Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

INTEL PHILIPPINES MANUFACTURING, INC.,
Petitioner,

- versus -

C.T.A. CASE NOS. 4659, 4708 and 4839

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PROMULGATED:
JUL 21 1998

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DECISION

On March 22, 1995, these cases which involve claims for refund of input value-added tax were ordered by the Court to be consolidated.[1] The original period covered herein was for September 1, 1989 to February 28, 1991 but was shortened to March 1, 1990 to February 28, 1991 when petitioner filed the amended petitions for review in CTA Case Nos. 4659 and 4839. There was no amended petition for review filed in CTA Case No. 4708 since the periods and amounts involved therein were already covered by the amended petition for review in CTA Case No. 4659. Furthermore, the claim for refund in the amount of ₱2,018,942.89 for the period September to November 1990 in CTA Case No. 4659 was still covered in CTA Case No. 4839. Considering these overlapping situations, the Court deemed it proper to tackle only the amount of ₱14,556,318.69 representing claims for refund of input

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1 See minutes of the session, March 22, 1995, CTA Case No. 4839, p. 106, CTA Records.

value-added tax (VAT, for brevity) for the period March 1, 1990 to February 28, 1991, broken down as follows:

Period Covered	***Amount Claimed***
March to May 1990	₱ 2,656,470.38
Additional application	217,083.22
June to August 1990	3,306,748.49
Additional application	93,211.82
September to November 1990	2,018,942.89
Additional application	1,389,028.28
December 1990 to February 1991	4,874,833.61
TOTAL	**₱14,556,318.69**

The facts based on the records and pleadings of these cases are as follows:

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Philippines. It is a semi-conductor company primarily engaged in the manufacture of integrated circuits mainly for export abroad. It is a VAT-registered enterprise with VAT Registration Certificate No. 32A-3-002649, effective January 1, 1988 (Exh. A).

For the period March 1, 1990 to February 28, 1991, petitioner regularly filed its VAT returns reflecting, among others, its zero-rated export sales and its excess payment of input value-added tax (Exhs. D to F, CTA Case No. 4708, and Exh. G, CTA Case No. 4659, inclusive).

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Petitioner alleged that its export sales were paid for in acceptable foreign currency inwardly remitted to the Philippines in accordance with the rules and regulations of the Central Bank of the Philippines.

Pursuant to Section 106(a) of the Tax Code, which grants an exporter the privilege of refund or tax credit of input taxes attributable to export sales, petitioner filed, on different occasions, applications for tax credit/refund of value-added taxes paid, to wit:

Period Covered	***Dated Filed***	***Amount Claimed***	***Exh.***
March to May 1990	July 21, 1991	₱ 2,656,470.38	X-5
Additional application	November 26, 1991	217,083.22	X-6
June to August 1990	August 22, 1991	3,306,748.49	X-7
Additional application	November 26, 1991	93,211.82	X-8
September to November 1990	September 13, 1991	2,018,942.89	X-9
Additional application	January 7, 1991	1,389,028.28	X-10
December 1990 to February 1991	January 7, 1992	4,874,833.61	X-11
TOTAL		**₱14,556,318.69**	

Since respondent did not act upon the claims for refund of petitioner within sixty days from the dates of the filing of the applications for refund of input taxes, as mandated under Section 106(e) of the Tax Code, petitioner lodged the instant appeals with this Court.

On February 16, 1994, during the pendency of these cases, the respondent issued Tax Credit Certificate No. SN 002175 in the amount of ₱12,362,303.03 covering the period March 1, 1990 to February 28, 1991 (Exh. P), thus, leaving a

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balance of ₱2,194,015.66 out of the total claim for refund/tax credit of petitioner of ₱14,556,318.69.

Not fully satisfied with the amount granted by the respondent, petitioner manifested that it is still pursuing the refund of a portion of the amount which has not been granted by the respondent in the sum of P2,135,747.99, detailed as follows:

Period Involved	***Amount Claimed***
March 1990 to August 1990	₱ 1,293,915.00
September 1990 to February 1991	841,832.99
TOTAL	*₱ 2,135,747.99*

The only issue to be resolved by this Court is whether or not petitioner is entitled to the amount of ₱2,135,747.99, representing a portion of the disallowed input taxes for the period March 1, 1990 to February 28, 1991.

There is no dispute that the sales of petitioner, being export sales, are subject to the 0% rate of VAT pursuant to Section 100(a) of the Tax Code. In fact, respondent already granted a partial refund of the input taxes claimed by petitioner, thus, the legal issue involved herein is already settled. What now confronts the Court is the correctness of petitioner's claim for refund on the balance of input taxes.

To support its contention, petitioner presented in evidence two separate independent CPA certifications issued by Punongbayan & Araullo (Exh.s Q, Q-1, R, T & T-1 found in CTA Case No. 4708). These certifications were done in accordance with CTA Circular No. 1-95 which found petitioner still entitled to the amount of ₱1,181,442.40, broken down as follows:

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Period Involved	*Amount Claimed*
March 1990 to August 1990	₱ 886,316.14
September 1990 to February 1991	295,126.26
T O T A L	*₱1,181,442.40*
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On the other hand, respondent maintained that petitioner is no longer entitled to the balance of input taxes in the amount of ₱2,135,747.99. She argues that the tax credit certificate issued in favor of the petitioner in the total amount of ₱21,024,582.24 for the period March 1, 1989 to February 28, 1991 for the original claims for refund for September 1, 1989 to February 28, 1991 in the sum of ₱20,442,686.09, detailed as follows:

TCC No.	*Period Covered*	*Amount Claimed*
SN 00185	03-01-89 to 02-28-90	₱ 8,662,279.21
SN 00185	03-01-89 to 02-28-91	12,362,303.03
T O T A L		*₱21,024,582.24*
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already included the remaining ₱2,135,747.99 still being claimed by herein petitioner since the amount granted was more than the amount of the claim for refund.

After a thorough review of the records of these cases, we find respondent's reasoning without merit.

We cannot accede to respondent's argument that the remaining amount of ₱2,135,747.99 was already included in the amount of P21,024,582.24 granted by the Bureau of Internal Revenue. This is due to the fact, that the sum of ₱21,024,582.24 was for the period March 1, 1989 to February 28, 1991 while the subject claim for refund only covers March 1, 1990 to February 28, 1991.

Of the two tax credit certificates referred to by the respondent, only the second certificate in the amount of ₱12,362,303.03 pertains to the period March 1, 1990 to February 28, 1991 which is the subject matter of the cases herein. Since there remains a discrepancy in the amount granted of ₱12,362,303.03, as compared with the total amount of the claims for refund of ₱14,556,318.69, subject of these petitions for review, then We can conclude that respondent's contention is untenable.

As to the persistence of petitioner to seek the balance of ₱2,135,747.99, the Court, after a careful evaluation of the report prepared by the independent CPA, and taking into consideration the basis of the disallowance made by the revenue examiner together with the invoices submitted by petitioner, noted the following facts (Exhs. Q, R, S-1 to S-1, 018, T, U to U-117, and pp. 1 to 265, BIR records):

1. The revenue examiner indeed disallowed the invoices or official receipts bearing stamped VAT numbers;

2. The audit conducted by the independent CPA only centers on the disallowed amount by the examiner;

3. The report of the auditor has basis and was backed-up by invoices and/or receipts; and

4. There is an overstatement of summation found in the auditor's report in the amount of ₱463.25. The amount reflected was ₱704,576.35 instead of ₱704,113.10.

Except for some qualifications, this Court finds the rest of the findings by the independent CPA acceptable.

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It should be stressed that the invoices or receipts disallowed by the revenue examiner which bear the stamped VAT number of the supplier were considered by the Court as a valid VAT invoice or receipt. This is in consonance with Section 26(d) of Revenue Regulation No. 5-87 which states that:

> **SEC. 26.** ***Transitory provisions.*** - (a) xxx
>
> (b) xxx
>
> (c) xxx
>
> (d) *Unused invoices or receipts.* - All VAT-registered persons who have in their possession invoices or receipts printed prior to January 1, 1988, should submit an inventory of such invoices or receipts indicating the number of unused booklets and the corresponding serial number. The VAT-registered person shall be required to stamp the unused invoices which he shall use in connection with his VAT taxable transactions with the taxpayer's VAT registration number. Thereafter, any subsequent printing of receipts or invoices should include the taxpayer's VAT registration number. (Underlining supplied).
>
> xxx xxx xxx.

Based on the above VAT regulation, a VAT-registered person which has unused invoices or receipts printed prior to January 1, 1988 is allowed to use the same in its VAT taxable transactions provided that the VAT registration number is stamped thereon. These invoices or receipts which have stamped VAT registration number are considered valid VAT invoices. Therefore, buyers which have them in their possessions are entitled to input tax credit.

Accordingly, this Court allows the grant of refund of input taxes claimed by petitioner in the amount of ₱1,180,979.15 instead of ₱2,135,747.99, computed as follows:

Period Involved	***Amount Claimed***
March 1990 to August 1990	₱ 886,316.14
September 1990 to February 1991	295,126.26
T O T A L	₱ 1,181,442.40
Less error in summation	463.25
Allowable refund	₱1,180,979.15

WHEREFORE, in view of the foregoing, the Court finds the petitions for review partially meritorious. Respondent is hereby ordered to REFUND or to ISSUE a tax credit certificate in favor of petitioner in the amount of ₱1,180,979.15.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

(On Sick Leave)
AMANCIO Q. SAGA
Associate Judge

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CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals

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