

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FORMER EN BANC

**SITEL PHILIPPINES
CORPORATION,**

Petitioner,

C.T.A. EB No. 496
(C.T.A. Case No. 7186)

-versus-

Present:

Acosta, P.J.
Castañeda, Jr.,
Bautista,
Uy,
Casanova, and
Palanca-Enriquez, JJ.

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated: *Chapman*
JUL 02 2010 *Liaspin.*

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D E C I S I O N

CASTAÑEDA, JR., JJ.

Before this Court is a petition for review *en banc* filed on June 10, 2009 by petitioner Sitel Philippines Corporation ("Sitel", for brevity/petitioner in the division level) praying, among others, that the assailed Decision dated January 29, 2009 and the Resolution dated May *2009*

13, 2009 promulgated by the CTA First Division¹ in C.T.A. Case No. 7186 entitled "*SITEL PHILIPPINES CORPORATION, [Formerly CLIENTLOGIC PHILIPPINES, INC. (Formerly Contact World, Inc.)] vs. COMMISSIONER OF INTERNAL REVENUE*" be partially reversed and set aside involving Sitel's claim for refund or tax credit in the unutilized input VAT for taxable year 2003.

The dispositive portion of the assailed Decision provides, as follows:

WHEREFORE, petitioner's claim for refund or issuance of tax credit certificate is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of P5,992,733.27, representing input VAT paid on capital goods purchased for taxable year 2003.

SO ORDERED.

The dispositive portion of the assailed Resolution reads:

WHEREFORE, premises considered, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

The Facts

As found by the CTA First Division, the following are the facts of this case:

Sitel Philippines, Inc. (Petitioner) is a corporation organized and existing under the laws of the Philippines, with office address at the 22nd floor, Wynsum Corporate Plaza, Emerald Avenue, Ortigas Center, *Je*

¹ Penned by Presiding Justice Ernesto D. Acosta and concurred by Associate Justices Lovell R. Bautista (now Chairperson of the Third Division) and Caesar A. Casanova (now Member of the Second Division).

Pasig City.² It is engaged in the business of providing call center services from the Philippines to domestic and offshore businesses, including tactical telemarketing campaigns and programs and customer relationship management services. Petitioner was formerly known as "Contact World, Inc." prior to the change in its corporate name to "Clientlogic Philippines, Inc.", as evidenced by the Certificate of Filing of Amended Articles of Incorporation issued by the Securities and Exchange Commission (SEC). It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, with Tax Identification No. (TIN)/VAT Registration No. 208-780-708 effective December 14, 2000 and BIR Certificate of Registration No. OCN 3RC0000244761. It is also registered with the Board of Investments (BOI) as a new information technology service firm in the field of call center on pioneer status, with BOI Certificate of Registration No. 2001-091.

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue, vested under appropriate laws with the authority to carry out all the functions, duties and responsibilities of the said office, including, *inter alia*, the power to decide, approve, and grant refunds and tax credits of erroneously paid or illegally collected internal revenue taxes. He holds office at 5th Floor, BIR National Office Building, Agham Road, Quezon City.

For taxable year 2003, petitioner filed³ and subsequently amended⁴ its Quarterly VAT Returns on the following dates:

Period Covered	Date Filed	Date Amended
1st Quarter 2003	April 11, 2003	April 12, 2004
2nd Quarter 2003	July 10, 2003	December 6, 2004
3rd Quarter 2003	October 27, 2003	December 17, 2004
4th Quarter 2003	January 26, 2004	December 28, 2004

Petitioner filed its separate formal claims for refund or issuance of tax credit with the One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance on the following dates⁵:

Period Covered	Date Filed
1st Quarter 2003	July 21, 2004
2nd Quarter 2003	December 13, 2004
3rd Quarter 2003	December 20, 2004
4th Quarter 2003	December 29, 2004

jc

² Par. 1, Joint Stipulation of Facts and Issues (JSFI), Docket, p. 70.

³ Par. 8, JSFI, Docket, p. 71.

⁴ Par. 9, JSFI, Docket, p. 71.

⁵ Annexes "E", "F", "G", "H", Petition for Review; Par. 10, JSFI, Docket, pp. 71-72.

Up to this date, respondent has not acted upon petitioner's claim for refund or tax credit. Thus, in order to toll the running of the statutory period of two (2) years within which to file a judicial action for refund or issuance of tax credit certificate, petitioner filed this instant Petition for Review on March 31, 2005.

On May 30, 2005, respondent filed his Answer raising the following Special and Affirmative Defenses:

- "8. The claim for refund is still under examination by the respondent's Bureau;
9. The burden of proof is upon the petitioner to prove that it is entitled to the claim for refund or issuance of tax credit certificate;
10. The grant of claim for refund tantamount to an exemption from taxation which is construed strictly against the claimant and in favor of the taxing authority;
11. The taxes sought to be refunded were paid in accordance with law; the burden of proof to the contrary is upon the petitioner-claimant to show with clear and unambiguous provision of law supporting the same."

On February 7, 2008, this case was submitted for decision considering the Memorandum filed by petitioner on January 17, 2008, while respondent did not file any.

On January 29, 2009, the CTA First Division partially granted Sitel's claim for refund or issuance of tax credit certificate in the reduced amount of P5,992,733.27, representing input VAT paid on capital goods purchased for taxable year 2003.

On May 13, 2009, the CTA First Division denied for lack of merit Sitel's "Motion for Partial Reconsideration (of Decision dated January 29, 2009)" filed on February 17, 2009. *jc*

On June 5, 2009, Sitel was granted a final and non-extendible period of fifteen (15) days from June 5, 2009 or until June 20, 2009, within which to file its Petition for Review. On June 10, 2009, Sitel filed the said petition.

In a resolution dated June 24, 2009, respondent Commissioner of Internal Revenue ("CIR", for brevity) was required to file Comment within ten (10) days from receipt of the said resolution. Per records of verification, no Comment was filed.

On July 29, 2009, Sitel's Petition for Review was given due course and the parties were required to submit their respective Memorandum within a non-extendible period of thirty (30) days from receipt of the resolution. On September 1, 2009, Sitel filed its Memorandum. Per records of verification, CIR failed to file his Memorandum. On September 16, 2009, the case was submitted for decision.

On September 25, 2009, Sitel filed a "Motion to Admit Attached Supplemental Memorandum". Annexes "A"⁶ and "B"⁷ were attached to the said Supplemental Memorandum. On October 9, 2009 Resolution, in the interest of substantial justice, Sitel's motion was granted and the Supplemental Memorandum was admitted as part of the records of the 

⁶ *En Banc* Docket, pp. 166-167; Letter request for certification of non-registration of foreign entities addressed to the Philippine Securities and Exchange Commission (SEC) dated August 13, 2009.

⁷ *Ibid.*, p. 168; Certification of Non-Registration of Company issued by the SEC on September 16, 2009.

case. In addition, the case was submitted for decision and the September 16, 2009 Resolution which submitted this case for decision was set aside.

Hence, this decision.

ISSUES

- I. WHETHER OR NOT PETITIONER HAS SUFFICIENTLY ESTABLISHED THROUGH EVIDENCE PRESENTED THE FACT THAT ITS SERVICES WERE RENDERED TO "PERSONS ENGAGED IN BUSINESS CONDUCTED OUTSIDE THE PHILIPPINES OR TO NON-RESIDENT PERSONS NOT ENGAGED IN BUSINESS WHO ARE OUTSIDE THE PHILIPPINES WHEN THE SERVICES ARE PERFORMED" IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 108(B)(2) OF THE 1997 TAX CODE, AS AMENDED.**
- II. WHETHER OR NOT OFFICIAL RECEIPTS: (A) PRE-PRINTED TIN-V AFTER JULY 31, 1991 BUT BEFORE JANUARY 1, 1996; AND (B) PRINTED BEFORE JULY 31, 1995 VIOLATE SEC. 4-108-1 OF REVENUE REGULATIONS NO. 7-95.**

THIS COURT'S RULING

We deny the petition.

A careful reading of the issues and arguments raised by Sitel reveal that these are mere reiterations of what have been considered and passed upon by the CTA First Division in the assailed Decision and Resolution. Be that as it may, pertinent issues need to be emphasized. 

It is worth mentioning that the taxable year involved in this case is 2003. Thus, R.A. 9337⁸ is not yet applicable in this case.

Pertinent to this are Sections 110 (B) and 112(A) and (B) of the 1997 NIRC which provide as follow:

"SEC. 110. Tax Credits. —

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XXX

XXX

(B) Excess Output or Input Tax. — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112."

"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 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.



⁸

AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES; This law was signed on May 24, 2005. It was supposed to take effect on July 1, 2005 but its enforcement was stopped because of a temporary restraining order. The constitutionality of the law was upheld in *ABAKADA Guro Party list officer Samson S. Alcantara et. al. v. The Hon. Executive Secretary Eduardo Ermita*, G.R. No. 168056, October 18, 2005. The law was finally enforced on November 1, 2005. (RBSI Editorial Staff, "The National Internal Revenue Code of the Philippines", Second Edition 2006, p. 215).

(B) Capital Goods. — A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.”

Based on the foregoing, the refund/tax credit is allowed of excess input VAT when the excess input VAT is attributable to zero-rated or effectively zero-rated sales, and when the excess input VAT is attributable to capital goods purchased by a VAT-registered person.

Based on the foregoing and as correctly discussed by the CTA First Division, the following are the requisites for the refund/tax credit of input VAT attributable to zero-rated sales/receipts of a VAT-registered person:

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

As regards the refund/tax credit of input tax paid on capital goods purchased, the CTA First Division correctly ruled that Sitel must prove the following requirements:

1. that it is a VAT-registered entity;
2. that input taxes were paid on capital goods imported or locally purchased;
3. that such input taxes were not applied against any output VAT liability; and
4. that the claim for refund was filed within the two-year prescriptive period. *gc*

The recipient of services must be doing business outside the Philippines.

The CTA First Division denied the input VAT claim in the amount of P13,474,376.32 which is allegedly attributable to zero-rated sales/receipts for failure to submit proof that Sitel's foreign clients are doing business outside the Philippines.

In this *en banc* case, Sitel reiterates that it has sufficiently established that the clients to whom it rendered services subject to 0% VAT are non-resident foreign corporations or foreign corporations not engaged in business in the Philippines through the following documentary and testimonial evidence:

1. Service contracts or agreements with Sitel's non-resident foreign clients indicating the foreign client's place of business outside the Philippines;
2. Official receipts/invoices issued by Sitel to its foreign clients with office addresses or place of business outside the Philippines;
3. Bank Certificate of Inward Remittance substantiating the zero-rated sale of services proving that payments for services by Sitel's non-resident foreign clients were inwardly remitted from banks outside the Philippines; *JK*

4. Certifications issued by the SEC, the governing body tasked with the issuance to foreign corporations engaging in business in the Philippines of a license to conduct business in the Philippines, as to the non-registration as partnership or corporation of Sitel's foreign clients; and
5. Uncontroverted testimonies of witnesses.

Sitel argues, among others, that with the evidence presented and the presumptions accorded thereto by the Rules of Evidence, it became incumbent upon CIR to present clear and convincing evidence that Sitel's clients are in fact doing business in the Philippines without obtaining the necessary registration or license to engage in business from the SEC.

The above allegations deserve scant consideration.

Pertinent to this is Section 108(B)(2) of the 1997 Tax Code, as amended, which is quoted hereunder, as follows:

"SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. -

XXX

XXX

XXX

(B) Transactions Subject to Zero Percent (0%) Rate. -

The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

(2) Services other than those mentioned in the preceding paragraph, 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)*;" (Emphasis Supplied.)

XXX

XXX

XXX

Likewise pertinent is the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*⁹ in which the Supreme Court discussed the essential conditions for qualification to zero-rating under Section 102(b)(2) of the 1986 Tax Code [now Section 108(B)(2) of the 1997 Tax Code], as follows:

The Tax Code not only requires that the services be other than "processing, manufacturing or repacking of goods" and that payment for such services be in acceptable foreign currency accounted for in accordance with BSP rules. Another essential condition for qualification to zero-rating under Section 102(b)(2) is that **the recipient of such services is doing business outside the Philippines.** While this requirement is not expressly stated in the second paragraph of Section 102(b), this is clearly provided in the first paragraph of Section 102(b) where the listed services must be **"for other persons doing business outside the Philippines."** The phrase "for other persons doing business outside the Philippines" not only refers to the services enumerated in the first paragraph of Section 102(b), but also pertains to the general term "services" appearing in the second paragraph of Section 102(b). In short, services other than processing, manufacturing, or repacking of goods must likewise be performed for persons doing business outside the Philippines.

Based on the foregoing provision of law and jurisprudence, for sale of services to qualify as zero-rated for purposes of refund/tax credit of unutilized VAT, Section 108(B)(2) of the 1997 Tax Code requires: (a) that the services be other than "processing, manufacturing or repacking of *je*

⁹ G. R. No. 153205, January 22, 2007, 512 SCRA 124.

goods”; (b) that the payment for such services be in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP); and (c) that the recipient of such services is doing business outside the Philippines.

This Court already ruled that for failure to prove that the recipient of such services is doing business outside the Philippines, the taxpayer’s sales of services to foreign clients do not qualify as zero-rated sales.¹⁰

It is axiomatic that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund. Tax refunds, like tax exemptions, are construed strictly against the taxpayer.¹¹ In this case, Sitel, as the taxpayer-claimant, has the burden of proof. Sitel has the duty to present proof that its foreign clients were doing business outside the Philippines.

It is noteworthy to mention that aside from the letter request for certification of non-registration of foreign entities addressed to the Securities and Exchange Commission (SEC) dated August 13, 2009 and the Certification of Non-Registration of Company issued by the SEC on September 16, 2009, Annexes “A” and “B”, respectively, attached to the Supplemental Memorandum, both the documentary and testimonial 

¹⁰ *Commissioner of Internal Revenue vs. Accenture, Inc.*, C.T.A EB No. 410 (CTA Case No. 7387), March 18, 2009.

¹¹ *Paseo Realty & Development Corporation vs. Court of Appeals, et al.*, G.R. No. 119286, October 13, 2004.

evidence were already considered by the CTA First Division in the assailed Decision and assailed Resolution.

We quote pertinent portion of the Certification of Non-Registration of Company issued by the SEC on September 16, 2009, as follows:

"xxx xxx xxx

THIS IS TO CERTIFY that based on the records of this Commission, the entities named herein below are neither registered as domestic corporations or partnerships nor licensed by the Commission under Section 126 of the Corporation Code and Section 3(d) of R.A. No. 7042, as amended.

xxx xxx xxx"

Upon careful reading of the said Certification, We noted that the SEC certifies that the entities listed therein were not registered as domestic corporations or partnerships nor entities licensed to transact its business or do business in the Philippines. "The SEC 'certificate of non-registration' only proves that the records of SEC do not show the registration of a particular corporation or partnership. It does not prove that a particular corporation or partnership is duly existing and is doing business outside the Philippines."¹²

We need not belabor that the question of whether or not the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court.¹³ 

¹² *Parlance Systems, Inc. vs. Commissioner of Internal Revenue*, C.T.A. Case No. 7459, July 9, 2009 (CTA Second Division, penned by Associate Justice Olga Palanca-Enriquez).

¹³ *Commissioner of Internal Revenue vs. Matsushita Business Machine Corporation of the Philippines*, C.T.A. EB No. 290 (C.T.A. Case No. 6495), January 17, 2008, and *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*, C.T.A. EB No. 416 (C.T.A. Case No.

Thus, in the absence of the Court's abuse or improvident exercise of authority, findings of facts made by the Court in Division, especially if supported by the evidence, must be accorded deference and respect.¹⁴

After a re-evaluation of the evidence presented by Sitel, this Court finds the ruling of the CTA First Division to be in order and agrees that Sitel did not submit proof that its foreign clients are doing business outside the Philippines.

We agree that the documentary evidence such as the VAT Services Invoices and Billing Statements¹⁵, VAT Official Receipts¹⁶, Bank Account Passbook¹⁷, Certificate of Inward Remittance dated July 26, 2004 bearing number 0124/04 issued by Metropolitan Bank and Trust Company¹⁸, Schedule of Inward Remittances for 2003¹⁹, Breakdown of Remittances Not Related to Zero-Rated Sales²⁰, and Various Documents Supporting Remittances Not Related to Zero-Rated Sales²¹ merely established the existence of the following: (1) the sale; (2) the payments of its service fees were in acceptable foreign currency; and (3) the proceeds of such sales transactions were inwardly remitted to the Philippines and accounted for in accordance with BSP rules. 

¹⁴ 7271), February 4, 2009 citing the case of *El Greco Ship Manning and Management Corporation vs. Commissioner of Customs*, C.T.A. EB No. 172 (C.T.A. Case No. 6618), March 14, 2007.
¹⁵ *ibid.*, citing the case of *Union Refinery Corporation vs. Commissioner of Customs*, C.T.A. EB No. 149 (C.T.A. Case No.5917), January 15, 2007.

¹⁶ Exhibits "VV", "VV-1" to "VV-951", inclusive of sub-markings.

¹⁷ Exhibits "WW", "WW-1" to "WW-41", inclusive of sub-markings.

¹⁸ Exhibits "XX", "XX-1" to "XX-11", inclusive of sub-markings.

¹⁹ Exhibit "NN".

²⁰ Exhibits "YY" and "YY-1", inclusive of sub-markings.

²¹ Exhibits "ZZ" and "ZZ-1", inclusive of sub-markings.

²¹ Exhibits "AAA-1" to "AAA-73", inclusive of sub-markings.

Moreover, the service contracts or agreements with Sitel's non-resident foreign clients indicating the respective foreign client's place of business outside the Philippines do not prove that these foreign clients are already doing business outside the Philippines.

As regards the testimonial evidence, We quote with approval a portion of the assailed Resolution which provide:

The arguments of petitioner, by quoting the judicial affidavit of its witnesses and the cross examination of Atty. Pagarigan, counsel for respondent, have only established that the clients of petitioner are foreign clients or non-resident clients. xxx xxx xxx.

It bears stressing that a foreign client or a non-resident corporation may also be engaged in doing business in the Philippines.

We, thus, agree with the following as discussed in the assailed Decision:

Well-settled is the rule that a claim for refund is construed *strictissimi juris* against the taxpayer as it partakes the nature of exemption from taxation.²² Besides, the Court believes that in claims for refund, the law mandates courts to observe a higher standard of caution in appreciating and evaluating evidence. If indeed a claim for refund is wanting in pertinent and supporting evidence, then the granting thereof could prove to be improper, if not difficult.²³ Therefore, petitioner in claiming for tax refund has the burden of proof to establish the factual basis of its claim.

Due to petitioner's failure to establish that it had zero-rated sales/receipts for the subject period of claim, the input VAT claim in the amount of P13,474,376.32 which is allegedly attributable thereto cannot be granted; since the refund/tax credit of input VAT under Section 112(A) of the NIRC of 1997 is premised on the existence of zero-rated or effectively zero-rated sales. 

²² *Citibank N.A. vs. Court of Appeals, et al.*, G.R. No. 107434, October 10, 1997.

²³ *ECW Joint Venture Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 6398, May 26, 2003.

Only VAT invoice shall give rise to input tax.

Sitel reiterates that the input VAT on domestic purchases of services supported by ORs pre-printed TIN-V after July 31, 1991 but before January 1, 1996 in the aggregate amount of P3, 576,444.27, as well as input VAT on domestic purchases of services supported by ORs printed before July 31, 1991 in the amount of P721, 511.87, are duly substantiated pursuant to Section 110(A) in relation to Section 113(A) of the 1997 Tax Code, as amended, as implemented by Sections 4.104-1, 4.104-5 and 4.108-1 of Revenue Regulations No. 7-95 ("RR 7-95"), dated December 9, 1995.

Sitel further submits that the official receipts it submitted to support the disallowed input VAT complied with invoicing requirements applicable at the time the official receipts were printed.

Sitel argues that the difference between an official receipt with a pre-printed "V" instead of the word "VAT" should not warrant the disallowance of input VAT because the words "TIN-V" and "TIN-VAT" both convey the message that the seller is VAT-registered and both kinds of receipts show that it includes a VAT component which the VAT-registered purchaser duly paid and may accordingly claim as input VAT. Sitel further argues that strict technicalities, therefore, should not be applied considering that the purpose of the requirement is served in 

either case and that no confusion is brought about by the use of "TIN-V" official receipts instead of "TIN-VAT".

We find no merit to the allegations of Sitel.

In the case of *Panasonic Communications Imaging Corporation of the Philippines [formerly Matsuhita Business Machine Corporation of the Philippines] vs. Commissioner of Internal Revenue*²⁴, the Supreme Court recognized the binding force of Section 4.108-1 of RR 7-95 regarding the invoicing requirements and that failure of the taxpayer to comply with the requirements will result in disallowance of the claim for a tax refund. Thus, We quote:

"For the effective zero rating of such transactions, however, the taxpayer has to be VAT-registered and must comply with invoicing requirements. xxx xxx xxx.
xxx xxx xxx.

Section 4.108-1 of RR 7-95 proceeds from the rule-making authority granted to the Secretary of Finance under Section 245 of the 1977 NIRC (Presidential Decree 1158) for the efficient enforcement of the tax code and of course its amendments. The requirement is reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services. As aptly explained by the CTA's First Division, the appearance of the word "zero-rated" on the face of invoices covering zero-rated sales prevents buyers from falsely claiming input VAT from their purchases when no VAT was actually paid. If, absent 

²⁴ G.R. No. 178090, February 8, 2010.

such word, a successful claim for input VAT is made, the government would be refunding money it did not collect.

Further, the printing of the word "zero-rated" on the invoice helps segregate sales that are subject to 10% (now 12%) VAT from those sales that are zero-rated. Unable to submit the proper invoices, petitioner Panasonic has been unable to substantiate its claim for refund." (*Emphasis Supplied*).

Section 4.108-1 of Revenue Regulations (RR) No. 7-95²⁵ reads, as follows:

SECTION 4.108-1. *Invoicing Requirements* — All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:

1. the name, TIN and address of seller;
2. date of transaction;
3. quantity, unit cost and description of merchandise or nature of service;
4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
5. the word "zero rated" imprinted on the invoice covering zero-rated sales; and
6. the invoice value or consideration.

In the case of sale of real property subject to VAT and where the zonal or market value is higher than the actual consideration, the VAT shall be separately indicated in the invoice or receipt.

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or receipts and this shall be considered as a "VAT Invoice". All purchases covered by invoices other than "VAT Invoice" shall not give rise to any input tax.

If the taxable person is also engaged in exempt operations, he should issue separate invoices or receipts for the taxable and exempt operations. A "VAT Invoice" shall be issued only for sales of goods, properties or services subject to VAT imposed in Sections 100 and 102 of the Code.

The invoice or receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records. (*Emphasis supplied*) 

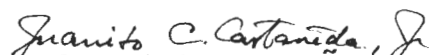
Clearly, the TIN shall be followed by the word "VAT" in order for the invoice or receipt be considered as "VAT Invoice", otherwise, the purchase covered by invoices other than "VAT Invoice" shall not give rise to any input tax. Thus, failure of Sitel to substantiate its claim by a "VAT Invoice" is fatal to its claim.

We, thus, agree and adopt the findings of the CTA First Division that Sitel is entitled to claim for refund/tax credit in the unutilized input value-added tax (VAT) from its purchases/importations of capital goods for taxable year 2003, however, in the reduced amount only. Out of the input VAT claim of P14,941,962.02 allegedly attributable to Sitel's capital goods purchases, only the input taxes in the total amount of P5,992,733.27 were found by the CTA First Division to be duly supported by evidence required by law.

Based on the foregoing discussions, We find no reversible error to disturb the assailed decision and resolution of the CTA First Division.

WHEREFORE, premises considered, the petition for review is hereby **DENIED** for lack of merit. Accordingly, We **AFFIRM** the Decision and the Resolution of the CTA First Division dated January 29, 2009 and May 13, 2009, respectively.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:


ERNESTO D. ACOSTA
Presiding Justice


LOVELL R. BAUTISTA
Associate Justice


ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


OLGA PALANCA-ENRIQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.


ERNESTO D. ACOSTA
Presiding Justice