REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

ENERGY DEVELOPMENT CORPORATION ("EDC", formerly, "PNOC Energy Development Corporation"), Petitioner,	C.T.A. CASE NO. 8019
	Members:
	UY, *Chairperson and* FABON-VICTORINO, JJ.
- versus -	
	Promulgated:
COMMISSIONER OF INTERNAL REVENUE, Respondent.	APR 29 2013 ; 3:00 p.m.

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DECISION

Fabon-Victorino, J.:

This petition challenges the inaction of respondent in petitioner's claim for refund/tax credit in the amount of Php131,623,246.06, allegedly representing excess and unutilized input value-added tax (VAT) on its importation of equipment and domestic purchases of goods and services for taxable year 2008, which are directly attributable to zero-rated sale of geothermal steam to various clients.

Petitioner Energy Development Corporation is a duly organized domestic corporation, with principal office at Building V, Energy Center, Merritt Road, Fort Bonifacio, Taguig City. It is primarily engaged in the exploration, development and utilization of renewable energy resources, including selling of electricity and geothermal steam. It is a registered VAT taxpayer with VAT Certificate of Registration No. OCN8RC0000018858 and Taxpayer Identification No.

000-169-125-000 issued by the Bureau of Internal Revenue (BIR).[1]

Respondent, on the other hand, is the Commissioner of the BIR, with authority to act on 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 filed its Quarterly VAT Returns for taxable year 2008 on April 25, 2008, July 25, 2008, October 24, 2008 and January 28, 2009.[2] On June 11, 2009, petitioner filed its Amended Quarterly VAT Returns for the same quarters, [3]showing the following information:

	1st Qtr	2nd Qtr
	(Exhibit "I-4")	(Exhibit "J-4")
Sale to Government	598,451.00	598,451.00
Zero-Rated Sales/Receipts	1,744,015,636.02	3,656,801,631.12
Exempt Sales/Receipts	20,214,651.80	161,036,322.77
Total Sales/Receipts	**1,764,828,738.82**	**3,818,436,404.89**
Output tax due	**71,814.12**	**71,814.12**
Less: Allowable Input Tax		
From Previous Quarter	(478,344,852.85)	(214,084,730.65)
Current Transactions:		
Domestic purchases of goods (other than capital goods)	(8,946,102.50)	(8,640,361.45)
Domestic purchases of services	(19,866,438.71)	(32,138,716.93)
Total	**(28,812,541.21)**	**(40,779,078.38)**
Total Available Input Tax	(507,157,394.06)	(254,863,809.03)
Less: VAT Refund/TCC claimed	293,058,460.62	-
Total Available Input Tax	(214,098,933.44)	(254,863,809.03)
Net VAT Payable	(214,027,119.32)	(254,791,994.91)
Less: Tax Credits/Payments		
Creditable Value-Added Tax Withheld	(57,611.33)	(19,948.36)
Total Amount Payable/(Overpayment)	**(214,084,730.65)**	**(254,811,943.27)**

	3rd Qtr	4th Qtr	Total
	(Exhibit "K-3")	(Exhibit "L-4")	
Sale to Government	601,699.41	601,699.41	2,400,300.82
Zero-Rated Sales/Receipts	7,119,490,283.11	6,245,236,029.18	18,765,543,579.43
Exempt Sales/Receipts	383,085,250.99	298,406,610.40	862,742,835.96

[1] Pars. 1, 2, and 3, Facts Stipulated by the Parties, Joint Stipulation of Facts and Issues (JSFI), *rollo*, p. 496.
[2] Par. 4. *rollo*, p. 496.
[3] Par. 5, *rollo*, p. 497 .

Total Sales/Receipts	**7,503,177,233.51**	**6,544,244,338.99**	**19,630,686,716.21**
Output tax due	**72,203.94**	**72,203.94**	**288,036.12**
Less: Allowable Input Tax			
From Previous Quarter	(254,811,943.27)	(284,809,894.26)	(478,344,852.85)
Current Transactions:			
Domestic purchases of goods (other than capital goods)	(15,370,384.74)	(12,578,176.07)	(45,535,024.76)
Domestic purchased of services	(14,659,711.05)	(19,423,354.61)	(86,088,221.30)
Total	**(30,030,095.79)**	**(32,001,530.68)**	**(131,623,246.06)**
Total Available Input Tax	(284,842,039.06)	(316,811,424.94)	(609,968,098.91)
Less: VAT Refund/TCC claimed	-	-	293,058,460.62
Total Available Input Tax	(284,842,039.06)	(316,811,424.94)	(316,909,638.29)
Net VAT Payable	(284,769,835.12)	(316,739,221.00)	(316,621,602.17)
Less: Tax Credits/Payments			
Creditable Value-Added Tax Withheld	(40,059.14)	(20,056.64)	(137,675.47)
Total Amount Payable/(Overpayment)	**(284,809,894.26)**	**(316,759,277.64)**	**(316,759,277.64)**

On June 16, 2009, petitioner filed with the BIR Large Taxpayer Division an administrative claim for refund/tax credit for its alleged unutilized input VAT for taxable year 2008 amounting to Php131,623,246.06.[4]

On August 7, 2009, petitioner received from the BIR a letter dated August 3, 2009 requiring it to submit additional documents to substantiate its claim.[5]

In its reply letter dated August 19, 2009, petitioner stated that: (a) it attached some of the requested documents; (b) the documents not submitted were submitted at the time it filed its administrative claim; and (c) the other documents stated in the request are inapplicable.[6]

On December 29, 2009, petitioner filed the instant Petition for Review alleging inaction on the part of respondent.

[4] Exhibit "D".
[5] Exhibit "F".
[6] Exhibit "H".

In her Answer [7] posted on February 22, 2010, respondent counters that petitioner's claim for refund is still subject to administrative investigation or examination by the BIR. In any event, petitioner is yet to prove that its sales are VAT zero-rated as contemplated under Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, and that all the legal requisites for entitlement to a refund have been complied with. Despite her letter dated August 3, 2009, petitioner submitted only eleven of the 27 documents that she requested. More importantly, petitioner failed to submit the letter confirmation from the Board of Investments, Department of Finance, Bureau of Customs and Export Processing Zone Authority indicating that no similar claims have been made by petitioner to the said government agencies. Failure to comply with this requirement is fatal pursuant to Paragraph II (7) [8] of Revenue Audit Memorandum Order dated January 11, 1991, in relation to Paragraph II[9] of Revenue Memorandum Order No. 40-94 dated May 6, 1991.

Further, for petitioner's failure to submit all the required supporting documents within the period prescribed by law, the one hundred twenty (120)-day period for her to act on the claim for refund did not run. Thus, the instant Petition for Review was prematurely filed on December 29, 2009, given that the 30-day period to appeal was to commence only after the 120-day period expired. On the other hand, if the 120-day period was to commence on the day petitioner filed its administrative claim on June 16, 2009

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[7] *Rollo*, pp. 437-449.

[8] "II. ADMINISTRATIVE POLICIES:

4. That the 60-day period for the processing of claims for refund/tax credit shall start on the day of submission of the last of the documents specified in the checklist of requirements (Annex B)."

[9] "II. Guidelines:

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C. The Revenue District Office shall accept only applications with complete supporting documents as prescribed in the Checklist of Requirements under Annex "A" hereof. Value-added tax credit/refund shall be issued to the taxpayer/claimant within sixty (60) working days from the date the application was received. Applications are considered duly received only on the day of submission of the last of the documents specified in the aforementioned checklist of requirements.

D. Claims for VAT credits/refunds shall be acted upon only after confirmation that no similar claims covering transactions for the same period have been filed by claimants/taxpayers with Board of Investments (BOI), Bureau of Customs (BOC), Center-DOF, and other agencies concerned.

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F. All processing and audit investigation of claims for refund or tax credit of value-added tax arising from zero-rated transactions, as well as purchase or importation of capital goods must strictly adhere to the guidelines set forth under Revenue Audit Memorandum Order No. 1-91.

allegedly with the supporting documents, then the judicial claim filed on December 29, 2009 was filed out of time, depriving the Court of jurisdiction to hear and determine the petition.

After the pre-trial conference, the parties filed their Joint Stipulation of Facts and Issues,[10] which the Court approved on May 18, 2010.

To support its claim for refund, petitioner presented Court-commissioned Independent Certified Public Accountant (ICPA) **Jose C. Catequista**, who testified on direct examination through his Judicial Affidavit.[11] He claimed that based on his examination of the voluminous documents pertinent to petitioner's claim for refund/tax credit of the unutilized input VAT for the taxable year 2008, petitioner may only claim the amount of Php103,104,057.66 as shown in his Report.

Senior Manager of petitioner's Tax Division **Felicito A. Gesite**,[12] also took the witness stand for his employer. He testified that petitioner is not only engaged in the exploration, generation, and sale of power but also in consultancy services both locally and abroad. In its generation, exploration, and sale of power, petitioner mainly utilizes renewable energy sources particularly geothermal energy. Its sale of geothermal energy is subject to zero percent (0%) VAT rate. When he reviewed and approved the VAT returns filed by petitioner for the taxable year 2008, he discovered petitioner has unclaimed input VAT of Php131,623,246.06. Thus, he coordinated with their legal department for the filing of an administrative claim for refund of unutilized input VAT for taxable year 2008. As a precautionary measure, he filed amended VAT returns in 2009 to avoid duplication of claims as well as to remove the input VAT subject of the claim for refund from the total input VAT carried over by petitioner to the succeeding taxable year. On August 19, 2009, petitioner submitted the documents that respondent required in its letter of August 3, 2009 received on August 7, 2009. On December 29, 2009,

[10] *Rollo*, pp. 495-501.
[11] *Rollo*, pp. 701-716.
[12] *Rollo*, pp. 745-756.

petitioner filed the instant petition due to respondent's inaction on petitioner's administrative claim for refund/tax credit.

Petitioner's handling counsel **Atty. Suzie A. Fernandez** testified that upon her written request, the BIR Large Taxpayer District Office of Makati issued a Certification dated January 25, 2011 to the effect that it received petitioner's administrative claim for refund/tax credit on June 16, 2009.

In the Resolution of June 13, 2011, the Court admitted petitioners formally offered documents except Exhibits "E", "E-1", "I-2", "I-3", "J-2", "J-3", "J-6", "J-7", "K-2", "L-2", "L-3", "M-2", "M-3", "N-2", "N-3", "O-2", "O-3", "P-2", "P-3", "Q-2", "Q-3", "R-2", "R-3", "S-2", "S-3", "T-2", "T-3", "OOOOO", "OOOOO-1", "PPPPP", "PPPPP-1", "QQQQQ", and "QQQQQ-1", "U" to "FFFF", "IIII" and "IIII-1" either because they were not identified during the trial or were submitted to the Court.[13] Note that despite the opportunity granted, respondent did not file comment on petitioner's formal offer of exhibits.

On reconsideration and with leave of Court, petitioner recalled Felicito A. Gesite[14] who identified exhibits not identified during the trial while Fenina Rodriguez[15] testified that she was the Chief Financial Officer of petitioner from October 2007 to October 15, 2009. She wrote and signed petitioner's letter to the BIR dated June 9, 2009, pertaining to petitioner's claim for refund/tax credit of input VAT for taxable year 2008. Attached to the said letter was BIR Form No. 1914 which she also signed.

After the admission of several exhibits for petitioner via Resolutions dated November 21, 2011,[16] December 20, 2011,[17] and January 30, 2012,[18] petitioner rested its case.

[13] *Rollo*, pp. 813-814.
[14] *Rollo*, pp. 817-826.
[15] *Rollo*, pp. 852-855.
[16] *Rollo*, pp. 891-892.
[17] *Rollo*, pp. 899-901.
[18] *Rollo*, p. 911.

On February 14, 2012, counsel for respondent manifested that respondent was waiving her right to present evidence in view of the absence of the Audit Report. Consequently, the parties were granted a period of thirty (30) days to submit their respective memoranda. Thereafter, the petition shall be submitted for decision.[19]

Upon the parties' compliance, the petition was deemed submitted for decision on May 7, 2012.[20]

THE ISSUES

The parties submitted the following issues[21] for this Court's disposition:

1. Whether or not Petitioner has complied with the governing rules and regulations with regard to recovery of taxes as provided in Section 112 of the NIRC of 1997, as amended.

2. Whether or not Petitioner has complied with the submission of complete documents in support of its administrative claim for refund.

3. Whether or not Petitioner's claim for tax credit or refund of the alleged Input VAT tax for the taxable year 2008 was filed within the period prescribed under Section 112 of the NIRC of 1997, as amended

4. Whether or not Petitioner's sale of geothermal steam to its various clients is subject to zero-rate VAT.

5. Whether or not Petitioner is entitled to refund and/or issuance of tax credit certificate of its input VAT for taxable year 2008 in the amount of Php131,623,246.06.

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[19] Minutes of the Hearing, *rollo*, p. 912.
[20] *Rollo,* p. 1004.
[21] *Rollo*, pp. 499-500.

However, the core issue is:

> WHETHER OR NOT, PETITIONER IS ENTITLED TO THE REFUND OR ISSUANCE OF TAX CREDIT CERTIFICATE IN THE AMOUNT OF PHP131,623,246.06, REPRESENTING ITS ALLEGED UNUTILIZED INPUT VAT ATTRIBUTABLE TO ZERO-RATED SALES FOR THE TAXABLE YEAR 2008.

RULING OF THE COURT

Petitioner anchors its claim for refund/tax credit on Section 112(A) of the NIRC of 1997, as amended, which reads 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 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 foregoing, petitioner, who claims for refund/tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales, must prove the following:

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

Under the above provision, the two-year prescriptive period for the filing of a claim for input VAT refund or credit is reckoned from the close of the taxable quarter when the relevant sales were made pertaining to the input VAT regardless of whether said tax was paid or not. Counting from March 31, 2008, June 30, 2008, September 30, 2008 and December 31, 2008, the close of the first, second, third and fourth quarters of taxable year 2008, respectively, petitioner had until March 31, June 30, September 30, and December 31, all of taxable year 2010, within which to file its administrative claim for input VAT refund for the said taxable quarters. Evidently, petitioner seasonably filed on June 16, 2009 its administrative claim for refund/tax credit in the aggregate amount of Php131,623,246.06 for the four quarters of taxable year 2008.

As to the subsequent filing of petitioner's judicial claim, the Court is guided by Section 112(C) of the 1997 NIRC, as amended, quoted below for ready reference:

> SEC. 112. Refunds or Tax Credits of Input Tax. —
>
> xxx xxx xxx
>
> (C) Period Within Which Refund or Tax Credit of Input Taxes Shall be Made. — In proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days <u>from the date of submission of complete documents in support of the application</u>** filed in accordance with Subsections (A) and (B) hereof.
>
> **In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals**. (Boldfacing and underscoring supplied)

Clearly, respondent had 120 days from petitioner's submission of complete documents within which to grant or deny the latter's claim for refund, after which, without any action on the part of respondent, petitioner had 30 days within which to seek relief from the Court via a Petition for Review.

The above interpretation is not without any basis. The Supreme Court explained Section 112 (D), as amended, in this wise:

> Section 112 (D)[22] of the NIRC clearly provides that the CIR has "120 days, from the date of the submission of the complete documents in support of the application [for tax refund/credit]," within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to CTA within 30 days.[23]

In the words of the Supreme Court, the term "relevant supporting documents", is defined as follows:

> The term 'relevant supporting documents' should be understood as those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. **The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require production of documents that a taxpayer cannot commit**. *(Emphasis supplied)*

In fine, the taxpayer has the power to determine whether or not the documents it submitted are sufficient to

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[22] Now Section 112(C) of the NIRC of 1997, as amended.
[23] CIR v. Aichi Forging company of Asia Inc.,G.R. No. 184823, October 6, 2010.

support its administrative claim and it is upon that time that the 120-day period under Section 112(C) of the NIRC of 1997 shall commence.

The admission of respondent in her Answer[24] and the letter[25] of petitioner transmitting additional documents in support of its administrative claim for refund/tax credit, combined, justify the conclusion that the 120-day period should commence on August 19, 2009 or the date when petitioner submitted additional supporting documents. Thus, counting 120 days from said date, respondent had until December 17, 2009 to decide upon the claim. Thereafter, petitioner had thirty (30) days or until January 16, 2010 to seek judicial review before this Court. Undoubtedly, the instant Petition for Review was timely filed on December 29, 2009.

On its claimed entitlement to a refund or issuance of tax credit certificate in the amount of Php131,623,246.06, representing its unutilized input VAT attributable to VAT zero-rated sales for the four quarters of taxable year 2008, petitioner contends that it is the largest geothermal energy producer in the country and has been in the business of selling electricity generated from geothermal steam for more than thirty years.[26]

Under Section 6 of the Electric Power Industry Reform Act, otherwise known as the EPIRA of 2001, sales of generated power by generation companies are VAT zero-rated. This provision however was repealed by Republic Act (RA) No. 9337. Notwithstanding the repeal, the sale of power through renewable sources of energy remained VAT zero-rated under Section 108(B)(7) of the NIRC of 1997, as amended by RA No. 9337. The provision states:

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

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[24] *Rollo*, pp. 442-443.
[25] Exhibits "H" and "H-1".
[26] *Rollo*, p. 973

> (B) Transactions Subject to Zero Percent (0%) Rate. – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> xxx xxx xxx
>
> (7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.

To implement the above cited provision, Section 4.108-3(f) of Revenue Regulations (RR) No. 16-2005, was promulgated to reads as follows:

> SEC. 4.108-3. Definitions and Specific Rules on Selected Services. –
>
> xxx xxx xxx
>
> (f) Sale of electricity by generation, transmission, and distribution companies shall be subject to 10% VAT on their gross receipts; Provided, That sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels shall be subject to 0% VAT.
>
> 'Generation companies' refers to persons or entities authorized by the Energy Regulatory Commission (ERC) to operate facilities used in the generation of electricity. For this purpose, generation of electricity refers to the production of electricity by a generation company or a co-generation facility pursuant to the provisions of the RA No. 9136 (EPIRA).

> They shall include all Independent Power Producers (IPPs) and NPC/Power Sector Assets and Liabilities Management Corporation (PSALM)-owned generation facilities.

Therefore, to qualify for VAT zero-rating, a taxpayer must prove by sufficient evidence that it is a generation company engaged in the sale of power or fuel generated through renewable sources of energy. And petitioner did when it presented ERC Certificate of Compliance No. 08-06-GXT6-0006[27] issued on June 10, 2008, ERC Certificate of Compliance No. 07-01-GN19-16159[28] issued on January 24, 2007, ERC Certificate of Compliance No. 05-10-GXT13346-13365[29] issued on December 6, 2006, ERC Certificate of Compliance No. 05-10-GXT13347-13366[30] issued on December 12, 2007, ERC Certificate of Compliance No. 05-10-GXT13348-13367[31] issued on December 12, 2007, ERC Certificate of Compliance No. 08-12-GXT-26-0026[32] issued on January 19, 2010, the Judicial Affidavit[33] of Mr. Felicito A. Gesite, and various service contracts.[34]

Petitioner also sufficiently established that it derived revenues from sale of power generation through various service contracts with the Philippine Government and the National Power Corporation (NPC) for the supply of geothermal energy from its different steam fields located across the country, and issued VAT Official Receipts. All these sealed petitioner's contention that its sales of power generated through a renewable source of energy, particularly, geothermal energy, qualifies for VAT zero-rating under Section 108 (B) (7) of the NIRC of 1997, as amended.

Be that as it may, and as indicated in the Report dated August 3, 2010[35] submitted by the Court-commissioned

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[27] Exhibit "HHHHH".
[28] Exhibit "IIIII".
[29] Exhibit "JJJJJ".
[30] Exhibit "KKKKK".
[31] Exhibit "LLLLL".
[32] Exhibit "MMMMM".
[33] Exhibit "NNNNN-5".
[34] Exhibits "VVVV", "WWWW", "XXXX", "YYYY", "ZZZZ", "AAAAA", "BBBBB", "CCCCC", "DDDDD", "EEEEE", and "FFFFF".
[35] Exhibit "HHHH".

Independent Certified Public Accountant (CPA),[36] out of the Php18,765,543,579.43 zero-rated sales/receipts reflected in petitioner's 2008 Amended Quarterly VAT Returns, only the amount of Php16,064,998,486.73 is duly substantiated by VAT zero-rated official receipts, broken down as follows:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Total Zero-Rated Receipts per Return	1,744,015,636.02	3,656,801,631.12	7,119,490,283.11	6,245,236,029.18	18,765,543,579.43
Less: Disallowances					
Supported by invoice only	11,261,300.09	281,399.40	77,828,719.95	2,944,585.98	92,316,005.42
Supported by debit note only			894,930,272.15		894,930,272.15
Without supporting documents	695,519.46	23,305,582.85	1,330,352,024.09	358,945,688.73	1,713,298,815.13
Total Disallowances	11,956,819.55[37]	23,586,982.25[38]	2,303,111,016.19[39]	361,890,274.71[40]	2,700,545,092.70
Zero-Rated Receipts supported by valid ORs	**1,732,058,816.47**	**3,633,214,648.87**	**4,816,379,266.92**	**5,883,345,754.47**	**16,064,998,486.73**

With the finding that petitioner had VAT zero-rated receipts for the four quarters of 2008 in the amount of Php16,064,998,486.73, the Court needs to determine the amount of input VAT attributable thereto.

As stated earlier, petitioner reported a total input VAT of Php131,623,246.06 arising from its domestic purchases of goods (other than capital goods) and services for taxable year 2008. But further verification of the invoices and official receipts supporting the said amount of Php131,623,246.06 and per recommendation of the Court-commissioned Independent CPA, there must be a downward adjustment to petitioner's claim in the amount of Php13,650,779.54, broken down as follows:

For the 1st Quarter of 2008		
Exhibit	Particulars	Amount
"DD"	Domestic purchases of services with over claimed input VAT	P 317,260.64

[36] Jose C. Catequista, Partner, Audit Services, Manabat Sanagustin & Co., CPAs.
[37] Exhibit "HHHH", p. 11, *rollo*, p. 549.
[38] Exhibit "HHHH", p. 12, *rollo*, p. 550.
[39] Exhibit "HHHH", p. 12, *rollo*, p. 550.
[40] Exhibit "HHHH", p. 13, *rollo*, p. 551.

"EE"	Domestic purchases of goods supported by Non-VAT invoices	34,553.57
"FF"	Domestic purchases of services supported by Non-VAT ORs	120,337.57
"GG"	Domestic purchases of goods supported by documents dated outside of the calendar year 2008	250,187.93
"HH"	Domestic purchases of goods supported by photocopied VAT invoices	53,571.43
"II"	Domestic purchases of goods/services without supporting documents	53,571.43
	Total input VAT with noted exceptions for the 1st quarter of 2008	**P 829,482.57**[41]

For the 2nd Quarter of 2008		
Exhibit	Particulars	Amount
"NN"	Domestic purchases of services with over claimed input VAT	P 716,257.48
"OO"	Domestic purchases of goods supported by an invoice without authority to print	31,821.43
"PP"	Domestic purchase of goods supported by ORs only	93,257.09
"QQ"	Domestic purchase of services supported by Non-VAT ORs	132,119.06
"RR"	Domestic purchases of goods supported by invoices without TIN VAT	42,687.13
"SS"	Domestic purchases of goods supported by photocopied VAT invoices	44,098.56
"TT"	Domestic purchases of services supported by an acknowledgement receipt only	6,307,446.50
"UU"	Unaccounted input VAT - Discrepancy of input VAT claimed per VAT return against input VAT with supporting documents	(25,722.38)
	Total input VAT with noted exceptions for the 2nd quarter of 2008	**P7,341,964.87**[42]

For the 3rd Quarter of 2008		
Exhibit	Particulars	Amount
"ZZ"	Domestic purchases of services with over claimed input VAT	P 1,562,990.82
"AAA"	Domestic purchases of goods supported by an invoice without authority to print	146,950.61
"BBB"	Domestic purchase of goods supported by ORs only	53,692.50
"CCC"	Domestic purchase of services supported by invoices only	66,514.67
"DDD"	Domestic purchases of goods supported by Non-VAT invoices	30,857.14
"EEE"	Domestic purchases of goods supported by Non-VAT ORs	87,204.53
"FFF"	Domestic purchases of services supported by invoices without TIN VAT	58,143.05
"GGG"	Domestic purchases of goods/services without supporting documents	735,812.11
	Total input VAT with noted exceptions for the 3rd quarter of 2008	**P2,742,165.43**[43]

[41] Exhibit "HHHH", p. 6, *rollo*, p. 544.
[42] Exhibit "HHHH", p. 7, *rollo*, p. 545.
[43] Exhibit "HHHH", p. 7, *rollo*, p. 545.

For the 4th Quarter of 2008		
Exhibit	Particulars	Amount
"LLL"	Domestic purchases of services with over claimed input VAT	P 380,599.02
"MMM"	Domestic purchases of services supported by documents dated out of the calendar year 2008	582,653.57
"NNN"	Domestic purchases of services with undated ORs as support	142,463.35
"OOO"	Domestic purchases of services supported by billings statement only	282,687.54
"PPP"	Domestic purchases of goods/services without supporting documents	1,348,763.19
	Total input VAT with noted exceptions for the 4th quarter of 2008	**P2,737,166.67**[44]

In addition to the foregoing exceptions, the Court finds that input VAT in the amount of Php77,102,918.12[45] must likewise be disallowed for the following reasons:

First Quarter	
I.1. Input taxes claimed on purchases of goods with invoices dated outside the period of claim.	P 516,856.85
I.2. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.	1,612,940.64
I.3. Input taxes claimed on purchases of goods supported by "TIN-V " instead of "TIN-VAT" invoice.	32,844.00
I.4. Input taxes claimed on purchases of services supported by OR but VAT not separately shown.	18,247,328.67
Subtotal	**P 20,409,970.16**
Second Quarter	
II.1. Input taxes claimed on purchases of goods with invoices dated outside the period of claim.	P 34,068.48
II.2. Input taxes claimed on purchases of goods wherein the amount per claim exceeds the input VAT per supporting invoice.	17.16
II.3. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.	613,320.43
II.4. Input taxes claimed on purchases of goods supported by "TIN-V" instead of "TIN-VAT" invoice.	119,670.51
II.5. Input taxes claimed on purchases of services supported by OR but VAT not separately shown.	22,398,295.44
Subtotal	**P 23,165,372.02**
Third Quarter	
III.1. Input taxes claimed on purchases of goods not supported by invoice.	P 41,250.00
III.2. Input taxes claimed on purchases of goods supported by invoice but no date was indicated.	93,214.29
III.3. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.	1,197,030.56
III.4. Input taxes claimed on purchases of goods supported by "TIN-V" instead of "TIN-VAT" invoice.	472,190.86
III.5. Input taxes claimed on purchases of goods wherein the amount per claim exceeds the input VAT per supporting invoice.	2.15
III.6. Input taxes claimed on purchases of services supported by OR but VAT not	12,665,053.70

[44] Exhibit "HHHH", p. 8, *rollo*, p. 546.
[45] See Annex "A" of this Decision.

separately shown.	
Subtotal	**P 14,468,741.56**
Fourth Quarter	
IV.1. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.	P 863,344.35
IV.2. Input taxes claimed on purchases of goods wherein the amount per claim exceeds the input VAT per supporting invoice.	109.28
IV.3. Input taxes claimed on purchases of services supported by OR but VAT not separately shown.	18,195,380.75
Subtotal	**P 19,058,834.38**
Total Additional Disallowance per this Court Findings	**P 77,102,918.12**

Thus, of the total claimed input VAT of Php131,623,246.06, only the input VAT of Php40,869,548.40 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 RR No. 16-05, detailed as follows:

		1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Input VAT Claim		**28,812,541.21**	**40,779,078.38**	**30,030,095.79**	**32,001,530.68**	**131,623,246.06**
Less:	Disallowances					
	Per ICPA's findings	829,482.57	7,341,964.87	2,742,165.43	2,737,166.67	13,650,779.54
	Per this Court's findings	20,409,970.16	23,165,372.02	14,468,741.56	19,058,834.38	77,102,918.12
Total Disallowances		**21,239,452.73**	**30,507,336.89**	**17,210,906.99**	**21,796,001.05**	**90,753,697.66**
Valid Input VAT		**7,573,088.48**	**10,271,741.49**	**12,819,188.80**	**10,205,529.63**	**40,869,548.40**

However, the substantiated input VAT of Php40,869,548.40 cannot be entirely attributed to petitioner's zero-rated receipts since it also had VATable and exempt sales transactions for the taxable year 2008.

Section 112(A) of the NIRC of 1997, as implemented by Section 4.112-1 of RR No. 16-05, provides that where the taxpayer is engaged in both zero-rated or effectively zero-rated sale and taxable or exempt sale of goods, properties or services, and where the amount of creditable input VAT due or paid cannot be directly and entirely attributed to any one of the transactions, **only the proportionate share of input VAT allocated to zero-rated or effectively zero-rated sales can be refunded or issued a tax credit certificate**. In the present claim, petitioner did not show proof that the subject input VAT is directly and entirely attributable to its zero-rated receipts. Hence, the substantiated input VAT of Php40,869,548.40 shall be proportionately allocated to petitioner's sales to government, exempt sales and zero-rated receipts, as follows:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Valid Input VAT	**7,573,088.48**	**10,271,741.49**	**12,819,188.80**	**10,205,529.63**	**40,869,548.40**
Allocated to					
Sale to Government	2,568.02	1,609.86	1,028.00	938.33	6,144.21
Exempt Sales/Receipts	86,743.46	433,193.93	654,501.69	465,355.10	1,639,794.18
Zero-Rated Receipts	7,483,777.00	9,836,937.70	12,163,659.11	9,739,236.20	39,223,610.01
	7,573,088.48	**10,271,741.49**	**12,819,188.80**	**10,205,529.63**	**40,869,548.40**
Allocation was based on the percentage of each type of sales to total sales as shown below:					
Sale to Government	598,451.00	598,451.00	601,699.41	601,699.41	2,400,300.82
Exempt Sales/Receipts	20,214,651.80	161,036,322.77	383,085,250.99	298,406,610.40	862,742,835.96
Zero-Rated Receipts	1,744,015,636.02	3,656,801,631.12	7,119,490,283.11	6,245,236,029.18	18,765,543,579.43
Total	1,764,828,738.82	3,818,436,404.89	7,503,177,233.51	6,544,244,338.99	19,630,686,716.21
Sale to Government	0.03390986%	0.0156727%	0.0080193%	0.0091943%	
Exempt Sales/Receipts	1.14541719%	4.2173368%	5.1056404%	4.5598330%	
Zero-Rated Receipts	98.82067294%	95.7669906%	94.8863403%	95.4309727%	
Total	100.00000000%	100.0000000%	100.0000000%	100.0000000%	
Input VAT attributable to Total Zero-Rated Receipts	**7,483,777.00**	**9,836,937.70**	**12,163,659.11**	**9,739,236.20**	**39,223,610.01**
Multiplied by % of Substantiated Zero-Rated Receipts to Total Declared Zero-Rated Sales/ Receipts					
Substantiated Zero-Rated Receipts	1,732,058,816.47	3,633,214,648.87	4,816,379,266.92	5,883,345,754.47	16,064,998,486.73
Divided by Total Declared Zero-Rated Sales/Receipts	1,744,015,636.02	3,656,801,631.12	7,119,490,283.11	6,245,236,029.18	18,765,543,579.43
% of Substantiated Zero-Receipts to Total Declared Zero-Rated Sales/Receipts	99.3144087%	99.3549833%	67.6506193%	94.2053387%	
Input VAT attributable to					

Substantiated Zero-Rated Receipts	**7,432,468.87**	**9,773,487.81**	**8,228,790.72**	**9,174,880.45**	**34,609,627.84**

The above table indicates that out of the substantiated input VAT of Php40,869,548.40, only the input VAT of Php34,609,627.84 can be attributed to petitioner's substantiated zero-rated sales for the year 2008.

As to whether the input VAT of Php34,609,627.84 was applied against any output VAT, the record revealed that the subject claim was carried over in petitioner's Quarterly VAT Return for the First Quarter of 2009. And even if the claim was further carried over in petitioner's Quarterly VAT Return for the Second Quarter of 2009, the same was deducted as "VAT Refund/TCC Claimed" from the total available input tax as of the Second Quarter of 2009[46].

Inasmuch as petitioner carried over the subject claim until the first quarter of 2009, it is necessary to determine whether the same was applied against any output VAT liability not only during the four quarters of 2008 but also in the First Quarter of 2009. A perusal of petitioner's Quarterly VAT Returns for the four quarters of 2008 and the First Quarter of 2009 shows that petitioner had an output tax due in the total amount of Php360,240.06 on Php3,002,000.23 sales to government, broken down as follows:

Exhibit	Period Covered	Sale to Government	Output VAT
"I-4"	1st QTR 2008	P 598,451.00	P 71,814.12
"J-4"	2nd QTR 2008	598,451.00	71,814.12
"K-3"	3rd QTR 2008	601,699.41	72,203.94
"L4"	4th QTR 2008	601,699.41	72,203.94
"LLLL"	1st QTR 2009	601,699.41	72,203.94
	TOTAL	**P 3,002,000.23**	**P 360,240.06**

Since petitioner did not submit VAT invoices/receipts to prove the existence of its reported input VAT carry-over

[46] Exhibit "V", line 23D.

from previous year in the amount of Php18,630,707.73[47], the output VAT liability of Php360,240.06 shall be offset against the Php6,144.21 input VAT allocated to VATable sales (refer to the previous table for allocation of valid input VAT) and substantiated creditable VAT withheld of Php137,476.72, detailed as follows:

Exhibit	Period Covered	Payor/Withholding Agent	Income Payment	Final VAT
"X"	05/01/08 to 05/31/08	PNOC Exploration Corp	P 199,483.66	P 9,974.18
"X-1"	04/01/08 to 04/30/08	PNOC Exploration Corp	199,483.66	9,974.18
"X-2"	03/01/08 to 03/31/08	PNOC Exploration Corp	199,483.66	9,974.18
"X-3"	03/01/08 to 03/31/08	PNOC Exploration Corp	9,937.50	496.88
"X-4"	02/01/08 to 02/29/08	PNOC Exploration Corp	199,483.66	9,974.18
"X-5"	01/01/08 to 01/31/08	PNOC Exploration Corp	199,483.66	9,974.18
"X-6"	01/01/08 to 01/31/08	PNOC Exploration Corp	539,863.21	26,993.16
"X-7"	11/01/08 to 11/30/08	PNOC Exploration Corp	200,566.47	10,028.32
"X-8"	10/01/08 to 10/31/08	PNOC Exploration Corp	200,566.47	10,028.32
"X-9"	09/01/08 to 09/30/08	PNOC Exploration Corp	200,566.47	10,028.32
"X-10"	08/14/08 to 08/14/08	PNOC Exploration Corp	200,566.47	10,028.32
"X-11"	06/01/08 to 06/30/08	PNOC Exploration Corp	199,483.66	9,974.18
"X-12"	07/01/08 to 07/31/08	PNOC Exploration Corp	200,566.47	10,028.32
		Total	**P2,749,535.02**	**P 137,476.72**

The remaining output VAT due of Php216,619.13 (Php360,240.06 less Php6,144.21 less Php137,476.72) shall be deducted from the Php34,609,627.84 input VAT attributable to substantiated zero-rated receipts, leaving a refundable excess input VAT of Php34,393,008.72, as shown below:

Output VAT Due (1st qtr 2008 - 1st qtr 2009)			P 360,240.06
Less:	Input VAT Attributable to VATable Sales to Government	P 6,144.21	
	Creditable VAT Withheld	137,476.72	143,620.93
Output VAT Still Due			216,619.13
Less:	Input VAT Attributable to Substantiated Zero-Rated Receipts		34,609,627.84
Refundable Excess Input VAT			**P34,393,008.72**

[47] Exhibit "HHHH", last par., p. 4, *rollo*, p. 542.

WHEREFORE, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby directed to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Energy Development Corporation in the amount of **Php34,393,008.72**, representing petitioner's unutilized excess input VAT attributable to its zero-rated receipts for the four quarters of 2008.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I concur:

ERLINDA P. UY
Associate Justice

ATTESTATION

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

ERLINDA P. UY
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

ANNEX A

ENERGY DEVELOPMENT CORPORATION
("EDC" formerly "PNOC ENERGY DEVELOPMENT COPORATION")
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA Case No. 8019

ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Input VAT
FIRST QUARTER		
I.1. Input taxes claimed on purchases of goods with invoices dated outside the period of claim.		
Z-14	BJ SERVICE INTERNATIONAL, INC.	350,249.71
Z-51	YANA CHEMODITIES, INC.	27,321.43
Z-66	SANDZ SOLUTION PHILIPPINES, INC.	139,285.71
	Subtotal	***516,856.85***
I.2. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.		
Z-2	LIBSALES INDUSTRIAL PARTS & GEN. MERCHANDISING	38,528.57
Z-5	CONCEPCION CARRIER AIR CONDITIONING CO.	55,131.86
Z-18	PURPLE TAG INC.	64,106.79
Z-26	ABSTRACT INDUSTRIAL SALES	34,639.29
Z-28	AXIS COMPUTER, INC.	38,700.00
Z-32	AXIS COMPUTER, INC.	70,585.71
Z-37	INDUSTRIA TRADING PHILIPPINES	77,141.89
Z-48	3D IMAGEWORKS & DESIGN HOUSE	226,580.36
Z-50	ABSTRACT INDUSTRIAL SALES	84,171.43
Z-55	HIDROMAC DURA ASIA, INC.	500,175.00
Z-60	POWER DIMENSION INCORPORATED	181,771.88
Z-63	AXIS COMPUTER, INC.	194,678.57
Z-64	ABSTRACT INDUSTRIAL SALES	46,729.29
	Subtotal	***1,612,940.64***
I.3. Input taxes claimed on purchases of goods supported by "TIN-V" instead of "TIN-VAT" invoice.		
Z-15	VALLEY TECHNOLOGIES, INC.	32,844.00
	Subtotal	***32,844.00***
I.4. Input taxes claimed on purchases of services supported by OR but VAT not separately shown.		
Z-52.1	PERTIAN INDUSTIRES CORPORATION	159,287.25
Z-53.2	PERTIAN INDUSTIRES CORPORATION	559,392.86
Z-53.2	PERTIAN INDUSTIRES CORPORATION	358,097.13
Z-.54.1	PERTIAN INDUSTIRES CORPORATION	359,785.71
AA	Domestic purchases of services supported by valid VAT ORs	15,569,045.31
CC	Domestic purchases of services supported by valid VAT ORs named in the Company but with specified division	1,241,720.41
	Subtotal	***18,247,328.67***
	TOTAL - FIRST QUARTER	**20,409,970.16**
SECOND QUARTER		
II.1. Input taxes claimed on purchases of goods with invoices dated outside the period of claim.		
JJ-16	PETRON CORPORATION	34,068.48
	Subtotal	***34,068.48***
II.2. Input taxes claimed on purchases of goods wherein amount per claim exceeds the input VAT per supporting invoice		
LL-25	PETRON CORPORATION (INVOICE #1004712852)	
	Per claim □26,988.56	
	Per actual invoice (26,979.98)	
	Difference	8.58
	PETRON CORPORATION (INVOICE #1004712839)	
	Per claim □26,988.56	
	Per actual invoice (26,979.98)	
	Difference	8.58
	Subtotal	***17.16***

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II.3. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.		
JJ-4	A.S. ORTEGA HARDWARE, LUMBER & CONSTRUCTION SUPPLIES	35,876.06
JJ-7	AXIS COMPUTER, INC.	41,988.00
JJ-8	GLOWING MOTOR PARTS CORPORATION	53,571.43
JJ-9	ROTRONICS SYSTEMS, INC.	33,214.29
JJ-12	HARNWELL CHEMICALS CORPORATION	28,071.43
JJ-23	ROTRONICS SYSTEMS, INC.	48,546.43
JJ-30	HARNWELL CHEMICALS CORPORATION	99,642.86
JJ-41	SEVERO SY LING, INC.	27,185.61
JJ-44	ABSTRACT INDUSTRIAL SALES	33,452.36
JJ-46	VELTRUP TECHNIK PHILS., INC.	149,515.88
JJ-48	A.S. ORTEGA HARDWARE, LUMBER & CONSTRUCTION SUPPLIES	30,991.07
JJ-51	KMF MARKETING & CONSTRUCTION & ENGINEERING SERVICES	31,265.01
	Subtotal	***613,320.43***
II.4. Input taxes claimed on purchases of goods supported by "TIN-V" instead of "TIN-VAT" invoice.		
JJ-5	VALLEY TECHNOLOGIES, INC.	38,884.80
JJ-36	FEMSCO INDUSTRIES, INC.	80,785.71
	Subtotal	***119,670.51***
I.5. Input taxes claimed on purchases of services supported by OR but VAT not separately shown.		
MM	Domestic purchases of services supported by valid VAT ORs named in the Company but with specified division	438,376.60
KK	Domestic purchases of services supported by valid VAT ORs	23,587,805.91
	Less: Valid input taxes included in "KK"	
KK-10	SINCLAIR KNIGHT MERZ (PHILIPPINES), INC.	(125,334.04)
KK-61	FIRST DATACORP	(42,240.00)
KK-71	JARDINE LLOYD THOMPSON INSURANCE BROKERS, INC.	(1,172,549.45)
KK-104	DCV INDUSTRIAL CONTROLS ENTERPRISES	(47,221.97)
KK-105	DCV INDUSTRIAL CONTROLS ENTERPRISES	(27,170.57)
KK-106	DCV INDUSTRIAL CONTROLS ENTERPRISES	(40,575.73)
KK-107	DCV INDUSTRIAL CONTROLS ENTERPRISES	(46,956.02)
KK-109	DCV INDUSTRIAL CONTROLS ENTERPRISES	(125,839.29)
	Subtotal	***22,398,295.44***
	TOTAL - SECOND QUARTER	**23,165,372.02**
THIRD QUARTER		
III.1. Input taxes claimed on purchases of goods not supported by invoice.		
VV-22	AXIS COMPUTER, INC.	41,250.00
	Subtotal	***41,250.00***
III.2. Input taxes claimed on purchases of goods supported by invoice but no date was indicated.		
VV-68	GIBROSEN GENERAL MERCHANDISE	43,071.43
VV-68	GIBROSEN GENERAL MERCHANDISE	50,142.86
	Subtotal	***93,214.29***
III.3. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.		
VV-2	CROWN TRADERS	58,928.57
VV-5	MZJT MARKETING	46,285.71
VV-6	YALE HARDWARE CORPORATION	35,100.00
VV-7	INTEGRAL INDUSTRIAL MANAGEMENT CORPORATION	39,728.57
VV-8	INTEGRAL INDUSTRIAL MANAGEMENT CORPORATION	48,040.71
VV-12	NEW BIAN YEK COMMERCIAL, INC.	36,685.71
VV-17	EURAMPHIL INTERNATIONAL, INCORPORATED	30,378.32
VV-22	AXIS COMPUTER, INC.	56,742.86
VV-23	A.S. ORTEGA HARDWARE, LUMBER & CONSTRUCTION SUPPLIES	33,368.40
VV-35	MAN'S SALES	37,500.00
VV-35	MAN'S SALES	27,319.82
VV-39	EAST WEST COMMERCE ASIA PACIFIC CORP.	44,571.55

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VV-52	ROTRONICS SYSTEMS, INC.	126,750.00
VV-61	SUGAR HILLS AGRICULTURAL CORPORATION	36,819.64
VV-62	NEW BIAN YEK COMMERCIAL, INC.	35,142.86
VV-63	ORMOCNET	31,339.29
VV-66	ALPHA PACIFIC ELECTRIC CO., INC.	45,000.00
VV-67	ALPHA PACIFIC ELECTRIC CO., INC.	33,342.86
VV-74	UYANGUREN HARDWARE CO., INC.	47,357.14
VV-81	BINALBAGAN COMMERCIAL	169,851.41
VV-83	INFINITE NETWORK SOLUTIONS, INC.	47,176.80
XX-137	DYNAMIC BUILDERS & CONSTRUCTION CO., (PHIL.) INC.	80,932.50
XX-139	EAST-WEST COMMERCE ASIA PACIFIC CORP.	48,667.84
	Subtotal	***1,197,030.56***
III.4. Input taxes claimed on purchases of goods supported by "TIN-V" instead of "TIN-VAT" invoice.		
VV-9	UY CONSTRUCTION AND DEVELOPMENT	44,827.18
VV-10	UY CONSTRUCTION AND DEVELOPMENT	63,701.73
VV-11	UY CONSTRUCTION AND DEVELOPMENT	67,858.23
VV-14	UY CONSTRUCTION AND DEVELOPMENT	94,983.86
VV-15	UY CONSTRUCTION AND DEVELOPMENT	168,857.14
VV-85	VALLEY TECHNOLOGIES, INC.	31,962.72
	Subtotal	***472,190.86***
III.5. Input taxes claimed on purchases of goods wherein amount per claim exceeds the input VAT per supporting invoice		
VV-64	BNC INDUSTRIAL PRODUCTS ENTERPRISES	
	Per claim □48,109.29	
	Per actual invoice (48,107.14)	
	Difference	2.15
	Subtotal	***2.15***
III.6. Input taxes claimed on purchases of services supported by OR but VAT not separately shown.		
YY	Domestic purchases of services supported by valid VAT ORs named in the Company but with specified division	541,806.47
WW	Domestic purchases of services supported by valid VAT ORs	12,499,563.99
	Less: Valid input taxes included in "WW"	
WW-24	DCV INDUSTRIAL CONTROLS ENTERPRISES	(37,495.71)
WW-50	DCV INDUSTRIAL CONTROLS ENTERPRISES	(30,308.57)
WW-54	DCV INDUSTRIAL CONTROLS ENTERPRISES	(33,214.29)
WW-87	DCV INDUSTRIAL CONTROLS ENTERPRISES	(37,992.76)
WW-90	DCV INDUSTRIAL CONTROLS ENTERPRISES	(50,646.13)
WW-90	DCV INDUSTRIAL CONTROLS ENTERPRISES	(44,722.22)
WW-91	DCV INDUSTRIAL CONTROLS ENTERPRISES	(43,344.64)
WW-91	DCV INDUSTRIAL CONTROLS ENTERPRISES	(63,540.65)
WW-92	DCV INDUSTRIAL CONTROLS ENTERPRISES	(35,051.79)
	Subtotal	***12,665,053.70***
	TOTAL - THIRD QUARTER	**14,468,741.56**
FOURTH QUARTER		
IV.1. Input taxes claimed on purchases of goods supported by invoice but VAT not separately shown.		
HHH-1	SOLID GOLD BUILDERS & HOME DEPOT	76,382.68
HHH-2	NELCORP HEAVY EQUIPMENT, INC.	26,800.89
HHH-3	NELCORP HEAVY EQUIPMENT, INC.	39,332.11
HHH-7	CEBUSAN ENTERPRISES	45,750.00
HHH-11	E KHO RURAL DEVELOPMENT ENTERPRISES	39,642.86
HHH-12	E KHO RURAL DEVELOPMENT ENTERPRISES	40,017.86
HHH-13	SUGAR HILLS AGRICULTURAL CORP.	41,986.61
HHH-14	SUGAR HILLS AGRICULTURAL CORP.	51,428.57
HHH-16	E KHO RURAL DEVELOPMENT ENTERPRISES	32,228.57

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HHH-28	ABSTARACT INDUSTRIAL SALES		44,168.79
HHH-31	ABSTARACT INDUSTRIAL SALES		71,942.68
HHH-32	EAST-WEST COMMERCE ASIA PACIFIC CORP.		36,799.29
HHH-42	TACLOBAN GLEEN MARKETING, INC.		40,489.29
HHH-46	3D IMAGEWORKS AND DESIGN HOUSE		169,714.29
JJJ-28	EAST-WEST COMMERCE ASIA PACIFIC CORP.		53,088.43
JJJ-46	LGC HARDWARE & GENERAL MERCHANDISE		53,571.43
		Subtotal	***863,344.35***
IV.2. Input taxes claimed on purchases of goods wherein amount per claim exceeds the input VAT per supporting invoice			
JJJ-10	PETRON CORPORATION		
	Per claim	□30,833.97	
	Per actual invoice	(30,779,33)	
	Difference		54.64
JJJ-11	PETRON CORPORATION		
	Per claim	□30,833.97	
	Per actual invoice	(30,779,33)	
	Difference		54.64
		Subtotal	***109.28***
IV.3. Input taxes claimed on purchases of services supported by OR but VAT not separately shown.			
JJJ-48	MONARK EQUIPMENT CORP.		63,646.92
KKK	Domestic purchases of services supported by valid VAT ORs named in the Company but with specified division		815,838.12
III	Domestic purchases of services supported by valid VAT ORs		17,410,124.85
	Less: Valid input taxes included in "III"		
III-61	DCV INDUSTRIAL CONTROLS ENTERPRISES		(36,642.86)
III-67	DCV INDUSTRIAL CONTROLS ENTERPRISES		(30,308.57)
III-103	DCV INDUSTRIAL CONTROLS ENTERPRISES		(27,277.71)
		Subtotal	***18,195,380.75***
		TOTAL - FOURTH QUARTER	**19,058,834.38**
		TOTAL ADDITIONAL DISALLOWANCES PER THIS COURT'S FINDINGS	**77,102,918.12**