REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

MANULIFE DATA SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8054

x--x

MANULIFE DATA SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8117

x--x

MANULIFE DATA SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8139

Members:

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

Promulgated:
MAY 08 2013
4:00 p.m.

x--x

DECISION

CASTAÑEDA, JR., *J*.:

This case is a consolidation of three (3) separate Petitions for Review filed by Manulife Data Services, Inc. to seek the issuance of a tax credit certificate in the aggregate amount of ₱15,908,004.93, allegedly representing unutilized input value-added tax (VAT) paid for the four quarters of taxable year 2008, broken down as follows:

CTA Case No.	Year 2008	Amount
8054	1st Quarter	₱ 4,355,695.62
8117	2nd Quarter	3,047,596.00
8139	3rd Quarter 4th Quarter	8,504,713.31
TOTAL		**₱15,908,004.93**

Manulife Data Services, Inc. (petitioner) is a foreign corporation duly registered with and authorized by the Securities and Exchange Commission (SEC) to operate as a Regional Operating Headquarter (ROHQ) under SEC Certificate of Registration and License No. FS200603505.[1] Petitioner is a VAT-registered taxpayer as evidenced by Certificate of Registration No. OCN3RC0000330824.[2] It was established for the purpose of engaging in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication and business development.[3]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), with authority, among others, to decide, approve and grant claims for refund or tax credit of internal revenue taxes. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner duly filed its original and amended Quarterly VAT Returns for taxable year 2008.[4]

Alleging that it has unapplied/excess input VAT from its zero-rated sales, petitioner filed administrative claims for refund or issuance of tax credit certificate[5] before the BIR Revenue District

[1] Exhibit "A"
[2] Exhibit "B"
[3] Exhibit "A-3"
[4] Exhibits "D", "E", "F", "G", "H", and "I"
[5] Exhibits "C" and "C-4"

Office (RDO) No. 38 on the following dates and for the following amounts:

PERIOD COVERED	DATE FILED	AMOUNT CLAIMED
First Quarter of 2008	December 4, 2009	₱ 4,356,925.62
Second to Fourth Quarters of 2008	February 26, 2010	₱ 11,552,309.31

Due to inaction on the part of respondent, petitioner elevated its refund claims before this Court on the following dates:

PERIOD COVERED	DATE FILED	CASE DESIGNATION
First Quarter of 2008	March 30, 2010	CTA Case No. 8054
Second Quarter of 2008	June 29, 2010	CTA Case No. 8117
Third and Fourth Quarters of 2008	July 26, 2010	CTA Case No. 8139

In her Answer[6] in CTA Case No. 8054, respondent alleged the following Special and Affirmative Defenses:

"<u>SPECIAL AND AFFIRMATIVE DEFENSES</u>

4. He reiterates and re-pleads the preceding paragraphs of this Answer as part of his Special and Affirmative Defenses.

5. Petitioner's claim for the issuance of tax credit certificate is subject to administrative investigation/examination by respondent's Bureau.

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

7. Moreover, in order to validly claim for tax credit/refund, it is imperative for petitioner to prove its compliance with the following, viz:

[6] CTA Case No. 8054, docket, pp. 58-62

a. The registration requirements of a value-added taxpayer under the pertinent provision of the 1997 NIRC, as amended, and its implementing revenue regulations.

b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT pursuant to the provisions of Sections 113 and 114 of the 1997 NIRC, as amended. Failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of the claim for input tax of the taxpayer claimant (Revenue Memorandum Circular No. 42-2003).

c. The submission of complete documents in support of the administrative claim for tax refund pursuant to Section 112 (C) of the 1997 NIRC, as amended, otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax credit/refund which is a condition *sine qua non* prior to the filing of such claim.

d. That the input taxes of P4,355,695.62 allegedly representing unutilized input VAT from its purchases of goods and services were:

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

e. That petitioner's claim for tax credit/refund allegedly representing unutilized input VAT in the amount of P4,355,695.62 was filed within two (2) years after the close of the taxable quarter when the sales were made in accordance with Section 112 (A) of the 1997 NIRC, as amended.

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

9. Finally, basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same *(Philippine Geothermal, Inc. vs. Commissioner of Internal Revenue, G.R. No. 154028, July 27, 2005)*. Moreover, statutes in derogation of sovereignty such as those containing exemption from taxation should be strictly construed in favor of the State. In this regard, taxation is the rule and exemption is the exception. 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, Inc. vs. Court of Appeals, 357 SCRA 444)*."

Respondent employed the same arguments in her Answer in CTA Case No. 8117.

In her Answer[7] in CTA Case No. 8139, respondent interposed the following Special and Affirmative Defenses:

"SPECIAL AND AFFIRMATIVE DEFENSES

4. Claims for refund are strictly construed against the taxpayer as the same partakes the nature of a tax exemption;

5. The taxpayer has the burden to show that the taxes were erroneously or illegally paid. Failure on the part of the Petitioner to prove the same is fatal to its cause of action. In the instant case, the Petitioner failed

[7] CTA Case No. 8139, docket, pp. 74-76

> to present proof that the input VAT it is claiming as refund remained unutilized.
>
> 6. In addition, Petitioner must prove that the compensation or consideration which it received for the services rendered were actually paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;
>
> 7. The Petitioner should prove its legal basis for claiming the amount being refunded."

On September 9, 2010, petitioner filed a Motion for Consolidation of CTA Case No. 8117 with CTA Case No. 8054.[8] Likewise, on October 18, 2010, petitioner filed a Motion for Consolidation of CTA Case No. 8139 with CTA Case No. 8054. Both Motions were granted on November 4, 2010[9] and November 11, 2010[10], respectively.

During trial, petitioner presented its documentary and testimonial evidence. On the other hand, respondent, through counsel, manifested that she has no witness to present.

The case was submitted for decision on August 29, 2012, considering petitioner's Memorandum[11] filed on August 23, 2012 and respondent's Memorandum[12] filed on August 17, 2012.

The parties submitted the following issue[13] for this Court's disposition:

> "Whether or not petitioner is entitled to its claim for refund or issuance of a tax credit certificate for its unutilized/excess input VAT payments for the 1st to 4th Quarters of 2008 amounting to Php15,908,004.93."

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[8] CTA Case No. 8117, docket, pp. 537-539
[9] CTA Case No. 8054, docket, p. 631
[10] CTA Case No. 8054, docket, pp. 650-651
[11] CTA Case No. 8054, docket, pp. 919-929
[12] CTA Case No. 8054, docket, pp. 935-978
[13] CTA Case No. 8054, docket, p. 660

Section 112(A) of the National Internal Revenue Code (NIRC) of 1997 provides the basis for refunds or tax credits of input tax attributable to zero-rated or effectively zero-rated sales, to wit:

> "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: *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."

Based on the afore-quoted provision, the refund/tax credit of unutilized input VAT attributable to zero-rated or effectively zero-rated sales is allowed subject to the taxpayer's compliance with the following requisites:

1. that there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input taxes are attributable to zero-rated or effectively zero-rated sales;
4. that the input taxes were not applied against any output VAT liability; and

5. that the claim for refund was filed within the two-year prescriptive period.

The Court reckons it appropriate to discuss first the fifth requisite pertaining to the two-year prescriptive period for filing of refund claim.

As explicitly stated under Section 112(A) of the NIRC of 1997, the application for tax credit certificate/refund of unutilized input VAT must be filed within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the four taxable quarters of 2008 which closed on March 31, 2008; June 30, 2008; September 30, 2008 and December 31, 2008. Counting two years from the said dates, petitioner had until March 31, 2010; June 30, 2010; September 30, 2010 and December 31, 2010, respectively, within which to file its administrative claim for tax credit certificate/refund. Thus, petitioner's administrative claims for refund were seasonably filed on December 4, 2009 and February 26, 2010, as shown below:

<table>
<tr><th>CTA CASE NO.</th><th>YEAR 2008</th><th>CLOSE OF THE TAXABLE QUARTER</th><th>LAST DAY TO FILE ADMINISTRATIVE CLAIM</th><th>DATE OF FILING OF ADMINISTRATIVE CLAIM</th><th>EXHIBIT</th></tr>
<tr><td>8054</td><td>1st Quarter</td><td>Mar. 31, 2008</td><td>Mar. 31, 2010</td><td>Dec. 4, 2009</td><td>"C-1"</td></tr>
<tr><td>8117</td><td>2nd Quarter</td><td>Jun. 30, 2008</td><td>Jun. 30, 2010</td><td rowspan="3">Feb. 26, 2010</td><td rowspan="3">"C-4"</td></tr>
<tr><td rowspan="2">8139</td><td>3rd Quarter</td><td>Sep. 30, 2008</td><td>Sep. 30, 2010</td></tr>
<tr><td>4th Quarter</td><td>Dec. 31, 2008</td><td>Dec. 31, 2010</td></tr>
</table>

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, provides that the Commissioner of Internal Revenue (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 this Court 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 this Court within 30 days.

Applying Section 112(C) of the NIRC of 1997, as amended, the following are the pertinent dates to petitioner's claim for refund:

<table>
<tr><th>CTA CASE NO.</th><th>YEAR 2008</th><th>DATE OF FILING OF ADMINISTRATIVE CLAIM</th><th>END OF 120 DAYS FOR BIR COMMISSIONER TO DECIDE ON THE CLAIM</th><th>END OF 30 DAYS FROM EXPIRATION OF 120 DAYS</th><th>DATE OF FILING OF JUDICIAL CLAIM</th></tr>
<tr><td>8054</td><td>1st Quarter</td><td>December 4, 2009</td><td>April 3, 2010</td><td>May 3, 2010</td><td>March 30, 2010</td></tr>
<tr><td>8117</td><td>2nd Quarter</td><td rowspan="3">February 26, 2010</td><td rowspan="3">June 26, 2010</td><td rowspan="3">July 26, 2010</td><td>June 29, 2010</td></tr>
<tr><td rowspan="2">8139</td><td>3rd Quarter</td><td rowspan="2">July 26, 2010</td></tr>
<tr><td>4th Quarter</td></tr>
</table>

Clearly from the foregoing table, petitioner's judicial claims for the second, third and fourth quarters of 2008 (CTA Case Nos. 8117 and 8139) were timely filed within the "120-30-day" period required under Section 112(C) of the NIRC of 1997, as amended. On the other hand, petitioner's judicial claim for the first quarter of 2008 (CTA Case No. 8054) was prematurely filed on March 30, 2010 or 4 days short of the lapse of the 120-day period.

However, in the consolidated case of *Commissioner of Internal Revenue vs. San Roque Power Corporation, Taganito Mining Corporation vs. Commissioner of Internal Revenue, and Philex Mining Corporation vs. Commissioner of Internal Revenue*[14], promulgated on February 12, 2013, the Supreme Court *En Banc* ruled that the mandatory and jurisdictional nature of the 120-30-day period does not apply on claims for refund that were filed during the period of December 10, 2003 to October 6, 2010. The Supreme Court *En Banc* held that BIR Ruling No. DA-489-03, expressly stating that the "taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review", is a general interpretative rule which can be relied upon by all taxpayers from the time of its issuance on December 10, 2003 up to its reversal by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*[15] on October 6, 2010. Accordingly, petitioner's judicial claim for the first quarter of 2008 shall also be considered as timely filed.

The Court will now proceed to discuss the remaining requisites.

[14] G.R. Nos. 187485, 196113, and 197156, February 12, 2013
[15] G.R. No. 184823, October 6, 2010

Anent the first requisite, petitioner alleges that its sales of services to its foreign affiliates which are all engaged in business conducted outside the Philippines, and which services were paid for in United States Dollars inwardly remitted to the Philippines and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP) qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended, which states that:

> "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 rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[16], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following conditions must be satisfied:

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[16] G.R. No.153205, January 22, 2007

1. the services must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

Corollary to the second requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), B(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* -
>
> (A) *Invoicing Requirements.* - A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A **VAT official receipt** for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and xxx"*(Emphasis supplied)*

"SEC. 4.113-1. *Invoicing Requirements.* -

(A) ***A VAT-registered person*** *shall issue: -*

xxx xxx xxx

(2) A **VAT official receipt** for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their **TIN followed by the word 'VAT' in their invoice** or official receipts. Said documents shall be considered as a 'VAT Invoice' or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official 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.

(B) ***Information contained in VAT invoice or VAT official receipt.*** - The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:
>
> xxx xxx xxx
>
> (c) If the sale is subject to zero percent (0%) VAT, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;"*(Emphasis supplied)*

Pursuant to the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must likewise be supported by VAT zero-rated official receipts.

It is undisputed that petitioner is duly registered with the BIR as a VAT taxpayer.[17] As Regional Operating Headquarters (ROHQ), petitioner is authorized to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication and business development.[18] Such services are not in the same category as "processing, manufacturing or repacking of goods".

For the four taxable quarters of 2008, petitioner rendered services to its affiliates, namely: Manulife (International) Limited, John Hancock Life Insurance Company (U.S.A.), and The Manufacturers Life Insurance Company.[19]

It was established that Manulife (International) Ltd. and John Hancock Life Insurance Company (U.S.A.) are non-resident foreign entities doing business outside the Philippines as shown by the SEC

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[17] Par. 3, Stipulation of Facts, Consolidated Joint Stipulation of Facts and Issue, CTA Case No. 8054, docket, p. 658
[18] Exhibit "A-3"
[19] Exhibits "Y", "Z", "BB", and "HHH", page 2

Certifications of Non-Registration of Company[20], by Manulife Financial Corporation Annual Report for 2008[21] as certified by the Philippine Stock Exchange, by the authenticated and certified copy of Certified Documents of Manulife (International) Limited[22], by the authenticated and certified copy of Certificate of Registration of Change of Name of Oversea Company of Manulife (International) Limited[23], and by the authenticated and certified copy of Amended Articles of Redomestication of John Hancock Life Insurance Company (U.S.A.).[24]

However, as regards petitioner's client-affiliate, The Manufacturers Life Insurance Company, records show that it is a corporation organized under the laws of the Dominion of Canada but duly licensed and registered with the SEC to do business in the Philippines though its branch, The Manufacturers Life Insurance Co. (Phils.), Inc., as evidenced by the Certificate of Filing of Amended General By-Laws of a Foreign Corporation[25] issued by the SEC and by the 2008 General Information Sheet of The Manufacturers Life Insurance Co. (Phils.), Inc.[26]. Evidently, it did not satisfy the second requisite; thus, petitioner's reported sales of services to The Manufacturers Life Insurance Company in the amount of ₱176,070,408.09, detailed below, cannot qualify for VAT zero-rating.

Summary Reference	Exhibit (Invoice)	Exhibit (OR)	Client	Amount of Sales
First Quarter 2008				
January				
MM-1	MM-4a	MM-4	The Manufacturers Life Insurance Company	₱ 931,626.11
MM-1	MM-6a	MM-6	The Manufacturers Life Insurance Company	416,308.81
MM-1	MM-7a	MM-7	The Manufacturers Life Insurance Company	472,806.84
MM-1	MM-10a	MM-10	The Manufacturers Life Insurance Company	900,100.97
MM-1	MM-11a	MM-11	The Manufacturers Life Insurance Company	548,137.45
MM-1	MM-12a	MM-12	The Manufacturers Life Insurance Company	374,752.15
MM-1	MM-13a	MM-13	The Manufacturers Life Insurance Company	273,887.37
MM-1	MM-15a	MM-15	The Manufacturers Life Insurance Company	509,430.46
MM-1	MM-16a	MM-16	The Manufacturers Life Insurance Company	821,334.66
MM-1	MM-17a	MM-17	The Manufacturers Life Insurance Company	136,943.69
MM-1	MM-18a	MM-18	The Manufacturers Life Insurance Company	1,989,092.73
MM-1	MM-19a	MM-19	The Manufacturers Life Insurance Company	792,504.33
February				
MM-2	MM-26a	MM-26	The Manufacturers Life Insurance Company	929,443.51
MM-2	MM-27a	MM-27	The Manufacturers Life Insurance Company	1,226,215.42
MM-2	MM-28a	MM-28	The Manufacturers Life Insurance Company	398,938.74
MM-2	MM-29a	MM-29	The Manufacturers Life Insurance Company	500,197.59

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[20] Exhibits "CC" and "DD"
[21] Exhibit "EE", page 115, Principal Subsidiaries (Exhibit "EE-1")
[22] Exhibit "HH"
[23] Exhibit "HH-1"
[24] Exhibit "II"
[25] Attached to Exhibit "GG"
[26] Exhibit "FF"

MM-2	MM-32a	MM-32	The Manufacturers Life Insurance Company	859,150.02
MM-2	MM-33a	MM-33	The Manufacturers Life Insurance Company	490,777.55
MM-2	MM-34a	MM-34	The Manufacturers Life Insurance Company	534,090.96
MM-2	MM-35a	MM-35	The Manufacturers Life Insurance Company	289,640.45
MM-2	MM-38a	MM-38	The Manufacturers Life Insurance Company	511,513.83
MM-2	MM-39a	MM-39	The Manufacturers Life Insurance Company	747,886.33
MM-2	MM-40a	MM-40	The Manufacturers Life Insurance Company	110,664.51
MM-2	MM-41a	MM-41	The Manufacturers Life Insurance Company	2,205,629.15
MM-2	MM-42a	MM-42	The Manufacturers Life Insurance Company	844,184.60
March				
MM-3	MM-48a	MM-48	The Manufacturers Life Insurance Company	859,763.65
MM-3	MM-49a	MM-49	The Manufacturers Life Insurance Company	1,135,892.44
MM-3	MM-50a	MM-50	The Manufacturers Life Insurance Company	444,244.64
MM-3	MM-51a	MM-51	The Manufacturers Life Insurance Company	540,402.17
MM-3	MM-54a	MM-54	The Manufacturers Life Insurance Company	948,239.22
MM-3	MM-55a	MM-55	The Manufacturers Life Insurance Company	531,598.48
MM-3	MM-56a	MM-56	The Manufacturers Life Insurance Company	544,896.59
MM-3	MM-57a	MM-57	The Manufacturers Life Insurance Company	282,144.52
MM-3	MM-60a	MM-60	The Manufacturers Life Insurance Company	497,883.18
MM-3	MM-61a	MM-61	The Manufacturers Life Insurance Company	812,698.95
MM-3	MM-62a	MM-62	The Manufacturers Life Insurance Company	84,618.03
MM-3	MM-63a	MM-63	The Manufacturers Life Insurance Company	863,709.57
MM-3	MM-64a	MM-64	The Manufacturers Life Insurance Company	668,385.92
Subtotal				**₱26,029,735.59**
Second Quarter 2008				
April				
MM-4	MM-72a	MM-72	The Manufacturers Life Insurance Company	₱ 923,963.86
MM-4	MM-75a	MM-75	The Manufacturers Life Insurance Company	433,915.95
MM-4	MM-76a	MM-76	The Manufacturers Life Insurance Company	539,532.99
MM-4	MM-79a	MM-79	The Manufacturers Life Insurance Company	903,542.45
MM-4	MM-80a	MM-80	The Manufacturers Life Insurance Company	538,712.95
MM-4	MM-81a	MM-81	The Manufacturers Life Insurance Company	555,194.31
MM-4	MM-82a	MM-82	The Manufacturers Life Insurance Company	372,669.44
MM-4	MM-85a	MM-85	The Manufacturers Life Insurance Company	608,361.14
MM-4	MM-86a	MM-86	The Manufacturers Life Insurance Company	710,808.31
MM-4	MM-87a	MM-87	The Manufacturers Life Insurance Company	85,641.31
MM-4	MM-88a	MM-88	The Manufacturers Life Insurance Company	2,339,934.42
MM-4	MM-89a	MM-89	The Manufacturers Life Insurance Company	1,328,202.56
May				
MM-4	MM-95a	MM-95	The Manufacturers Life Insurance Company	865,102.16
MM-4	MM-98a	MM-98	The Manufacturers Life Insurance Company	449,161.78
MM-4	MM-99a	MM-99	The Manufacturers Life Insurance Company	566,130.98
MM-4	MM-102a	MM-102	The Manufacturers Life Insurance Company	940,125.09
MM-4	MM-103a	MM-103	The Manufacturers Life Insurance Company	530,843.17
MM-4	MM-104a	MM-104	The Manufacturers Life Insurance Company	444,888.06
MM-5	MM-105a	MM-105	The Manufacturers Life Insurance Company	455,909.82
MM-5	MM-108a	MM-108	The Manufacturers Life Insurance Company	537,826.19
MM-5	MM-109a	MM-109	The Manufacturers Life Insurance Company	743,943.75
MM-5	MM-110a	MM-110	The Manufacturers Life Insurance Company	71,764.57
MM-5	MM-111a	MM-111	The Manufacturers Life Insurance Company	1,898,555.60
MM-5	MM-112a	MM-112	The Manufacturers Life Insurance Company	1,301,768.13

MM-5	MM-115a	MM-115	The Manufacturers Life Insurance Company	245,157.21
June				
MM-5	MM-124a	MM-124	The Manufacturers Life Insurance Company	1,052,011.49
MM-5	MM-127a	MM-127	The Manufacturers Life Insurance Company	413,311.68
MM-5	MM-128a	MM-128	The Manufacturers Life Insurance Company	663,158.18
MM-5	MM-131a	MM-131	The Manufacturers Life Insurance Company	967,388.91
MM-5	MM-132a	MM-132	The Manufacturers Life Insurance Company	544,539.57
MM-5	MM-133a	MM-133	The Manufacturers Life Insurance Company	365,727.11
MM-5	MM-134a	MM-134	The Manufacturers Life Insurance Company	653,904.74
MM-5	MM-137a	MM-137	The Manufacturers Life Insurance Company	555,137.76
MM-5	MM-138a	MM-138	The Manufacturers Life Insurance Company	1,193,360.73
MM-5	MM-139a	MM-139	The Manufacturers Life Insurance Company	1,186,120.61
MM-5	MM-140a	MM-140	The Manufacturers Life Insurance Company	3,373,259.32
MM-5	MM-142a	MM-142	The Manufacturers Life Insurance Company	287,544.54
MM-5	MM-144a	MM-144	The Manufacturers Life Insurance Company	1,678,245.71
Subtotal				**₱31,325,366.55**
Third Quarter 2008				
July				
MM-6	MM-152a	MM-152	The Manufacturers Life Insurance Company	₱ 920,221.10
MM-6	MM-153a	MM-153	The Manufacturers Life Insurance Company	1,921,222.13
MM-6	MM-156a	MM-156	The Manufacturers Life Insurance Company	857,798.30
MM-6	MM-158a	MM-158	The Manufacturers Life Insurance Company	453,400.19
MM-6	MM-159a	MM-159	The Manufacturers Life Insurance Company	910,298.83
MM-6	MM-160a	MM-160	The Manufacturers Life Insurance Company	539,762.89
MM-6	MM-161a	MM-161	The Manufacturers Life Insurance Company	425,537.13
MM-6	MM-162a	MM-162	The Manufacturers Life Insurance Company	623,688.95
MM-6	MM-165a	MM-165	The Manufacturers Life Insurance Company	621,468.65
MM-6	MM-166a	MM-166	The Manufacturers Life Insurance Company	1,089,736.35
MM-6	MM-167a	MM-167	The Manufacturers Life Insurance Company	1,190,404.97
MM-6	MM-168a	MM-168	The Manufacturers Life Insurance Company	2,068,460.17
MM-6	MM-170a	MM-170	The Manufacturers Life Insurance Company	337,527.63
MM-6	MM-172a	MM-172	The Manufacturers Life Insurance Company	1,647,176.46
MM-6	MM-174a	MM-174	The Manufacturers Life Insurance Company	665,084.87
August				
MM-6	MM-179a	MM-179	The Manufacturers Life Insurance Company	944,824.67
MM-6	MM-180a	MM-180	The Manufacturers Life Insurance Company	1,088,354.99
MM-6	MM-181a	MM-181	The Manufacturers Life Insurance Company	447,697.11
MM-6	MM-182a	MM-182	The Manufacturers Life Insurance Company	691,149.21
MM-6	MM-183a	MM-183	The Manufacturers Life Insurance Company	875,574.36
MM-6	MM-184a	MM-184	The Manufacturers Life Insurance Company	3,260,333.32
MM-7	MM-185a	MM-185	The Manufacturers Life Insurance Company	1,111,274.32
MM-7	MM-186a	MM-186	The Manufacturers Life Insurance Company	500,971.94
MM-7	MM-187a	MM-187	The Manufacturers Life Insurance Company	858,660.18
MM-7	MM-188a	MM-188	The Manufacturers Life Insurance Company	661,744.35
MM-7	MM-189a	MM-189	The Manufacturers Life Insurance Company	1,476,576.47
MM-7	MM-191a	MM-191	The Manufacturers Life Insurance Company	220,740.81
MM-7	MM-192a	MM-192	The Manufacturers Life Insurance Company	566,823.34

MM-7	MM-193a	MM-193	The Manufacturers Life Insurance Company	589,239.79
MM-7	MM-204a	MM-204	The Manufacturers Life Insurance Company	1,913,106.91
September				
MM-7	MM-209a	MM-209	The Manufacturers Life Insurance Company	967,969.53
MM-7	MM-210a	MM-210	The Manufacturers Life Insurance Company	1,121,667.77
MM-7	MM-211a	MM-211	The Manufacturers Life Insurance Company	514,820.63
MM-7	MM-212a	MM-212	The Manufacturers Life Insurance Company	702,218.90
MM-7	MM-213a	MM-213	The Manufacturers Life Insurance Company	3,741,382.59
MM-7	MM-214a	MM-214	The Manufacturers Life Insurance Company	808,166.09
MM-7	MM-215a	MM-215	The Manufacturers Life Insurance Company	739,968.99
MM-7	MM-216a	MM-216	The Manufacturers Life Insurance Company	3,443,008.43
MM-7	MM-217a	MM-217	The Manufacturers Life Insurance Company	1,154,137.44
MM-7	MM-218a	MM-218	The Manufacturers Life Insurance Company	1,000,480.14
MM-7	MM-219a	MM-219	The Manufacturers Life Insurance Company	677,954.74
MM-7	MM-220a	MM-220	The Manufacturers Life Insurance Company	1,553,003.35
MM-7	MM-222a	MM-222	The Manufacturers Life Insurance Company	1,008,991.48
MM-7	MM-223a	MM-223	The Manufacturers Life Insurance Company	580,736.27
MM-7	MM-224a	MM-224	The Manufacturers Life Insurance Company	536,821.21
MM-8	MM-235a	MM-235	The Manufacturers Life Insurance Company	2,220,859.75
Subtotal				**₱50,251,047.70**
Fourth Quarter 2008				
October				
MM-9	MM-240a	MM-240	The Manufacturers Life Insurance Company	₱ 1,020,458.75
MM-9	MM-241a	MM-241	The Manufacturers Life Insurance Company	1,064,558.89
MM-9	MM-242a	MM-242	The Manufacturers Life Insurance Company	532,820.20
MM-9	MM-243a	MM-243	The Manufacturers Life Insurance Company	33,462.23
MM-9	MM-244a	MM-244	The Manufacturers Life Insurance Company	2,082,897.95
MM-9	MM-245a	MM-245	The Manufacturers Life Insurance Company	923,544.99
MM-9	MM-246a	MM-246	The Manufacturers Life Insurance Company	829,832.92
MM-9	MM-247a	MM-247	The Manufacturers Life Insurance Company	5,160,212.56
MM-9	MM-248a	MM-248	The Manufacturers Life Insurance Company	1,169,429.90
MM-9	MM-249a	MM-249	The Manufacturers Life Insurance Company	620,186.34
MM-9	MM-250a	MM-250	The Manufacturers Life Insurance Company	1,052,486.91
MM-9	MM-251a	MM-251	The Manufacturers Life Insurance Company	1,594,876.17
MM-9	MM-253a	MM-253	The Manufacturers Life Insurance Company	1,022,224.43
MM-9	MM-254a	MM-254	The Manufacturers Life Insurance Company	590,564.68
MM-9	MM-255a	MM-255	The Manufacturers Life Insurance Company	544,946.23
MM-9	MM-267a	MM-267	The Manufacturers Life Insurance Company	2,526,933.04
November				
MM-9	MM-272a	MM-272	The Manufacturers Life Insurance Company	1,007,264.36
MM-9	MM-273a	MM-273	The Manufacturers Life Insurance Company	1,066,054.06
MM-9	MM-274a	MM-274	The Manufacturers Life Insurance Company	519,185.09
MM-10	MM-275a	MM-275	The Manufacturers Life Insurance Company	734,871.24
MM-10	MM-276a	MM-276	The Manufacturers Life Insurance Company	2,037,442.12
MM-10	MM-277a	MM-277	The Manufacturers Life Insurance Company	907,747.18
MM-10	MM-278a	MM-278	The Manufacturers Life Insurance Company	879,203.12
MM-10	MM-279a	MM-279	The Manufacturers Life Insurance Company	5,360,024.31

MM-10	MM-280a	MM-280	The Manufacturers Life Insurance Company	1,183,650.94
MM-10	MM-281a	MM-281	The Manufacturers Life Insurance Company	828,427.80
MM-10	MM-282a	MM-282	The Manufacturers Life Insurance Company	999,424.89
MM-10	MM-283a	MM-283	The Manufacturers Life Insurance Company	1,639,123.59
MM-10	MM-285a	MM-285	The Manufacturers Life Insurance Company	1,005,971.82
MM-10	MM-286a	MM-286	The Manufacturers Life Insurance Company	593,778.56
MM-10	MM-287a	MM-287	The Manufacturers Life Insurance Company	825,414.19
MM-10	MM-300a	MM-300	The Manufacturers Life Insurance Company	907,414.75
MM-10	MM-301a	MM-301	The Manufacturers Life Insurance Company	3,148,043.45
December				
MM-10	MM-306a	MM-306	The Manufacturers Life Insurance Company	977,638.94
MM-10	MM-307a	MM-307	The Manufacturers Life Insurance Company	1,036,957.83
MM-10	MM-308a	MM-308	The Manufacturers Life Insurance Company	487,866.69
MM-10	MM-309a	MM-309	The Manufacturers Life Insurance Company	693,547.19
MM-10	MM-310a	MM-310	The Manufacturers Life Insurance Company	2,601,238.79
MM-10	MM-311a	MM-311	The Manufacturers Life Insurance Company	867,888.35
MM-10	MM-312a	MM-312	The Manufacturers Life Insurance Company	1,029,724.66
MM-10	MM-313a	MM-313	The Manufacturers Life Insurance Company	6,472,093.32
MM-10	MM-314a	MM-314	The Manufacturers Life Insurance Company	1,111,526.51
MM-10	MM-315a	MM-315	The Manufacturers Life Insurance Company	1,071,966.50
MM-10	MM-316a	MM-316	The Manufacturers Life Insurance Company	971,430.90
MM-10	MM-317a	MM-317	The Manufacturers Life Insurance Company	1,581,374.55
MM-11	MM-319a	MM-319	The Manufacturers Life Insurance Company	973,833.06
MM-11	MM-320a	MM-320	The Manufacturers Life Insurance Company	576,314.48
MM-11	MM-321a	MM-321	The Manufacturers Life Insurance Company	497,729.23
MM-11	MM-334a	MM-334	The Manufacturers Life Insurance Company	627,604.93
MM-11	MM-335a	MM-335	The Manufacturers Life Insurance Company	2,473,044.66
Subtotal				**₱ 68,464,258.25**
TOTAL				**₱176,070,408.09**

For services rendered for the four taxable quarters of 2008, petitioner received foreign currency payments, which were accounted for in accordance with the BSP rules and regulations, as evidenced by the Summary of Service Invoices and Official Receipts Issued[27], VAT zero-rated sales invoices and official receipts[28], Schedule of Sales[29] Summary of Bank Remittances[30], Customer Advices – Bank Credit Memos[31] issued by Citibank and report[32] of the Court-commissioned Independent Certified Public Accountant (CPA), Nila N. Mendiola.

[27] Exhibits "MM" to "MM-11"
[28] Exhibits "MM-1" to "MM-336a"
[29] Exhibits "O", "NN", "WW", and "XX"
[30] Exhibits "PP" and "RR" to "RR-11"
[31] Exhibits "T-1" to "T-61", "QQ-1" to "QQ-54", "AAA-1" to "AAA-43", and "BBB-1" to "BBB-82"
[32] Exhibit "CCC"

However, petitioner failed to substantiate with VAT zero-rated official receipts its sales of services in the amount of ₱756,087.59, detailed as follows:

YEAR 2008	EXHIBIT	CLIENT	AMOUNT OF SALES
May	MM-91	Manulife (International) Ltd.	₱ 486,514.72
June	MM-141	John Hancock Life Insurance Co.	269,572.87
TOTAL			**₱756,087.59**

In sum, out of the ₱462,946,245.39 zero-rated sales declared by petitioner for the four taxable quarters of 2008, only the amount of ₱286,119,749.71 qualifies for VAT zero-rating, computed as follows:

	1ST QTR	2ND QTR	3RD QTR	4TH QTR	TOTAL
Zero-Rated Sales Per Returns	80,203,327.92	97,528,227.59	126,062,828.90	159,151,860.98	462,946,245.39
Less: Disallowances					
Sales to the Manufacturer's Life Insurance Company	26,029,735.59	31,325,366.55	50,251,047.70	68,464,258.25	176,070,408.09
No Supporting Official Receipts	-	756,087.59	-	-	756,087.59
Total Disallowances	26,029,735.59	32,081,454.14	50,251,047.70	68,464,258.25	176,826,495.68
Valid Zero Rated Sales	**54,173,592.33**	**65,446,773.45**	**75,811,781.20**	**90,687,602.73**	**286,119,749.71**

After finding that petitioner had VAT zero-rated sales of services for the four taxable quarters of 2008 in the amount of ₱286,119,749.71, the Court shall determine the amount of input VAT incurred by petitioner in connection thereto.

In support of its claimed input VAT for the first, second, third and fourth quarters of 2008, petitioner submitted various suppliers' invoices and official receipts which were examined by the Independent CPA. In her report dated May 9, 2011, the Independent CPA recommended a downward adjustment to petitioner's claim in the amount of ₱1,827,838.52[33] for being unsupported by VAT invoices or official receipts, broken down as follows:

YEAR 2008	INPUT VAT
1st Quarter	₱ 93,284.19
2nd Quarter	236,378.27
3rd Quarter	652,061.85

[33] Exhibits "SS-1" to "SS-6"

4th Quarter	846,114.21
TOTAL	**₱1,827,838.52**

The Court finds that aside from the disallowance recommended by the Independent CPA in the amount of ₱1,827,838.52, petitioner's claim should be further reduced by ₱5,219.22, representing the discrepancy between the claimed input VAT *vis-à-vis* the input VAT per summary, as shown below:

	1ST QTR	**2ND QTR**	**3RD AND 4TH QUARTERS**	**TOTAL**
Per Claim	₱4,355,695.62	₱3,047,596.00	₱ 8,504,713.31	₱ 15,908,004.93
Per Summary	4,355,695.62	3,042,376.78	9,650,407.38	17,048,479.78
Difference	-	**₱ 5,219.22**	**₱ (1,145,694.07)**	**₱ (1,140,474.85)**

Thus, out of the total claimed input VAT of ₱15,908,004.93, only the input VAT of ₱14,074,947.19 was properly substantiated in accordance with Sections 110(A) and 113(A) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-2005. Below is the computation of the amount of ₱14,074,947.19:

	1ST QTR	**2ND QTR**	**3RD AND 4TH QTRS**	**TOTAL**
Input VAT Claim	₱ 4,355,695.62	₱ 3,047,596.00	₱ 8,504,713.31	₱ 15,908,004.93
Less: Disallowances				
Per ICPA's Findings	93,284.19	236,378.27	1,498,176.06	1,827,838.52
Discrepancy between input VAT per claim and input VAT per Summary	-	5,219.22	-	5,219.22
Valid Input VAT	**₱4,262,411.43**	**₱2,805,998.51**	**₱7,006,537.25**	**₱14,074,947.19**

A portion, however, of the afore-mentioned substantiated input VAT shall be applied against petitioner's reported output VAT liabilities for the third and fourth quarters of 2008 in the respective amounts of ₱947,032.73 and ₱8,691.58 totalling ₱955,724.31. Hence, for the four taxable quarters of 2008, only the remaining input VAT of ₱13,119,222.88 can be attributed to the entire zero-rated sales declared by petitioner in the amount of ₱462,946,245.39 and only the input VAT of ₱8,294,312.44 is attributable to the valid zero-rated sales of ₱286,119,749.71, as computed below:

	1ST QUARTER	2ND QUARTER	3RD AND 4TH QUARTERS	TOTAL
Valid Input VAT	₱ 4,262,411.43	₱ 2,805,998.51	₱ 7,006,537.25	₱ 14,074,947.19
Less: Output VAT	-	-	955,724.31	955,724.31
Excess Input VAT	₱ 4,262,411.43	₱ 2,805,998.51	₱ 6,050,812.94	₱ 13,119,222.88
Valid Zero-Rated Sales	₱ 54,173,592.33	₱ 65,446,773.45	₱ 66,499,383.93	₱286,119,749.71
Divide by Total Declared Zero-Rated Sales	80,203,327.92	97,528,227.59	285,214,689.88	462,946,245.39
Multiplied by Excess Input VAT	4,262,411.43	2,805,998.51	6,050,812.94	13,119,222.88
Excess Input VAT Attributable to Valid Zero-Rated Sales	**₱2,879,059.33**	**₱1,882,978.43**	**₱ 3,532,274.68**	**₱ 8,294,312.44**

Even though the claimed input VAT was carried over by petitioner in its succeeding Quarterly VAT Returns[34], the same remained unutilized until it was deducted as "VAT Refund/TCC claimed"[35] in its Quarterly VAT Return for the first quarter of 2010. Therefore, the excess input VAT of ₱34,307,534.36[36] as of the end of the first quarter of 2010, which was to be carried over to the succeeding second quarter of 2010, no longer included the subject claim.

WHEREFORE, premises considered, petitioner's claim for issuance of tax credit certificate is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of ₱8,294,312.44 in favor of petitioner, representing unutilized input VAT attributable to its zero-rated sales for the four quarters of 2008.

SO ORDERED.

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

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

[34] Exhibits "J-2", "K-2", "L-2", "N-2", and "DDD-2"
[35] Exhibit "DDD-5"
[36] Exhibit "DDD-6"

ATTESTATION

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

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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice