REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SPLASH CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8530

Members:

Castañeda, Jr., *Chairperson,*
Casanova, and
Cotangco-Manalastas, *JJ.*

Promulgated:

MAY 19 2016
10:55 a.m.

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DECISION

CASTAÑEDA, JR., *J.*:

STATEMENT OF THE CASE

Before this Court is a Petition for Review filed by Splash Corporation to seek the cancellation, setting aside, and declaration as null and void of the Final Assessment Notice (FAN) dated December 21, 2011 that found it liable for internal revenue tax liabilities for calendar year (CY) 2007, amounting to Two Hundred Eleven Million Fifty-Two Thousand Sixteen Pesos and 94/100 (₱211,052,016.94).

STATEMENT OF FACTS

Petitioner Splash Corporation is a domestic corporation organized in accordance with the laws of the Republic of the

Philippines, with office address at the 5th Floor, W Office Building, 11th Avenue corner 28th Street, Bonifacio Global, Taguig City.[1]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), who is responsible for the assessment and collection of all national internal revenue taxes, fees and charges and the enforcement of all forfeitures, penalties and fines connected with such taxes. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On December 22, 2011, petitioner received a copy of the FAN dated December 21, 2011. The notice made a formal demand upon petitioner to settle its purported tax liabilities amounting to ₱211,052,016.94, as broken down below:[2]

TAX TYPE	BASIC TAX	SURCHARGE	INTEREST	COMPROMISE PENALTY	TOTAL
Income Tax	₱ 86,647,041.67		₱ 63,779,154.43		₱ 150,426,196.10
VAT	22,986,157.63		17,938,927.28		40,924,784.91
EWT	845,679.14		664,771.46		1,510,450.61
Percentage Tax		₱8,479,280.00	₱ 9,649,305.33	₱ 50,000	18,178,585.33
MC				12,000.00	12,000.00
Total	**₱110,478,878.44**			**₱ 62,000.00**	**₱211,052,016.94**

Petitioner filed a request for reconsideration of the FAN before respondent on January 20, 2012.[3] However, respondent failed to act on petitioner's request for reconsideration, prompting petitioner to file the instant Petition for Review[4] before this Court on August 17, 2012.

In her Amended Answer[5], respondent insists that petitioner is liable to pay deficiency income tax in the amount of ₱150,426,196.10, inclusive of increments. According to respondent, while petitioner claims that its net taxable income is exempt under Republic Act (RA) No. 7459, otherwise known as the "Inventors and Invention Incentives Act of the Philippines", the person entitled to the said exemption is the inventor under whose name the patent was registered.[6] She further states that in Revenue Regulations (RR) No. 19-93, an inventor refers to the patentee/s, heir/s or assignee/s of an invention letters patent, utility model letters, or industrial design

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[1] Par. 4, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), docket, p. 240.
[2] Par. 2, Summary of Admitted Facts, JSFI, docket, pp. 239-240.
[3] Exhibit "R".
[4] Docket, pp. 6-38.
[5] Amended Answer filed on October 16, 2012, docket, pp. 172-191.
[6] Amended Answer, docket, p. 174.

letters patent. Since petitioner is not the inventor or assignee of the inventor, it has no right to claim the exemption.[7]

Respondent also contends that petitioner's reliance on BIR Ruling Nos. 041-95, 042-95, and 158-99, which state that a corporation in which the inventor holds majority shares may claim tax incentives due to the inventor, is misplaced.[8] She adds that in the afore-mentioned BIR Rulings, the inventors are majority shareholders in their respective corporations, which is not the situation in the present case.[9] Respondent maintains that the exemption applies to the sale of the inventions by the inventor himself and not on the sale of the invention by other parties. The tax incentive applies to the sale of inventions by Dr. Rolando B. Hortaleza, and not the sale by petitioner.[10]

Respondent points out that based on the conducted investigation, petitioner is neither the inventor nor a patent holder of the invention, and merely manufactured and marketed the inventions solely for itself and not for and in behalf of the inventor nor any person for that matter. Respondent also calls attention to the fact that petitioner was incorporated in 1991, while the first of Dr. Hortaleza's inventions that have qualified under RA No. 7459 was made a decade after.[11]

Respondent posits that petitioner's net taxable income claimed as exempt under RA No. 7459 is subject to corporate income tax. Respondent further states that there is a discrepancy on net taxable income as stated in the Income Tax Return (ITR) and based on the investigation. Petitioner declared its net taxable income on a regular rate of ₱134,592,153.00, which should have been ₱138,533,066.00. Hence, there is an understatement of ₱3,940,913.00.[12]

Respondent asserts that petitioner is liable for deficiency income tax on the disallowed cost of sales to Crown Asia Properties, Inc. amounting to ₱33,335,564.00.[13] She likewise contends that petitioner is liable for deficiency income tax for its failure to withhold and remit withholding tax in full on various income payments which should have been subjected to expanded withholding tax (EWT)

[7] Amended Answer, docket, p. 175.
[8] Amended Answer, docket, p. 176.
[9] Amended Answer, docket, p. 178.
[10] Amended Answer, docket, p. 179.
[11] Amended Answer, docket, p. 179.
[12] Amended Answer, docket, p. 180.
[13] Amended Answer, docket, pp. 181-182.

amounting to ₱34,800,115.00.[14] Petitioner is also allegedly liable for deficiency value-added tax (VAT) for sales to HBC, Inc. and Crown Asia Properties, Inc.; and for deficiency expanded withholding tax (EWT) amounting to ₱1,510,450.61.[15] Respondent adds that petitioner is liable for percentage tax due to the listing of its shares of stock in the Philippine Stock Exchange.[16]

Finally, respondent argues that by executing Waivers of Statute of Limitations, petitioner is now estopped from questioning the validity of the waivers and from using the defense of prescription.[17]

The case was then set for a Pre-Trial Conference on November 8, 2012.[18] Accordingly, respondent and petitioner submitted their respective Pre-Trial Briefs on October 24, 2012[19] and on November 5, 2012[20].

On November 8, 2012,[21] the Court ordered the parties to submit their Joint Stipulation of Facts and Issues[22], which they submitted on December 3, 2012. Thereafter, the case was set for the presentation of evidence.[23]

On December 13, 2012, petitioner filed its Reply (To Respondent's Amended Answer).[24]

Petitioner presented the following witnesses: Mr. Jose Enrique D. Santos[25] – Financial Accounting Manager of petitioner; Atty. Jasmine U. Tan[26] – Corporate Secretary of petitioner; Mr. Raphael C. Miguel[27] – Independent Certified Public Accountant; and Ms. Christina E. Buenafe[28] – Research and Development Manager for Personal Care of petitioner. Jr

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[14] Amended Answer, docket, p. 182.
[15] Amended Answer, docket, p. 183.
[16] Amended Answer, docket, p. 183.
[17] Amended Answer, docket, p. 184.
[18] Notice of Pre-Trial Conference, docket, p. 167.
[19] Respondent's Pre-Trial Brief, docket, pp. 198-204.
[20] Pre-Trial Brief, docket, pp. 210-221.
[21] Minutes of the Hearing, docket, p. 225.
[22] Docket, pp. 239-245.
[23] Resolution, docket, p. 247.
[24] Docket, pp. 248-255.
[25] Minutes of the Hearing, docket, pp. 1121, 1130, and 1489.
[26] Minutes of the Hearing, docket, pp. 1121, 1130, 1390, and 1489.
[27] Minutes of the Hearing, docket, pp. 1130, 1197, and 1213.
[28] Minutes of the Hearing, docket, pp. 1278, 1365, and 1370.

Petitioner formally offered its documentary evidence[29] on June 9, 2014 and on June 26, 2014. The Court admitted all of petitioner's submitted exhibits, except Exhibits "EEE-3451" and "KKK-166" for not being found in the records.[30]

On the other hand, respondent presented Nicasio H. Lumagui, Jr. – BIR Chief Revenue Officer I, as her lone witness.[31] Thereafter, on February 16, 2015, respondent formally offered her evidence.[32] In the Court's Resolution[33] dated March 26, 2015, Exhibits "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "17", and "17-A" were admitted as evidence.

Petitioner submitted its Memorandum on June 1, 2015.[34] On the other hand, respondent filed a Manifestation[35] stating that she is adopting the arguments she raised in her Amended Answer dated October 15, 2012 as her Memorandum. Hence, on June 8, 2015, the Court declared the case submitted for decision.

STATEMENT OF ISSUES

The parties submitted the following issues for resolution of the Court:

1. Whether or not respondent can subject to income tax for taxable year 2007 petitioner's sales of tax-exempt products in disregard of the provisions of RA No. 7459, the rulings of the BIR, and the final and executory judgment rendered by the Court of Tax Appeals and the Supreme Court;

1.1 Whether or not the tax exemption under Section 6 of RA No. 7459 attaches to the income derived from the commercial sale of Dr. Rolando Hortaleza's invention;

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[29] Formal Offer of Evidence with Motion for Commissioner's Hearing and Leave to File Supplemental Formal Offer of Evidence, docket, pp. 1504-1521; Supplemental Formal Offer of Evidence, docket, pp. 1531-1535.
[30] Resolution dated August 12, 2014, docket, pp. 1543-1555; Resolution dated November 26, 2014, pp. 1647-1653.
[31] Minutes of the Hearing, docket, p. 1655.
[32] Formal Offer of Evidence, docket, pp. 1664-1670.
[33] Docket, pp. 1681-1682.
[34] Docket, pp. 1690-1740.
[35] Docket, pp. 1741-1743.

1.2 Whether or not petitioner is entitled to tax exemption if the commercial production/sale of Dr. Rolando Hortaleza's invention is done through petitioner;

2. Whether or not the 2007 tax assessment has prescribed;

3. Whether or not respondent can subject petitioner for alleged discrepancy on net taxable income of ₱3,940,913.00;

4. Whether or not petitioner's contribution of parcel of land to the joint venture project with Crown Asia Properties constitutes capital contribution;

5. Whether or not petitioner failed to withhold and remit withholding tax in full on various income payments subject to expanded withholding tax;

6. Whether or not petitioner underdeclared its sales to HBC;

7. Whether or not respondent can assess petitioner for deficiency VAT arising from cash sale to Crown Asia Properties;

8. Whether or not petitioner erred in recording its input taxes under one time vendor;

9. Whether or not petitioner was informed of the law and the facts from which the assessment for income tax, VAT, withholding tax, and percentage tax for the year 2007 was based, pursuant to Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended;

10. Whether petitioner is liable to pay deficiency income tax, VAT, EWT, and percentage tax assessments for taxable year 2007, in the aggregate amount of ₱211,052,016.94, inclusive of surcharge and penalties, pursuant to Sections 248 and 249 of the NIRC of 1997, as amended.

There are two (2) main issues to be resolved by the Court, namely:

1. Whether the 2007 tax assessment has prescribed; and

2. Whether petitioner is liable to pay the assessed deficiency income tax, VAT, EWT, and percentage tax for taxable year 2007, in the total amount of ₱211,052,016.94, inclusive of surcharge and penalties.

DISCUSSION

Prescription

According to Section 203 of the NIRC of 1997, as amended, the government can assess internal revenue taxes within three (3) years from the last day prescribed by law for the filing of the tax return, or the actual date of filing of such return, whichever comes later. Hence, an assessment notice issued after the three-year prescriptive period is not anymore valid and effective. Section 203 of the NIRC of 1997, as amended, provides:

> "SEC. 203. *Period of Limitation Upon Assessment and Collection.* – Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: *Provided*, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day."

Pursuant to Section 77 of the NIRC of 1997, as amended, a corporate taxpayer (on a calendar year basis of reporting) must file its Annual Income Tax Return on or before April 15 of the following year. In this case, petitioner filed its Annual Income Tax Return for calendar year 2007 on April 15, 2008[36], but subsequently filed amendments thereto on May 16, 2008[37] and May 21, 2008[38]. Applying Section 203, respondent had until May 23, 2011 (May 21, 2011, being a Saturday), within which to assess petitioner for deficiency income tax for CY 2007.

Meanwhile, Section 114(A)[39] of the NIRC of 1997, as amended, and Section 4.114-1(A) of RR No. 16-2005 provide that Quarterly VAT Returns shall be filed within twenty-five (25) days following the close of each taxable quarter. Summarized below are the dates of filing of petitioner's Income Tax Return, Quarterly VAT Returns, and Percentage Tax Return, and the corresponding dates within which respondent should assess petitioner for deficiency income tax, VAT, and percentage tax for CY 2007:

Period Covered		**Exhibit**	**Date Filed**	**Last Day to File Return**	**Last Day to Assess**
1st Qtr	Jan. 1-Mar. 31, 2007	"RR"	April 25, 2007	April 25, 2007	April 26, 2010[40]
2nd Qtr	April 1-June 30, 2007	"SS"	July 25, 2007	July 25, 2007	July 26, 2010[41]
3rd Qtr	July 1-Sept. 30, 2007	"TT"	October 24, 2007	October 25, 2007	October 25, 2010
4th Qtr	Oct. 1-Dec. 31, 2007	"DD" (Amended Return)	April 30, 2008	January 25, 2008	May 2, 2011[42]

As regards the EWT, Section 2.58(A)(2)(b) of RR No. 17-03, in relation to Section 7 of RR No. 09-01, as last amended by RR No. 26-02, provides that the electronic filing of EWT Returns of taxpayers engaged in manufacturing such as herein petitioner must be made within fourteen (14) days following the end of the month. The dates of filing of petitioner's Monthly EWT Returns as well as the last day for respondent to assess deficiency EWT for CY 2007 are summarized below:

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36 BIR Records, p. 524.
37 Exhibit "X".
38 Exhibit "RRR-1", docket, p. 1152.
39 SEC. 114. *Return and Payment of Value-added Tax.* -
(A) *In General.* - Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer: *Provided, however,* That VAT-registered persons shall pay the value-added tax on a monthly basis.
40 April 25, 2010 fell on a Sunday.
41 July 25, 2010 fell on a Sunday.
42 April 30, 2011 fell on a Saturday.

Month Covered	Exhibit	Date Filed	Last Day to File Return	Last Day to Assess
Jan-07	"UU"	February 14, 2007	February 14, 2007	February 15, 2010[43]
Feb-07	"UU-1"	March 14, 2007	March 14, 2007	March 15, 2010[44]
Mar-07	"UU-2"	April 13, 2007	April 16, 2007[45]	April 16, 2010
Apr-07	"UU-3"	May 11, 2007	May 14, 2007	May 14, 2010
May-07	"UU-4"	June 14, 2007	June 14, 2007	June 14, 2010
Jun-07	"UU-5"	July 13, 2007	July 16, 2007	July 16, 2010
Jul-07	"UU-6"	August 14, 2007	August 14, 2007	August 16, 2010[46]
Aug-07	"UU-7"	September 12, 2007	September 14, 2007	September 14, 2010
Sep-07	"UU-8"	October 16, 2007	October 15, 2007	October 18, 2010[47]
Oct-07	"UU-9"	November 14, 2007	November 14, 2007	November 15, 2010[48]
Nov-07	"UU-10"	December 14, 2007	December 14, 2007	December 14, 2010
Dec-07	"UU-11"	January 24, 2008	January 14, 2008	January 24, 2011

With respect to percentage tax on shares of stock sold and exchanged through initial public offering (IPO), Section 127(C)(2) of the NIRC of 1997, as amended, provides that the Percentage Tax Return must be filed within thirty (30) days from the date of listing of the shares of stock in the local stock exchange. For its IPO of common shares on November 15, 2007[49], petitioner filed its Percentage Tax Return on March 26, 2008. Counting from March 26, 2008, respondent had until March 28, 2011[50] within which to assess petitioner for deficiency percentage tax on the November 15, 2007 IPO transaction.

Therefore, the last day for respondent to issue an assessment for CY 2007 was on May 23, 2011 for income tax, on May 2, 2011, at the latest for VAT, on January 24, 2011, at the latest for EWT, and on March 28, 2011 for percentage tax. However, petitioner received the FAN only on December 22, 2011[51] or beyond the three-year prescriptive period provided by law.

While respondent does not deny that the assessment notices were issued beyond the three-year prescriptive period, she claims that the period was extended by the waivers executed by petitioner.[52] On the other hand, petitioner assails the validity of the

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[43] February 14, 2010 fell on a Sunday.
[44] March 14, 2010 fell on a Sunday.
[45] April 14, 2007 fell on a Saturday.
[46] August 14, 2010 fell on a Saturday.
[47] October 16, 2010 fell on a Saturday.
[48] November 14, 2010 fell on a Sunday.
[49] Exhibit "Y", Petitioner's Notes to Financial Statements, Note 16(e).
[50] March 26, 2011 fell on a Saturday.
[51] Exhibit "Q".
[52] Amended Answer, docket, p. 184.

three Waivers it executed through its representative due to the following defects:[53]

	Execution Date	Date of Acceptance by CIR	Last Day of Effectivity	Date of Receipt by Petitioner of the accepted Waiver	Type and Amount of Tax	
First Waiver[54]	June 10,2010	June 21, 2010	Dec. 31, 2010	June 24, 2010	Not indicated	Signed by representatives of petitioner who are not authorized by its Board of Directors
Second Waiver[55]	Not indicated	Not indicated	June 30, 2011	Oct. 8, 2010	Not indicated	
Third Waiver[56]	May 13, 2011	May 30, 2011	Dec. 31, 2011	June 9, 2011	Not indicated	

However, as can be gleaned from the above-quoted provision, there are certain exceptions. Section 222 of the NIRC of 1997, as amended, provides that:

"SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* –

(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud, or omission: *Provided*, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

(b) **If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.**

[53] Exhibit "QQ", Q&A no. 24; Exhibit "MMMM", Q&A no. 7.
[54] Exhibit "S".
[55] Exhibit "T".
[56] Exhibit "U".

(c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax.

(d) Any internal revenue tax, which has been assessed within the period agreed upon as provided in paragraph (b) hereinabove, may be collected by distraint or levy or by a proceeding in court within the period agreed upon in writing before the expiration of the five (5)-year period. The period so agreed upon may be extended by subsequent written agreements made before the expiration of the period previously agreed upon.

(e) *Provided, however,* That nothing in the immediately preceding Section and paragraph (a) hereof shall be construed to authorize the examination and investigation or inquiry into any tax return filed in accordance with the provisions of any tax amnesty law or decree." *(Emphasis supplied)*

From the foregoing, it can be seen that the period to assess and collect taxes may only be extended upon a written agreement between the BIR Commissioner and the taxpayer executed before the expiration of the three-year prescriptive period. Revenue Memorandum Order (RMO) No. 20-90 issued on April 4, 1990 and Revenue Delegation Authority Order (RDAO) No. 05-01 issued on August 2, 2001 lay down the procedure for the proper execution of a waiver, to wit:

1. The waiver must be in the proper form prescribed by RMO 20-90. The phrase "but not after ______ 19 ___", which indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription, should be filled up.

2. The waiver must be signed by the taxpayer himself or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials. In case the authority is delegated by

the taxpayer to a representative, such delegation should be in writing and duly notarized.

3. The waiver should be duly notarized.

4. The CIR or the revenue official authorized by him must sign the waiver indicating that the BIR has accepted and agreed to the waiver. The date of such acceptance by the BIR should be indicated. However, before signing the waiver, the CIR or the revenue official authorized by him must make sure that the waiver is in the prescribed form, duly notarized, and executed by the taxpayer or his duly authorized representative.

5. Both the date of execution by the taxpayer and date of acceptance by the Bureau should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed.

6. The waiver must be executed in three copies, the original copy to be attached to the docket of the case, the second copy for the taxpayer and the third copy for the Office accepting the waiver. The fact of receipt by the taxpayer of his/her file copy must be indicated in the original copy to show that the taxpayer was notified of the acceptance of the BIR and the perfection of the agreement.[57]

In the case of *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*[58], the Supreme Court held:

"A waiver of the statute of limitations under the NIRC, to a certain extent, is a derogation of the taxpayers' right to security against prolonged and unscrupulous investigations and must therefore be carefully and strictly construed. The waiver of the statute of limitations is not a waiver of the right to invoke the defense of prescription as erroneously held by the Court of Appeals. It is an agreement between the taxpayer and

[57] *Commissioner of Internal Revenue vs. Kudos Metal Corporation*, G.R. No. 178087, May 5, 2010
[58] G.R. No. 162852, December 16, 2004.

the BIR that the period to issue an assessment and collect the taxes due is extended to a date certain. The waiver does not mean that the taxpayer relinquishes the right to invoke prescription unequivocally particularly where the language of the document is equivocal. For the purpose of safeguarding taxpayers from any unreasonable examination, investigation or assessment, our tax law provides a statute of limitations in the collection of taxes. Thus, the law on prescription, being a remedial measure, should be liberally construed in order to afford such protection. As a corollary, the exceptions to the law on prescription should perforce be strictly construed. RMO No. 20-90 explains the rationale of a waiver:

> ... The phrase 'but not after _____ 19__' should be filled up. This indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription. The period agreed upon shall constitute the time within which to effect the assessment/collection of the tax in addition to the ordinary prescriptive period. (Emphasis supplied)

As found by the CTA, the Waiver of Statute of Limitations, signed by petitioner's comptroller on September 22, 1997 is not valid and binding because it does not conform with the provisions of RMO No. 20-90. It did not specify a definite agreed date between the BIR and petitioner, within which the former may assess and collect revenue taxes. Thus, petitioner's waiver became unlimited in time, violating Section 222(b) of the NIRC.

The waiver is also defective from the government side because it was signed only by a revenue district officer, not the Commissioner, as mandated by the NIRC and RMO No. 20-90. The waiver is not a unilateral act by the taxpayer or the BIR, but is a bilateral agreement between two parties to extend the period to a date certain. The conformity of the BIR must be made by either the Commissioner or the Revenue District Officer. This case involves taxes amounting to more than One Million Pesos (P1,000,000.00) and executed almost seven

> months before the expiration of the three-year prescription period. For this, RMO No. 20-90 requires the Commissioner of Internal Revenue to sign for the BIR."

However, in the recent case of *Commissioner of Internal Revenue vs. Next Mobile Inc. (formerly Nextel Communications Phils., Inc.),*[59] the Supreme Court held that while the general rule is that when a waiver does not comply with the requisites for validity specified under RMO No. 20-90 and RDAO No. 01-05 is considered invalid and ineffective to extend the prescriptive period to assess taxes, parties who do not come to court with clean hands cannot be allowed to benefit from their own wrongdoing. The pertinent parts of the decision are quoted hereunder:

> "The general rule is that when a waiver does not comply with the requisites for its validity specified under RMO No. 20-90 and RDAO 01-05, it is invalid and ineffective to extend the prescriptive period to assess taxes. However, due to its peculiar circumstances, We shall treat this case as an exception to this rule and find the Waivers valid for the reasons discussed below:
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> *First,* the parties in this case are *in pari delicto* or 'in equal fault.' *In pari delicto* connotes that the two parties to a controversy are equally culpable or guilty and they shall have no action against each other. However, although the parties are *in pari delicto,* the Court may interfere and grant relief at the suit of one of them, where public policy requires its intervention, even though the result may be that a benefit will be derived by one party who is in equal guilt with the other.
>
> Here, to uphold the validity of the Waivers would be consistent with the public policy embodied in the principle that taxes are the lifeblood of the government, and their prompt and certain availability is an imperious need. Taxes are the nation's lifeblood through which government agencies continue to operate and which the State discharges its functions for the welfare of its constituents. As between the parties, it would be more equitable if petitioner's lapses were allowed to pass and

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[59] G.R. No. 212825, December 7, 2015.

consequently uphold the Waivers in order to support this principle and public policy.

Second, the Court has repeatedly pronounced that parties must come to court with clean hands. Parties who do not come to court with clean hands cannot be allowed to benefit from their own wrongdoing. Following the foregoing principle, respondent should not be allowed to benefit from the flaws in its own Waivers and successfully insist on their invalidity in order to evade its responsibility to pay taxes.

Third, respondent is estopped from questioning the validity of its Waivers. While it is true that the Court has repeatedly held that the doctrine of estoppel must be sparingly applied as an exception to the statute of limitations for assessment of taxes, the Court finds that the application of the doctrine is justified in this case. Verily, the application of estoppel in this case would promote the administration of the law, prevent injustice and avert the accomplishment of a wrong and undue advantage. Respondent executed *five* Waivers and delivered them to petitioner, one after the other. It allowed petitioner to rely on them and did not raise any objection against their validity until petitioner assessed taxes and penalties against it. Moreover, the application of estoppel is necessary to prevent the undue injury that the government would suffer because of the cancellation of petitioner's assessment of respondent's tax liabilities.

Finally, the Court cannot tolerate this highly suspicious situation. In this case, the taxpayer, on the one hand, after voluntarily executing waivers, insisted on their invalidity by raising the very same defects it caused. On the other hand, the BIR miserably failed to exact from respondent compliance with its rules. The BIR's negligence in the performance of its duties was so gross that it amounted to malice and bad faith. Moreover, the BIR was so lax such that it seemed that it consented to the mistakes in the Waivers. Such a situation is dangerous and open to abuse by unscrupulous taxpayers who intend to escape their responsibility to pay taxes by mere expedient of hiding behind technicalities. *gc*

It is true that petitioner was also at fault here because it was careless in complying with the requirements of RMO No. 20-90 and RDAO 01-05. Nevertheless, petitioner's negligence may be addressed by enforcing the provisions imposing administrative liabilities upon the officers responsible for these errors. The BIR's right to assess and collect taxes should not be jeopardized merely because of the mistakes and lapses of its officers, especially in cases like this where the taxpayer is obviously in bad faith."

The Court finds that the factual circumstances of the present case are similar to that of the afore-quoted case. While the requirements of RMO No. 20-90 and RDAO No. 05-01 must strictly be complied with by respondent, petitioner is estopped from questioning the validity of the waivers it voluntarily executed because petitioner cannot be allowed to benefit from the same defects it caused.

In view thereof, the Court is convinced that respondent's right to assess was extended by the executed waivers. Hence, when the FAN was issued and subsequently received on December 22, 2011, respondent still had the right to assess petitioner for the following deficiency taxes:

	Period Covered	**Date Filed**	**Last Day to File Return**	**Last Day to Assess**
Income Tax	CY 2007	April 15, 2008, as amended on May 16, 2008 and May 21, 2008	April 15, 2008	May 23, 2011[60]
VAT	2nd Quarter 2007[61]	July 25, 2007	July 25, 2007	July 26, 2010[62]
	3rd Quarter 2007[63]	October 24, 2007	October 25, 2007	October 25, 2010
	4th Quarter 2007[64]	April 30, 2008[65]	January 25, 2008	May 2, 2011[66]
EWT	May 2007[67]	June 14, 2007	June 14, 2007	June 14, 2010
	June 2007[68]	July 13, 2007	July 16, 2007	July 16, 2010
	July 2007[69]	August 14, 2007	August 14, 2007	August 16, 2010[70]
	August 2007[71]	September 12, 2007	September 14, 2007	September 14, 2010

[60] May 21, 2011 fell on a Saturday.
[61] Exhibit "SS".
[62] July 25, 2010 fell on a Sunday.
[63] Exhibit "TT".
[64] Exhibit "DD".
[65] Amended Return.
[66] April 30, 2011 fell on a Saturday.
[67] Exhibit "UU-4".
[68] Exhibit "UU-5".
[69] Exhibit "UU-6".
[70] August 14, 2010 fell on a Saturday.
[71] Exhibit "UU-7".

	September 2007[72]	October 16, 2007	October 15, 2007	October 18, 2010[73]
	October 2007[74]	November 14, 2007	November 14, 2007	November 15, 2010[75]
	November 2007[76]	December 14, 2007	December 14, 2007	December 14, 2010
	December 2007[77]	January 24, 2008	January 14, 2008	January 24, 2011

However, when the First Waiver was executed on June 10, 2010,[78] respondent's right to assess had already prescribed for the following:

	Period Covered	**Date Filed**	**Last Day to File Return**	**Last Day to Assess**
VAT	1st Quarter 2007[79]	April 25, 2007	April 25, 2007	April 26, 2010[80]
EWT	January 2007[81]	February 14, 2007	February 14, 2007	February 14, 2010
	February 2007[82]	March 14, 2007	March 14, 2007	March 14, 2010
	March 2007[83]	April 13, 2007	April 16, 2007	April 16, 2010
	April 2007[84]	May 11, 2007	May 14, 2007	May 14, 2010

The Court shall now determine whether petitioner is liable for the deficiency taxes assessed by respondent.

Liability for Deficiency EWT, Income Tax, VAT, and Percentage Tax

I. DEFICIENCY EWT – ₱1,510,450.60

Upon comparison of the purchases per petitioner's Summary List of Purchases against its income payments reflected in the Monthly Alphalist of Payees, respondent found discrepancies amounting to ₱34,800,115.79 which were not allegedly subjected to EWT as required under RR No. 02-98, as amended by RR No. 06-01 and RR No. 17-03, in relation to Revenue Memorandum Circular (RMC) No. 72-04. As such, respondent assessed petitioner for the

[72] Exhibit "UU-8".
[73] October 16, 2010 fell on a Saturday.
[74] Exhibit "UU-9".
[75] November 14, 2010 fell on a Sunday.
[76] Exhibit "UU-10".
[77] Exhibit "UU-11".
[78] Exhibit "S".
[79] Exhibit "RR".
[80] April 25, 2010 fell on a Sunday.
[81] Exhibit "UU".
[82] Exhibit "UU-1".
[83] Exhibit "UU-2".
[84] Exhibit "UU-3".

corresponding deficiency EWT in the amount of ₱1,510,450.60, inclusive of interest, computed as follows:[85]

Supplier/Payee	Income Payment: Per Summary List of Purchases	Income Payment: Monthly Alpha List of Payees	No EWT	EWT Rate	Tax Due
A2F CARGO SERVICES, INC.	₱ 1,768,176.72	₱ 1,260,608.23	₱ 507,568.49	10%	₱ 50,756.85
AB COMMUNICATION	12,934,619.26	11,869,177.70	1,065,441.56	2%	21,308.83
ABS PROMOTION CORPORATION	51,757,161.71	51,427,836.32	329,325.39	2%	6,586.51
ACNIELSEN (PHILIPPINES), INC.	5,650,864.12	5,176,822.35	474,041.77	2%	9,480.84
CHYNNA ORTALEZA	**515,463.91**	**282,130.60**	**233,333.31**	**15%**	**35,000.00**
BENJAMIN TANG	194,227.05	174,226.83	20,000.22	15%	3,000.03
DG SPHEROIDS CORPORATION	**30,292,134.66**	**28,990,589.00**	**1,301,545.66**	**1%**	**13,015.46**
DILIMAN SCIENCE RESEARCH INSTITUTE	81,200.00	8,800.00	72,400.00	1%	724.00
DIRECT LINK WORLDWIDE	42,106.29	15,001.50	27,104.79	2%	542.10
DM9	4,863,891.83	4,858,892.00	4,999.83	2%	100.00
EVERGREEN CUISINE MGT. CORP.	112,865.33	102,613.50	10,251.83	2%	205.04
GREAT EASTERN HOTEL	164,299.44	1,427.68	162,871.76	2%	3,257.44
HENGSTLER INTERNATIONAL	1,780,372.77	1,778,140.86	2,231.91	1%	22.32
INTERNATIONAL PHARMACEUTICALS	20,027,250.00	17,388,000.00	2,639,250.00	1%	26,392.50
JENNYLYN MERCADO	**313,927.66**	**180,594.33**	**133,333.33**	**15%**	**20,000.00**
JONATHAN BORJA	42,888.89	37,888.90	4,999.99	10%	500.00
JONATHAN ROXAS	**22,000.00**	**8,888.89**	**13,111.11**	**10%**	**1,311.11**
LEONCIO T. DURAN III	209,250.00	139,500.00	69,750.00	2%	1,395.00
MANSMITH AND FIELDERS	108,324.00	53,310.50	55,013.50	2%	1,100.27
MEDIAFORCE INTEGRATION	23,816,349.69	23,798,353.32	17,996.37	2%	359.93
MIKE TAN	234,672.33	120,561.33	114,111.00	15%	17,116.65
MULTIMEDIA EXPONENTS	5,592,783.83	2,809,147.53	2,783,636.30	2%	55,672.73
ONE TIME VENDOR	**11,587,609.08**	**10,677,539.10**	**910,069.98**	**10%**	**91,007.00**
OUTSOURCE PR INC	934,272.16	880,672.33	53,599.83	15%	8,039.97
PARADIGM ENTERTAINMENT PRODUCTION	11,867,263.63	11,842,264.06	24,999.57	2%	499.99
PHIL AMERICAN INSURANCE	5,691,121.41	5,619,175.75	71,945.66	2%	1,438.91
PHIL-ASIA NUTRACEUTICAL CORPORATION	102,598.74	51,098.74	51,500.00	2%	1,030.00
PHILTOWN HOTEL	35,420.13	8,634.50	26,785.63	2%	535.71
PILIPINAS SHELL PETROLEUM CORPORATION	3,904,118.94	2,707,294.27	1,196,824.67	2%	23,936.49
PRUDENTIAL GUARANTEE AND INSURANCE	3,480,973.23	3,269,145.94	211,827.29	2%	4,236.55
RIZAL COMMERCIAL BANKING CORPORATION	4,080,781.33	3,886,458.50	194,322.83	2%	3,886.46
ROBINSONS SAVINGS BANK CORP	2,690,404.48	2,573,810.50	116,593.98	2%	2,331.88
SAFETY ORGANIZATION	22,000.00	12,500.00	9,500.00	2%	190.00
SGV DEVT DIMENSION INTL	363,346.39	345,446.78	17,899.61	2%	357.99
SHERWIN ORDONEZ	**315,005.67**	**120,561.33**	**194,444.34**	**15%**	**29,166.65**
STRESADING WATER SUPPLY TRADING	213,270.00	53,370.00	159,900.00	1%	1,599.00
SULO HOTEL	111,489.79	69,371.00	42,118.79	2%	842.38

[85] Exhibit "Q", Annex "A", Details of Discrepancies, items I.d and II and Annex "A-1".

TBWA / SANTIAGO MANGADA	23,169,637.95	23,110,455.18	59,182.77	2%	1,183.66
TNT EXPRESS WORLDWIDE	429,527.89	428,478.39	1,049.50	2%	20.99
TOPNOTCH AWARDS AND NOVELTIES	**123,500.00**	**32,850.00**	**90,650.00**	**1%**	**906.50**
TOYOTA BALINTAWAK NORTH	402,866.76	317,720.31	85,146.45	2%	1,702.93
TOYOTA PASONG TAMO, INC.	1,944,515.19	1,929,515.71	14,999.48	2%	299.99
VISIVO PRODUCTION INC	349,999.92	215,384.50	134,615.42	2%	2,692.31
3J8 CAR ACCESSORIES SHOP	94,218.78		94,218.78	2%	1,884.38
ABERDEEN COURT	40,223.21		40,223.21	2%	804.46
ADBOARD	136,840.00		136,840.00	1%	1,368.40
ADHESIVE AND PAINTS APPLICATION SYSTEM	104,575.84		104,575.84	2%	2,091.52
ALFAJAR HATS CAPS EMBROIDERY	**75,000.00**		**75,000.00**	**1%**	**750.00**
ANG, ESTHER CATHY	1,127,004.34		1,127,004.34	15%	169,050.65
BANAHAW LUXURY TRANSPORT	22,400.00		22,400.00	2%	448.00
BILO, PRINCESS MANANSALA	22,926.72		22,926.72	15%	3,439.01
BRIOSO, EDNA	10,000.00		10,000.00	15%	1,500.00
BSET OPTION CONSSULTANT	102,500.00	54,000.00	48,500.00	2%	970.00
CARANDANG, EMILIANO	5,000.00		5,000.00	15%	750.00
CENTER FOR GLOBAL BEST PRACTICES	14,400.00		14,400.00	2%	288.00
CHINESE GENERAL HOSPITAL	50,000.00		50,000.00	2%	1,000.00
CORPORATE ACHIEVERS INSTITUTE	13,314.56		13,314.56	2%	266.29
DE CLARIN, KRISTINA	12,240.00		12,240.00	15%	1,836.00
ECOP	57,000.00		57,000.00	2%	1,140.00
GALINDEZ, LAURENCE	6,893.00		6,893.00	15%	1,033.95
GONZALES, ANA MARIE	**30,000.00**		**30,000.00**	**15%**	**4,500.00**
GSI PHILIPPINES, INC	11,000.00		11,000.00	2%	220.00
LA COMIDA	13,000.00		13,000.00	2%	260.00
LUMO, RYAN	28,925.00		28,925.00	15%	4,338.75
MANILA GALLERIA SUITES	1,078,554.46	972,439.29	106,115.17	2%	2,122.30
MDC ELECTRICAL CONTRACTOR	442,714.20		442,714.20	2%	8,854.28
NUTRACEUTICAL SYSTEMS INC	40,000.00		40,000.00	2%	800.00
OROBIA, MA. ANGELINA	14,705.88		14,705.88	15%	2,205.88
PADERNAL, ANDRES	20,000.00		20,000.00	15%	3,000.00
PANDAN SEAFOOD AND GRILL	43,837.50		43,837.50	1%	438.38
SPLASH PHARMACEUTICALS, INC.	18,317,681.17		18,317,681.17	1%	183,176.81
ZOOM IN PACKAGE INS	23,698.08		23,698.08	1%	236.98
TAGAYTAY HIGHLANDS INTERNATIONAL	23,658.42		23,658.42	2%	473.17
THE RED GINGER FARM GARDEN	**24,050.00**		**24,050.00**	**2%**	**481.00**
TOPNOTCH AWARDS AND NOVELTIES	123,500.00	32,850.00	90,650.00	2%	1,813.00
TOWER CLUB INC	19,250.00		19,250.00	2%	385.00
Deficiency EWT	**₱254,493,663.34**	**₱219,693,547.55**	**₱34,800,115.79**		**₱ 845,679.14**[86]
Add: 20% interest p.a. 01.16.08 to 12.20.11					664,771.46
Total Amount Payable					***₱ 1,510,450.61***

86 Should be ₱845,679.15.

Petitioner argues that respondent's computation failed to consider many items such as: (1) income payments per alphalist; (2) incorrect pick up of amounts; (3) incorrect EWT rate used; (4) payment exempted from withholding tax; and (5) reimbursement by employees.[87]

It avers that contrary to respondent's claim, the income payments to several payees, namely, Chyna Ortaleza, Jennylyn Mercado, Jonathan Roxas, Mansmith and Fielders, Mike Tan, Multimedia Exponents, DS Spheroids Corporation, Sherwin Ordonez, Sulo Hotel, 3J8 Car Accessories, and Ana Marie Gonzales were already subjected to EWT under the classification of "One Time Vendor".[88]

To support its assertion, petitioner submitted the "Breakdown of Payees under One Time Vendor per Alpha list"[89] which showed income payments totalling ₱10,677,539.01, with the related EWT payment of ₱393,773.32. An examination of the said schedule reveals that the following income payments indeed formed part of the ₱10,677,539.01 income payments, which were subjected to EWT under "One Time Vendor":

Supplier/Payee	ATC	Income Payment	EWT Rate	EWT Paid
CHYNNA ORTALEZA	WC011	₱ 233,333.33	15%	₱ 35,000.00
DG SPHEROIDS CORPORATION	WC158	1,301,548.76	1%	13,015.49
JENNYLYN MERCADO	WC011	133,333.33	15%	20,000.00
JONATHAN ROXAS	WI010	22,000.00	10%	2,200.00
SHERWIN ORDONEZ	WC011	194,444.44	15%	29,166.67
TOPNOTCH AWARDS AND NOVELTIES	WC120	90,650.00	2%	1,813.00
ALFAJAR HATS CAPS EMBROIDERY	WC158	75,000.00	1%	750.00
GONZALES, ANA MARIE	WI010	30,000.00	10%	3,000.00
THE RED GINGER FARM AND GARDEN	WC120	24,050.00	2%	481.00
	Total	**₱2,104,359.86**		**₱105,426.16**

Considering that the above income payments were doubly subjected to EWT by respondent, the same shall be stricken down in the computation of the assessment. Nevertheless, since petitioner applied a lower EWT rate of 10% instead of the 15% imposed by respondent on the income payment to Ana Marie Gonzales and failed

[87] Exhibit "QQ", Q&A no. 57.
[88] Exhibit "QQ", Q&A no. 57.
[89] Exhibit "EE".

to justify the same, petitioner is still liable for the 5% EWT difference of ₱1,500.00.[90]

On the other hand, while the following payees were included under "One Time Vendor", the related income payments do not match with those shown under "One Time Vendor". Without supporting documents such as invoices, receipts, and reconciliation schedule, the Court cannot ascertain whether these income payments pertain to the same transactions under "One Time Vendor". Thus, the deficiency EWT assessment on these income payments shall stand.

Supplier/Payee	Income Payment		No EWT	EWT Rate	EWT Due
	Per Summary List of Purchases	Monthly Alpha List of Payees			
MANSMITH AND FIELDERS	₱ 108,324.00	₱ 53,310.50	₱ 55,013.50	2%	₱1,100.27
MIKE TAN	234,672.33	120,561.33	114,111.00	15%	17,116.65
MULTIMEDIA EXPONENTS	5,592,783.83	2,809,147.53	2,783,636.30	2%	55,672.73
SULO HOTEL	111,489.79	69,371.00	42,118.79	2%	842.38
3J8 CAR ACCESSORIES SHOP	94,218.78		94,218.78	2%	1,884.38

Petitioner further claims that the BIR deficiency EWT schedule included the following payments to employees, representing reimbursement of expenses, which are not subject to withholding tax:[91]

	Amount
Abenojar, Noli Edgar	₱ 26,000.00
Ang, Esther Cathy	1,127,004.34
Bilo, Princess Manansala	22,926.72
De Clarin, Kristina	12,240.00
Galindez, Laurence	6,893.00
Mulimbayan, Angelita	10,043.60
Orobia, Ma. Angelina	14,705.88
Trinidad, Josephine M.	20,000.00

To support its stand, petitioner presented copies of actual reimbursements of its employees with other documents.[92]

The Court finds petitioner's contention unmeritorious.

[90] ₱30,000.00 x 15% less ₱3,000.00.
[91] Exhibit "QQ", Q&A no. 57.
[92] Exhibit "GG".

Of the above alleged reimbursements, those pertaining to Noli Edgar Abenojar, Angelita Mulimbayan, and Josephine M. Trinidad in the respective amounts of ₱26,000.00, ₱10,043.60, and ₱20,000.00 were not included in the BIR's deficiency EWT schedule.

As to the remaining purported reimbursements, only the reimbursement to Cathy Ang in the amount of ₱125.00 was supported, which does not even tie-up with the assessed amount of ₱1,127,004.34. Thus, the assessment on the alleged employee reimbursements shall not be disturbed.

Petitioner also points out that respondent erred in using EWT rate of 2% instead of 1% on its income payments to Pilipinas Shell Petroleum Corporation since the transaction entered into by petitioner with the former involved purchase of goods, specifically, various petroleum products.[93]

The Court does not agree.

Contrary to its assertion, petitioner used the EWT rates of 2% and 10% and the Alphanumeric Tax Codes (ATC) of WC120[94] and WC140[95], respectively, for some of its income payments to Pilipinas Shell Petroleum Corporation; which it subjected to withholding taxes as can be gleaned on its Monthly Alphalist of Payees[96]. Therefore and in the absence of contrary evidence, petitioner's income payments to Pilipinas Shell Petroleum Corporation in the total amount of ₱1,196,824.67 shall be subjected to the same 2% EWT rate as assessed by respondent.

Considering that petitioner failed to account, support or give justification to the remaining discrepancies, respondent's assessment on the same shall be sustained. It is well-settled that tax assessments by tax examiners are presumed correct and made in good faith, with the taxpayer having the burden of proving otherwise. Failure to present proof of error in the assessment will justify the judicial affirmance of said assessment.[97]

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[93] Exhibit "QQ", Q&A nos. 57 and 60.
[94] EWT on income payments to prime contractors/sub-contractors.
[95] EWT on gross commission or service fees of customs, insurance, stocks, real estate, immigration and commercial brokers, and fees of agents of professional entertainers.
[96] Exhibit "HH".
[97] *Marcos II vs. Court of Appeals, et al.,* G.R. No. 120880, June 5, 1997.

In fine, petitioner is still liable to pay basic deficiency EWT for CY 2007 in the total amount of ₱742,048.43 on income payments of ₱32,714,648.04, computed as follows:

Supplier	Income Payment			EWT Rate	Tax Due
	Per Summary List of Purchases	Monthly Alpha List of Payees	Without EWT		
A2F CARGO SERVICES, INC.	₱ 1,768,176.72	₱ 1,260,608.23	₱ 507,568.49	10%	₱ 50,756.85
AB COMMUNICATION	12,934,619.26	11,869,177.70	1,065,441.56	2%	21,308.83
ABS PROMOTION CORPORATION	51,757,161.71	51,427,836.32	329,325.39	2%	6,586.51
ACNIELSEN (PHILIPPINES), INC.	5,650,864.12	5,176,822.35	474,041.77	2%	9,480.84
BENJAMIN TANG	194,227.05	174,226.83	20,000.22	15%	3,000.03
DILIMAN SCIENCE RESEARCH INSTITUTE	81,200.00	8,800.00	72,400.00	1%	724.00
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DM9	4,863,891.83	4,858,892.00	4,999.83	2%	100.00
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JONATHAN BORJA	42,888.89	37,888.90	4,999.99	10%	500.00
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PRUDENTIAL GUARANTEE AND INSURANCE	3,480,973.23	3,269,145.94	211,827.29	2%	4,236.55
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STRESADING WATER SUPPLY TRADING	213,270.00	53,370.00	159,900.00	1%	1,599.00
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TOYOTA PASONG TAMO, INC.	1,944,515.19	1,929,515.71	14,999.48	2%	299.99
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ADBOARD	136,840.00		136,840.00	1%	1,368.40
ADHESIVE AND PAINTS APPLICATION SYSTEM	104,575.84		104,575.84	2%	2,091.52
ANG, ESTHER CATHY	1,127,004.34		1,127,004.34	15%	169,050.65
BANAHAW LUXURY TRANSPORT	22,400.00		22,400.00	2%	448.00
BILO, PRINCESS MANANSALA	22,926.72		22,926.72	15%	3,439.01

BRIOSO, EDNA	10,000.00		10,000.00	15%	1,500.00
BSET OPTION CONSSULTANT	102,500.00	54,000.00	48,500.00	2%	970.00
CARANDANG, EMILIANO	5,000.00		5,000.00	15%	750.00
CENTER FOR GLOBAL BEST PRACTICES	14,400.00		14,400.00	2%	288.00
CHINESE GENERAL HOSPITAL	50,000.00		50,000.00	2%	1,000.00
CORPORATE ACHIEVERS INSTITUTE	13,314.56		13,314.56	2%	266.29
DE CLARIN, KRISTINA	12,240.00		12,240.00	15%	1,836.00
ECOP	57,000.00		57,000.00	2%	1,140.00
GALINDEZ, LAURENCE	6,893.00		6,893.00	15%	1,033.95
GONZALES, ANA MARIE	30,000.00		30,000.00	15%	4,500.00
Less: Amt Remitted under "One Time Vendor"	(20,000.00)		(20,000.00)	15%	(3,000.00)
GSI PHILIPPINES, INC	11,000.00		11,000.00	2%	220.00
LA COMIDA	13,000.00		13,000.00	2%	260.00
LUMO, RYAN	28,925.00		28,925.00	15%	4,338.75
MANILA GALLERIA SUITES	1,078,554.46	972,439.29	106,115.17	2%	2,122.30
MDC ELECTRICAL CONTRACTOR	442,714.20		442,714.20	2%	8,854.28
NUTRACEUTICAL SYSTEMS INC	40,000.00		40,000.00	2%	800.00
OROBIA, MA. ANGELINA	14,705.88		14,705.88	15%	2,205.88
PADERNAL, ANDRES	20,000.00		20,000.00	15%	3,000.00
PANDAN SEAFOOD AND GRILL	43,837.50		43,837.50	1%	438.38
SPLASH PHARMACEUTICALS, INC.	18,317,681.17		18,317,681.17	1%	183,176.81
ZOOM IN PACKAGE INS	23,698.08		23,698.08	1%	236.98
TAGAYTAY HIGHLANDS INTERNATIONAL	23,658.42		23,658.42	2%	473.17
TOPNOTCH AWARDS AND NOVELTIES	123,500.00	32,850.00	90,650.00	2%	1,813.00
TOWER CLUB INC	19,250.00		19,250.00	2%	385.00
Deficiency EWT	**₱222,792,581.44**	**₱190,077,933.40**	**₱32,714,648.04**		**₱ 742,048.43**

It must be noted that while respondent's right to assess petitioner of deficiency EWT for the months of January to April 2007 had already prescribed, petitioner was unable to establish that the above income payments pertained to the months of January to April 2007. Thus, the total income payments of ₱32,714,648.04 shall be considered as pertaining to the months of May to December 2007.

II. DEFICIENCY INCOME TAX - ₱150,426,196.10

Respondent computed the deficiency income tax assessment for CY 2007 in the amount of ₱150,426,196.10, inclusive of interest, as follows:[98]

Taxable Income/(loss) per returns		₱ 134,592,153.00
Add (less) adjustment		
Net Taxable Income Claimed as Tax Exempt Under Republic Act No. 7459	₱ 175,486,383.00	
Discrepancy on Net Taxable Income per ITR and Audit	3,940,913.00	
Disallowed Cost of Sales from Crown Asia Properties, Inc.	33,335,564.00	

[98] Exhibit "Q".

Various income payments not subjected to EWT	34,800,115.79	247,562,975.79
Taxable Income/(loss) per investigation		₱ 382,155,128.79
Income Tax Due		₱ 133,754,295.08
Less: Tax credit/payments		
Prior Year's Excess Tax Credits	₱ 44,140,667.00	
Payments for the First Three Quarters	-	
Creditable Tax Withheld	13,918,677.86	
Tax Paid in Return Previously Filed	-	
Payment per returns	-	
Total Tax Credits/ Payments	58,059,344.86	
Less: Unsupported tax credit	-	
Tax Credits/Payments carried over as tax credit next year	10,952,091.45	47,107,253.41
Deficiency Income Tax		**₱ 86,647,041.67**
Add: 20% interest p.a. 04.16.08 to 12.20.11		63,779,154.43
Total Amount Payable		**₱150,426,196.10**

As can be seen from the foregoing computation, the assessment arose from the following items:

A. Net Taxable Income Claimed as Tax Exempt Under RA No. 7459	₱ 175,486,383.00
B. Discrepancy on Net Taxable Income per ITR and Audit	3,940,913.00
C. Disallowed Cost of Sales from Crown Asia Properties, Inc.	33,335,564.00
D. Various income payments not subjected to EWT	34,800,115.79
E. Disallowed Tax Credits/Payments carried over as tax credit next year	10,952,091.45

The above-enumerated items will be discussed *in seriatim*.

A. Net Taxable Income Claimed as Tax Exempt under RA No. 7459 – ₱175,486,383.00

Respondent's verification disclosed that petitioner declared the amount of ₱175,486,383.00 as exempt from income tax under RA No. 7459 otherwise known as the Inventors and Inventions Incentives Act of the Philippines. However, respondent alleges that the person entitled to the tax exemption is Dr. Rolando B. Hortaleza, being the registered inventor and under whose name the patent was registered and not Splash Corporation. Hence, the amount claimed as exempt from income tax was assessed pursuant to Sections 31 and 32 of the NIRC of 1997, as amended, and RA No. 7459. The assessed amount was arrived at by respondent as follows:[99]

[99] Exhibit "Q", Annex "A", Details of Discrepancies, item I.a.

Sales/Revenue/Receipts/Fees	₱	809,454,688.00
Cost of sales		388,436,784.00
Gross income	₱	421,017,904.00
Deductions		259,401,271.00
Taxable income per income tax returns	₱	161,616,633.00
Add: Adjustment to taxable income		13,869,750.00
Net taxable income on claimed exempt transaction	₱	175,486,383.00
Net income per books	₱	166,777,403.00
Add: Non-deductible expenses/other taxable income		
Provision for doubtful accounts - net of write off	₱	4,700,286.00
Provision for retirement expense		4,680,721.00
Provision for inventory obsolescence		268,847.00
Unrealized foreign exchange loss in 2007		3,404,174.00
Non-deductible portion of interest expense		1,478,767.00
Non-deductible portion of obsolete stock charges to cost of sales		482,896.00
Interest expense		90,632.00
Total	₱	15,106,323.00
Less: Non-taxable income and income subjected to final tax		
Interest income subjected to final tax	₱	2,819,822.00
Pension expense paid related to current service cost		1,818,100.00
Amortization of past service cost		777,034.00
MTM Gain on derivative asset		692,634.00
Unrealized foreign exchange loss in 2006 realized in 2007		289,753.00
Total	₱	6,397,343.00
Net taxable income per investigation	**₱**	**175,486,383.00**
Net taxable income per income tax return		161,616,633.00
Difference - adjustment to taxable income	**₱**	**13,869,750.00**

Section 6 of RA No. 7459 provides:

"SECTION 6. *Tax Exemption.* – To promote, encourage, develop and accelerate commercialization of technologies developed by local researchers or adapted locally from foreign sources including inventions, **any income derived from these technologies shall be exempted from all kinds of taxes during the first ten (10) years from the date of the first sale**, subject to the rules and regulations of the Department of Finance: **Provided, that this tax exemption privilege pertaining to invention shall be extended to the legal heir or assignee upon the death of the inventor.**

The technologies, their manufacture or sale, shall also be exempt from payment of license, permit fees, customs duties and charges on imports." *(Emphasis supplied)*

Records show that patented inventions of Dr. Hortaleza, which are being manufactured and sold by petitioner, are covered by Utility Model (UM) Registration Certificate No. 2-1997-15095[100], UM Registration Certificate No. 2-2001000110[101], UM Registration Certificate No. 2-2001-000291[102], UM Registration Certificate No. 2-2004-000075[103], UM Registration Certificate No. 2-2003-000284[104], UM Registration Certificate No, 1-2005-000239[105], and UM Registration Certificate No. 2-2007-000428[106]. Moreover, respondent in BIR Ruling Nos. 506-4004, 717-2006, 391-2007, 557-2007, 680-2007, 141-2008, 317-2008, 318-2008, 286-2008, and 430-2009 confirmed that pursuant to RA No. 7459, sales of the patented inventions of Dr. Hortaleza, which are being manufactured and sold by petitioner, are exempt from income tax for a period of ten (10) years from the date of its first sale on a commercial scale, to wit:

"In reply, please be informed that Section 6 of RA No. 7459 provides:

'Sec. 6. Tax Exemption. — To promote, encourage, develop and accelerate commercialization of technologies developed by local researchers or adapted locally from foreign sources including inventions, **any income derived from these technologies shall be exempted from all kinds of taxes during the first ten (10) years from the date of the first sale**, subject to the rules and regulations of the Department of Finance: **Provided, that this tax exemption privilege pertaining to invention shall be extended to the legal heir or assignee upon the death of the inventor.**

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[100] Exhibit "FFF-1".
[101] Exhibit "FFF-2".
[102] Exhibit "FFF-3".
[103] Exhibit "FFF-4".
[104] Exhibit "FFF-5".
[105] Exhibit "FFF-6".
[106] Exhibit "FFF-7".

> The technologies, their manufacture or sale, shall also be exempt from payment of license, permit fees, customs duties and charges on imports.'
>
> xxx xxx xxx
>
> The said exemption can be availed of during the first ten (10) years from the date of the first sale on a commercial scale, provided that said exemption privileges pertaining to the invention shall be extended to the legal heir or assignee upon the death of the inventor.
>
> It is important to note that the Final Resolution of the Office of the President (OP) in OP Case No. 03-G-422 dated February 2, 2004, affirming the finding of the Department of Finance denying the appeal of an inventor relative to his tax exemption privileges granted by this Office, clarifies that the only tax exemption granted by the first paragraph of Section 6 of RA 7459 merely refers to income tax."

Furthermore, in *Commissioner of Internal Revenue vs. Splash Corporation*[107], which involved the same parties in the present case, this Court held that petitioner, who is the manufacturer and seller of the inventions made by Dr. Hortaleza, is entitled to tax incentives under RA No. 7459 for the first 10 years from the date of first sale of the inventions involved.

Since the income of petitioner for CY 2007, in the total amount of ₱175,486,383.00, should have been exempt pursuant to RA No. 7459, the same must be cancelled in the assessment.

B. Discrepancy on Net Taxable Income per ITR and Audit – ₱3,940,913.00

Respondent's verification disclosed that petitioner's Taxable Income of ₱134,592,153.00 declared under Regular Rate in Part II of its Annual Income Tax Return[108] (AITR) for CY 2007 was understated by ₱3,940,913.00 when compared with Net Taxable Income of ₱138,533,066.00 reflected in Section E [Reconciliation of Net Income

[107] CTA EB No. 330, May 5, 2008.
[108] Exhibit "RRR-1".

Per Books Against Taxable Income] of the same AITR. Thus, pursuant to Sections 31 and 32 of the NIRC of 1997, as amended, respondent assessed petitioner for the corresponding deficiency income tax.[109]

Petitioner counter-argues that its net taxable income declared per AITR amounting to ₱134,592,153.00 is in order. To support its claim, petitioner presented a new schedule of Reconciliation of Net Income Per Books Against Taxable Income[110], which showed the following details:

	TOTAL	EXEMPT	REGULAR
Income before Income tax	₱272,047,715.01	₱168,143,317.42	₱103,904,458.59
Add: Non-Deductible Expenses/Other Taxable Income			
Provision for doubtful accounts		4,700,285.64	12,782,806.07
Provision for retirement expense		4,517,485.27	12,285,665.71
Provision for inventory obsolescence		268,831.01	731,107.62
Unrealized foreign exchange loss in 2007		3,285,456.21	8,935,063.29
Deficiency tax		2,705,440.96	7,357,665.00
Non-deductible interest expense		1,427,195.92	3,881,374.46
Interest expense from PAS 39		87,471.72	237,886.39
Non-deductible obsolete stock		466,055.20	1,267,474.73
		17,458,221.92	47,479,043.27
Less: Non-taxable income and income subjected to final tax			
Interest income subject to FT		2,721,82.91	7,401,292.38
MTM gain on derivative asset		668,478.99	
Unrealized foreign exchange loss in 2006 recognized in 2007		279,648.84	760,527.57
Pension expense paid related to current service cost		1,754,695.90	4,772,037.10
Amortization of past service cost		749,935.23	2,039,509.38
		6,174,241.87	16,791,348.98
Taxable income (loss)		179,427,297.47	134,592,152.88
Net taxable income per ITR			134,592,153.00
Difference			(0)

[109] Exhibit "Q", Annex "A", Details of Discrepancies, item I.b
[110] Exhibit "V"

The Court agrees with petitioner.

The Court notes that the net income per books of ₱272,047,715.00 reflected in the new reconciliation schedule tallies with the net income before income tax per petitioner's 2007 Audited Financial Statements (AFS), specifically, the Statement of Income[111]. Likewise, the reconciling items shown in the schedule represent valid non-taxable income or non-deductible expense items which can be traced to petitioner's 2007 AFS and AITR[112]. In other words, the discrepancy of ₱3,940,913.00 found by respondent was a mere result of the error made by petitioner under Section E [Reconciliation of Net Income Per Books Against Taxable Income] portion of its 2007 AITR. Thus, the deficiency income tax assessment on this item should be cancelled.

C. Disallowed Cost of Sales from Crown Asia Properties, Inc. – ₱33,335,564.00

On November 28, 2007, a Memorandum of Agreement on Joint Venture (MOA-JV)[113] was executed by and between petitioner and Crown Asia Properties, Inc. (Developer), wherein the Developer undertook to develop a parcel of land [with an aggregate area of two thousand fifteen (2,015) square meters] owned by petitioner into a mixed-use residential and commercial condominium project.

Under the MOA-JV, petitioner receives consideration (1) payable in cash amounting to ₱105,000,000.00 and (2) a minimum of 3,383.4 square meters of gross office/condotel areas and 26 parking slots or 7.5% of the condominium building, whichever is greater. The cash consideration is collectible as follows: November 30, 2007 - ₱30 million and ₱18.75 million in each of the quarters ending March 31, 2007, June 30, 2008, September 30, 2008 and December 31, 2008.[114]

In 2007, petitioner accounted for the cash component of the payment by the Developer as sale of land using the "cost recovery method". Accordingly, sales and cost of sales both amounting to *Je*

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[111] Exhibit "Y".
[112] Exhibit "X".
[113] Exhibit "W".
[114] Exhibit "Y", Notes to Financial Statements, Note 11.

₱105 million has been recognized in the 2007 statement of income.[115] Likewise, in its 2007 AITR, petitioner recognized the amount of ₱105 million both as part of its Sales Revenues of ₱2,201,377,342.00[116] and Cost of Sales of ₱1,081,726,765.00.[117]

Respondent opined that since petitioner will receive two separate and distinct considerations for its land, the acquisition cost of the land should be allocated to the two transactions in accordance with RR No. 02-40. Thus, respondent computed the allocation and the resulting disallowable cost of sales in the amount of ₱33,335,564.00 in the following manner:[118]

Total Cost of Land to be allocated:

Acquisition Cost per Books	₱ 241,800,000.00
Less: Overstatement of Acquisition Cost	10,075,000.00
Acquisition Cost per Deed of Sale	231,725,000.00
Add: Capitalized Incidental Charges	7,156,454.00
Cost of Parcel of Land to be Allocated	**₱ 238,881,454.00**

Assigned Value to the Condominium Units to be received:

Per agreement, Splash Corporation shall receive 3,383.4 sq. m. of the office/condotel areas and 26 parking slots or 7.5% of the condominium building, whichever is greater.

No. of sq. m. of office/condotel areas	3,383.40
Add: No. of sq. m. of 12 parking lots at 12 sq. m. each	312.00
Total no. of sq. m. of office/condotel/parking slots	3,695.40
Multiply by zonal value per sq. m.	₱ 65,000.00
Assigned value to the condominium units to be received	**₱240,201,000.00**

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115 Exhibit "Y", Notes to Financial Statements, Note 11.
116 Exhibit "RRR-1", line 15C.
117 Exhibit "RRR-1", line 16C.
118 Exhibit "Q", Annex "A", Details of Discrepancies, item I.c.

Attribution of the Cost of Land:

	Values	Percentage
Assigned value of the condominium units to be received	₱ 240,201,000.00	70%
Cash consideration of intangible property	105,000,000.00	30%
Total consideration in exchange of land	**₱345,201,000.00**	**100%**

Cost of Parcel of Land to be allocated as follows:

	Values	Percentage
Cost of condominium units	₱ 167,217,018.00	70%
Cost of intangible property	71,664,436.00	30%
Cost of parcel of land	**₱238,881,454.00**	**100%**

Disallowed Cost of Sales:

Cash consideration of intangible property	₱ 105,000,000.00
Allocated cost of sales of the intangible property	71,664,436.00
Disallowed cost of sales	**₱33,335,564.00**

Petitioner contends that its contribution of parcel of land to the joint venture project with Crown Asia does not constitute a sale of property in the course of trade or business, but a capital contribution to the project. Moreover, it cited a portion of BIR Ruling (DA-221-08) sought by Crown Asia[119], wherein the BIR ruled that:

> "The MOA-JV executed between the LANDOWNER and DEVELOPER described above is an agreement between the parties for the construction and development of the aforementioned parcel of land into a mixed-use residential and commercial condominium project which is **neither a contract of sale over real property nor an instrument which conveys title to real property.** xxx" *(Emphasis supplied)*

The Court is not persuaded.

[119] Exhibit "OO".

Based on "Note 11 – Land for Development" of the 2007 Audited Financial Statements[120], petitioner has expressly stated that the said land is currently **held for sale to Crown Asia Properties, Inc.** under a Memorandum of Agreement (MOA) dated November 28, 2007. It was also stated in Note 11 that the Company accounted for the cash component of the payment by the developer, which was discussed earlier, as a **sale of land**, using the "cost recovery method".

With regard to BIR Ruling (DA-221-08), the opinion of the Commissioner reads as follows:

> "2.The allocation and distribution of the resulting net saleable floor area to the LANDOWNER and DEVELOPER in accordance with their respective equity contributions as stipulated in the Deed of Partition is not subject to income tax, withholding tax or capital gains tax, **since the allocation/distribution is without consideration**, not in connection with a sale and constitutes mere return of capital. Likewise, the said allocation and distribution is not subject to DST for want of consideration.
>
> xxx xxx xxx
>
> This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void." *(Emphasis supplied)*

From the foregoing ruling, it can be seen that respondent based her opinion on the presumption that the MOA-JV executed by the parties does not involve any consideration, which is not actually the case, because aside from the office/condotel units and parking slots, the amount of ₱105,000,000.00 was a consideration paid by Crown Asia to petitioner in exchange for the land.

Therefore, in the absence of evidence to the contrary, the Court finds that the subject transaction involves a sale of land and not a mere capital contribution to the joint venture. In fact, petitioner treated the entire cash consideration of ₱105,000,000.00 *ge*

[120] Exhibit "Y".

as part of it Sales Revenues for taxable year 2007, and reported the corresponding Cost of Sales for the same amount.

However, as correctly pointed out by respondent, the cost of the land is attributable not only to the cash consideration of ₱105,000,000.00 but also to the 7.5% share in office/condotel units and parking slots that petitioner will receive from said Developer upon completion of the Project. Consequently, the said cost must be allocated between the cash consideration of ₱105,000,000.00 and the 7.5% share in office/condotel units and parking slots. This is in accordance with the "Matching Principle" under the Generally Accepted Accounting Principles (GAAP) which dictates that for every revenue, there should be a matching cost/expense to be recognized. Costs directly associated with the revenue of a particular taxable period are properly allocable to that period.[121]

As a result, the Court holds that respondent's finding with respect to disallowed Cost of Sales in the amount of ₱33,335,564.00 should be upheld.

D. Various income payments not subjected to EWT – ₱34,800,115.79

Based on the finding that petitioner failed to withhold and remit the EWT on certain income payments in the amount of ₱34,800,115.79 as required under RR No. 02-98, respondent disallowed the said amount as deduction from petitioner's taxable gross income pursuant to Section 34(K) of the NIRC of 1997, as amended.

As earlier discussed under the deficiency EWT assessment, petitioner failed to prove that it properly withheld and remitted the EWT due on its income payments of ₱32,714,648.04 as required under RR No. 02-98, as amended. Consequently, the said amount shall be disallowed from petitioner's claimed deductible expenses pursuant to Section 34(K) of the NIRC of 1997, as amended, which states that:

> "(K) *Additional Requirements for Deductibility of Certain Payments*. – Any amount paid or payable which is otherwise deductible from, or taken into account in

[121] Merten's *The Law of Federal Income Taxation,* Section 12A.101, Volume 2, (1995).

computing gross income or for which depreciation or amortization may be allowed under this Section, shall be allowed as a deduction only if it is shown that the tax required to be deducted and withheld therefrom has been paid to the Bureau of Internal Revenue in accordance with this Section, sections 58 and 81 of this Code."

E. Disallowed Tax Credits/Payments carried over as tax credit the next year – ₱10,952,091.45

Respondent disallowed the amount of ₱10,952,091.45 representing the excess income tax credits carried over to the succeeding year 2008. However, no legal and factual bases were provided in the Details of Discrepancies[122] to justify the disallowance of such amount.

Despite petitioner's failure to refute the same, the Court finds it improper to uphold an assessment which is already void on its face. Section 228 of the NIRC of 1997, as amended, provides that the taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

Further, it was improper for respondent to disallow the said excess tax credits because any tax benefit derived by petitioner from the carry-over of the said amount redounds to the succeeding year 2008. Since the tax benefit will be in the succeeding year, at most, petitioner may only be assessed in the said succeeding year.

In sum, petitioner is liable for basic deficiency income tax for CY 2007 in the amount of ₱12,165,482.90, computed as follows:

Taxable Income Per Return		₱ 134,592,153.00
Add (less) adjustments:		
Disallowed Cost of Sales from Crown Asia Properties, Inc.	₱ 33,335,564.00	
Various income payments not subjected to EWT	32,714,648.04	66,050,212.04
Taxable Income/(loss) per investigation		₱ 200,642,365.04
Income Tax Due		₱ 70,224,827.76
Less: Tax credits		
Prior Year's Excess Tax Credits	₱ 44,140,667.00	

ﾠ[122] Exhibit "Q".

Creditable Tax Withheld	13,918,677.86	
Total Tax Credits		58,059,344.86
Basic Deficiency Income Tax		**₱12,165,482.90**

III. DEFICIENCY VALUE-ADDED TAX – ₱40,924,784.91

Respondent computed the deficiency VAT assessment in the amount of ₱40,924,784.91 by adding adjustments to petitioner's taxable sales/receipts/revenues per VAT returns for the year 2007, consisting of (A) undeclared sales to HBC in the amount of ₱77,867,333.19, and (B) cash sale from Crown Asia Properties, Inc. in the amount of ₱105,000,000.00; and by disallowing petitioner's unsupported input tax in the amount of ₱1,487,742.89, as shown below:[123]

Taxable Sales/Receipts/Revenues per return			₱ 2,654,619,537.49
Add (Less) Adjustments:			
Undeclared Sales to HBC		₱ 77,867,333.19	
Cash sale from Crown Asia Properties, Inc.		105,000,000.00	182,867,333.19
Taxable Sales/Receipts/Revenues per investigation			₱ 2,837,486,870.68
Output Tax			340,498,424.48
Add: Output tax for the 4th Quarter			2,906,093.75
Total			343,404,518.23
Less: Input tax		₱257,996,086.81	
Creditable VAT		-	
Carry over from previous period	-		
Less: Deferred VAT carried over to 2007	-	-	
Total		257,996,086.81	
Less: Carry forward to next quarter	-		
Unsupported input tax	₱1,487,742.89	1,487,742.89	256,508,343.92
VAT Payable			86,896,174.31
Less: Payments			63,910,016.68
Deficiency VAT due			22,986,157.63
Add: 20% interest p.a. 01.26.08 to 12.20.11			17,938,627.28
Total Amount Payable			**₱ 40,924,784.91**

[123] Exhibit "Q".

A. Undeclared sales to HBC – ₱77,867,333.19

Respondent's verification disclosed that there is a discrepancy between petitioner's sales to HBC declared under Note 17 – Related Party Transactions of the AFS for taxable year 2007[124], and the reported sales to HBC per Summary List of Sales (SLS).[125] Hence, the reported revenue for VAT purposes was allegedly understated by ₱77,867,333.19 and thereby assessed pursuant to Sections 106 and 108 of the NIRC of 1997, as amended. The same was computed as follows:[126]

Sales to HBC per Note 17 of 2007 AFS	₱ 148,071,540.00
Sales to HBC per SLS	70,204,206.81
Difference	**₱77,867,333.19**

Since prescription had set in, respondent's right to assess petitioner of deficiency VAT would only be limited to the 2nd, 3rd, and 4th quarters of 2007. Thus, from the sales discrepancy of ₱77,867,333.19 found by respondent, the amount of ₱10,634,706.68, broken down below, pertaining to the 1st quarter of 2007 shall be taken out:

Prescribed Sales to HBC per Note 17 of 2007 AFS					
	Date	**Gross Sales**	**Sales Discounts**	**Net Sales**	**Invoice Exhibit No.**
	3/15/2007	₱ 27,975.01	₱ 1,107.82	₱ 26,867.19	HHH-1
	3/15/2007	54,234.64	2,147.70	52,086.94	HHH-2
	3/15/2007	509,456.26	77,055.27	432,400.99	HHH-3
	3/15/2007	45,948.22	6,949.67	38,998.55	HHH-4
	3/16/2007	6,621.43	1,001.49	5,619.94	HHH-5
	3/16/2007	249,822.33	37,785.64	212,036.69	HHH-6
	3/21/2007	2,318,448.20	350,665.38	1,967,782.82	HHH-7
	3/23/2007	358,200.00	54,177.76	304,022.24	HHH-8
	3/23/2007	20,250.00	3,062.81	17,187.19	HHH-9
	3/23/2007	131,400.00	19,874.25	111,525.75	HHH-10
	3/28/2007	38,142.86	5,769.11	32,373.75	HHH-11
	3/30/2007	162,306.95	6,427.38	155,879.57	HHH-12
	3/30/2007	444,948.21	17,619.96	427,328.25	HHH-13
	3/30/2007	3,551,145.58	540,150.56	3,010,995.02	HHH-14
	3/30/2007	98,228.57	14,857.07	83,371.50	HHH-15
	3/30/2007	489,535.74	74,042.29	415,493.45	HHH-16
	3/30/2007	215,196.42	32,548.46	182,647.96	HHH-17
	3/31/2007	1,022,726.75	154,687.39	868,039.36	HHH-18

[124] Exhibit "Y".
[125] Exhibit "BB".
[126] Exhibit "Q", Annex "A", Details of Discrepancies, item II.a.

	3/31/2007	192,540.75	7,624.61	184,916.14	HHH-19
	3/31/2007	1,744,963.37	263,925.73	1,481,037.64	HHH-20
	3/31/2007	639,160.71	96,673.06	542,487.65	HHH-21
	3/31/2007	144,642.86	21,877.23	122,765.63	HHH-22
	3/31/2007	73,232.14	2,900.00	70,332.14	HHH-23
	3/31/2007	33,637.50	5,087.68	28,549.82	HHH-24
	3/31/2007	37,050.00	1,467.18	35,582.82	HHH-25
	3/31/2007	22,982.14	3,476.05	19,506.09	HHH-26
	3/31/2007	288,335.29	52,297.94	236,037.35	HHH-27
	3/31/2007	552,993.76	83,640.30	469,353.46	HHH-28
	3/31/2007	132,332.14	20,015.24	112,316.90	HHH-29
	3/31/2007	213,557.15	32,300.53	181,256.62	HHH-30
	TOTAL	**₱13,820,014.98**	**₱1,991,215.56**	**₱11,828,799.42**	
	Less: Net Returns				
	Date	**Gross Returns**	**Returns Discounts**	**Net Returns**	**Credit Memo Exhibit No.**
	2/14/2007	₱113,335.71	₱14,166.96	₱99,168.75	JJJ-1
	2/14/2007	4,117.42	514.68	3,602.74	JJJ-2
	2/14/2007	1,177.47	147.18	1,030.29	JJJ-3
	2/14/2007	3,393.04	424.13	2,968.91	JJJ-4
	2/14/2007	2,920.53	365.07	2,555.46	JJJ-5
	2/14/2007	491.29	61.41	429.88	JJJ-6
	2/14/2007	1,104.42	138.05	966.37	JJJ-7
	2/14/2007	3,059.87	382.48	2,677.39	JJJ-8
	2/14/2007	1,400.09	175.01	1,225.08	JJJ-9
	2/14/2007	4,101.61	512.70	3,588.91	JJJ-10
	2/20/2007	4,509.10	563.64	3,945.46	JJJ-11
	TOTAL	₱139,610.55	₱17,451.31	**₱122,159.24**	
GRAND TOTAL				**11,706,640.18**	
Prescribed Sales to HBC per SLS 2007 (Exhibit "Z")					
	2007	**Gross Sales**	**Sales Returns / Discounts**	**Net Sales**	
	January	₱12,963,064.18	₱1,960,663.45	₱11,002,400.73	
	February	13,937,986.99	2,230,262.83	11,707,724.16	
	March	14,696,215.25	36,334,406.64	(21,638,191.39)	
	TOTAL	₱41,597,266.42	₱40,525,332.92	**₱1,071,933.50**	
Difference				**₱10,634,706.68**	

Consequently, only the remaining sales discrepancy of ₱67,232,626.51 pertaining to the last three quarters of 2007 may be the subject of respondent's assessment, computed as follows:

	Per FAN	Less: Prescribed (1st Qtr 2007)	Unprescribed (2nd, 3rd and 4th Qtrs. 2007)
Sales to HBC per Note 17 of 2007 FS	₱ 148,071,540.00	₱ 11,706,640.18	₱ 136,364,899.82
Sales to HBC per SLS	70,204,206.81	1,071,933.50	69,132,273.31
Difference	**₱77,867,333.19**	**₱10,634,706.68**	**₱67,232,626.51**

Petitioner claims that the difference does not amount to undeclared sales because sales to HBC as reflected in Note 17 of the 2007 Notes to AFS, represent gross sales; whereas, the sales reported in the SLS represent net sales, *i.e.*, gross sales *less* discounts and returns.[127] In support thereof, petitioner presented the Schedule of Net Sales to HBC[128] for the year 2007 and the related Sales Invoices to HBC[129], Credit Memos[130] for returns by HBC, and GL/SAP Reference – Sales Journal[131].

Upon examination of the Sales Invoices and Credit Memos as recorded in the GL/SAP References, the Court found that net sales (gross sales less sales discounts less net returns) to HBC for the last three quarters of 2007 as reported in Note 17 of the 2007 Notes to AFS amounted to ₱58,374,410.39 which when compared with that reflected per petitioner's net sales per petitioner's SLS in the amount of ₱69,132,273.31 would show an unaccounted difference of ₱10,757,862.92, computed as follows:

Gross Sales[132]	₱ 149,888,915.25	₱ 13,820,014.98	₱ 136,068,900.27
Less: Sales Discounts[133]	(21,863,801.09)	(1,991,215.56)	(19,872,585.53)
Net Returns[134]	(57,944,063.59)	(122,159.24)	(57,821,904.35)
Net Sales per Note 17 of the 2007 Notes to AFS	₱ 70,081,050.57	₱ 11,706,640.18	₱ 58,374,410.39
Net Sales per SLS			69,132,273.31
Unaccounted Difference			**₱(10,757,862.92)**

For failure to account for the HBC sales discrepancy of ₱10,757,862.92, petitioner shall be assessed of the corresponding deficiency VAT.

127 Exhibit "QQ", Q&A no. 47.
128 Exhibit "Z".
129 Exhibits "HHH-1" to "HHH-212".
130 Exhibits "JJJ-1" to "JJJ-625".
131 Exhibits "LLLL-1" to "LLL-439" and "MMM-1" to "MMM-661".
132 See Annex A.
133 See Annex A.
134 See Annex B.

B. Cash Sale from Crown Asia Properties, Inc. – ₱105,000,000.00

This assessment was based on the same finding under the deficiency income tax assessment (item II.C) that the cash consideration received by petitioner under the MOA-JV it entered with Crown Asia Properties, Inc. represents proceeds from petitioner's sale of land to the former.

Petitioner claims that this assessment is baseless considering that the sale of properties was not consummated. According to petitioner, the initial payment of Thirty Million Pesos (₱30,000,000.00) in 2007 is not tantamount to a consummated sale to warrant the imposition of VAT on the transaction, much less on the ₱105 Million. Petitioner points out that Section 105, in relation to Sections 106 and 108 of the NIRC of 1997, as amended, provides that VAT is imposed on any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, or engages in similar transactions, and/or any person who imports goods and that the phrase "in the course of trade or business" requires the "regular conduct or pursuit of a commercial or an economic activity".[135] Petitioner further asserts that it is engaged in the manufacture and sale of personal care products.

Petitioner explains that VAT becomes due when the following conditions occur: (a) there is a sale, barter, exchange, transfer or similar transaction, either for nominal or valuable consideration, intended to transfer ownership, and; (b) the sale is consummated, not merely perfected. Allegedly, the transaction between petitioner and the Developer does not constitute a sale. Therefore, pursuant to BIR Ruling (DA-221-08), the MOA executed between the Landowner and the Developer is neither a contract of sale over real property nor an instrument which conveys title to real property.

Petitioner maintains that the said transaction lacks the elements of a sale as provided for in Article 1458 of the New Civil Code, thus: *[initials]*

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[135] *Commissioner of Internal Revenue vs. Court of Appeals, et al.*, G.R. No. 125355, March 30, 2000.

> "ART. 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent. xxx"

Petitioner states that, as thus defined, the essential elements of sale are the following: (a) consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price; (b) determinate subject matter; and (c) price certain in money or its equivalent. Petitioner argues that not all the essential elements of a contract of sale is present since it has no intention to transfer outright the ownership of the subject property to Crown Asia to warrant the imposition of VAT on the ₱105,000,000.00 cash consideration received from Crown Asia.

The Court finds for respondent.

Section 105 of the NIRC of 1997, as amended, provides:

> "SEC. 105. *Persons Liable.* – Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.
>
> The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of Republic Act No. 7716.
>
> **The phrase '*in the course of trade or business*' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.**

> The rule of regularity, to the contrary, notwithstanding, services as defined in this Code rendered in the Philippines by non-resident foreign persons shall be considered as being rendered in the course of trade or business." *(Emphasis supplied)*

From the foregoing provisions, it is clear that the phrase "regular course of trade or business", for all intents and purposes, is not confined to the primary business that a taxpayer is engaged in – in this instant case, manufacturing and sale of personal care products – but is an all-encompassing phrase pertaining to the pursuit of business opportunities that produce profits for petitioner (economic activity), including those which are merely incidental to petitioner's trade and industry.

In the case of *CS Garments, Inc. vs. Commissioner of Internal Revenue*[136], the CTA *En Banc* defined the phrase "in the course of trade or business", as follows:

> "xxx A transaction will be characterized as having been entered into by a person in the course of trade or business if it is: (1) regularly conducted; and (2) undertaken in pursuit of a commercial or economic activity. Likewise, transactions that are made incidental to the pursuit of a commercial or economic activity are considered as entered into in the course of trade or business. 'Incidental' means something else as primary; something necessary, appertaining to, or depending upon another, which is termed the principal. Hence, an isolated transaction is not necessarily disqualified from being made incidentally in the course of trade or business.
>
> xxx xxx xxx
>
> Once an activity has been identified as a business, any supply [sale] made while carrying it on is likely to be made in the course or furtherance of business. No distinction is made between capital and revenue items. Thus, a supply [sale] in the course or furtherance of business includes: (1) *the disposition of the assets and*

[136] CTA EB No. 287, January 14, 2008.

> *liabilities of a business*; (2) the disposition of a business as going concern; and (3) anything done in connection with the termination or intended termination of a business."

Moreover, the Supreme Court, in the case of *Mindanao II Geothermal Partnership vs. Commissioner of Internal Revenue*,[137] finally settled the issue as to whether an isolated transaction, such as the sale of a motor vehicle by a person not regularly engaged in this business, partakes the nature of an incidental transaction and as such, shall be subject to VAT, to wit:

> "Mindanao II's sale of the Nissan Patrol is said to be an isolated transaction. However, it does not follow that an isolated transaction cannot be an incidental transaction for purposes of VAT liability. Indeed, a reading of Section 105 of the 1997 Tax Code would show that a transaction 'in the course of trade or business' includes 'transactions incidental thereto.' Mindanao II's business is to convert the steam supplied to it by PNOC-EDC into electricity and to deliver the electricity to NPC. In the course of its business, Mindanao II bought and eventually sold a Nissan Patrol. Prior to the sale, the Nissan Patrol was part of Mindanao II's property, plant, and equipment. Therefore, the sale of the Nissan Patrol is an incidental transaction made in the course of Mindanao II's business which should be liable for VAT."

Clearly, from the foregoing, petitioner's sale of land to Crown Asia Properties, Inc. is an incidental transaction which should be subject to 12% VAT.

With regard to petitioner's contention that the essential element of a sale which is to transfer the ownership and to deliver a determinate thing is not present in the said transaction, the Court is still not persuaded.

We wish to point out that a portion of the said MOA-JV states:

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[137] G.R. Nos. 193301 and 194637, March 11, 2013.

"III.
CONTRIBUTION OF THE PARTIES

> 3.1 **The LANDOWNER shall contribute all right, title and interest in the Property. It shall transfer to the DEVELOPER the physical possession of the Property** upon payment of the total amount of PESOS: THIRTY MILLION (Php 30,000,000.00) on November 30, 2007 and provide the DEVELOPER unhampered access thereto for purposes of the development of the Project.
>
> 32. The DEVELOPER shall be responsible for the planning, conceptualizing, design, construction and financing of the Project in accordance with the terms of this Agreement." *(Emphasis Supplied)*

Even though the stipulation in the MOA did not explicitly state that petitioner will transfer ownership to the Developer, the Court finds that petitioner did not present any other evidence to prove that the transfer was not really a consummation of the sale. In fact, as previously discussed, petitioner itself reported the said transaction in the AFS[138] and AITR[139] for 2007 as a Sale of Land.

Hence, the sudden insistence of petitioner that the transfer of land to the Developer does not actually constitute a sale, without corroborating evidence to support the same, is not convincing. As a result, respondent's basic deficiency VAT assessment on the sale or transfer of land by petitioner to Crown Asia Properties, Inc. pursuant to the MOA-JV dated November 28, 2007 should be upheld.

C. Output Tax – ₱2,906,093.75

According to respondent, her investigation revealed that per petitioner's books of accounts and financial statements, VAT payable for the fourth quarter is ₱11,058,901.00 but what was paid in petitioner's 4th Quarter VAT Return was only for ₱8,152,807.25[140]. Hence, the unpaid VAT of ₱2,906,093.75, as computed below, was

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[138] Exhibit "Y", Statement of Income and Notes to Financial Statements, Notes 11 and 23.
[139] Exhibit "RRR-1", line 15C.
[140] Exhibit "DD", Line 26E.

assessed pursuant to Section 110(B), in relation to Section 106, of the NIRC of 1997, as amended:[141]

VAT payable per AFS	₱ 11,133,496.00
Less: Input tax balance	74,595.00
VAT payable 4th Quarter return	₱ 11,058,901.00
Less: VAT paid per 4th Quarter Return	8,152,807.25
VAT Payable for the 4th Quarter	**₱2,906,093.75**

On the other hand, petitioner contends that the alleged output tax deficiency was presumed by the BIR simply by comparing VAT paid versus output tax balance reflected per financial statements. Petitioner claims that said discrepancy is attributable to adjusting or reclassification entries not related to December VAT transaction per books.[142]

To support its argument, petitioner presented before the Court its Schedule of Computation of VAT Payable for the 4th Quarter of 2007 as Exhibit "CC".

Petitioner also alleges that what respondent failed to take into account is the fact that the balance of VAT payable per petitioner's financial statements for CY 2007 included other items not forming part of output VAT liability for that particular year.[143] Thus, the balance of VAT payable in the FS in the amount of ₱11,133,496.00 is supposedly overstated.[144]

Petitioner notes that the balance of VAT payable reported in its FS for taxable year 2007 was arrived at after considering erroneous adjusting entries made in 2007 affecting the balance of VAT payable account. Petitioner reconciled the discrepancy as follows:[145]

VAT Payable per 2007 FS	**₱11,133,496.74**
Reconciling items:	
1. VAT on subsequent sales return	1,738,618.68
2. VAT on set up charges to supplier	(1,496,298.01)
3. Adjusting entries to deduct SNC transactions & balances	(10,513,544.68)
4. Reversal of entries previously booked pertaining to SNC balances	7,107,030.35
5. Erroneous entry on bank reconciling item	(180,286.90)
6. Erroneous entry on bank reconciling item	360,573.80

[141] Exhibit "Q", Annex "A", Details of Discrepancies, item II.c.
[142] Petition for Review, docket, p. 33.
[143] Docket, pp. 1735-1737.
[144] Exhibit "U4", Q&A no. 8.
[145] Exhibit "U4", Q&A no. 9.

7. For reclassification to other account	3,217.27
VAT Payable, as corrected	**₱ 8,152,807.25**
VAT paid in 4th Quarter VAT return	8,152,807.25
Difference	**₱ 0.00**

The Court is not convinced.

It is evident from the above reconciliation that the audited and adjusted amount of VAT payable is ₱11,133,496.74, and therefore, it is the amount that should have been reported for tax purposes after considering all adjustments affecting the year 2007.

It should be noted that the audited financial statements were dated May 9, 2008,[146] which is later than the date when petitioner filed its amended 4th Quarterly VAT Return on April 30, 2008.[147] Therefore, it cannot be said that the amount of ₱8,152,807.25, which was earlier reported, is the adjusted amount.

In the absence of documentary proof that the adjustments made by the external auditor are indeed erroneous, the Court finds that respondent's assessment should be upheld.

D. Unsupported input tax – ₱1,487,742.89

Invoking Section 113 of the NIRC of 1997, as amended, respondent disallowed petitioner's claimed input taxes in the amount of ₱1,487,742.89, as computed below, for being unsupported:[148]

Input taxes per VAT returns	₱ 254,644,327.81
Input taxes per Summary List of Purchases	254,022,908.85
Unsupported input tax credits	₱ 621,418.96
Input taxes claimed under One Time Vendor with TIN No. 000-000-000-001 (per Summary List of Purchases)	866,323.93
Total disallowed input taxes	**₱ 1,487,742.89**

Petitioner insists that it did not err in recording its input taxes under One Time Vendor. According to petitioner, it recorded and claimed input taxes with duly supported VAT invoices and receipts.[149]

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[146] Exhibit "Y".
[147] Exhibit "DD".
[148] Exhibit "Q", Annex "A", Details of Discrepancies, item II.d.
[149] Petition for Review, docket, p. 33.

To support its claim, petitioner submitted as evidence a detailed Schedule[150] of Payees under One Time Vendor.

However, it must be noted that petitioner only provided the Court with the Company-prepared schedule, and not with the corroborating VAT sales invoices and official receipts representing its purchases for the year 2007. It bears stressing that pursuant to Section 110(A), in relation to Section 113(A), of the NIRC of 1997, as amended, the input tax must be supported by VAT sales invoice (in the case of purchase of goods or properties) and VAT official receipt (in the case of purchase of services). Without the invoices or official receipts, petitioner's claimed input taxes in the amount of ₱1,487,742.89 cannot be credited or applied against its output tax for taxable year 2007.

While respondent's right to assess petitioner of deficiency VAT for the 1st quarter of 2007 had already prescribed, petitioner was unable to point out which portion of this assessment pertains to the 1st quarter of 2007. Thus, the entire assessment shall be considered as pertaining to the four quarters of 2007.

In sum, petitioner is liable for basic deficiency VAT for CY 2007 in the amount of ₱14,933,021.20, computed as follows:

Taxable Sales/Receipts/Revenues per return		₱ 2,654,619,537.49
Add: Adjustments		
Undeclared sales to HBC	₱ 10,757,862.92	
Cash sale from Crown Asia Properties, Inc.	105,000,000.00	115,757,862.92
Taxable Sales/Receipts/Revenues per investigation		2,770,377,400.41
Output Tax		332,445,288.05
Add: Output tax for the 4th quarter		2,906,093.75
Total		335,351,381.80
Less: Input tax	₱257,996,086.81	
Less: Unsupported input tax	1,487,742.89	256,508,343.92
VAT Payable		78,843,037.88
Less: Payments		63,910,016.68
Deficiency VAT due		**14,933,021.20**

IV. DEFICIENCY PERCENTAGE TAX – ₱ 18,178,585.33

[150] Exhibit "EE".

Respondent claims that petitioner filed its Percentage Tax Return and paid the corresponding tax due only on March 26, 2008 relative to its sale of shares of stock through initial public offering on November 15, 2007. According to respondent, the return should have been filed and tax should have been paid on or before December 15, 2007 pursuant to Section 127 of the NIRC of 1997 and RR No. 06-08. Thus, respondent assessed petitioner of 25% surcharge, 20% interest, and compromise penalty totalling ₱18,178,585.33, computed as follows:[151]

Proceeds from Primary Share Offer		
Net proceeds		₱1,608,182,348.00
IPO cost		87,673,652.00
Tax Base		1,695,856,000.00
Tax Rate: Over 25% but not over 33 1/3 %		2%
Tax Due		33,917,120.00
Add: 25% Surcharge	₱8,479,280.00	
20% interest p.a. 12.16.07 to 03.26.08	1,882,400.16	
Compromise Penalty	50,000.00	10,411,680.16
Total Tax Payable on March 26, 2008		**44,328,800.16**
Less: Tax paid		**33,917,120.00**
Balance as of March 26, 2008		10,411,680.16
Add: Interest from March 27, 2008 to December 20, 2011		7,766,905.17
Total Amount Due and Collectible		**₱18,178,585.33**

In its letter-request[152] and attached Application for Abatement or Cancellation of Tax, Penalties and/or Interest (BIR Form No. 2110) filed with respondent on July 5, 2011, petitioner voluntarily offered to pay the amount of ₱1,895,641.78 representing 20% interest charges from December 14, 2007 to March 26, 2008 but requested the abatement/cancellation of surcharges and penalties incident to the late filing and payment of percentage tax on its sale of shares of stock through IPO on November 15, 2007.

However, records show that no evidence was presented to prove that petitioner's application for abatement or cancellation of the surcharge and penalties was approved and granted by respondent. Thus, the Court finds that the assessment should be upheld except for the compromise penalty.

Section 127(C)(2) of the NIRC of 1997, as amended, provides that the Percentage Tax Return must be filed within thirty (30) days from the date of listing of the shares of stock in the local stock

[151] Exhibit "Q", Annex "A", Details of Discrepancies, item IV.
[152] Exhibit "LL".

exchange. For its IPO of common shares on November 15, 2007[153], petitioner should have filed the return and paid the corresponding tax on or before December 15, 2007. For its belated filing of the Percentage Tax Return and payment of corresponding tax due on March 26, 2008,[154] petitioner shall be held liable to pay 25% surcharge and 20% interest from December 15, 2007 to March 26, 2008 amounting to ₱10,374,921.78, as computed below, pursuant to Sections 248(A)(1) and 249(B) of the NIRC of 1997, as amended:

Basic Tax Due	₱ 33,917,120.00
25% Surcharge	₱ 8,479,280.00
20% Deficiency Interest (P33,917,120 x 102/365 days x 20%)	1,895,641.78
Total	**₱10,374,921.78**

V. COMPROMISE PENALTIES – ₱62,000.00

In addition to the compromise penalty of ₱50,000.00 included in the deficiency percentage tax assessment, the amount of ₱12,000.00[155] was imposed by respondent against petitioner for non-filing of Summary List of Importation and Summary Alpha List of Withholding Taxes (SAWT). However, such imposition cannot be sustained.

Pursuant to RMO No. 01-90, as amended by RMO No. 19-07, compromise penalties are only suggested in settlement of criminal liability, and may not be imposed or exacted on the taxpayer in the event that a taxpayer refuses to pay the same. It is well-settled that the Court has no jurisdiction to compel a taxpayer to pay the compromise penalty because by its very nature, it implies a mutual agreement between the parties in respect to the thing or subject matter that is so compromised, and the choice of paying or not paying it distinctly belongs to the taxpayer.[156] In the instant case, there was nothing in the records which would show that petitioner consented to the compromise penalties. In fact, compromise penalty for deficiency percentage tax in the amount of ₱50,000 is being appealed by petitioner for abatement. As a result, the compromise penalties totalling ₱62,000.00 must be cancelled.

[153] Exhibit "Y", Petitioner's Notes to Financial Statements, Note 16(e).
[154] Exhibits "JJ" and "KK".
[155] Exhibit "Q".
[156] *The Philippines International Fair, Inc. vs. The Collector of Internal Revenue, et al.*, G.R. Nos. L-12928 and L-12932, March 31, 1962.

In view of the foregoing, the assessments issued by respondent against petitioner for CY 2007 covering deficiency income tax, VAT, EWT and increments on the late filing of return and payment of percentage tax should be upheld in part.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, petitioner is **ORDERED TO PAY** respondent the amount of **FORTY-FIVE MILLION ONE HUNDRED SEVENTY-FIVE THOUSAND SIX HUNDRED TWELVE PESOS AND 45/100 (₱45,175,612.45)**, inclusive of the twenty-five percent (25%) surcharge imposed under Section 248(A)(1) of the NIRC of 1997, as amended, and the twenty percent (20%) deficiency interest imposed under Section 249(B) of the same Code, computed as follows:

	Basic Tax	25% Surcharge	20% Interest	Total
	(In Philippine Pesos)			
Income Tax	12,165,482.90	3,041,370.73		15,206,853.63
VAT	14,933,021.20	3,733,255.30		18,666,276.50
EWT	742,048.43	185,512.11		927,560.54
Subtotal	**27,840,552.53**	**6,960,138.14**	-	**34,800,690.67**
Increments for late filing of return and payment of Percentage Tax		8,479,280.00	1,895,641.78	10,374,921.78
Subtotal	-	**8,479,280.00**	**1,895,641.78**	**10,374,921.78**
Total	**27,840,552.53**	**15,439,418.14**	**1,895,641.78**	**45,175,612.45**

In addition, petitioner is **ORDERED TO PAY**:

a) Deficiency interest at the rate of 20% per annum on the basic deficiency **income tax**, **VAT**, and **EWT** computed from the dates indicated below until full payment thereof pursuant to Section 249(B) of the NIRC of 1997, as amended:

Tax Type	Basic Tax	Deficiency interest computed from
Deficiency Income Tax	₱ 12,165,482.90	April 15, 2008
Deficiency VAT	14,933,021.20	January 25, 2008
Deficiency EWT	742,048.43	January 15, 2008

b) Delinquency interest at the rate of 20% per annum on the total amount of ₱34,800,690.68, representing basic deficiency **income tax**, **VAT**, and **EWT**, plus 25% surcharge, computed from December 22, 2011 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended;

c) Delinquency interest at the rate of 20% per annum on the increments for late filing of return and payment of **percentage tax** in the amount of ₱10,374,921.78, computed from December 22, 2011 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended; and

d) Delinquency interest at the rate of 20% per annum on the 20% deficiency interest which have accrued as afore-stated in (a), computed from December 22, 2011, until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended.

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

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.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and 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

SPLASH CORPORATION vs.
COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8530

Date	Gross Sales	Sales Discounts	Net Sales	Invoice Exhibit No.
3/15/2007	27,975.01	1,107.82	26,867.19	HHH-1
3/15/2007	54,234.64	2,147.70	52,086.94	HHH-2
3/15/2007	509,456.26	77,055.27	432,400.99	HHH-3
3/15/2007	45,948.22	6,949.67	38,998.55	HHH-4
3/16/2007	6,621.43	1,001.49	5,619.94	HHH-5
3/16/2007	249,822.33	37,785.64	212,036.69	HHH-6
3/21/2007	2,318,448.20	350,665.38	1,967,782.82	HHH-7
3/23/2007	358,200.00	54,177.76	304,022.24	HHH-8
3/23/2007	20,250.00	3,062.81	17,187.19	HHH-9
3/23/2007	131,400.00	19,874.25	111,525.75	HHH-10
3/28/2007	38,142.86	5,769.11	32,373.75	HHH-11
3/30/2007	162,306.95	6,427.38	155,879.57	HHH-12
3/30/2007	444,948.21	17,619.96	427,328.25	HHH-13
3/30/2007	3,551,145.58	540,150.56	3,010,995.02	HHH-14
3/30/2007	98,228.57	14,857.07	83,371.50	HHH-15
3/30/2007	489,535.74	74,042.29	415,493.45	HHH-16
3/30/2007	215,196.42	32,548.46	182,647.96	HHH-17
3/31/2007	1,022,726.75	154,687.39	868,039.36	HHH-18
3/31/2007	192,540.75	7,624.61	184,916.14	HHH-19
3/31/2007	1,744,963.37	263,925.73	1,481,037.64	HHH-20
3/31/2007	639,160.71	96,673.06	542,487.65	HHH-21
3/31/2007	144,642.86	21,877.23	122,765.63	HHH-22
3/31/2007	73,232.14	2,900.00	70,332.14	HHH-23
3/31/2007	33,637.50	5,087.68	28,549.82	HHH-24
3/31/2007	37,050.00	1,467.18	35,582.82	HHH-25
3/31/2007	22,982.14	3,476.05	19,506.09	HHH-26
3/31/2007	288,335.29	52,297.94	236,037.35	HHH-27
3/31/2007	552,993.76	83,640.30	469,353.46	HHH-28
3/31/2007	132,332.14	20,015.24	112,316.90	HHH-29
3/31/2007	213,557.15	32,300.53	181,256.62	HHH-30
4/20/2007	4,580,657.53	692,824.37	3,887,833.16	HHH-31
4/20/2007	4,723.21	714.38	4,008.83	HHH-32
4/23/2007	423,396.83	64,038.77	359,358.06	HHH-33
4/23/2007	3,160.27	477.99	2,682.28	HHH-34
4/23/2007	177,829.89	7,113.20	170,716.69	HHH-35
4/23/2007	151,177.50	6,047.09	145,130.41	HHH-36
4/23/2007	10,547,802.25	1,595,355.18	8,952,447.07	HHH-37
4/23/2007	51,565.22	2,042.00	49,523.22	HHH-38
4/13/2007	312,717.85	47,298.59	265,419.26	HHH-39
4/13/2007	39,375.00	5,955.47	33,419.53	HHH-40
4/25/2007	3,522,367.96	547,715.97	2,974,651.99	HHH-41
4/25/2007	142,473.20	33,816.53	108,656.67	HHH-42
4/24/2007	2,418,599.99	365,813.27	2,052,786.72	HHH-43
4/25/2007	37,157.14	5,620.01	31,537.13	HHH-44
4/25/2007	615,953.56	93,162.97	522,790.59	HHH-45
4/27/2007	4,891,837.56	739,890.32	4,151,947.24	HHH-46
4/27/2007	197,666.36	7,827.57	189,838.79	HHH-47
4/27/2007	11,584.82	1,752.21	9,832.61	HHH-48
4/30/2007	7,842.86	310.58	7,532.28	HHH-49
4/30/2007	64,529.99	2,555.39	61,974.60	HHH-50
4/30/2007	1,323,813.20	244,130.47	1,079,682.73	HHH-51
4/30/2007	2,414,960.04	378,464.94	2,036,495.10	HHH-52
4/30/2007	682,848.20	103,280.80	579,567.40	HHH-53
4/30/2007	168,466.07	6,671.27	161,794.80	HHH-54
4/30/2007	111,551.78	4,417.46	107,134.32	HHH-55
4/30/2007	1,127,582.15	170,546.80	957,035.35	HHH-56
4/30/2007	50,305.34	1,992.10	48,313.24	HHH-57
4/30/2007	14,078.57	2,129.38	11,949.19	HHH-58
4/30/2007	20,442.85	3,091.98	17,350.87	HHH-59
4/30/2007	1,384,906.74	227,581.66	1,157,325.08	HHH-60
4/30/2007	290,410.71	43,924.62	246,486.09	HHH-61
5/7/2007	274,339.29	41,493.82	232,845.47	HHH-62
5/9/2007	121,837.50	18,427.93	103,409.57	HHH-63

SPLASH CORPORATION vs.
COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8530

Date	Gross Sales	Sales Discounts	Net Sales	Invoice Exhibit No.
5/10/2007	613,971.43	92,863.18	521,108.25	HHH-64
5/17/2007	291,407.14	44,075.32	247,331.82	HHH-65
5/28/2007	144,642.86	21,877.23	122,765.63	HHH-66
5/28/2007	144,642.86	21,877.23	122,765.63	HHH-67
5/29/2007	5,833,684.29	882,344.76	4,951,339.53	HHH-68
5/29/2007	266,420.92	10,550.28	255,870.64	HHH-69
5/29/2007	9,360.54	1,415.79	7,944.75	HHH-70
5/29/2007	270,409.13	40,899.38	229,509.75	HHH-71
5/29/2007	114,783.93	4,545.44	110,238.49	HHH-72
5/29/2007	575,501.14	87,044.55	488,456.59	HHH-73
5/31/2007	93,150.00	3,688.74	89,461.26	HHH-74
5/31/2007	1,346,667.87	203,683.55	1,142,984.32	HHH-75
5/31/2007	2,529,192.85	382,540.41	2,146,652.44	HHH-76
5/31/2007	1,769,772.31	267,678.08	1,502,094.23	HHH-77
5/31/2007	24,685.71	3,733.71	20,952.00	HHH-78
5/31/2007	97,500.00	14,746.88	82,753.12	HHH-79
5/31/2007	635,946.42	96,186.88	539,759.54	HHH-80
5/31/2007	108,723.21	16,444.38	92,278.83	HHH-81
6/4/2007	843,380.37	127,561.30	715,819.07	HHH-82
6/4/2007	144,642.86	21,877.24	122,765.62	HHH-83
6/19/2007	349,553.57	52,869.97	296,683.60	HHH-84
6/20/2007	37,711.61	5,703.90	32,007.71	HHH-85
6/25/2007	984,969.63	148,976.65	835,992.98	HHH-86
6/28/2007	61,987.50	9,375.61	52,611.89	HHH-87
6/28/2007	1,067,464.27	161,453.96	906,010.31	HHH-88
6/28/2007	131,142.86	19,835.36	111,307.50	HHH-89
6/28/2007	69,942.85	10,578.85	59,364.00	HHH-90
6/29/2007	5,249,944.20	794,054.06	4,455,890.14	HHH-91
6/29/2007	50,548.44	7,645.45	42,902.99	HHH-92
6/29/2007	145,928.55	5,778.77	140,149.78	HHH-93
6/30/2007	395,357.14	59,797.76	335,559.38	HHH-94
6/30/2007	329,464.29	49,831.48	279,632.81	HHH-95
6/30/2007	2,511,005.39	379,789.69	2,131,215.70	HHH-96
6/30/2007	11,812.50	1,786.64	10,025.86	HHH-97
10/15/2007	12,537,407.89	1,896,283.40	10,641,124.49	HHH-98
10/15/2007	1,329,921.41	201,150.66	1,128,770.75	HHH-99
10/15/2007	18,707.14	2,829.45	15,877.69	HHH-100
10/15/2007	51,964.29	7,859.61	44,104.68	HHH-101
10/15/2007	275,078.58	41,605.65	233,472.93	HHH-102
10/15/2007	994,235.29	150,378.16	843,857.13	HHH-103
10/15/2007	15,685.71	2,372.46	13,313.25	HHH-104
10/17/2007	2,251,482.85	89,158.79	2,162,324.06	HHH-105
10/17/2007	120,705.35	18,256.70	102,448.65	HHH-106
10/17/2007	247,174.31	37,385.15	209,789.16	HHH-107
10/17/2007	21,535.71	3,257.28	18,278.43	HHH-108
10/17/2007	16,328.57	2,469.70	13,858.87	HHH-109
10/17/2007	32,142.86	4,861.62	27,281.24	HHH-110
10/17/2007	1,836,954.64	275,617.32	1,561,337.32	HHH-111
10/17/2007	2,267,102.86	342,899.32	1,924,203.54	HHH-112
10/17/2007	1,991,080.71	301,150.96	1,689,929.75	HHH-113
10/17/2007	2,883,321.37	436,102.35	2,447,219.02	HHH-114
10/17/2007	7,040,671.56	1,064,901.72	5,975,769.84	HHH-115
10/17/2007	2,266,188.85	342,761.09	1,923,427.76	HHH-116
10/17/2007	10,796,658.74	1,632,994.83	9,163,663.91	HHH-117
10/17/2007	8,550.00	1,293.19	7,256.81	HHH-118
10/19/2007	326,566.07	49,393.13	277,172.94	HHH-119
10/19/2007	1,191.96	180.29	1,011.67	HHH-120
10/19/2007	50,850.01	2,013.66	48,836.35	HHH-121
10/20/2007	383,769.64	58,045.16	325,724.48	HHH-122
10/22/2007	1,318,919.14	199,486.52	1,119,432.62	HHH-123
10/22/2007	729,798.22	110,381.99	619,416.23	HHH-124
10/22/2007	218,162.50	32,997.09	185,165.41	HHH-125
10/22/2007	59,207.14	8,955.08	50,252.06	HHH-126

ANNEX A

SPLASH CORPORATION vs.
COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8530

Date	Gross Sales	Sales Discounts	Net Sales	Invoice Exhibit No.
10/22/2007	22,800.00	3,448.50	19,351.50	HHH-127
10/23/2007	302,228.57	45,712.06	256,516.51	HHH-128
10/23/2007	11,764.29	465.87	11,298.42	HHH-129
10/23/2007	245,199.07	37,086.37	208,112.70	HHH-130
10/23/2007	97,939.28	14,813.32	83,125.96	HHH-131
10/25/2007	77,779.26	11,764.13	66,015.13	HHH-132
10/26/2007	7,201.78	1,089.27	6,112.51	HHH-133
10/26/2007	19,778.57	2,991.51	16,787.06	HHH-134
10/26/2007	50,255.37	1,990.11	48,265.26	HHH-135
10/26/2007	80,807.16	12,222.09	68,585.07	HHH-136
10/26/2007	433,355.35	65,545.05	367,810.30	HHH-137
10/30/2007	118,597.50	17,937.88	100,659.62	HHH-138
10/31/2007	479,142.86	72,470.35	406,672.51	HHH-139
10/31/2007	1,067,785.71	161,502.59	906,283.12	HHH-140
10/31/2007	25,660.72	1,016.16	24,644.56	HHH-141
10/31/2007	247,288.38	37,402.42	209,885.96	HHH-142
10/31/2007	68,464.28	10,355.22	58,109.06	HHH-143
10/31/2007	1,613,852.03	63,908.59	1,549,943.44	HHH-144
10/31/2007	1,052,763.51	41,689.51	1,011,074.00	HHH-145
10/31/2007	163,089.40	24,667.32	138,422.08	HHH-146
11/5/2007	492,578.57	74,502.55	418,076.02	HHH-147
11/5/2007	74,175.00	11,218.97	62,956.03	HHH-148
11/7/2007	35,378.57	5,351.01	30,027.56	HHH-149
11/8/2007	614,860.73	92,997.84	521,862.89	HHH-150
11/8/2007	50,785.71	7,681.34	43,104.37	HHH-151
11/8/2007	23,978.58	949.56	23,029.02	HHH-152
11/8/2007	64,028.57	9,684.32	54,344.25	HHH-153
11/9/2007	51,321.42	2,032.32	49,289.10	HHH-154
11/9/2007	428,560.72	64,819.85	363,740.87	HHH-155
11/9/2007	82,757.13	12,517.01	70,240.12	HHH-156
11/12/2007	60,042.85	9,081.48	50,961.37	HHH-157
11/12/2007	95,631.42	14,464.24	81,167.18	HHH-158
11/12/2007	37,607.14	5,688.08	31,919.06	HHH-159
11/13/2007	17,250.00	683.10	16,566.90	HHH-160
11/13/2007	244,282.14	36,947.70	207,334.44	HHH-161
11/14/2007	14,250.00	564.30	13,685.70	HHH-162
11/14/2007	165,699.10	25,062.01	140,637.09	HHH-163
11/16/2007	193,328.58	29,240.94	164,087.64	HHH-164
11/16/2007	56,410.71	8,532.12	47,878.59	HHH-165
11/19/2007	35,967.87	1,424.34	34,543.53	HHH-166
11/19/2007	29,785.71	1,179.52	28,606.19	HHH-167
11/19/2007	54,139.30	8,188.57	45,950.73	HHH-168
11/19/2007	532,369.81	80,520.98	451,848.83	HHH-169
11/19/2007	52,842.87	7,992.49	44,850.38	HHH-170
11/20/2007	5,239.29	792.45	4,446.84	HHH-171
11/22/2007	30,085.71	4,550.46	25,535.25	HHH-172
11/23/2007	40,901.79	6,186.39	34,715.40	HHH-173
11/26/2007	621,088.39	93,939.67	527,148.72	HHH-174
11/26/2007	58,371.42	8,828.67	49,542.75	HHH-175
11/26/2007	73,307.15	2,902.97	70,404.18	HHH-176
11/28/2007	29,292.85	1,160.00	28,132.85	HHH-177
11/28/2007	366,569.55	55,443.68	311,125.87	HHH-178
11/28/2007	24,685.71	3,733.71	20,952.00	HHH-179
11/29/2007	187,074.01	28,294.97	158,779.04	HHH-180
11/30/2007	41,550.01	1,645.38	39,904.63	HHH-181
11/30/2007	14,057.15	2,126.17	11,930.98	HHH-182
11/30/2007	1,157,302.05	192,805.30	964,496.75	HHH-183
11/30/2007	304,092.85	45,994.04	258,098.81	HHH-184
11/30/2007	44,485.72	6,728.45	37,757.27	HHH-185
12/4/2007	41,250.00	1,633.50	39,616.50	HHH-186
12/4/2007	558,434.59	84,463.23	473,971.36	HHH-187
12/4/2007	52,971.43	8,011.93	44,959.50	HHH-188
12/5/2007	76,500.01	11,570.63	64,929.38	HHH-189

ANNEX A

SPLASH CORPORATION vs.
COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8530

Date	Gross Sales	Sales Discounts	Net Sales	Invoice Exhibit No.
12/5/2007	48,471.43	7,331.31	41,140.12	HHH-190
12/6/2007	32,240.58	4,876.39	27,364.19	HHH-191
12/6/2007	597,794.77	90,416.45	507,378.32	HHH-192
12/6/2007	9,870.54	1,492.92	8,377.62	HHH-193
12/11/2007	174,857.14	26,447.14	148,410.00	HHH-194
12/11/2007	266,571.43	40,318.94	226,252.49	HHH-195
12/12/2007	30,355.71	4,591.30	25,764.41	HHH-196
12/12/2007	37,607.14	5,688.08	31,919.06	HHH-197
12/12/2007	218,571.43	33,058.93	185,512.50	HHH-198
12/13/2007	246,216.42	37,240.26	208,976.16	HHH-199
12/15/2007	614,823.23	92,992.03	521,831.20	HHH-200
12/17/2007	87,878.56	3,480.00	84,398.56	HHH-201
12/26/2007	792,014.95	119,792.40	672,222.55	HHH-202
12/26/2007	148,575.01	22,471.98	126,103.03	HHH-203
12/26/2007	106,933.92	4,234.59	102,699.33	HHH-204
12/27/2007	57,861.65	8,751.57	49,110.08	HHH-205
12/28/2007	116,866.08	17,676.00	99,190.08	HHH-206
12/29/2007	6,428.57	972.32	5,456.25	HHH-207
12/29/2007	56,410.72	8,532.13	47,878.59	HHH-208
12/29/2007	289,371.42	43,767.43	245,603.99	HHH-209
12/29/2007	187,119.68	7,409.99	179,709.69	HHH-210
12/29/2007	4,835,653.33	731,392.81	4,104,260.52	HHH-211
12/29/2007	150,717.85	22,796.10	127,921.75	HHH-212
TOTAL	**149,888,915.25**	**21,863,801.09**	**128,025,114.16**	

SPLASH CORPORATION vs.
COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8530

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-1	19686	111,069.00	99,168.75	2/14/2007	MMM-45
JJJ-2	19687	4,035.07	3,602.74	2/14/2007	MMM-45
JJJ-3	19690	1,153.92	1,030.29	2/14/2007	MMM-46
JJJ-4	19691	3,325.18	2,968.91	2/14/2007	MMM-46
JJJ-5	19692	2,862.12	2,555.46	2/14/2007	MMM-46
JJJ-6	19693	481.46	429.88	2/14/2007	MMM-46
JJJ-7	19694	1,082.33	966.37	2/14/2007	MMM-46
JJJ-8	19695	2,998.67	2,677.38	2/14/2007	MMM-46
JJJ-9	19696	1,372.09	1,225.08	2/14/2007	MMM-46
JJJ-10	19697	4,019.58	3,588.91	2/14/2007	MMM-46
JJJ-11	19844	4,418.92	3,945.46	2/20/2007	MMM-51
1st Quarter Total -		**136,818.34**	**122,159.23**		
JJJ-12	21428	2,315,548.07	2,067,453.63	4/20/2007	MMM-108
JJJ-13	21467	33,057,104.94	29,515,272.27	4/20/2007	MMM-109
JJJ-14	26994	27,855.49	24,870.97	6/21/2007	MMM-307
JJJ-15	26995	95,617.56	85,372.82	6/21/2007	MMM-307
JJJ-16	26996	162.76	145.32	6/21/2007	MMM-307
JJJ-17	26997	1,067.56	953.18	6/21/2007	MMM-307
JJJ-18	26998	22,968.03	20,507.17	6/21/2007	MMM-308
JJJ-19	26999	7,010.42	6,259.30	6/21/2007	MMM-308
JJJ-20	27000	19,978.42	17,837.88	6/21/2007	MMM-308
JJJ-21	27001	4,834.31	4,316.35	6/21/2007	MMM-308
JJJ-22	27002	5,343.03	4,770.56	6/21/2007	MMM-308
JJJ-23	27003	9,411.47	8,403.10	6/21/2007	MMM-308
JJJ-24	27004	2,122.91	1,895.46	6/21/2007	MMM-308
JJJ-25	27005	4,903.84	4,378.43	6/21/2007	MMM-308
JJJ-26	27006	1,591.14	1,420.66	6/21/2007	MMM-308
JJJ-27	27007	2,680.96	2,393.71	6/21/2007	MMM-308
JJJ-28	27008	1,857.58	1,658.55	6/21/2007	MMM-308
JJJ-29	27009	909.36	811.93	6/21/2007	MMM-308
JJJ-30	27010	4,744.61	4,236.26	6/21/2007	MMM-308
JJJ-31	27011	1,600.23	1,428.78	6/21/2007	MMM-308
JJJ-32	27012	3,761.18	3,358.20	6/21/2007	MMM-308
JJJ-33	27013	3,241.36	2,894.07	6/21/2007	MMM-308
JJJ-34	27014	20,562.51	18,359.38	6/21/2007	MMM-308
JJJ-35	27015	11,795.56	10,531.75	6/21/2007	MMM-308
JJJ-36	27016	1,105.94	987.45	6/21/2007	MMM-308
JJJ-37	27017	9,112.41	8,136.08	6/21/2007	MMM-308
JJJ-38	27018	1,101.31	983.31	6/21/2007	MMM-308
JJJ-39	27019	1,930.39	1,723.56	6/21/2007	MMM-308
JJJ-40	27020	681.03	608.06	6/21/2007	MMM-308
JJJ-41	27021	18,672.78	16,672.13	6/21/2007	MMM-308
JJJ-42	27022	1,261.27	1,126.13	6/21/2007	MMM-308
JJJ-43	27023	60,720.58	54,214.80	6/21/2007	MMM-308
JJJ-44	27024	2,625.06	2,343.80	6/21/2007	MMM-308
JJJ-45	27025	3,342.07	2,983.99	6/21/2007	MMM-308
JJJ-46	27026	3,387.11	3,024.21	6/21/2007	MMM-308
JJJ-47	27027	7,970.61	7,116.62	6/21/2007	MMM-308
JJJ-48	27028	18,428.53	16,454.04	6/21/2007	MMM-308
JJJ-49	27029	453.34	404.77	6/22/2007	MMM-308
JJJ-50	27030	12,814.98	11,441.95	6/22/2007	MMM-308
JJJ-51	27033	25,636.00	22,889.29	6/22/2007	MMM-308
JJJ-52	27034	5,895.02	5,263.41	6/22/2007	MMM-308
JJJ-53	27035	1,135.85	1,014.15	6/22/2007	MMM-308
JJJ-54	27036	7,531.58	6,724.63	6/22/2007	MMM-309
JJJ-55	27037	5,497.39	4,908.38	6/22/2007	MMM-309
JJJ-56	27038	2,142.81	1,913.22	6/22/2007	MMM-309

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-57	27039	3,065.54	2,737.09	6/22/2007	MMM-309
JJJ-58	27040	2,073.63	1,851.46	6/22/2007	MMM-309
JJJ-59	27041	4,504.73	4,022.08	6/22/2007	MMM-309
JJJ-60	27042	3,302.03	2,948.24	6/22/2007	MMM-309
JJJ-61	27043	4,723.52	4,217.43	6/22/2007	MMM-309
JJJ-62	27044	8,334.94	7,441.91	6/22/2007	MMM-309
JJJ-63	27045	2,933.84	2,619.50	6/22/2007	MMM-309
JJJ-64	27047	13,906.84	12,416.82	6/22/2007	MMM-309
JJJ-65	27048	2,465.71	2,201.53	6/22/2007	MMM-309
JJJ-66	27049	7,283.78	6,503.38	6/22/2007	MMM-309
JJJ-67	27050	19,067.54	17,024.59	6/22/2007	MMM-309
JJJ-68	27051	4,674.44	4,173.61	6/22/2007	MMM-309
JJJ-69	27052	2,758.22	2,462.70	6/22/2007	MMM-309
JJJ-70	27053	410.52	366.54	6/22/2007	MMM-309
JJJ-71	27054	3,203.31	2,860.10	6/22/2007	MMM-309
JJJ-72	27056	6,369.81	5,687.33	6/22/2007	MMM-309
JJJ-73	27057	32,991.59	29,456.78	6/22/2007	MMM-309
JJJ-74	27058	1,496.72	1,336.36	6/22/2007	MMM-309
JJJ-75	27059	9,388.26	8,382.38	6/22/2007	MMM-309
JJJ-76	27060	6,472.20	5,778.75	6/22/2007	MMM-309
JJJ-77	27061	21,717.80	19,390.89	6/22/2007	MMM-309
JJJ-78	27062	279.55	249.60	6/22/2007	MMM-309
JJJ-79	27063	3,144.32	2,807.43	6/22/2007	MMM-309
JJJ-80	27064	3,687.31	3,292.24	6/22/2007	MMM-309
JJJ-81	27065	15,647.88	13,971.32	6/22/2007	MMM-310
JJJ-82	27137	2,287.83	2,042.71	6/23/2007	MMM-312
JJJ-83	27138	2,691.72	2,403.32	6/23/2007	MMM-312
JJJ-84	27139	574.57	513.01	6/23/2007	MMM-312
JJJ-85	27140	574.57	513.01	6/23/2007	MMM-312
JJJ-86	27141	10,871.89	9,707.04	6/23/2007	MMM-312
JJJ-87	27142	2,092.09	1,867.94	6/23/2007	MMM-312
JJJ-88	27143	718.11	641.17	6/23/2007	MMM-312
JJJ-89	29467	3,183,749.52	2,842,633.50	8/18/2007	MMM-396
JJJ-90	29472	83,873.46	74,887.02	8/20/2007	MMM-396
JJJ-91	29473	734,270.15	655,598.35	8/20/2007	MMM-396
JJJ-92	29792	391,801.66	349,822.91	8/24/2007	MMM-407
JJJ-93	29866	4,115,115.56	3,674,210.32	8/26/2007	MMM-410
JJJ-94	29878	7,077,644.74	6,319,325.66	8/26/2007	MMM-411
JJJ-95	30148	234,471.49	209,349.54	8/30/2007	MMM-420
JJJ-96	30150	243,974.89	217,834.72	8/30/2007	MMM-420
JJJ-97	30152	12,271.86	10,957.02	8/30/2007	MMM-420
JJJ-98	30153	131,702.48	117,591.50	8/30/2007	MMM-420
JJJ-99	30172	5,342.47	4,770.06	8/30/2007	MMM-420
JJJ-100	30173	3,367.46	3,006.66	8/30/2007	MMM-420
JJJ-101	30174	1,432.93	1,279.40	8/30/2007	MMM-420
JJJ-102	30176	1,701.17	1,518.90	8/30/2007	MMM-421
JJJ-103	30177	4,250.94	3,795.48	8/30/2007	MMM-421
JJJ-104	30178	3,119.72	2,785.46	8/31/2007	MMM-421
JJJ-105	30179	5,998.41	5,355.72	8/31/2007	MMM-421
JJJ-106	30180	6,025.79	5,380.17	8/31/2007	MMM-421
JJJ-107	30182	9,030.45	8,062.90	8/31/2007	MMM-421
JJJ-108	30183	10,049.28	8,972.57	8/31/2007	MMM-421
JJJ-109	30184	9,852.01	8,796.44	8/31/2007	MMM-421
JJJ-110	30186	1,168.32	1,043.14	8/31/2007	MMM-421
JJJ-111	30187	8,651.74	7,724.77	8/31/2007	MMM-421
JJJ-112	30188	1,536.72	1,372.07	8/31/2007	MMM-421
JJJ-113	30189	6,714.54	5,995.13	8/31/2007	MMM-421
JJJ-114	30191	6,259.26	5,588.63	8/31/2007	MMM-421
JJJ-115	30194	9,527.85	8,507.01	8/31/2007	MMM-421
JJJ-116	30198	1,249.87	1,115.96	8/31/2007	MMM-421
JJJ-117	30199	1,953.79	1,744.46	8/31/2007	MMM-421
JJJ-118	30201	2,234.80	1,995.36	8/31/2007	MMM-421
JJJ-119	30202	8,343.55	7,449.60	8/31/2007	MMM-421

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date		Traced to SAP G/L (Exhibit)
JJJ-120	30231	2,295.35	2,049.42	8/31/2007		MMM-422
JJJ-121	30232	2,526.56	2,255.86	8/31/2007		MMM-422
JJJ-122	30235	3,118.46	2,784.34	8/31/2007		MMM-422
JJJ-123	30236	4,168.81	3,722.15	8/31/2007		MMM-422
JJJ-124	30237	10,433.96	9,316.04	8/31/2007		MMM-422
JJJ-125	30238	9,637.51	8,604.92	8/31/2007		MMM-422
JJJ-126	30239	7,885.11	7,040.28	8/31/2007		MMM-422
JJJ-127	30240	36,983.64	33,021.11	8/31/2007		MMM-422
JJJ-128	30241	234.35	209.24	8/31/2007		MMM-422
JJJ-129	30242	3,272.48	2,921.86	8/31/2007		MMM-422
JJJ-130	30243	11,258.00	10,051.79	8/31/2007		MMM-422
JJJ-131	30244	2,650.79	2,366.78	8/31/2007		MMM-422
JJJ-132	30245	465.31	415.46	8/31/2007		MMM-423
JJJ-133	30246	2,004.81	1,790.01	8/31/2007		MMM-423
JJJ-134	30247	15,780.81	14,090.01	8/31/2007		MMM-423
JJJ-135	30248	6,304.77	5,629.26	8/31/2007		MMM-423
JJJ-136	30249	3,521.23	3,143.96	8/31/2007		MMM-423
JJJ-137	30250	2,981.62	2,662.16	8/31/2007		MMM-423
JJJ-138	30251	854.51	762.96	8/31/2007		MMM-423
JJJ-139	30252	2,415.64	2,156.82	8/31/2007		MMM-423
JJJ-140	30253	1,040.37	928.90	8/31/2007		MMM-423
JJJ-141	30254	2,733.24	2,440.39	8/31/2007		MMM-423
JJJ-142	30255	4,976.82	4,443.59	8/31/2007		MMM-423
JJJ-143	30256	1,757.37	1,569.08	8/31/2007		MMM-423
JJJ-144	30257	5,093.69	4,547.94	8/31/2007		MMM-423
JJJ-145	30258	8,285.50	7,397.77	8/31/2007		MMM-423
JJJ-146	30259	15,671.31	13,992.24	8/31/2007		MMM-423
JJJ-147	30260	751.40	670.89	8/31/2007		MMM-423
JJJ-148	30261	8,441.26	7,536.84	8/31/2007		MMM-423
JJJ-149	30262	3,842.70	3,430.98	8/31/2007		MMM-423
JJJ-150	30263	3,189.75	2,847.99	8/31/2007		MMM-423
JJJ-151	30369	4,495.58	4,013.91	8/31/2007		MMM-427
JJJ-152	30370	9,327.16	8,327.82	8/31/2007		MMM-427
JJJ-153	30372	682.11	609.03	8/31/2007		MMM-427
JJJ-154	30373	11,194.73	9,995.29	8/31/2007		MMM-427
JJJ-155	30378	1,452.28	1,296.68	8/31/2007		MMM-427
JJJ-156	30380	292.91	261.53	8/31/2007		MMM-427
JJJ-157	30383	13,199.24	11,785.04	8/31/2007		MMM-427
JJJ-158	30386	2,373.77	2,119.44	8/31/2007		MMM-427
JJJ-159	30389	13,179.23	11,767.17	8/31/2007		MMM-427
JJJ-160	30391	3,134.94	2,799.05	8/31/2007		MMM-427
JJJ-161	30395	5,175.59	4,621.06	8/31/2007		MMM-428
JJJ-162	30398	4,920.36	4,393.18	8/31/2007		MMM-428
JJJ-163	30402	8,258.08	7,373.29	8/31/2007		MMM-428
JJJ-164	30404	3,147.39	2,810.17	8/31/2007		MMM-428
JJJ-165	30405	22,892.30	20,439.55	8/31/2007		MMM-428
JJJ-166	30406	281.68	251.50	8/31/2007		MMM-428
JJJ-167	30407	2,144.91	1,915.10	8/31/2007		MMM-428
JJJ-168	30408	710.37	634.26	8/31/2007		MMM-428
JJJ-169	30409	1,002.19	894.81	8/31/2007		MMM-428
JJJ-170	30411	733.62	655.02	8/31/2007		MMM-428
JJJ-171	30412	32,226.04	28,773.25	8/31/2007		MMM-428
JJJ-172	30491	5,392.92	4,815.11	8/31/2007		MMM-431
JJJ-173	30493	538.78	481.05	8/31/2007		MMM-431
JJJ-174	30495	9,268.44	8,275.39	8/31/2007		MMM-431
JJJ-175	30497	626.90	559.73	8/31/2007		MMM-431
JJJ-176	30512	8,880.56	7,929.07	8/31/2007		MMM-432
JJJ-177	30513	626.90	559.73	8/31/2007		MMM-432
JJJ-178	30514	1,758.70	1,570.27	8/31/2007		MMM-432
JJJ-179	30515	19,448.10	17,364.38	8/31/2007		MMM-432
JJJ-180	30519	4,371.93	3,903.51	8/31/2007		MMM-432
JJJ-181	30523	6,233.96	5,566.04	8/31/2007		MMM-432
JJJ-182	32174	2,851.58	2,546.05	9/1/2007		MMM-494

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-183	30345	6,343.49	5,663.83	9/3/2007	MMM-436
JJJ-184	30346	6,087.97	5,435.69	9/3/2007	MMM-436
JJJ-185	30347	7,490.67	6,688.10	9/3/2007	MMM-436
JJJ-186	30348	1,181.77	1,055.15	9/3/2007	MMM-436
JJJ-187	30349	4,775.80	4,264.11	9/3/2007	MMM-436
JJJ-188	30561	3,326.05	2,969.69	9/5/2007	MMM-436
JJJ-189	30562	4,398.61	3,927.33	9/5/2007	MMM-436
JJJ-190	30567	3,207.89	2,864.19	9/5/2007	MMM-436
JJJ-191	30569	6,574.80	5,870.36	9/5/2007	MMM-436
JJJ-192	30571	9,451.64	8,438.96	9/5/2007	MMM-436
JJJ-193	30573	7,289.26	6,508.27	9/5/2007	MMM-436
JJJ-194	30574	77.30	69.02	9/5/2007	MMM-436
JJJ-195	30575	3,829.86	3,419.52	9/5/2007	MMM-436
JJJ-196	30576	268.68	239.89	9/5/2007	MMM-436
JJJ-197	30578	5,983.07	5,342.03	9/5/2007	MMM-436
JJJ-198	30580	2,878.08	2,569.71	9/5/2007	MMM-436
JJJ-199	30583	2,595.46	2,317.38	9/5/2007	MMM-436
JJJ-200	30584	537.36	479.79	9/5/2007	MMM-436
JJJ-201	30585	7,780.90	6,947.23	9/5/2007	MMM-436
JJJ-202	30586	20,521.53	18,322.79	9/5/2007	MMM-436
JJJ-203	30587	4,476.84	3,997.18	9/6/2007	MMM-437
JJJ-204	30990	3,072.27	2,743.10	9/12/2007	MMM-451
JJJ-205	31023	3,636,353.11	3,246,743.85	9/12/2007	MMM-452
JJJ-206	31024	568,310.66	507,420.23	9/12/2007	MMM-452
JJJ-207	31025	20,374.92	18,191.89	9/12/2007	MMM-452
JJJ-208	31027	44,517.07	39,747.38	9/12/2007	MMM-452
JJJ-209	31028	537.33	479.76	9/12/2007	MMM-452
JJJ-210	31031	2,676.87	2,390.06	9/12/2007	MMM-453
JJJ-211	31032	2,658.89	2,374.01	9/12/2007	MMM-453
JJJ-212	31039	2,445.19	2,183.21	9/12/2007	MMM-453
JJJ-213	31041	4,739.57	4,231.76	9/12/2007	MMM-453
JJJ-214	31043	1,915.84	1,710.57	9/12/2007	MMM-453
JJJ-215	31044	12,996.62	11,604.13	9/12/2007	MMM-453
JJJ-216	31054	9,711.10	8,670.63	9/12/2007	MMM-453
JJJ-217	31057	5,680.25	5,071.65	9/12/2007	MMM-454
JJJ-218	31063	3,628.80	3,240.00	9/12/2007	MMM-454
JJJ-219	31064	1,274.70	1,138.13	9/12/2007	MMM-454
JJJ-220	31067	1,321.48	1,179.89	9/12/2007	MMM-454
JJJ-221	31068	25.72	22.96	9/12/2007	MMM-454
JJJ-222	31071	1,857.23	1,658.24	9/12/2007	MMM-454
JJJ-223	31072	2,328.49	2,079.01	9/12/2007	MMM-454
JJJ-224	31083	4,303.40	3,842.32	9/13/2007	MMM-455
JJJ-225	31085	55.91	49.92	9/13/2007	MMM-455
JJJ-226	31089	730.19	651.96	9/13/2007	MMM-455
JJJ-227	31090	8,072.87	7,207.92	9/13/2007	MMM-455
JJJ-228	31091	1,489.16	1,329.61	9/13/2007	MMM-455
JJJ-229	31095	4,873.18	4,351.05	9/13/2007	MMM-455
JJJ-230	31102	4,314.61	3,852.33	9/13/2007	MMM-455
JJJ-231	31104	524.15	467.99	9/13/2007	MMM-455
JJJ-232	31107	3,232.53	2,886.19	9/13/2007	MMM-455
JJJ-233	31109	7,316.78	6,532.84	9/13/2007	MMM-455
JJJ-234	31112	5,875.79	5,246.24	9/13/2007	MMM-456
JJJ-235	31114	6,382.82	5,698.95	9/13/2007	MMM-456
JJJ-236	31117	4,547.74	4,060.48	9/13/2007	MMM-456
JJJ-237	31119	4,250.47	3,795.06	9/13/2007	MMM-456
JJJ-238	31120	4,210.62	3,759.48	9/13/2007	MMM-456
JJJ-239	31121	7,055.51	6,299.56	9/13/2007	MMM-456
JJJ-240	31125	9,715.35	8,674.42	9/13/2007	MMM-456
JJJ-241	31128	3,401.40	3,036.96	9/13/2007	MMM-456
JJJ-242	31131	6,234.95	5,566.92	9/13/2007	MMM-456
JJJ-243	311132	10,312.68	9,207.75	9/13/2007	MMM-456
JJJ-244	31135	6,964.19	6,218.03	9/13/2007	MMM-456
JJJ-245	31136	3,112.96	2,779.43	9/13/2007	MMM-456

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-246	31139	2,808.11	2,507.24	9/13/2007	MMM-457
JJJ-247	31141	892.50	796.88	9/13/2007	MMM-457
JJJ-248	31143	8,962.06	8,001.84	9/13/2007	MMM-457
JJJ-249	31145	10,657.34	9,515.48	9/13/2007	MMM-457
JJJ-250	31146	3,917.20	3,497.50	9/13/2007	MMM-457
JJJ-251	31147	2,067.95	1,846.38	9/13/2007	MMM-456
JJJ-252	31150	1,947.32	1,738.68	9/13/2007	MMM-456
JJJ-253	31153	11,034.95	9,852.63	9/13/2007	MMM-456
JJJ-254	31161	4,454.32	3,977.07	9/13/2007	MMM-456
JJJ-255	31165	17,206.28	15,362.75	9/13/2007	MMM-457
JJJ-256	31166	4,855.58	4,335.34	9/13/2007	MMM-457
JJJ-257	31167	1,416.75	1,264.96	9/13/2007	MMM-457
JJJ-258	31168	2,712.74	2,422.09	9/13/2007	MMM-457
JJJ-259	31169	17,135.80	15,299.82	9/13/2007	MMM-457
JJJ-260	31170	447.45	399.51	9/13/2007	MMM-457
JJJ-261	31171	10,105.30	9,022.59	9/13/2007	MMM-457
JJJ-262	31172	967.10	863.48	9/13/2007	MMM-457
JJJ-263	31173	245.63	219.31	9/13/2007	MMM-457
JJJ-264	31578	5,869.84	5,240.93	9/20/2007	MMM-471
JJJ-265	31579	2,845.18	2,540.34	9/20/2007	MMM-471
JJJ-266	31580	81,050.00	72,366.07	9/20/2007	MMM-472
JJJ-267	31581	11,673.08	10,422.39	9/20/2007	MMM-472
JJJ-268	31582	13,274.88	11,852.57	9/20/2007	MMM-472
JJJ-269	31583	28,472.22	25,421.63	9/20/2007	MMM-472
JJJ-270	31584	27,440.42	24,500.38	9/20/2007	MMM-472
JJJ-271	31585	10,269.56	9,169.25	9/20/2007	MMM-472
JJJ-272	31586	5,359.04	4,784.86	9/20/2007	MMM-472
JJJ-273	31587	2,975.90	2,657.05	9/20/2007	MMM-472
JJJ-274	31588	1,587.78	1,417.66	9/20/2007	MMM-472
JJJ-275	31589	1,939.28	1,731.50	9/20/2007	MMM-472
JJJ-276	31590	18,513.20	16,529.64	9/20/2007	MMM-472
JJJ-277	31591	6,773.76	6,048.00	9/20/2007	MMM-472
JJJ-278	31592	3,372.90	3,011.52	9/20/2007	MMM-472
JJJ-279	31593	774.49	691.51	9/20/2007	MMM-472
JJJ-280	31594	9,622.88	8,591.86	9/20/2007	MMM-472
JJJ-281	31595	31.50	28.13	9/20/2007	MMM-472
JJJ-282	31596	5,671.53	5,063.87	9/20/2007	MMM-472
JJJ-283	31597	2,456.49	2,193.29	9/20/2007	MMM-472
JJJ-284	31598	132,334.07	118,155.42	9/20/2007	MMM-472
JJJ-285	31599	6,847.59	6,113.92	9/20/2007	MMM-472
JJJ-286	31600	13,591.83	12,135.56	9/20/2007	MMM-472
JJJ-287	31601	42,605.07	38,040.24	9/20/2007	MMM-472
JJJ-288	31602	6,454.95	5,763.35	9/20/2007	MMM-472
JJJ-289	31609	6,553.02	5,850.91	9/20/2007	MMM-473
JJJ-290	31610	9,432.90	8,422.23	9/20/2007	MMM-473
JJJ-291	31612	62,983.80	56,235.54	9/20/2007	MMM-473
JJJ-292	31613	5,607.26	5,006.48	9/20/2007	MMM-473
JJJ-293	31614	1,199.72	1,071.18	9/20/2007	MMM-473
JJJ-294	31615	7,098.34	6,337.80	9/20/2007	MMM-473
JJJ-295	31616	1,231.03	1,099.13	9/20/2007	MMM-473
JJJ-296	31617	24,611.14	21,974.23	9/20/2007	MMM-473
JJJ-297	31619	3,436.20	3,068.04	9/20/2007	MMM-473
JJJ-298	31621	2,758.10	2,462.59	9/20/2007	MMM-473
JJJ-299	31622	5,579.89	4,982.04	9/20/2007	MMM-473
JJJ-300	31623	4,531.15	4,045.67	9/20/2007	MMM-473
JJJ-301	31624	5,975.43	5,335.21	9/20/2007	MMM-473
JJJ-302	31685	8,135.43	7,263.78	9/24/2007	MMM-475
JJJ-303	31686	13,364.09	11,932.22	9/24/2007	MMM-475
JJJ-304	31687	1,614.79	1,441.78	9/24/2007	MMM-475
JJJ-305	31688	5,810.81	5,188.22	9/24/2007	MMM-475
JJJ-306	31689	1,130.94	1,009.77	9/24/2007	MMM-475
JJJ-307	31690	12,276.33	10,961.01	9/24/2007	MMM-475
JJJ-308	31691	10,577.02	9,443.77	9/24/2007	MMM-476

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-309	31692	60,108.83	53,668.60	9/24/2007	MMM-476
JJJ-310	31693	1,305.50	1,165.63	9/24/2007	MMM-476
JJJ-311	31694	24,192.82	21,600.73	9/24/2007	MMM-476
JJJ-312	31695	3,513.39	3,136.96	9/24/2007	MMM-476
JJJ-313	31696	4,908.02	4,382.16	9/24/2007	MMM-476
JJJ-314	31697	705.52	629.93	9/24/2007	MMM-476
JJJ-315	31698	729.10	650.98	9/24/2007	MMM-476
JJJ-316	31699	1,183.65	1,056.83	9/24/2007	MMM-476
JJJ-317	31701	1,449.74	1,294.41	9/24/2007	MMM-476
JJJ-318	31703	2,604.82	2,325.73	9/24/2007	MMM-476
JJJ-319	31704	2,303.94	2,057.09	9/24/2007	MMM-476
JJJ-320	31705	3,043.40	2,717.32	9/24/2007	MMM-476
JJJ-321	31706	3,124.31	2,789.56	9/24/2007	MMM-476
JJJ-322	31714	2,663.57	2,378.19	9/24/2007	MMM-476
JJJ-323	31715	7,620.55	6,804.06	9/24/2007	MMM-476
JJJ-324	31717	1,039.23	927.88	9/24/2007	MMM-476
JJJ-325	31718	14,290.51	12,759.38	9/24/2007	MMM-476
JJJ-326	31719	3,937.48	3,515.61	9/24/2007	MMM-476
JJJ-327	31720	20,947.94	18,703.52	9/24/2007	MMM-476
JJJ-328	31721	3,424.36	3,057.46	9/24/2007	MMM-476
JJJ-329	31722	1,840.88	1,643.64	9/24/2007	MMM-477
JJJ-330	31723	2,135.55	1,906.74	9/24/2007	MMM-477
JJJ-331	31724	3,370.28	3,009.18	9/24/2007	MMM-477
JJJ-332	31725	2,372.39	2,118.21	9/24/2007	MMM-477
JJJ-333	31726	447.54	399.59	9/24/2007	MMM-477
JJJ-334	31727	5,943.11	5,306.35	9/24/2007	MMM-477
JJJ-335	31728	22,591.96	20,171.39	9/24/2007	MMM-477
JJJ-336	31729	2,075.12	1,852.79	9/24/2007	MMM-477
JJJ-337	31730	7,839.21	6,999.29	9/24/2007	MMM-477
JJJ-338	31731	3,103.04	2,770.57	9/24/2007	MMM-477
JJJ-339	31732	1,553.10	1,386.70	9/24/2007	MMM-477
JJJ-340	31733	12,218.22	10,909.13	9/24/2007	MMM-477
JJJ-341	31734	7,051.72	6,296.18	9/24/2007	MMM-477
JJJ-342	31735	7,836.99	6,997.31	9/24/2007	MMM-477
JJJ-343	31736	5,657.94	5,051.73	9/24/2007	MMM-477
JJJ-344	31737	4,277.19	3,818.92	9/24/2007	MMM-477
JJJ-345	31738	4,279.66	3,821.13	9/24/2007	MMM-477
JJJ-346	31740	29,207.59	26,078.21	9/24/2007	MMM-477
JJJ-347	31741	9,126.42	8,148.59	9/24/2007	MMM-477
JJJ-348	31742	7,950.38	7,098.55	9/24/2007	MMM-477
JJJ-349	31745	7,328.25	6,543.08	9/24/2007	MMM-477
JJJ-350	31746	7,187.14	6,417.09	9/24/2007	MMM-477
JJJ-351	31747	4,096.84	3,657.89	9/24/2007	MMM-477
JJJ-352	31750	3,830.19	3,419.81	9/24/2007	MMM-478
JJJ-353	31751	18,094.56	16,155.86	9/24/2007	MMM-478
JJJ-354	31753	4,666.82	4,166.80	9/24/2007	MMM-478
JJJ-355	31754	3,477.97	3,105.33	9/24/2007	MMM-478
JJJ-356	31755	1,190.31	1,062.78	9/24/2007	MMM-478
JJJ-357	31756	790.57	705.87	9/24/2007	MMM-478
JJJ-358	31757	3,716.87	3,318.63	9/24/2007	MMM-478
JJJ-359	31758	20,533.02	18,333.05	9/24/2007	MMM-478
JJJ-360	31759	13,587.04	12,131.29	9/24/2007	MMM-478
JJJ-361	31760	5,827.70	5,203.30	9/24/2007	MMM-478
JJJ-362	31761	89.55	79.96	9/24/2007	MMM-478
JJJ-363	31762	44,429.69	39,669.37	9/24/2007	MMM-478
JJJ-364	31763	13,666.03	12,201.81	9/24/2007	MMM-478
JJJ-365	31764	3,356.89	2,997.22	9/24/2007	MMM-478
JJJ-366	31765	5,444.24	4,860.93	9/24/2007	MMM-478
JJJ-367	31766	5,513.87	4,923.10	9/24/2007	MMM-478
JJJ-368	31767	8,258.90	7,374.02	9/24/2007	MMM-478
JJJ-369	31768	2,025.18	1,808.20	9/24/2007	MMM-478
JJJ-370	31769	8,178.74	7,302.45	9/24/2007	MMM-478
JJJ-371	31770	5,186.69	4,630.97	9/24/2007	MMM-478

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-372	31771	4,242.55	3,787.99	9/24/2007	MMM-478
JJJ-373	31772	4,501.63	4,019.31	9/24/2007	MMM-478
JJJ-374	31773	25,964.81	23,182.87	9/24/2007	MMM-478
JJJ-375	31774	3,352.86	2,993.63	9/24/2007	MMM-478
JJJ-376	31775	15,973.35	14,261.92	9/24/2007	MMM-478
JJJ-377	31777	6,592.40	5,886.07	9/25/2007	MMM-479
JJJ-378	31778	1,358.64	1,213.07	9/25/2007	MMM-479
JJJ-379	31779	89.55	79.96	9/25/2007	MMM-479
JJJ-380	31780	723.19	645.71	9/25/2007	MMM-479
JJJ-381	31781	1,348.43	1,203.96	9/25/2007	MMM-479
JJJ-382	31782	3,770.36	3,366.39	9/25/2007	MMM-479
JJJ-383	31783	5,902.40	5,270.00	9/25/2007	MMM-479
JJJ-384	31784	4,089.88	3,651.68	9/25/2007	MMM-479
JJJ-385	31785	6,554.64	5,852.36	9/25/2007	MMM-479
JJJ-386	31786	2,097.04	1,872.36	9/25/2007	MMM-479
JJJ-387	31787	5,375.23	4,799.31	9/25/2007	MMM-479
JJJ-388	31788	5,657.82	5,051.63	9/25/2007	MMM-479
JJJ-389	31789	7,946.53	7,095.12	9/25/2007	MMM-479
JJJ-390	31790	10,040.31	8,964.56	9/25/2007	MMM-479
JJJ-391	31791	538.93	481.19	9/25/2007	MMM-479
JJJ-392	31792	6,204.94	5,540.13	9/25/2007	MMM-479
JJJ-393	31793	3,189.65	2,847.90	9/25/2007	MMM-479
JJJ-394	31794	50,223.89	44,842.76	9/25/2007	MMM-479
JJJ-395	31795	7,461.14	6,661.73	9/25/2007	MMM-479
JJJ-396	31796	3,906.67	3,488.10	9/25/2007	MMM-479
JJJ-397	31797	7,871.03	7,027.71	9/25/2007	MMM-479
JJJ-398	31798	6,750.40	6,027.14	9/25/2007	MMM-479
JJJ-399	31799	4,610.98	4,116.95	9/25/2007	MMM-479
JJJ-400	31800	2,253.01	2,011.62	9/25/2007	MMM-479
JJJ-401	31801	3,197.19	2,854.63	9/25/2007	MMM-479
JJJ-402	31802	30,309.91	27,062.42	9/25/2007	MMM-479
JJJ-403	31803	129.93	116.01	9/25/2007	MMM-480
JJJ-404	31804	11,170.98	9,974.09	9/25/2007	MMM-480
JJJ-405	31805	11,576.01	10,335.72	9/25/2007	MMM-480
JJJ-406	31806	12,163.78	10,860.52	9/25/2007	MMM-480
JJJ-407	31807	11,509.64	10,276.46	9/25/2007	MMM-480
JJJ-408	31808	4,339.12	3,874.21	9/25/2007	MMM-480
JJJ-409	31809	5,655.12	5,049.21	9/25/2007	MMM-480
JJJ-410	31810	1,289.39	1,151.24	9/25/2007	MMM-480
JJJ-411	31811	11,215.55	10,013.88	9/25/2007	MMM-480
JJJ-412	31812	1,775.22	1,585.02	9/25/2007	MMM-480
JJJ-413	31813	2,964.15	2,646.56	9/25/2007	MMM-480
JJJ-414	31814	13,908.49	12,418.29	9/25/2007	MMM-480
JJJ-415	31815	4,385.80	3,915.89	9/25/2007	MMM-480
JJJ-416	31816	43,649.89	38,973.12	9/25/2007	MMM-480
JJJ-417	31817	9,237.35	8,247.63	9/25/2007	MMM-480
JJJ-418	31818	17,038.59	15,213.03	9/25/2007	MMM-480
JJJ-419	31819	1,570.49	1,402.22	9/25/2007	MMM-480
JJJ-420	31820	127.73	114.04	9/25/2007	MMM-480
JJJ-421	31821	10,482.72	9,359.57	9/25/2007	MMM-480
JJJ-422	31822	644.18	575.16	9/25/2007	MMM-480
JJJ-423	31823	15,474.94	13,816.91	9/25/2007	MMM-480
JJJ-424	31825	2,624.50	2,343.30	9/25/2007	MMM-480
JJJ-425	31826	4,932.52	4,404.04	9/25/2007	MMM-480
JJJ-426	31830	2,925.98	2,612.48	9/25/2007	MMM-480
JJJ-427	31831	1,191.87	1,064.17	9/25/2007	MMM-481
JJJ-428	31832	4,313.04	3,850.93	9/25/2007	MMM-481
JJJ-429	31833	2,611.11	2,331.35	9/25/2007	MMM-481
JJJ-430	31835	9,298.12	8,301.89	9/25/2007	MMM-481
JJJ-431	31837	5,489.75	4,901.56	9/25/2007	MMM-481
JJJ-432	31838	57,372.27	51,225.24	9/25/2007	MMM-481
JJJ-433	31840	4,951.82	4,421.27	9/25/2007	MMM-481
JJJ-434	31841	149.11	133.13	9/25/2007	MMM-481

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-435	31842	53,238.94	47,534.77	9/25/2007	MMM-481
JJJ-436	31843	85,483.98	76,324.98	9/25/2007	MMM-481
JJJ-437	31844	20,380.54	18,196.91	9/25/2007	MMM-481
JJJ-438	31846	14,600.67	13,036.31	9/25/2007	MMM-481
JJJ-439	31849	24,972.56	22,296.93	9/25/2007	MMM-481
JJJ-440	31851	56,489.29	50,436.87	9/25/2007	MMM-481
JJJ-441	32084	3,722.35	3,323.53	9/25/2007	MMM-489
JJJ-442	32085	11,965.17	10,683.19	9/30/2007	MMM-490
JJJ-443	32086	5,113.83	4,565.92	9/30/2007	MMM-490
JJJ-444	32087	3,696.43	3,300.38	9/30/2007	MMM-490
JJJ-445	32088	1,465.55	1,308.53	9/30/2007	MMM-490
JJJ-446	32089	303.14	270.66	9/30/2007	MMM-490
JJJ-447	32090	2,858.58	2,552.30	9/30/2007	MMM-490
JJJ-448	32091	2,408.69	2,150.62	9/30/2007	MMM-490
JJJ-449	32092	8,754.30	7,816.34	9/30/2007	MMM-490
JJJ-450	32093	10,995.90	9,817.77	9/30/2007	MMM-490
JJJ-451	32094	2,727.66	2,435.41	9/30/2007	MMM-490
JJJ-452	32095	111.33	99.40	9/30/2007	MMM-490
JJJ-453	32096	2,427.58	2,167.48	9/30/2007	MMM-490
JJJ-454	32097	28,007.08	25,006.32	9/30/2007	MMM-490
JJJ-455	32098	3,761.59	3,358.56	9/30/2007	MMM-490
JJJ-456	32099	3,509.62	3,133.59	9/30/2007	MMM-490
JJJ-457	32100	2,683.95	2,396.38	9/30/2007	MMM-490
JJJ-458	32101	22,484.47	20,075.42	9/30/2007	MMM-490
JJJ-459	32102	1,061.72	947.96	9/30/2007	MMM-490
JJJ-460	32103	1,992.74	1,779.23	9/30/2007	MMM-490
JJJ-461	32104	8,488.60	7,579.11	9/30/2007	MMM-490
JJJ-462	32105	153.10	136.70	9/30/2007	MMM-490
JJJ-463	32106	10,448.82	9,329.30	9/30/2007	MMM-490
JJJ-464	32107	4,076.97	3,640.15	9/30/2007	MMM-490
JJJ-465	32108	21,840.40	19,500.36	9/30/2007	MMM-490
JJJ-466	32109	1,882.93	1,681.19	9/30/2007	MMM-490
JJJ-467	32110	219.03	195.56	9/30/2007	MMM-490
JJJ-468	32111	7,165.01	6,397.33	9/30/2007	MMM-490
JJJ-469	32118	3,183.03	2,841.99	9/30/2007	MMM-491
JJJ-470	32132	17,190.12	15,348.32	9/30/2007	MMM-491
JJJ-471	32133	383.30	342.23	9/30/2007	MMM-491
JJJ-472	32137	17,123.61	15,288.94	9/30/2007	MMM-491
JJJ-473	32153	4,546.41	4,059.29	9/30/2007	MMM-492
JJJ-474	32154	410.95	366.92	9/30/2007	MMM-492
JJJ-475	32157	10,302.81	9,198.94	9/30/2007	MMM-492
JJJ-476	32158	13,500.03	12,053.60	9/30/2007	MMM-492
JJJ-477	32159	5,888.44	5,257.54	9/30/2007	MMM-492
JJJ-478	32160	12,696.62	11,336.27	9/30/2007	MMM-492
JJJ-479	32161	6,577.98	5,873.20	9/30/2007	MMM-492
JJJ-480	32169	1,433.37	1,279.79	9/30/2007	MMM-493
JJJ-481	32171	3,356.46	2,996.84	9/30/2007	MMM-493
JJJ-482	32175	4,752.51	4,243.31	9/30/2007	MMM-493
JJJ-483	32177	246.31	219.92	9/30/2007	MMM-493
JJJ-484	32178	3,872.48	3,457.57	9/30/2007	MMM-493
JJJ-485	32180	5,843.87	5,217.74	9/30/2007	MMM-493
JJJ-486	32181	2,010.64	1,795.21	9/30/2007	MMM-493
JJJ-487	32183	6,278.74	5,606.02	9/30/2007	MMM-493
JJJ-488	32184	29,712.13	26,528.69	9/30/2007	MMM-493
JJJ-489	32186	32,991.59	29,456.78	9/30/2007	MMM-493
JJJ-490	32187	32,542.03	29,055.38	9/30/2007	MMM-493
JJJ-491	32188	3,287.64	2,935.39	9/30/2007	MMM-493
JJJ-492	32190	1,521.62	1,358.59	9/30/2007	MMM-493
JJJ-493	32192	3,855.75	3,442.63	9/30/2007	MMM-493
JJJ-494	32194	20,541.67	18,340.78	9/30/2007	MMM-494
JJJ-495	32195	14,734.01	13,155.37	9/30/2007	MMM-494
JJJ-496	32196	26,151.02	23,349.13	9/30/2007	MMM-494
JJJ-497	32197	2,197.39	1,961.96	9/30/2007	MMM-494

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date	Traced to SAP G/L (Exhibit)
JJJ-498	32199	1,231.56	1,099.61	9/30/2007	MMM-494
JJJ-499	32200	10,170.77	9,081.04	9/30/2007	MMM-494
JJJ-500	32202	4,200.06	3,750.05	9/30/2007	MMM-494
JJJ-501	32204	1,461.14	1,304.59	9/30/2007	MMM-494
JJJ-502	32206	6,702.37	5,984.26	9/30/2007	MMM-494
JJJ-503	32207	3,852.83	3,440.03	9/30/2007	MMM-494
JJJ-504	32208	2,975.06	2,656.30	9/30/2007	MMM-494
JJJ-505	32211	3,744.83	3,343.60	9/30/2007	MMM-494
JJJ-506	32212	2,155.32	1,924.39	9/30/2007	MMM-494
JJJ-507	32213	9,244.15	8,253.71	9/30/2007	MMM-494
JJJ-508	32214	6,583.52	5,878.14	9/30/2007	MMM-494
JJJ-509	32215	4,219.56	3,767.46	9/30/2007	MMM-494
JJJ-510	32234	3,917.72	3,497.96	9/30/2007	MMM-494
JJJ-511	32235	6,088.94	5,436.55	9/30/2007	MMM-495
JJJ-512	32236	3,601.47	3,215.60	9/30/2007	MMM-495
JJJ-513	32237	4,167.21	3,720.72	9/30/2007	MMM-495
JJJ-514	32238	2,077.63	1,855.03	9/30/2007	MMM-495
JJJ-515	32240	2,049.24	1,829.68	9/30/2007	MMM-495
JJJ-516	32241	874.00	780.36	9/30/2007	MMM-495
JJJ-517	32242	11,235.11	10,031.35	9/30/2007	MMM-495
JJJ-518	32243	3,814.32	3,405.64	9/30/2007	MMM-495
JJJ-519	32244	3,490.56	3,116.57	9/30/2007	MMM-495
JJJ-520	32245	3,884.72	3,468.50	9/30/2007	MMM-495
JJJ-521	32248	1,468.66	1,311.30	9/30/2007	MMM-495
JJJ-522	32249	2,605.35	2,326.21	9/30/2007	MMM-495
JJJ-523	32251	8,336.08	7,442.93	9/30/2007	MMM-496
JJJ-524	32252	321.84	287.36	9/30/2007	MMM-496
JJJ-525	32262	2,575.17	2,299.26	9/30/2007	MMM-496
JJJ-526	32265	7,216.67	6,443.46	9/30/2007	MMM-496
JJJ-527	32267	5,776.29	5,157.40	9/30/2007	MMM-496
JJJ-528	32269	6,685.15	5,968.88	9/30/2007	MMM-496
JJJ-529	32271	8,573.61	7,655.01	9/30/2007	MMM-496
JJJ-530	32272	13,997.80	12,498.04	9/30/2007	MMM-496
JJJ-531	32273	3,043.19	2,717.13	9/30/2007	MMM-496
JJJ-532	32274	12,020.48	10,732.57	9/30/2007	MMM-496
JJJ-533	32275	2,001.48	1,787.04	9/30/2007	MMM-496
JJJ-534	32276	19,166.58	17,113.02	9/30/2007	MMM-496
JJJ-535	32277	8,291.38	7,403.02	9/30/2007	MMM-496
JJJ-536	32279	4,639.29	4,142.22	9/30/2007	MMM-497
JJJ-537	32280	10,310.45	9,205.76	9/30/2007	MMM-497
JJJ-538	32281	2,550.53	2,277.26	9/30/2007	MMM-497
JJJ-539	32282	6,448.01	5,757.15	9/30/2007	MMM-497
JJJ-540	32283	6,615.91	5,907.06	9/30/2007	MMM-497
JJJ-541	32285	11,973.04	10,690.21	9/30/2007	MMM-497
JJJ-542	32287	14,486.35	12,934.24	9/30/2007	MMM-497
JJJ-543	32289	4,970.91	4,438.31	9/30/2007	MMM-497
JJJ-544	32291	381.80	340.89	9/30/2007	MMM-497
JJJ-545	32294	6,385.49	5,701.33	9/30/2007	MMM-497
JJJ-546	32295	967.74	864.05	9/30/2007	MMM-497
JJJ-547	32296	34,597.27	30,890.42	9/30/2007	MMM-497
JJJ-548	32297	24,677.61	22,033.58	9/30/2007	MMM-497
JJJ-549	32298	3,251.26	2,902.91	9/30/2007	MMM-497
JJJ-550	32300	2,443.10	2,181.34	9/30/2007	MMM-497
JJJ-551	32301	4,298.34	3,837.80	9/30/2007	MMM-497
JJJ-552	32302	5,806.51	5,184.38	9/30/2007	MMM-497
JJJ-553	32303	11,395.90	10,174.91	9/30/2007	MMM-497
JJJ-554	32304	5,734.84	5,120.39	9/30/2007	MMM-497
JJJ-555	32305	1,019.64	910.39	9/30/2007	MMM-497
JJJ-556	32306	1,486.71	1,327.42	9/30/2007	MMM-497
JJJ-557	32309	3,965.67	3,540.78	9/30/2007	MMM-498
JJJ-558	32310	3,892.17	3,475.15	9/30/2007	MMM-498
JJJ-559	32311	4,792.32	4,278.86	9/30/2007	MMM-498
JJJ-560	32312	5,825.97	5,201.76	9/30/2007	MMM-498

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date		Traced to SAP G/L (Exhibit)
JJJ-561	32313	2,164.84	1,932.89	9/30/2007		MMM-498
JJJ-562	32315	772.60	689.82	9/30/2007		MMM-498
JJJ-563	32316	8,085.67	7,219.35	9/30/2007		MMM-498
JJJ-564	32317	16,647.30	14,863.66	9/30/2007		MMM-498
JJJ-565	32318	916.91	818.67	9/30/2007		MMM-498
JJJ-566	32319	5,637.72	5,033.68	9/30/2007		MMM-498
JJJ-567	32321	1,830.52	1,634.39	9/30/2007		MMM-498
JJJ-568	32323	2,960.88	2,643.64	9/30/2007		MMM-498
JJJ-569	32324	4,013.55	3,583.53	9/30/2007		MMM-498
JJJ-570	32325	3,198.94	2,856.20	9/30/2007		MMM-498
JJJ-571	32326	1,884.24	1,682.36	9/30/2007		MMM-498
JJJ-572	32909	3,537.83	3,158.78	10/19/2007		MMM-519
JJJ-573	32910	9,137.60	8,158.57	10/19/2007		MMM-519
JJJ-574	32911	11,250.08	10,044.71	10/19/2007		MMM-519
JJJ-575	32912	8,392.27	7,493.10	10/19/2007		MMM-519
JJJ-576	32913	703.02	627.70	10/19/2007		MMM-519
JJJ-577	32914	1,821.61	1,626.44	10/19/2007		MMM-519
JJJ-578	32915	234.33	209.22	10/19/2007		MMM-519
JJJ-579	32916	13,457.53	12,015.65	10/19/2007		MMM-520
JJJ-580	32919	13,811.48	12,331.68	10/20/2007		MMM-520
JJJ-581	32920	2,198.80	1,963.21	10/20/2007		MMM-520
JJJ-582	32921	98,228.83	87,704.31	10/20/2007		MMM-520
JJJ-583	32922	61,505.38	54,915.52	10/20/2007		MMM-520
JJJ-584	32923	118,523.26	105,824.34	10/20/2007		MMM-520
JJJ-585	32924	75,381.77	67,305.15	10/20/2007		MMM-520
JJJ-586	32925	83,717.19	74,747.49	10/20/2007		MMM-520
JJJ-587	32926	55,332.72	49,404.21	10/20/2007		MMM-520
JJJ-588	32927	115,840.10	103,428.66	10/20/2007		MMM-520
JJJ-589	32928	37,753.94	33,708.88	10/20/2007		MMM-520
JJJ-590	36842	49,508.91	44,204.38	12/30/2007		MMM-658
JJJ-591	36711	58,440.04	52,178.61	12/31/2007		MMM-653
JJJ-592	36716	146,860.78	131,125.70	12/31/2007		MMM-654
JJJ-593	36718	39,531.13	35,295.65	12/31/2007		MMM-654
JJJ-594	36721	22,225.14	19,843.88	12/31/2007		MMM-654
JJJ-595	36723	903,598.85	806,784.69	12/31/2007		MMM-654
JJJ-596	36725	30,963.40	27,645.89	12/31/2007		MMM-654
JJJ-597	36727	259,995.03	232,138.42	12/31/2007		MMM-654
JJJ-598	36730	67,850.38	60,580.70	12/31/2007		MMM-654
JJJ-599	36731	54,598.02	48,748.23	12/31/2007		MMM-654
JJJ-600	36732	74,178.33	66,230.65	12/31/2007		MMM-654
JJJ-601	36734	26,873.85	23,994.51	12/31/2007		MMM-654
JJJ-602	36737	122,288.87	109,186.49	12/31/2007		MMM-654
JJJ-603	36779	216,528.84	193,329.32	12/31/2007		MMM-656
JJJ-604	36786	186,391.80	166,421.25	12/31/2007		MMM-656
JJJ-605	36790	103,092.36	92,046.75	12/31/2007		MMM-656
JJJ-606	36793	63,796.58	56,961.23	12/31/2007		MMM-657
JJJ-607	36795	19,902.32	17,769.93	12/31/2007		MMM-657
JJJ-608	36798	92,738.59	82,802.31	12/31/2007		MMM-657
JJJ-609	36804	27,500.85	24,554.33	12/31/2007		MMM-657
JJJ-610	36807	15,548.52	13,882.61	12/31/2007		MMM-657
JJJ-611	36812	59,128.21	52,793.04	12/31/2007		MMM-657
JJJ-612	36815	105,182.46	93,912.91	12/31/2007		MMM-657
JJJ-613	36818	14,642.10	13,073.30	12/31/2007		MMM-657
JJJ-614	36819	163,763.78	146,217.66	12/31/2007		MMM-657
JJJ-615	36822	215,682.46	192,573.63	12/31/2007		MMM-658
JJJ-616	36825	115,207.38	102,863.73	12/31/2007		MMM-658
JJJ-617	36828	51,621.76	46,090.86	12/31/2007		MMM-658
JJJ-618	36829	67,850.33	60,580.65	12/31/2007		MMM-658
JJJ-619	36830	61,366.24	54,791.29	12/31/2007		MMM-658
JJJ-620	36831	47,207.00	42,149.11	12/31/2007		MMM-658
JJJ-621	36832	3,530.62	3,152.34	12/31/2007		MMM-658
JJJ-622	36833	10,335.53	9,228.15	12/31/2007		MMM-658
JJJ-623	36834	64,122.45	57,252.19	12/31/2007		MMM-658

Exhibit No.	Credit Memo (CM) No. 5000-	Amount	Net of VAT	Date		Traced to SAP G/L (Exhibit)
JJJ-624	36835	111,248.82	99,329.30	12/31/2007		MMM-658
JJJ-625	36836	198,254.95	177,013.35	12/31/2007		MMM-658
2nd to 4th Quarter -		**64,760,532.88**	**57,821,904.36**			
GRAND TOTAL		**₱64,897,351.22**	**₱57,944,063.59**			