REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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KEPCO ILIJAN CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6412

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:

SEP 11 2009; 11:30am

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DECISION

CASANOVA, *J.*:

Before this Court is an Amended Petition for Review seeking for the refund of P449,569,448.73 allegedly representing unutilized input value-added tax incurred by petitioner for the first and second quarters of 2000 on its importations and domestic purchases of capital goods and services preparatory to its production and sales of electricity to the National Power Corporation, including legal interest on the claimed amount. It is further prayed that respondent be ordered to pay petitioner attorney's fees in the amount of at least P500,000.00 and cost of suit.

THE FACTS

The admitted facts are as follows:[1]

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with its principal place of business located at Suite 2501-A, 25th Floor, Tektite Tower I, Exchange Road, Ortigas Centre, City of Pasig.[2]

Petitioner is a value-added tax ("VAT") registered taxpayer engaged in the production and sales of electricity (as an independent power producer).[3]

For the calendar year 2000, petitioner was a duly registered VAT-taxpayer under the jurisdiction of Revenue District Office ("RDO") of Pasig City.[4]

For the first and second quarters of the calendar year 2000, petitioner filed its quarterly VAT returns with the Bureau of Internal Revenue ("BIR").[5]

Petitioner has filed the Application for Zero Rated Sales with the BIR, and such application was duly approved for the calendar year 2000.[6]

Petitioner has filed with the BIR its claim for refund of the input tax incurred for the first and second quarters of the calendar year 2000.[7]

Respondent has not acted upon the petitioner's claim for refund or issuance of tax credit certificate for the first, and second quarters of the calendar year 2000.

Hence, petitioner filed a Petition for Review on March 21, 2002, and, with leave of Court, it filed an Amended Petition for Review on September 12, 2003.

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[1] Joint Stipulation of Facts and Issues; docket, pp. 179-180.
[2] Par. 1 of the *Facts Admitted.*
[3] Par. 2 of the *Facts Admitted.*
[4] Par. 3 of the *Facts Admitted.*
[5] Par. 4 of the *Facts Admitted.*
[6] Par. 5 of the *Facts Admitted.*
[7] Par. 6 of the *Facts Admitted.*

Respondent filed his Answer on May 9, 2002, alleging the following Special and Affirmative Defenses: (1) petitioner is not entitled to the refund of the amounts prayed for; (2) the instant petition was prematurely filed for petitioner's failure to exhaust administrative remedies; (3) petitioner failed to show that the taxes paid were erroneously or illegally collected; and (4) petitioner has no cause of action.[8]

After issues were joined, trial proceeded.

Petitioner presented testimonial and documentary evidence, and, thereafter, rested its case.

Respondent, on the other hand, did not present any evidence.

After petitioner filed its Memorandum on September 1, 2008,[9] and for failure of respondent to file his Memorandum despite notice, this Court issued a Resolution on September 12, 2008 submitting this case for decision.

THE ISSUES

Submitted for this Court's resolution are the following issues:[10]

> "1. Whether or not the Petitioner is entitled to the refund of the amount of Php449,569,448.73 as alleged unutilized accumulated input VAT for the first and second quarters of the year 2000.
>
> "2. Whether or not the Petitioner incurred accumulated input VAT from the purchase of goods and services for the first and second quarters of the calendar year 2000, which purchases are attributable to the sale by Petitioner of electricity to NPC.
>
> "3. Whether or not the sale by Petitioner of electricity to NPC for the first and second quarters of the calendar year 2000 is subject to VAT at Zero rate.
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> "4. Whether or not the alleged accumulated input VAT are duly supported by VAT invoices and/or official receipts.

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[8] Docket, pp. 44-45.
[9] *Id.*, pp. 1017-1066.
[10] Stipulated Issues in the *Joint Stipulation of Facts and Issues*; *id.*, p. 180.

"5. Whether or not the accumulated input VAT for the first and second quarters of the calendar year 2000 were utilized or applied by the Petitioner to the succeeding taxable year."

THIS COURT'S RULING

Sections 112(A) and (B) of the National Internal Revenue Code ("NIRC") of 1997, provide as follows:

"**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 cases 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 were the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales."

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

xxx."

The above-quoted Section 112(A) of the NIRC of 1997 allows the refund/tax credit of unutilized input VAT attributable to zero-rated or effectively zero-rated sales.

Petitioner posits that its sale of electricity to the NPC is effectively VAT zero-rated pursuant to Section 108(B)(3) of the NIRC of 1997, in relation to Section 13 of Republic Act No. 6395 (otherwise known as the NPC Revised Charter), as amended by Presidential Decree Nos. 380 and 938, which are quoted hereunder:

> "**SEC. 108.** ***Value-Added Tax on Sale of Services and Use or Lease of Properties.***
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> 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:
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> xxx
>
> "(3) Services rendered to persons or entities **whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate**;
>
> xxx
>
> (Emphasis supplied)
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> "**Sec. 13. Non-profit Character of the Corporation, Exemption from All Taxes, Duties, Fees, Imposts and Other Charges by the Government and Government Instrumentalities.** — The Corporation shall be non-profit and shall devote all its returns from its capital investments, as well as excess revenues from its operation, for expansion. To enable the Corporation to pay its indebtedness and obligations and in furtherance of effective implementation of the policy enunciated in Section One of this Act, **the Corporation, including its subsidiaries, is hereby declared exempt from the payment of all forms of taxes**, duties, fees, imposts as well as costs and service fees including filing fees, appeal bonds, supersedeas bonds, in any court or administrative proceedings." (Emphasis supplied)

This Court agrees. As this Court consistently held, NPC is an entity with a special charter, which categorically makes it exempt from payment of all taxes, whether direct or indirect, including VAT. Hence, by virtue of the said charter, services rendered by a VAT registered entity like herein petitioner to NPC are effectively subject to zero percent (0%) VAT in accordance with Section 108(B)(3) of the NIRC of 1997.[11]

Moreover, the Supreme Court affirmed NPC's tax exemption in ***Maceda vs. Macaraig, Jr.,***[12] as follows:

> "A chronological review of the NPC laws will show that it has been the lawmaker's intention that the NPC was to be completely tax-exempt from all forms of taxes — direct or indirect.
>
> xxx
>
> One common theme in all these laws is that the NPC must be enabled to pay its indebtedness which, as of P.D. No. 938 was P12 Billion in total domestic indebtedness, at any one time, and US$4 Billion in total foreign loans at any one time. The NPC must be and has to be exempt from all forms of taxes if this goal is to be achieved."

However, petitioner started commercial operations only on June 5, 2002.[13] For this reason, it had no record of any sale of electricity to the NPC for the first and second quarters of 2000, the periods covered by the instant claim.[14] Section 112(A) of the NIRC of 1997 mandates that in order to claim for a refund/tax credit of input VAT, there must be zero-rated or effectively zero-rated sales to which the input VAT sought to be refunded are attributable.[15] Therefore, in order to claim for a refund of

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[11] *Kepco Phil. Corp. v. Commissioner of Internal Revenue*, CTA Case No. 7236, October 4, 2007; *Kepco Phil. Corp. v. Commissioner of Internal Revenue*, CTA EB No. 107, June 29, 2007 (affirming the Decision in CTA Case No. 6413, March 10, 2005); *Kepco Phil. Corp. v. Commissioner of Internal Revenue*, CTA Case No. 6287, August 31, 2005; *Kepco Phil. Corp. v. Commissioner of Internal Revenue*, CTA Case Nos. 5675 & 5704, March 18, 2003; *Commissioner of Internal Revenue v. Mirant Pagbilao Corp.*, CTA EB No. 251, May 30, 2007; and *San Roque Power Corp. v. Commissioner of Internal Revenue*, CTA Case No. 6647, March 8, 2001.

[12] Resolution, G.R. No. 88291, June 8, 1993 (223 SCRA 217, 236, 239).

[13] Exhibit GGG-32, Notes to Financial Statements, item 1.

[14] Exhibits B and C.

[15] *Kepco Philippines Corporation vs. The Commissioner of Internal Revenue*, CTA Case No. 6413, March 10,2005; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 6213, December 23, 2004; *Epson Precision*

input VAT attributable to zero-rated or effectively zero-rated sales, a corresponding sale must have been made for how can an input VAT be attributed to a zero-rated or effectively zero-rated sale if there was no sale in the first place. It follows then that petitioner's claim for refund of input VAT allegedly attributable to its effectively zero-rated sales cannot prosper.

Nonetheless, petitioner may still claim for the refund of input VAT on its capital goods purchases pursuant to Section 112(B) of the NIRC of 1997, quoted earlier. Petitioner has only to prove that:[16]

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.

The fact that petitioner is a VAT registered entity is admitted.[17] Likewise, it was established that the input VAT claim of P449,569,448.73 was never utilized as petitioner had not yet started commercial operations during the first and second quarters of 2000. Although the subject claim was carried-over in the succeeding quarters, the same remained unapplied against any output tax until it was fully deducted as "Any VAT Refund/TCC Claimed" in the first quarter of 2002[18]. Thus, petitioner could not have possibly utilized the subject claim in the succeeding quarters.

As to whether or not the claim for refund was filed within the two-year prescriptive period, Section 112(B) of the NIRC of 1997 states that the reckoning of

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(Philippines), Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6184, November 17, 2003; *Placer Dome Technical Services (Philippines) Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 6106, May 14, 2002.

[16] *San Roque Power Corp. vs. The Commissioner of Internal Revenue,* CTA Case No. 6647, March 8, 2006.

[17] Par. 2 of the Facts Admitted, in the Joint Stipulation of Facts and Issues; docket, p. 179.

[18] Exhibits JJ-94 & JJ-4.

the two-year prescriptive period for the filing of a claim for refund of input VAT on capital goods purchases starts from the close of the taxable quarter when the purchase was made. Counting from March 31, 2000 and June 30, 2000, the close of the first and second quarters of 2000 covered by the instant claim, petitioner had until March 31, 2002 and June 30, 2002, respectively, within which to file its claim both in the administrative and judicial levels. Thus, the administrative claims for the first and second quarters of 2000, which were filed on May 3, 2000[19], July 20, 2001[20], October 4, 2001[21] and December 12, 2001,[22] as well as the Petition for Review, filed on March 21, 2002, fall within the two-year prescriptive period.

Proceeding on to the second requisite, petitioner, in its Quarterly VAT Returns for the first and second quarters of 2000, declared the following input taxes totaling P449,569,448.73:

		INPUT VAT		
Exhibit	**Year 2000**	**Domestic Purchases**	**Importations**	**Total**
B	1st Quarter	P 61,222,697.49	P 22,725,770.79	P 119,796,571.79
C	2nd Quarter	58,153,309.47	307,467,670.98	485,417,552.24
		P 119,376,006.96	**P 330,193,441.77**	**P 449,569,448.73**

In support of the above input taxes, petitioner presented among others, various documents such as suppliers' invoices/official receipts,[23] Bureau of Customs (BOC) Import Entry and Internal Revenue Declarations (IEDs) with attached commercial invoices, bills of lading/airway bills, packing lists, bank debit advices,[24]

[19] Exhibits E and E-1.
[20] Exhibit F.
[21] Exhibits G and H.
[22] Exhibit I.
[23] Exhibits V-1 to V-269 and W-1 to W-317.
[24] Exhibits DD-1 to DD-48, EE-1 to EE-472, HH-1 to HH-18.

Schedule of Input VAT Segregation of Capital Goods and Non-Capital Goods for the first and second quarters of 2000,[25] Annual Income Tax Returns and attachments for the years 2000, 2002, 2003, 2004 and 2005[26] and Audited Financial Statements for the years 2000, 2001, 2002, 2003, 2004 and 2005.[27]

Upon examination of the aforesaid documents, the Court-commissioned independent CPA (ICPA) reported that out of the P449,569,448.73 input VAT claim for the first and second quarters of 2000, only the amount of P448,863,120.74 relates to petitioner's capital goods purchases while the remaining amount of P706,328.22 pertains to petitioner's non-capital goods purchases, broken down as follows:[28]

DESCRIPTION	CAPITAL GOODS	NON-CAPITAL GOODS	GRAND TOTAL
I. ON DOMESTIC PURCHASES OF GOODS AND SERVICES:			
A. Properly substantiated for VAT purposes	118,623,800.19	405,156.77	**119,028,956.96**
B. Not properly substantiated for VAT purposes	45,878.55	301,171.45	**347,050.00**
For VAT purposes			
Sub-Total	**118,669,678.74**	**706,328.22**	**119,376,006.96**
II. ON IMPORTATIONS OF CAPITAL GOODS:			
A. Input taxes claimed on importations	**330,193,442.00**	-	**330,193,442.00**
Rounding-off difference			**(0.23)**
GRAND TOTAL	**448,863,120.74**	**706,328.22**	**449,569,448.73**

[25] Exhibits FF and GG.
[26] Exhibits "AA", HHH-1 to HHH-39.
[27] Exhibits GGG-1 to GGG-137.
[28] Exhibit "III", p. 17.

This Court agrees with the ICPA's finding that the amount of P706,328.22 pertains to non-capital goods purchases which include payments for transportation services, supplies, representation expense, photocopying services, communication expenses, manpower services, uniforms/working clothes, rental expense, meeting expense, training expense, gasoline, miscellaneous expense and other expenses.[29] These input taxes of P706,328.22 shall be denied because, as stated earlier, petitioner had no zero-rated or effectively zero-rated sales to which the said input VAT could be attributed.

As to whether or not the input VAT claim of P448,863,120.74 pertains to capital goods purchases, Section 4.106-1 of Revenue Regulations No. 7-95 defines "capital goods" as follows:

> "*'Capital goods or properties'* refer to goods or properties with estimated useful life greater than one year and which are treated as depreciable assets under Section 29(f), used directly or indirectly in the production or sale of taxable goods or services."

From the foregoing, the following conditions must be present in order that the subject purchases can be classified as "capital goods or properties":

a) the goods or properties must have estimated useful life or more than one year;
b) such goods or properties are treated as depreciable assets under Section 29(f) [now Section 34(F)]; and
c) they are used directly or indirectly in the production or sale of taxable goods or services.

Records disclosed that the input VAT claim of P448,863,120.74 arose from petitioner's payments for purchases of office furniture and fixtures, machinery and equipment, construction materials, and all costs directly related to the building and construction of its power plant such as engineering, design and construction

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[29] Exhibit EEE, Annexes 2 to 7, 9 to 19.

services. Undoubtedly, petitioner's power plant and related facilities are in the nature of depreciable assets which have a useful life of more than one year. Likewise, it was established that these assets formed part of the Property, Plant and Equipment account reflected in petitioner's audited financial statements.[30] Lastly, these assets are necessary for the production and sale of electricity by petitioner to the NPC. In other words, the purchases related to the input VAT claim of P448,863,120.74 squarely fall within the meaning and scope of "capital goods or properties" under Section 4.106-1 of Revenue Regulations No. 7-95.

Nevertheless, not all of the input VAT claim on capital goods purchases is properly substantiated for VAT purposes. In his report dated May 23, 2007, the commissioned ICPA recommended for the disallowance of the amount of P45,878.55 representing claimed input taxes on locally purchased capital goods, for the following reasons:[31]

Description	Reference	1st qtr	2nd qtr	Total
Input Taxes Claimed on Payments to Insurance Broker	Annex 8, Exh. EEE	P 3,218.18	P -	P 3,218.18
Erroneous Computation of Input Taxes Claimed on Purchase of Services	Annex 10, Exh. EEE	417.60	-	417.60
Input Taxes Claimed on Purchase of Goods Supported by Documents Other Than VAT Invoices	Annex 14, Exh. EEE	24,493.07	16,136.37	40,629.44
Input Taxes Claimed on Purchase of Goods Without Supporting Documents	Annex 16, Exh. EEE	-	1,613.33	1,613.33
Total		**P28,128.85**	**P17,749.70**	**P45,878.55**

[30] Exhibits "FFF", pp. 9 to 11 and EEE pp. 5 to 7.
[31] Exhibit EEE, pp. 11 and 12.

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Aside from the P45,878.55 disallowances recommended by the ICPA, this Court finds that the amount of P5,370,057.46 representing petitioner's claimed input taxes on imported capital goods purchases should also be disallowed, detailed as follows:

1.) Input Taxes Claimed on Importations Supported by Original IEDs and Original Bank Debit Advices (*Per Annex 20 of Exhibit EEE*) where the total Customs Duties/VAT/Import Processing Fees per IED does not tally with the amount shown per bank debit advice							
	Second Quarter						
	Input VAT	**Total CUD/VAT/IPF**	**Payment per**		**Valid Input**	**Disallowed**	
	Claimed	**Per IEDs**	**Debit Advice**	**Difference**	**VAT Claimed**	**Input VAT**	**Exhibit**
	(A)	(B)	(C)	(B - C = D)	(A - D = E)	(A - E)	
	3,604,457.00	8,275,139.00	7,340,085.71	935,053.29	2,669,403.71	935,053.29	EE-50 to 51
					Subtotal	**935,053.29**	
2.) Input Taxes Claimed on Importations Supported by Photocopied IEDs and Original Bank Debit Advices *(Per Annex 24 of Exhibit EEE)* where the total Customs Duties/VAT/Import Processing Fees per IEDs do not tally with the amounts shown per bank debit advices							
	Second Quarter						
	Input VAT	**Total CUD/VAT/IPF**	**Payment per**		**Valid Input**	**Disallowed**	
	Claimed	**Per IEDs**	**Debit Advice**	**Difference**	**VAT Claimed**	**Input VAT**	**Exhibit**
	(a)	(b)	(c)	(b - c = d)	(a - d = e)	(a - e)	
	6,268.00	14,253.00	12,455.97	1,797.03	4,470.97	1,797.03	EE-10 to12
	260,648.00	430,251.00	357,421.23	72,829.77	187,818.23	72,829.77	EE-39 to 43
	1,127,712.00	2,585,530.00	2,261,359.28	324,170.72	803,541.28	324,170.72	EE-91 to 93
	910,693.00	2,084,261.00	1,846,934.02	237,326.98	673,366.02	237,326.98	EE-140 to 148
	251,635.00	371,323.00	299,410.20	71,912.80	179,722.20	71,912.80	EE-237 to 241
	130,711.00	300,735.00	266,530.10	34,204.90	96,506.10	34,204.90	EE-402 to 406
	8,219.00	13,600.00	11,150.90	2,449.10	5,769.90	2,449.10	EE-439 to 442
	8,570.00	19,491.00	17,106.00	2,385.00	6,185.00	2,385.00	EE-442 to 445
	62,934.00	92,713.00	74,745.83	17,967.17	44,966.83	17,967.17	EE-312 to 316
	22,235.00	36,756.00	30,389.92	6,366.08	15,868.92	6,366.08	EE-318 to 322
	53,903.00	89,092.00	73,867.99	15,224.01	38,678.99	15,224.01	EE-332 to 336
	436,852.00	712,995.00	590,294.00	122,701.00	314,151.00	122,701.00	EE-53 to 61
	34,870.00	57,647.00	47,742.46	9,904.54	24,965.46	9,904.54	EE-375 to 380
	156,300.00	358,893.00	318,174.40	40,718.60	115,581.40	40,718.60	EE-388 to 392
					Subtotal	**959,957.70**	

3. Input Taxes Claimed on Importations Supported by Certified True Copy IEDs and Original Bank ORs (*Per Annex 26 of Exhibit EEE*) where the total Customs Duties/VAT/Import Processing Fees per IEDs do not tally with the amounts shown per bank debit advices							
	Second Quarter						
	Input VAT Claimed	**Total CUD/VAT/IPF Per IEDs**	**Payment per Debit Advice**	**Difference**	**Valid Input VAT Claimed**	**Disallowed Input VAT**	**Exhibit**
	(a)	(b)	(c)	(b - c = d)	(a - d = e)	(a - e)	
	53,015.00	87,675.00	72,855.07	14,819.93	38,195.07	14,819.93	EE-30 to 32
	50,068.00	114,954.00	101,776.73	13,177.27	36,890.73	13,177.27	EE-306 to 310
	39,625.00	91,026.00	80,559.72	10,466.28	29,158.72	10,466.28	EE-250 to 255
	31,185.00	51,555.00	42,682.32	8,872.68	22,312.32	8,872.68	EE-359 to 372
	316,527.00	705,703.00	622,430.33	83,272.67	233,254.33	83,272.67	EE-204 to 208
	11,480.00	26,195.00	23,051.90	3,143.10	8,336.90	3,143.10	EE-382 to 386
					Subtotal	**133,751.93**	
4. Input Taxes Claimed On Importations Supported by Certified True Copy IEDs and Original Bank Debit Advices *(Per Annex 27 of Exhibit EEE)* where the total Customs Duties/VAT/Import Processing Fees per IEDs do not tally with the amounts shown per bank debit advices							
	Second Quarter						
	Input VAT Claimed	**Total CUD/VAT/IPF Per IEDs**	**Payment per Debit Advice**	**Difference**	**Valid Input VAT Claimed**	**Disallowed Input VAT**	**Exhibit**
	(a)	(b)	(c)	(b - c = d)	(a - d = e)	(a - e)	
	9,526.00	21,700.00	19,065.10	2,634.90	6,891.10	2,634.90	EE-69 to 71
	81,489.00	155,377.00	133,035.70	22,341.30	59,147.70	22,341.30	EE-210 to 213
	13,921.00	23,003.00	18,967.66	4,035.34	9,885.66	4,035.34	EE-258 to 263
					Subtotal	**29,011.54**	
5. Input Taxes Claimed on Importations Supported by Photocopied IEDs Per Annex 25 of Exhibit EEE (Second Quarter)						783,979.00	
					Subtotal	**783,979.00**	
6. Input Taxes Claimed on Importations Supported by Certified True Copy IED and Photocopied Bank Debit Advice Per Annex 28 of Exhibit EEE (Second Quarter)						2,422,744.00	
					Subtotal	**2,422,744.00**	
7. Input Taxes Claimed on Importations Supported by Certified True Copy IED Per Annex 29 of Exhibit EEE						105,560.00	
					Subtotal	**105,560.00**	
					TOTAL	**5,370,057.46**	

The disallowed input taxes under numbers 1 to 4 above represent the discrepancies between the total payments shown in the bank debit advices submitted by petitioner *vis-a-vis* the total amounts of customs duties/VAT/import processing fees reflected in the IEDs. As to the claimed input taxes under numbers 5 to 7, the same were disallowed because the IEDs and bank debit advices supporting the said input taxes cannot be given evidentiary value for being mere photocopies in violation of the Best Evidence Rule. The same holds true with the IEDs stamped as "certified true copy". This Court cannot ascertain whether the certifiers named therein are actually the custodians of the said documents.

IN VIEW OF THE FOREGOING, this Court finds petitioner entitled to a refund in the amount of P443,447,184.50 representing unutilized input VAT paid on its domestic purchases and importation of capital goods for the first and second quarters of 2000, as computed below:

Amount of Input VAT Claim		P449,569,448.73
Less:	Input VAT Pertaining to Non-Capital Goods Purchases	706,328.22
Input VAT Claim Pertaining to Capital Goods Purchases		P448,863,120.51
Less:	Not Properly Substantiated Input VAT	
	Per ICPA's Findings	45,878.55
	Per this Court's Further Verification	5,370,057.46
Refundable Input VAT on Capital Goods Purchases		**P443,447,184.50**

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(With Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Chairman, First Division
Presiding Justice