB"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Orient Semiconductor Electronics Phils, Inc.** consisting of 6 pages with notarial page
"BBB-1"	Sections I and II (Scope of Agreement and Period)
"BBB-2"	Section IV (Prices)
"BBB-3"	Prices in Schedule A
"BBB-4"	Signatories and Date
"BBB-5"	Section III of the Agreement
"CCC"	Supply Agreement for Compressed Gas in Cylinders between Air Liquide Philippines, Inc. and **Orient Semiconductor Electronics Phils.**, Inc. consisting of 4 pages including notarial page
"CCC-1"	Purpose and Charges
"CCC-2"	Duration
"CCC-3"	Signatories to the Agreement and Date of Commissionary in page 3 of the Agreement
"DDD"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Philippine Toei Chemical** Corp. consisting of 7 pages with notarial page
"DDD-1"	Sections I and II (Scope of Agreement and Period)
"DDD-2"	Section IV (Prices)
"DDD-3"	Prices in Schedule A
"DDD-4"	Signatories and Date
"DDD-5"	Section III of the Agreement
"'EEE"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Pricon Microelectronics, Inc.** consisting of 9 pages with notarial page
"EEE-1"	Sections I and II (Scope of Agreement and Period)
"EEE-2"	Section IV (Prices)
"EEE-3"	Prices in Schedule A
"EEE-4"	Signatories and Date
"FFF"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Psi Technologies, Inc.** dated 16 June 2003 consisting of 8 pages with notarial page
"FFF-1"	Sections I and II (Scope of Agreement and Period)
"FFF-2"	Section IV (Prices)
"FFF-3"	Prices in Schedule A
"FFF-4"	Signatories and Date
"FFF-5"	Section III (Facilities and Equipment)
"GGG"	Gas Supply of Nitrogen between ALPHIL and **Psi Technologies, Inc.** consisting of 8 pages dated 8 October 1997
"GGG-1"	Sections I and II (Scope of Agreement and Period)
"GGG-2"	Section IV (Prices)
"GGG-3"	Prices in Schedule A
"GGG-4"	Signatories and Date
"GGG-5"	Section III (Facilities and Equipment)
"HHH"	Amendment to the Gas Supply of Nitrogen between ALPHIL and Psi **Technologies, Inc.** consisting of 2 pages dated 18 March 1999 with notarial page
"HHH-1"	Price
"HHH-2"	Signatories and Date
"III"	Gas Supply Agreement of Nitrogen between ALPHIL and **Nidec Subic Philippines Corporation** dated 7 May 2003 consisting of nine (9) pages
"III-1"	Sections I and II (Scope of Agreement and Period)
"III-2"	Section IV (Prices)
"III-3"	Prices in Schedule A
"III-4"	Signatories and Date
"III-5"	Section III (Facilities and Equipment)
"LLL"	Contract of Sale for Hydrogen Plant with Lease and Supply

	Agreement dated 6 August 1997 between ALPHIL and Republic Asahi Glass Corporation
"LLL-1"	Amendment No. 1 in the Contract of Sale for Hydrogen Plant with Lease and Supply Agreement dated 31 March 2008 consisting of 3 pages
"LLL-1-a"	Signatories to the Amendment No. 1 in the Contract of Sale for Hydrogen Plant with Lease and Supply Agreement dated 31 March 2008
"LLL-2"	Article 3 of the Contract of Sale for Hydrogen Plant with Lease and Supply Agreement dated 6 August 1997
"LLL-3"	Article 5 of the Contract of Sale for Hydrogen Plant with Lease and Supply Agreement dated 6 August 1997
"LLL-4"	Article 8 of the Contract of Sale for Hydrogen Plant with Lease and Supply Agreement dated 6 August 1997
"LLL-5"	Signatories and Date to the Contract of Sale for Hydrogen Plant with Lease and Supply Agreement dated 6 August 1997
"MMM"	Contract of Sale for Nitrogen Plant (with Lease and Supply Agreement) dated 6 August 1997 consisting of 8 pages between Air Liquide Philippines and Republic Asahi Glass Corporation
"MMM-1"	Article 5 of Contract of Sale for Nitrogen Plant (with Lease and Supply Agreement) dated 6 August 1997
"MMM-2"	Article 7 of Contract of Sale for Nitrogen Plant (with Lease and Supply Agreement) dated 6 August 1997
"MMM-3"	Article 10 of Contract of Sale for Nitrogen Plant (with Lease and Supply Agreement) dated 6 August 1997
"MMM-4"	Date and Signatories of Contract of Sale for Nitrogen Plant (with Lease and Supply Agreement) dated 6 August 1997
"OOO"	Liquid Oxygen (LOX) Supply Agreement between ALPHIL and Republic Asahi Glass Corporation dated 5 November 2001
"OOO-2"	Section 1 of Liquid Oxygen (LOX) Supply Agreement between ALPHIL and Republic Asahi Glass Corporation dated 5 November 2001
"OOO-3"	Section 2 of Liquid Oxygen (LOX) Supply Agreement between ALPHIL and Republic Asahi Glass Corporation dated 5 November 2001
"OOO-4"	Section 4 of Liquid Oxygen (LOX) Supply Agreement between ALPHIL and Republic Asahi Glass Corporation dated 5 November 2001
"OOO-5"	Signatories to Liquid Oxygen (LOX) Supply Agreement between ALPHIL and Republic Asahi Glass Corporation dated 5 November 2001
" OOO-1"	Addendum to Liquide Oxygen (LOX) Supply Agreement between ALPHIL and Republic Asahi Glass Corporation
"OOO-1-a"	Signatories to the Amendment to Liquide Oxygen (LOX) Supply Agreement between ALPHIL and Republic Asahi Glass Corporation
"PPP"	Addendum to Contracts Entered into between ALPHIL and Republic Asahi Glass Corporation dated 30 April 2002 consisting of 6 pages
"PPP-1"	Section 2 of Addendum to Contracts Entered into between ALPHIL and Republic Asahi Glass Corporation dated 30 April 2002
"PPP-2"	Section 4 of Addendum to Contracts Entered into between ALPHIL and Republic Asahi Glass Corporation dated 30 April 2002
"PPP-3"	Signatories to Addendum to Contracts Entered into between ALPHIL and Republic Asahi Glass Corporation dated 30 April 2002
"QQQ"	Memorandum of Agreement between Asahi Glass Phils., Inc. and ALPHIL for Renewal of Contracts for Supply of Nitrogen and Hydrogen to Asahi
"RRR"	Supply Agreement of Floxal between Samsung Electro-Mechanics Phils., Corp. and Air Liquide Philippines, Inc. dated 14 April 2000
"RRR-1"	Sections III and IV
"RRR-2"	Price
"RRR-3"	Sections XIX and XX
"RRR-4"	Signatories and Date

"RRR-5"	Section II
"RRR-6"	Section VIII
"SSS"	Gas Supply Agreement of Nitrogen between ALPHIL and **Samsung Electro-Mechanics** Phils., **Corp.** dated 27 October 1999 consisting of 7 pages with notarial page
"SSS-1"	Sections I and II (Scope of Agreement and Period)
"SSS-2"	Section IV (Prices)
"SSS-3"	Prices in Schedule A
"SSS-4"	Signatories and Date
"SSS-5"	Section III of the Agreement
"TTT"	Addendum to Gas Supply Agreement of Nitrogen between ALPHIL and **Samsung Electro Mechanics** Phils., Corp. consisting of 3 pages with notarial page
"TTT-1"	Price
"TTT-2"	Signatories and Date
"UUU"	Supply Agreement for Compressed Gas in Bundles between ALPI and **Samsung Electro Mechanics** Phils., **Corp.** consisting of 3 pages with notarial page
"UUU-1"	Purpose and charges
"UUU-2"	Duration
"UUU-3"	Signatories
"VVV"	Supply Agreement for Compressed Gas in Cylinders between ALPHIL and **SHI Manufacturing and Services (Philippines), Inc.** dated 30 June 2003 consisting of 3 pages with notarial page
"VVV-1"	Purpose and Charges
"VVV-2"	Duration
"VVV-3"	Signatories
"WWW"	Purchasing Contract between **Shindengen Philippines Corp.** and ALPHIL dated 15 March 2006 consisting of 3 pages with notarial page
"WWW-1"	Article 5 of Contract
"WWW-2"	Signatories
"XXX"	Supply Agreement for Compressed Gas in Cylinders between ALPHIL and **Showa Aluminum Manufacturing Phils. Corp.** dated 10 May 2005 consisting of 3 pages with notarial page
"XXX-1"	Purpose and Charges
"XXX-2"	Duration
"XXX-3"	Signatories
"ZZZ"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Team Pacific Corporation** dated25 March 2003 consisting of 8 pages with notarial page
"ZZZ-1"	Sections I and II (Scope of Agreement and Period)
"ZZZ-2"	Section IV (Prices)
"ZZZ-3"	Prices in Schedule A
"ZZZ-4"	Signatories and Date
"ZZZ-5"	Section III (Facilities and Equipment)
"AAAA"	Gas Supply Agreement of Nitrogen between ALPHIL and **Team Pacific Corporation** consisting of 8 pages with notarial page
"AAAA-1"	Sections I and II (Scope of Agreement and Period)
"AAAA-2"	Section IV
"AAAA-3"	Price in Schedule A
"AAAA-4"	Signatories
"AAAA-5"	Section III (Facilities and Equipment)
"BBBB"	Gas Supply Agreement of Nitrogen between ALPHIL and **Temic Automotive Philippines, Inc.** consisting of 7 pages with notarial page
"BBBB-1"	Sections I and II (Scope of Agreement and Period)
"BBBB-2"	Section IV (Prices)
"BBBB-3"	Prices in Schedule A

"BBBB-4"	Signatories and Date
"DDDD"	Supply Agreement for Compressed Gas in Cylinders/Bundles between ALPHIL and **Tokyo Steel Philippines Corporation** consisting of 3 pages with notarial page
"DDDD-1"	Purpose
"DDDD-2"	Duration
"DDDD-3"	Signatories and Date
"DDDD-4"	Supply Agreement For Hydrogen High Purity Gas Supply to **Tokyo Steel Philippines Corporation** consisting of 3 pages
"EEEE"	Gas Supply Agreement of Liquid Nitrogen between ALPHIL and **Temic Semiconductor Test,** Inc. consisting of 8 pages including schedules and notarial page
"EEEE-1"	Sections I and II of the Agreement (Scope of Services and Period)
"EEEE-2"	Section IV of the Agreement (Prices)
"EEEE-3"	Signatories to the Agreement and Date of Effectivity on page 3 of the Agreement
"EEEE-4"	Signatories and Date
"EEEE-5"	Section III (Facilities and Equipment)
"FFFF"	Gas Supply Agreement of Nitrogen between ALPHIL and **Vishay Philippines, Inc.** consisting of 7 pages including notarial page
"FFFF-1"	Sections I and II (Scope of Agreement and Period)
"FFFF-2"	Section IV (Prices)
"FFFF-3"	Prices in Schedule A of the Agreement
"FFFF-4"	Signatories
"FFFF-5"	Section III (Facilities and Equipment)
"GGGG"	Gas Supply Agreement of Nitrogen between ALPHIL and **SCG Philippines, Inc.** dated 18 June 2002 consisting of 7pages
"GGGG-1"	Amendment to the Nitrogen Gas Supply Agreement consisting of 3 pages dated 19 October 2004
"HHHH"	Supply Agreement (for Floxal) between ALPHIL and **SCG Philippines, Inc.** consisting of 11 pages
"HHHH-1"	Amendment to Nitrogen Gas Supply Agreement notarized on 5 November 2003
"HHHH-2"	Amendment to Nitrogen Gas Supply Agreement notarized on 4 November 2004
"IIII"	Supply Agreement for Compressed Gas in Bundles between ALPHIL and **Psi Technologies, Inc**. consisting of 2 pages
"IIII-1"	Purpose
"IIII-2"	Duration
"IIII-3"	Signatories
"JJJJ"	Supply Agreement for Compressed Gas in Bundles between ALPHIL and **Psi Technologies, Inc**. consisting of 4 pages including notarial page
"JJJJ-1"	Purpose Clause
"JJJJ-2"	Duration Clause
"JJJJ-3"	Signatories
"KKKK"	Sworn Statement of Ms. Leah R. Acasio for CTA Case No. 8017 dated 25 June 2010 consisting of 11 pages
"KKKK-1"	Signature of Ms. Leah R. Acasio (*See* TSN dated 5 July 2010, identified and referred to Exhibits "C" to "Y", p.9)
"LLLL"	*Air Liquide Philippines, Inc. v. Commissioner of Internal Revenue*, Final Report on the Result of the Procedures Performed for the Claim for Refund/Tax Credit Certificate for the Fourth Quarter of the Year ended 31 December 2007, CTA Case No. 8017
"LLLL-1-a"	Signature of Armando L. Magpantay, Jr. of Dy Go and Company as the duly commissioned Independent Certified Public Accountant ("ICPA") on page 6

"MMMM"	Sworn Statement of Mr. Armando L. Magpantay, Jr. for CTA Case No. 8017 dated 05 October 2010 consisting of 14 pages
"MMMM-1"	Signature of Mr. Armando L. Magpantay, Jr. (*See* TSN dated 11 October 2010, identified and referred to Exhibits "LLLL", "LLLL-1" to "LLLL-9-5", and "1" to "5702", p.9)
"NNNN"	Supplemental Sworn Statement of Ms. Leah R. Acasio for CTA Case No. 8017 dated 25 November 2010 consisting of 14 pages
"NNNN-1"	Signature of Ms. Leah R. Acasio (*See* TSN dated 1 December 2010, identified Exhibits A" to "U" and "Y" to "Y-3", p.8)
"OOOO"	Second Supplemental Sworn Statement of Ms. Leah R. Acasio for CTA Case No. 8017 dated 21 January 2011 consisting of 16 pages
"OOOO-1"	Signature of Ms. Leah R. Acasio (*See* TSN dated 26 January 2011, identified Exhibits A" to "Y-5", p.9)
"PPPP"	Sworn Statement of Ms. Djhoanna R. O' Santos for CTA Case No. 8017 dated 16 March 2011 consisting of 71 pages
"PPPP-1"	Signature of Ms. Djhoanna R. O' Santos (*See* TSN dated 30 March 2011, identified Exhibits "Z" to "JJ", "LL", "MM", "NN", "PP", "QQ to ZZ", "AAA" to "III", "LLL", "OOO"to "ZZZ", "AAAA" to "BBBB", and "DDDD" to "IIII", p.6)
"1" to "834"	Purchase invoices and official receipts issued to ALPHIL for the month of *October 2007*
"835" to "1747"	Purchase invoices and official receipts issued to ALPHIL for the month of *November 2007*
"1748" to "2525"	Purchase invoices and official receipts issued to ALPHIL for the month of *December 2007*
"2526" to "2530"	Import entries and declarations issued to ALPHIL for the month of *October 2007*
"2531" to "2538"	Import entries and declarations issued to ALPHIL for the month of *November 2007*
"2539" to "2559"	Import entries and declarations issued to ALPHIL for the month of *December 2007*
"2560" to "3227"	Sales invoices and Official Receipts on zero-rated sales for the month of *October 2007*
"3228" to "3886"	Sales invoices and Official Receipts on zero-rated sales for the month of *November 2007*
"3887" to "4508"	Sales invoices and Official Receipts on zero-rated sales for the month of *December 2007*
"4509" to "4963"	Sales invoices and Official Receipts on sales subject to VAT for the month of *October 2007*
"4964" to "5346"	Sales invoices and Official Receipts on sales subject to VAT for the month of *November 2007*
"5347" to "5691"	Sales invoices and Official Receipts on sales subject to VAT for the month of *December 2007*
"5692" to "5695"	Sales invoices and Official Receipts on VAT-Exempt Sales for the month of *October 2007*
"5696" to "5699"	Sales invoices and Official Receipts on VAT-Exempt Sales for the month of *November 2007*
"5700" to "5702"	Sales invoices and Official Receipts on VAT-Exempt Sales for the month of *December 2007*

On September 7, 2011, respondent, through counsel, manifested that she will no longer be presenting evidence.[10]

[10] Docket, p. 814.

Hence, on November 10, 2011, as per this Court's Resolution[11], considering the "Memorandum for Petitioner" filed on October 6, 2011 and "Memorandum (for Respondent), filed on November 8, 2011, the instant case was submitted for decision.

The parties submitted the following issues[12] for this Court's resolution:

> "1. Whether or not petitioner is entitled to the issuance of a tax credit certificate for its unutilized/excess input VAT payments for the 4th Quarter of 2007 amounting to ₱23,254,465.64;
>
> 2. Whether or not petitioner is a value added taxpayer pursuant to the provisions of the National Internal Revenue Code ('NIRC') of 1997 as amended;
>
> 3. Whether or not petitioner has complied with the invoicing and accounting requirements for VAT-registered persons as well as the filing and payment of VAT in compliance with the provisions of Sections 113 and 114 of the NIRC;
>
> 4. Whether or not petitioner has complied with the submission of complete documents in support of the administrative claim for refund pursuant to Section 112 (D) of the NIRC;
>
> 5. Whether or not the input taxes of ₱23,254,465.64 representing petitioner's excess and unutilized input VAT for the 4th Quarter of 2007 were:
>
> (a) Paid by petitioner;
> (b) Attributable to zero-rated sales;
> (c) Not applied against any output tax; and
>
> 6. Whether or not petitioner's claim for unutilized input VAT was filed within the period prescribed by law."

The foregoing issues can be summarized as follows:

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[11] Docket, p. 860.
[12] Docket, p. 456.

"Whether or not petitioner is entitled to the issuance of a tax credit certificate for its alleged unutilized/excess input VAT payments for the 4th quarter of 2007 amounting to ₱23,254,465.64."

At the outset, the question arises pertaining to this Court's jurisdiction over the instant case.

Suffice it to say that a VAT-registered taxpayer who believes that it is entitled to VAT refund based on its zero-rated sale must file a claim for refund within two (2) years from the close of the taxable quarter when the sales were made. Section 112(A) of the National Internal Revenue Code (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 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: *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."

The two-year period referred to in the afore-quoted provision applies to administrative claims for refund filed before the Bureau of Internal Revenue. In the case of *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*[13] *(Aichi case)*, the Supreme Court explained 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 x x x 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." *(Emphasis supplied)*

In the instant case, the claim for refund of petitioner covers the fourth quarter of 2007. Applying Section 112(A) of the NIRC of 1997, petitioner has two (2) years from December 31, 2007 or until December 31, 2009 to file its administrative claim for refund. Petitioner filed with respondent its application for the issuance of a tax credit certificate for its unutilized input VAT for the 4th quarter of 2007 on December 23, 2009. Clearly, the application was filed within the two-year period.

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[13] G.R. No. 184823, October 6, 2010.

However, despite the timely filing of the administrative claim for refund, the case should be dismissed for violating Section 112(C) of the NIRC of 1997 which expressly provides:

> "(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."

Based on the foregoing, upon the submission of complete documents in support of its claim, the Commissioner of the Bureau of Internal Revenue is given a period of one hundred twenty (120) days within which to either grant or deny the taxpayer's claim for refund. Should the Commissioner deny or fail to act upon the taxpayer's claim, the taxpayer is given a period of thirty (30) days from the denial or inaction to appeal its case before this Court. Failure on the part of the taxpayer to comply with the 120-day period warrants the dismissal of the judicial claim for lack of jurisdiction as held by the Supreme Court in the *Aichi case*[14], to wit:

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[14] Supra.

"However, notwithstanding the timely filing of the administrative claim, we are constrained to deny respondent's claim for tax refund/credit for having been filed in violation of Section 112(D) of the NIRC, which provides that:

> SEC. 112. Refunds or Tax Credits of Input Tax. –
>
> xxxx
>
> (D) 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 Subsections (A) and (B) 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.** (Emphasis supplied)

Section 112(D) of the NIRC clearly provides that the CIR has '120 days, from the date of the submission of the complete documents in support of the application [for tax refund/credit],' within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to CTA within 30 days.

In this case, the administrative and the judicial claims were simultaneously filed on September 30, 2004. Obviously, respondent did not wait for the decision of the CIR or the lapse of the 120-day period. For this reason, we find the filing of the judicial claim with the CTA premature.

xxx xxx xxx

In fine, the premature filing of respondent's claim for refund/credit of input VAT before the CTA warrants a dismissal inasmuch as no jurisdiction was acquired by the CTA." *(Emphasis supplied)*

Petitioner prematurely filed its case before this Court. Upon the filing of its administrative claim for refund before the Bureau of Internal Revenue on December 23, 2009, petitioner, after merely six (6) days or on December 29, 2009, filed the instant case before this Court. Petitioner obviously did not wait for the lapse of the 120-day period or for the decision of respondent before elevating its case with this Court.

WHEREFORE, premises considered, the present Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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

CAESAR A. CASANOVA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

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

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice