REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

NICHIE PILIPINAS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6910

Members:

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

Promulgated:
OCT 18 2007 ; 9:15am

x - x

DECISION

CASANOVA, J.:

THE CASE

This instant case seeks the refund or issuance of a tax credit certificate of the total amount of **TWO MILLION TWO HUNDRED SEVENTY ONE THOUSAND EIGHT HUNDRED TWENTY THREE AND 99/100 (P2,271,823.99),** allegedly representing petitioner's unutilized input value-added taxes (VAT) attributable to its zero-rated sales made to PEZA registered enterprises for the period covering January 1, 2002 to September 30, 2003.

THE FACTS

Petitioner, Nichie[1] Pilipinas Inc., is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address at 2773 Faraday Street, San Isidro, Makati City[2]. It is duly registered with the Bureau of Internal Revenue on January 1, 1996 as a value-added tax entity, covered under Certificate of Registration No. OCN9RC0000051517[3].

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue vested with the authority to act as such, including, among others, the power to grant refunds of unutilized input VAT paid on local purchases and importations pursuant to the provisions of the National Internal Revenue Code.[4]

For the period covering January 2002 to September 2003, petitioner dutifully filed its Quarterly Value Added Tax (VAT) Returns, showing, among others, the following information, to wit:

Exh No.	Qtr Covered	Zero-Rated Sale	Taxable Sale	Output VAT	INPUT VAT		Excess Input VAT
					Carried Over from Previous Quarter	This Quarter	
				(a)	(b)	(c)	(a) - (b+c)
C	Jan-Mar 2002	P 3,839,497.70	P 1,319,277.55	P 131,927.76	P 649,753.08	P 320,671.35	P (838,496.67)
D	Apr-Jun 2002	4,699,974.07	1,483,145.54	148,314.55	838,496.68	500,822.50	(1,191,004.63)
E	Jul-Sep 2002	5,286,734.45	1,361,183.86	136,118.39	1,191,004.63	416,737.78	(1,471,624.02)
F	Oct-Dec 2002	5,259,909.29	1,466,056.90	146,605.69	1,471,624.02	339,394.24	(1,664,412.57)
G	Jan-Mar 2003	5,397,537.62	1,838,091.41	183,809.14	1,664,412.57	304,098.03	(1,784,701.46)
H	Apr-Jun 2003	7,038,592.53	2,775,216.25	277,521.63	1,784,701.46	693,286.35	(2,200,466.18)
I	Jul-Sep 2003	5,673,346.67	2,531,425.21	253,142.52	2,200,466.18	479,504.15	(2,426,827.81)
	Total	P 37,195,592.33	P12,774,396.72	P1,277,439.67		P3,054,514.40	

Petitioner filed the aforementioned Quarterly VAT Returns as follows[5]:

[1] Should be **"Nichiei Pilipinas Inc."** as evidenced by its Articles of Incorporation (Exhibit "A") and BIR Certificate of Registration (Exhibit "B").
[2] Par. 1, Joint Stipulation of Facts and Issues, Rollo, pp 65-68.
[3] Par. 7, supra.
[4] Par. 2, Joint Stipulation of Facts and Issues, Rollo, pp. 65-68.
[5] Par. 9, supra.

Quarterly VAT Return	Date of Filing
January to March 2002	19 April 2002
April to June 2002	23 July 2002
July to September 2002	15 October 2002
October to December 2002	20 January 2003
January to March 2003	11 April 2003
April to June 2003	18 July 2003
July to September 2003	20 October 2003

On the belief that its sales to PEZA registered enterprises are deemed automatically VAT zero-rated sales pursuant to Revenue Regulations Memorandum No. 74-99, petitioner then, on January 27, 2004, filed an administrative claim for the issuance of a tax credit certificate ("TCC") of its alleged unutilized input VAT attributable to its zero-rated sales for the quarters covering January 2002 to September 2003 in the total amount of P2,271,823.99[6], computed as follows:

Qtr	Sales Subject to 10% VAT	Sales Subject to 0% VAT	Total Sales	% of Zero-Rated Sales to total sales for the quarter	Amount of Input VAT for the Qtr	Amount of Input Vat Allocated to be Refunded
Jan - Mar 2002	1,319,277.55	3,839,497.70	5,158,775.25	74%	320,671.35	238,664.58
Apr - June 2002	1,438,145.54	4,699,974.07	6,183,119.61	76%	500,822.50	380,690.16
Jul - Sept 2002	1,361,183.86	5,286,734.45	6,647,917.31	80%	416,737.78	331,409.30
Oct - Dec 2002	1,466,056.90	5,259,909.29	6,725,966.19	78%	339,394.24	265,416.58
Jan - Mar 2003	1,838,091.41	5,397,537.62	7,235,629.03	75%	304,098.03	226,846.97
Apr - June 2003	2,775,216.25	7,038,592.53	9,813,808.78	72%	693,286.35	497,234.07
Jul - Sept 20023	2,531,425.21	5,673,346.67	8,204,771.88	69%	479,504.15	331,562.33
Total						**2,271,823.99**

Without any favorable response from the Bureau of Internal Revenue as regards its application, and to toll the running of the two (2) - year prescriptive

[6] Par. 3, Joint Stipulation of Facts and Issues, Rollo, pp 65-68; Exhibits "C" to "I".

period within which to file its claim, petitioner then elevated its appeal to this Court on March 31, 2004 through this instant Petition for Review.

On April 27, 2004, respondent filed a Motion for Extension of Time to File Answer, which was granted by this Court in a Resolution dated May 13, 2004. However, instead of filing his Answer, respondent filed his second motion for extension, which was likewise granted by this Court on June 14, 2004 giving respondent a period of fifteen (15) days within which to file his Answer.

Within the period granted, or on June 11, 2004, respondent filed his Answer, raising the following as his Special and Affirmative Defenses, to wit:

4. Assuming without admitting that petitioner filed a claim for refund, the same is subject to investigation by the Bureau of Internal Revenue;

5. Petitioner failed to demonstrate that the tax subject of the case at bar was erroneously or illegally collected;

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

7. Sale of goods, properties or services to a PEZA registered enterprises do not qualify as zero-rated sale;

8. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to refund and failure to adduce sufficient proof is fatal to the action for tax refund/credit;

9. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code, as amended; and

10. Claims for refund are construed strictly against the claimant for the same partake of the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma, G.R. No. L-13509, January 30, 1970, 31 SCRA 95*) and as such, they are looked upon with disfavor (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211*).

On May 24, 2007, this case was submitted for Decision, after the submission by petitioner of its Memoranda, without respondent having filed the same.

THE ISSUES

The issues jointly stipulated by the parties for the consideration of this Court are as follows:

a.) Whether or not petitioner's sales to PEZA registered enterprises are zero-rated for VAT purposes;

b.) Whether or not the amount of P2,271,823.99 representing unutilized/excess input VAT paid by petitioner for the period of January 2002 to September 2003 is attributable to its zero-rated sales;

c.) Whether or not the amount of P2,271,823.99 representing unutilized/excess input VAT paid by petitioner for the period of January 2002 to September 2003 is properly documented;

d.) Whether or not the amount of P2,271,823.99 representing unutilized/excess input VAT paid by petitioner for the period of January 2002 to September 2003 was neither utilized nor applied against its output VAT liabilities for the subsequent taxable quarters; and

e.) Whether or not petitioner is entitled to a refund or the issuance of a TCC in the amount of P2,271,823.99 representing unutilized/excess input VAT paid by petitioner for the period of January 2002 to September 2003.

THE COURT'S RULING

As regards the first issue raised, petitioner avers that PEZA-registered enterprises are located in designated ecozones which, while being geographically in the Philippines, are deemed a separate customs territory, pursuant to Section 8 of Republic Act No. 7916. In this regard, sales by suppliers from outside the borders of the ecozone to this separate customs territory are deemed as exports and treated as export sales. Thus, its sales qualify as zero-rated sales, under Section 106(A)(2)(a)(5) of the 1997 Tax Code, as amended, in relation to Section 4.100-2(a)(5) of Revenue Regulations No. 7-95.

Petitioner further avers that Revenue Memorandum Circular (RMC) No. 74-99 categorically declares that all sale of goods, properties and services made by a VAT-registered supplier from the Customs territory to an ECOZONE enterprise shall be subject to VAT at zero-percent (0%) rate, regardless of the latter's type or class of PEZA registration.

For expediency, the aforementioned provisions of law are hereunder reproduced:

> **SEC.106. Value-Added Tax on Sale of Goods or Properties.—**
>
> (A) Rate and Base of Tax. — x x x
>
> xxx xxx xxx
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
> (a) *Export Sales.* — The term 'export sales' means:
>
> xxx xx xxx
>
> (v) <u>Those considered export sales under Executive Order No.226, otherwise known as the Omnibus Investment Code of 1987, and other special laws."</u>
>
> **SECTION 4.100-2. Zero-rated sales –** A zero-rate sales by a VAT-registered person, which is a taxable transaction for VAT purposes, shall not result in any output tax. However, the input tax on his purchases of goods, properties or services related to such zero-rated sale shall be available as tax credit or refund in accordance with these regulations.

The following sales by VAT-registered person shall be subject to 0%:

(a) Export sales

"Export Sales" shall mean:

xxx xxx xxx

(5) Those considered export sales under Articles 23 and 77 of Executive Order No.226, otherwise known as the Omnibus Investments Code of 1987, and other special laws, e.g. Republic Act No.7227, otherwise known as the Bases Conversion and Development Act of 1992.

'Considered export sales under Executive Order No.226' shall mean the Philippine port F.O.B. value determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same; Provided, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents: Provided, further, That without actual exportation the following shall be considered constructively exported for purposes of these provisions: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) sales to export processing zones; (3) sale to registered export traders operating bonded trading warehouses supplying raw materials in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue and the Bureau of Customs; (4) sales of foreign military cases, diplomatic missions and other agencies and/ or instrumentalities granted tax immunities, or locally manufactured, assembled or repacked products whether paid for in foreign currency or not: Provided, further, that export sales of registered export traders may include commission income: and Provided, finally, that exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee."

SECTION 3. Tax Treatment of Sales Made by a VAT Registered Supplier from the Customs Territory, to a PEZA Registered Enterprise.—

(1) If the Buyer is a PEZA registered enterprise which is subject to 5% special tax regime, in lieu of all taxes, except real property tax, pursuant to R.A. No.7916, as amended:

(a) **Sale of goods (i.e., merchandise).** – This shall be treated as indirect export hence, considered subject to zero percent (0%) VAT, pursuant to Sec.106(A)(2)(a)(5), NIRC and Sec.23 of R.A. No.7916, in relation to ART.77(2) of the Omnibus Investment Code.

xxx xxx xxx

(2) If Buyer is a PEZA registered enterprise which is not embraced by the 5% special tax regime, hence, subject to taxes under the NIRC, e.g., Service Establishments which are subject to taxes under the NIRC rather than the 5% special tax regime:

(a) **Sale of goods (i.e., merchandise).** – This shall be treated as indirect export hence, considered subject to zero percent (0%) VAT, pursuant to Sec.106(A)(2)(a)(5), NIRC and Sec.23 of R.A. No.7916 in relation to ART.77(2) of the Omnibus Investments Code.

xxx xxx xxx

(3) In the final analysis, any sale of goods, property or services made by a VAT registered supplier from the Customs Territory to any registered enterprise operating in the ecozone, regardless of the class or type of the latter's PEZA registration, is actually qualified and thus legally entitled to the zero percent (0%) VAT. Accordingly, all sales of goods or property to such enterprise made by a VAT registered supplier from the Customs Territory shall be treated subject to 0% VAT, pursuant to Sec.106(A)(2)(a)(5), NIRC, in relation to ART.77(2) of the Omnibus Investments Code, while all sales of services to the said enterprises, made by VAT registered suppliers from the Customs Territory, shall be

> treated effectively subject to the 0% VAT, pursuant to Sec.108(B)(3), NIRC, in relation to the provisions of R.A.7916 and the "Cross Border Doctrine" of the VAT system.
>
> This Circular shall serve as a sufficient basis to entitle such supplier of goods, property or services to the benefit of the zero percent (0%) VAT for sales made to the aforementioned ECOZONE enterprises and shall serve as sufficient compliance to the requirement for prior approval of zero-rating imposed by Revenue Regulations No.7-95 effective as of the date of the issuance of this Circular.

This Court agrees with petitioner.

Indeed, based on the foregoing provisions of law, sales to PEZA-registered enterprises are subject to VAT at zero percent (0%). In this case, petitioner's sales for the period covering January 2002 to September 2003 amounted to P37,195,592.33, as evidenced by the sales invoices and official receipts[7] issued to various PEZA-registered entities. Thus, considering that sales to PEZA-registered enterprises are subject to VAT at 0%, petitioner is not liable to pay any output VAT on its sales, and consequently, the reported and properly substantiated unutilized input VAT attributable thereto may be the subject of a claim for refund or issuance of a tax credit certificate. This is in consonance with Section 112 (A) of the National Internal Revenue Code of 1997 (NIRC), in relation to Section 4.108-1 of Revenue Regulations No. 7-95, 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

---

[7] Exhibits "Q-1" to "Q-2920"

> 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 sales 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.

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

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

As regards the second and third issues raised, petitioner submits that the claimed amount of P2,271,823.99 correctly represents its unutilized input VAT by computing the percentage of its zero-rated sales to its total sales for the quarter. For the period of claim, petitioner contends that it generated and recorded zero-rated sales in the amount of P37,190,637.61. It recorded domestic sales subject to 10% VAT in the amount of P12,772,463.13 (which is net of the output VAT) which generated an output VAT of P1,277,246.33[8].

---

[8] "Exhibit "N"

Petitioner presented its sales invoices and official receipts[9] issued to various entities, Quarterly VAT Returns[10] from January 2002 to September 2003, and Certificates of PEZA Registration/Certification of petitioner's buyers/customers[11] to prove that it actually generated zero-rated export sales during the period covering January 1, 2002 to September 30, 2003. Petitioner likewise presented in evidence a summary list of the input VAT on its local purchases[12], summary list of input VAT on its importations[13], related suppliers' invoices and official receipts[14], and import declarations[15] issued by the Bureau of Customs.

After a careful examination of petitioner's evidence and arguments presented, this Court finds that petitioner's claim may only be partially granted.

The Court Commissioned Independent CPA, Atty. Rosario Bernaldo, in her report dated September 21, 2005, listed all of petitioner's zero-rated sales together with the respective buyers[16] which petitioner alleged are PEZA-registered entities. Upon careful verification and as correctly pointed out by the independent CPA, of the sales listed in the said Exhibit, only the amount of P36,443,622.30 was properly substantiated. Thus:

Findings	Amount	Exh
Sales to Non-PEZA Enterprises but included in the zero-rated sales schedule	P 122,516.48	H1
Zero-rated sales without sales invoices	577,813.01	H2
Zero-rated sales beyond the period of application	29,385.33	H3
Sales with blank invoice	17,300.50	H4
Excess of application over the schedule provided by the client	4,954.71	H5
Total	P 751,970.03	

9 Exhibits "Q-1" to "Q-2920
10 Exhibits "C" to "I"
11 Exhibits "L-1" to "L-37-a
12 Annex A, Exhibit "N"
13 Annex B, Exhibit "N"
14 Exhibits "O-1" to "O-2270"
15 Exhibits "P-1" to "P-39"
16 Annex "E" of the Exhibit "N"

Further examination and verification of the documentary evidence conducted by this Court showed that the additional amount of P1,855,935.66 should be denied VAT zero-rating for the following reasons:

		Customer	Exhibit No./Ref.	Amount	Total
1	Over recording of Zero-Rated Sales				
		Dic Seimitsu Philippines Inc.	Q-1	P 11,160.00	
		Philippine Yushin Incorporated	Q-5	858.10	
		Philippine Precision Technology Inc.	Q-42	3,006.15	
		Philippine Precision Technology Inc.	Q-49	10,571.75	
		Philippine Yushin Incorporated	Q-64	7,184.26	
		Philippine Yushin Incorporated	Q-84	6,605.54	
		Vitalo Packaging Int'l.	Q-87	3,544.40	
		Dic Seimitsu Philippines Inc.	Q-89	15,574.00	
		Iriso Electronics Philippines Inc.	Q-96	1,980.00	
		Philippine Precision Technology Inc.	Q-102	7,575.42	
		Technol Eight Phils., Corp.	Q-2862	28,934.88	P 96,994.50
2	The word zero-rated was not imprinted on the invoice				
		Okabe Nikoh Corp.	Q-62	21,584.00	
		Nidec Shimpo Philippines	Q-106	600.00	
		Rohm Mechatech Philippines Inc.	Q-158	16,002.00	
		Yutaka Manufacturing Philippines Inc.	Q-186	2,391.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-202	11,050.50	
		Kinergy Philippines Inc.	Q-224	275.00	
		Sohbi Kohgie (Phils.) Inc.	Q-225	9,252.00	
		Miumi Technology Corp.	Q-226	3,272.00	
		Supermolds Philippines Inc.	Q-228	51,790.50	
		Miumi Technology Corp.	Q-297	2,942.50	
		Fujitsu Die Tech of the Philippines Corp.	Q-304	16,588.00	
		Miumi Technology Corp.	Q-329	8,287.50	
		F-Tech Philippines Manufacturing Inc.	Q-351	9,085.50	
		F-Tech Philippines Manufacturing Inc.	Q-356	1,256.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-358	31,782.50	
		Philippine Precision Technology Inc.	Q-416	232.00	
		Kinergy Philippines Inc.	Q-456	1,503.00	
		F-Tech Philippines Manufacturing Inc.	Q-488	6,624.00	
		Laguna Dai-Ichi Inc.	Q-622	984.00	
		Diup Inc	Q-645	500.00	
		Philippine Precision Technology Inc.	Q-871	3,465.65	
		Mitsuba Manufacturing Corp.	Q-902	13,836.20	
		Enomoto Philippines Mfg., Inc.	Q-913	830.70	
		Ito-Parts Manufacturing Corp.	Q-945	1,800.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-970	5,150.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-973	20,445.00	
		Iriso Electronics Philippines inc.	Q-977	6,241.05	

		Philippine Yushin Inc	Q-978	13,829.50	
		Kinergy Philippines Inc.	Q-980	6,620.00	
		Park Terminal Precision Philippines Inc.	Q-981	11,488.50	
		Exas Philippines Inc.	Q-982	105,100.00	
		Exas Philippines Inc.	Q-983	127,621.00	
		Exas Philippines Inc.	Q-984	37,690.00	
		Yutaka Manufacturing Philippines Inc.	Q-990	497.50	
		Laguna Dai-Ichi Inc.	Q-994	780.00	
		DIC Seimitsu Philippines Inc.	Q-995	497.50	
		DIC Seimitsu Philippines Inc.	Q-996	497.50	
		Yamashita Mold Philippines Inc.	Q-997	1,123.30	
		Sungwoo Micron Technologies	Q-998	530.00	
		K&K Molding	Q-1002	10,340.00	
		Okabe Nikoh Corp.	Q-1018	8,966.00	
		HS Technologies (Phils) Inc.	Q-1019	28,861.00	
		DIC Seimitsu Philippines Inc.	Q-1026	4,177.00	
		Miumi Technology Corp.	Q-1027	2,563.00	
		Rohm Mechatech Philippines Inc.	Q-1028	6,211.00	
		Philippine Yushin Inc	Q-1041	2,116.00	
		Kinergy Philippines Inc.	Q-1049	11,085.00	
		Yokohama Tire Philippines Inc.	Q-1050	12,629.00	
		Yutaka Manufacturing Philippines Inc.	Q-1051	9,992.50	
		Yutaka Manufacturing Philippines Inc.	Q-1054	2,942.50	
		Yutaka Manufacturing Philippines Inc.	Q-1056	243.00	
		Yutaka Manufacturing Philippines Inc.	Q-1057	1,094.50	
		Philippine Yushin Inc	Q-1085	7,022.00	
		Enomoto Philippines Mfg., Inc.	Q-1086	1,670.00	
		F-Tech Philippines Manufacturing Inc.	Q-1107	550.00	
		Nichivi Philippines Corp.	Q-1112	950.00	
		Rohm Mechatech Philippines Inc.	Q-1120	3,190.90	
		Yamashita Mold Philippines Inc.	Q-1121	810.10	
		Supermolds Philippines Inc.	Q-1122	7,577.00	
		Philippine Precision Technology Inc.	Q-1127	3,301.09	
		Supermolds Philippines Inc.	Q-1131	12,038.40	
		Exas Philippines Inc.	Q-1154	5,490.00	
		Exas Philippines Inc.	Q-1159	10,368.50	
		Exas Philippines Inc.	Q-1160	10,368.50	
		Exas Philippines Inc.	Q-1163	48,321.00	
		Exas Philippines Inc.	Q-1164	51,934.40	
		Fujitsu Die Tech of the Philippines Corp.	Q-1168	4,725.00	
		Prima Tech Philippines Inc.	Q-1198	1,462.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-1205	2,218.50	
		Exas Philippines Inc.	Q-1229	39,694.50	
		Fujitsu Die Tech of the Philippines Corp.	Q-1233	2,571.00	
		Maeno Giken	Q-1234	2,571.00	
		Yutaka Manufacturing Philippines Inc.	Q-1241	2,325.00	
		F-Tech Philippines Manufacturing Inc.	Q-1242	4,401.64	
		Sungwoo Micron Technologies	Q-1246	498.00	
		Enomoto Philippines Mfg., Inc.	Q-1261	13,324.50	
		Exas Philippines Inc.	Q-1262	18,660.50	

		Exas Philippines Inc.	Q-1263	34,393.50	
		Sungwoo Micron Technologies	Q-1289	8,651.00	
		Philippine Yushin Inc	Q-1299	3,252.75	
		Supermolds Philippines Inc.	Q-1307	3,378.00	
		Philippine Yushin Inc	Q-1308	7,536.40	
		DIC Seimitsu Philippines Inc.	Q-1309	961.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-1312	21,370.00	
		K&K Molding	Q-1318	12,263.00	
		Yamashita Mold Philippines Inc.	Q-1331	3,175.20	
		Fujitsu Die Tech of the Philippines Corp.	Q-1366	803.50	
		Yamashita Mold Philippines Inc.	Q-1369	1,076.00	
		Yutaka Manufacturing Philippines Inc.	Q-1375	9,768.00	
		Supermolds Philippines Inc.	Q-1376	1,603.50	
		Fujitsu Die Tech of the Philippines Corp.	Q-1379	78,279.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-1380	56,542.00	
		Nidec Shimpo Philippines	Q-1384	780.00	
		Exas Philippines Inc.	Q-1383	45,591.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-1388	5,788.50	
		Fujitsu Die Tech of the Philippines Corp.	Q-1389	44,405.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-1393	21,592.50	
		Fujitsu Die Tech of the Philippines Corp.	Q-1394	22,140.50	
		Philippine Yushin Inc	Q-1402	1,830.00	
		Mitsuba Manufacturing Corp.	Q-1403	12,874.98	
		F-Tech Philippines Manufacturing Inc.	Q-1550	3,727.00	
		Suminac Philippines Inc.	Q-1625	2,818.80	
		Exas Philippines Inc.	Q-1648	14,907.50	
		ZPI Philippines Inc.	Q-1669	3,600.00	
		Iriso Electronics Philippines inc.	Q-1670	5,722.50	
		Exas Philippines Inc.	Q-1672	22,733.50	
		Supermolds Philippines Inc.	Q-1696	13,758.00	
		F-Tech Philippines Manufacturing Inc.	Q-1955	16,500.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-2001	11,712.50	
		Fujitsu Die Tech of the Philippines Corp.	Q-2002	7,228.00	
		Iriso Electronics Philippines inc.	Q-2017	4,400.00	
		Philippine Yushin Inc	Q-2029	2,320.00	
		Fujitsu Die Tech of the Philippines Corp.	Q-2047	8,894.00	
		Yutaka Manufacturing Philippines Inc.	Q-2060	34,450.00	
		Yutaka Manufacturing Philippines Inc.	Q-2070	11,722.50	
		Ichinomiya Electronics Phils. Corp	Q-2109	1,200.00	
		Ichinomiya Electronics Phils. Corp	Q-2118	2,000.00	
		Okabe Nikoh Corp.	Q-2350	3,552.15	
		Vitalo Packaging International Inc.	Q-2361	6,350.00	
		ZPI Philippines Inc.	Q-2369	2,978.10	
		Philippine Yushin Inc	Q-2472	4,434.00	
		MTE Technology Inc.	Q-2846	5,769.56	
		MTE Technology Inc.	Q-2847	9,673.00	
		Tungaloy Seimitsu Philippines	Q-2857	785.00	
		Tungaloy Seimitsu Philippines	Q-2872	1,080.00	**1,511,680.87**

3	**Zero-Rated Sales with Cancelled Invoice**				
		Fujitsu Die Tech of the Philippines	Q-573	14,084.00	**14,084.00**
4	**Zero-Rated Sales with Blank Invoice**				
		Miumi Technology Corp.	Q-1239	34,385.00	
		Yokohama Tire Philippines Inc.	Q-1337	940.00	
		F-Tech Philippines Manufacturing Inc.	Q-2217	1,220.00	
		Fujitsu Die Tech of the Philippines	Q-2398	63,672.53	**100,217.53**
5	**Zero-Rated Sales Without Supporting Sales Invoice**				
		Fujitsu Die Tech of the Phils. Corp.	20078	515.50	
		Miumi Technology Corp.	20256	2,184.00	
		Miumi Technology Corp.	20255	1,288.00	
		Sohbi Kohgie (Phils.) Inc.	20252	21,068.70	
		Park Terminal Precision	20637	14,598.00	
		Philippine Precision Technology Inc.	20916	21,004.00	
		Fujitsu Die Tech of the Phils. Corp.	20990	7,770.00	
		Yutaka Manufacturing Phils., Inc.	21452	5,932.00	
		Exas Philippines	21569	15,670.00	
		Fujitsu Die Tech of the Phils. Corp.	22383	283.50	
		Miumi Technology Corp.	22743	3,730.00	
		Exas Philippines	23858	16,109.63	
		Dai-Dong Precision Phils., Inc.	23878	9,233.65	
		Miumi Technology Corp.	24045	3,693.38	
		Juntec Corp.	24293	9,878.40	**132,958.76**
		TOTAL			**P1,855,935.66**

Consequently, based on the foregoing, only the amount of P34,587,686.64 [P37,195,592.33 – (P751,970.03 + P1,855,935.66)] is subject to VAT zero-rating, and only the allowable input tax pertaining thereto appears to be the proper subject of claim for refund.

Corollary to this, as regards petitioner's unutilized/excess input VAT in the amount of P2,271,823.99, this Court finds that only the amount of P968,428.62 was duly substantiated, the difference of P1,303,395.37 (P192,376.53 + 1,111,018.84[17]) having been disallowed for the following reasons:

[17] See Annex A

Findings	Amount	
Input VAT without official receipts	P 188,711.86	D1
Input VAT partially supported by official receipts	3,664.67	D2
Total	P 192,376.53	

	Import Entry and Internal Revenue Declaration Not Validated	P 687,768.51
	Input VAT on purchase of services supported by documents other than VAT Ors	35,525.26
	Input VAT on purchase of goods supported by documents other than VAT Invoices	17,825.39
	Input VAT on purchase of services supported by VAT ORs issued not in the Company's name	3,106.71
	Input VAT on purchase of goods supported by VAT Invoices issued not in the Company's name	6.36
	Input VAT on purchases of services without supporting documents	45,835.64
	Input VAT on purchases of goods without supporting documents	318,620.56
	Overclaimed input tax on purchases of services due to erroneous computation but properly supported by VAT Ors	2,272.73
	Input VAT on purchase of goods supported by TIN-VAT Invoice which are not dated	57.68
	TOTAL	P 1,111,018.84

In sum, out of petitioner's total claim of unutilized input VAT in the amount of P2,271,823.99, petitioner was able to document only the amount of P968,428.62, and thus, only the input VAT of P900,528.89 can be attributable to its fully substantiated zero-rated sales of P34,587,686.64, computed as follows:

Substantiated Zero-Rated Sales	P 34,587,686.64
Divided by Total Zero-Rated Sales per VAT Returns	37,195,592.33
Multiplied by Substantiated Input Taxes	968,428.62
Input VAT Attributable to Substantiated Zero-Rated Sales	**P 900,528.89**

As regards the fourth issue raised, records would show that, despite the carry-over of the unutilized input VAT claimed to the succeeding last two quarters of the fiscal year 2004 and the four quarters of 2005[18], the same was automatically deducted from the "Input Tax Carried Over from Previous Quarter" as of the quarter ending March 31, 2005. Supposedly, the amount to be carried over from the quarter ending December 31, 2004 was in the amount of P2,569,082.80, but as shown on

[18] Exhibits "M-1" to "M-6"

petitioner's Quarterly VAT Return ending March 31, 2005, the amount carried over from the previous quarter showed only the amount of P297,258.81, which is already net of petitioner's claim of P2,271,823.99. In other words, petitioner's claim in the amount of P2,271,823.99 no longer formed part of the excess input VAT of P752,970.46 as of the quarter ending March 31,2005, which was to be carried over/applied to the succeeding quarter of 2005.

Regarding the issue of whether or not petitioner is entitled to a refund or the issuance of a TCC in the amount of P2,271,823.99, this Court believes that the same has already been discussed. There is no dispute that petitioner filed both its administrative and judicial claim within the two (2)-year prescriptive period[19]. The reckoning of the two-year prescriptive period for the filing of its claim for VAT refund starts from the date when petitioner filed the corresponding quarterly VAT return. The earliest quarter covered by the subject claim is the quarter ending March 31, 2002, for which petitioner filed its VAT return on April 19, 2002[20]. Counting from this date, petitioner had until April 18, 2004 (the year 2004 being a leap year) within which to file its administrative and judicial claims. The administrative claim filed on January 27, 2004[21], and this instant Petition for Review filed on March 31, 2004, clearly fall within the two-year prescriptive period.

IN VIEW OF THE FOREGOING, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED** to **REFUND** or **ISSUE** a tax credit certificate in favor of herein petitioner in the reduced amount of **NINE HUNDRED THOUSAND FIVE HUNDRED TWENTY EIGHT AND**

---

[19] Par. 5, Joint Stipulation of Facts & Issues, Rollo, pages 65-68.
[20] Exhibit "C"
[21] Exhibit "J"

89/100 PESOS (P900,528.89) representing petitioner's unutilized and unapplied input value-added taxes attributable to its zero-rated export sales for the period covering January 2002 to September 2003, computed as follows:

Substantiated Zero-Rated Sales	P34,587,686.64
Divided by Total Zero-Rated Sales per VAT Returns	37,195,592.33
Multiplied by Substantiated Input Taxes	968,428.62
Input VAT Attributable to Substantiated Zero-Rated Sales	P 900,528.89

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(With Concurring and Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division