Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

AIR LIQUIDE PHILIPPINES, INC., Petitioner,	**CTA CASE NO. 8017**
	For: Refund or issuance of a Tax Credit Certificate
-versus-	Present: **CASTAÑEDA, JR.**, Chairperson **CASANOVA**, and **MINDARO-GRULLA**, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: DEC 07 2017 2:10 p.m.

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AMENDED DECISION

MINDARO-GRULLA, J.:

This is a case remanded by the Supreme Court involving a Petition for Review filed by Air Liquide Philippines, Inc. on December 29, 2009, seeking the issuance of a tax credit certificate in the amount of Twenty-Three Million Two Hundred Fifty-Four Thousand Four Hundred Sixty-Five Pesos and 64/100 (₱23,254,465.64), allegedly representing its unutilized input value-added tax (VAT) paid for the fourth quarter of calendar year (CY) 2007.

Petitioner Air Liquide Philippines, Inc. is a domestic corporation duly organized and existing under Philippine laws, with Securities and Exchange Commission (SEC) Certificate No. AS094-00011713.[1] Its principal place of business is at Lot 37, DBP Avenue, FTI Complex, Taguig, Metro Manila. Petitioner is a VAT-registered entity since October 9, 1995, as evidenced by its Bureau of Internal Revenue (BIR) Certificate of Registration No. OCN 9RC0000057089.[2]

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[1] Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, Vol. 1, p. 454.
[2] Par. 3, Stipulation of Facts, JSFI, Docket, Vol. 1, p. 455; Exhibit "B".

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner is engaged in the manufacture, production, purchase, wholesale, importation, marketing and generally deal in all kinds of industrial, medical and specialty liquid gases, other chemicals and residual components. It sells products and renders certain related services to entities registered with the Philippine Economic Zone Authority (PEZA).[3]

On December 23, 2009, petitioner filed with respondent, through BIR Revenue District Office (RDO) No. 121, an application for issuance of tax credit certificate for its unutilized input VAT for the fourth quarter of CY 2007.

On December 29, 2009, the instant Petition for Review was filed.

This Court issued a Decision[4] on July 3, 2012, the dispositive portion of which provides:

> "**WHEREFORE**, premises considered, the present Petition for Review is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

On July 20, 2012, petitioner filed a Motion for Reconsideration of the above Decision.

On September 24, 2012, this Court denied petitioner's Motion for Reconsideration for lack of merit.

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[3] Pars. 1 and 2, Stipulation of Facts, JSFI, Docket, Vol. 1, p. 454.
[4] Docket, Vol. 2, pp. 871-898.

On October 25, 2012, petitioner filed a Petition for Review with the CTA *En Banc*, docketed as CTA EB No. 943.

On July 29, 2013, the CTA *En Banc* rendered a Decision granting the Petition for Review, the dispositive portion of which states:

> "**WHEREFORE**, premises considered, the instant Petition for Review filed on October 25, 2012 is hereby **GRANTED**. The assailed Decision dated July 3, 2012 and the assailed Resolution dated September 24, 2012 promulgated by the CTA-Second Division which dismissed the Petition for Review docketed as CTA Case No. 8017, are hereby **REVERSED** and **SET ASIDE**.
>
> Accordingly, CTA Case No. 8017 is hereby **REMANDED** to the CTA-Second Division for the proper and immediate determination of the propriety of the claim for refund or tax credit certificate. Thereafter, the CTA-Second Division shall make a declaration of the specific amount of refund or tax credit certificate to which petitioner is entitled to, if any.
>
> **SO ORDERED**."

Respondent filed a Motion for Reconsideration of the above Decision on August 28, 2013.

On December 17, 2013, the CTA *En Banc* denied respondent's Motion for Reconsideration for lack of merit.

Aggrieved by the decision of the CTA *En Banc*, respondent filed a Petition for Review on Certiorari with the Supreme Court entitled *Commissioner of Internal Revenue vs. Air Liquide Philippines, Inc.*, with Docket No. G.R. No. 210646.

On July 29, 2015, the Supreme Court rendered a Decision denying respondent's Petition for Review on Certiorari, the dispositive portion of which provides:

> "**WHEREFORE**, the Petition is **DENIED**. The July 29, 2013 Decision and the December 17, 2013 Resolution

of the Court of Tax Appeals *En Banc* in CTA *EB* Case No. 943 are **AFFIRMED** in *toto*. Accordingly, the case is **REMANDED** to the CTA Second Division for the proper determination of the refundable or creditable amount due to the respondent, if any.

SO ORDERED."

On March 18, 2016,[5] this Court received the Entry of Judgment issued by the Supreme Court on September 23, 2015 stating that the Decision rendered in *Commissioner of Internal Revenue vs. Air Liquide Philippines, Inc.* on July 29, 2015 has already become final and executory.

As a result, the case was set for petitioner's presentation of evidence and petitioner was ordered to submit Supplemental Independent Certified Public Accountant (ICPA) Report.

On August 15, 2016[6] and August 17, 2016[7], in compliance with this Court's Order dated July 20, 2016, petitioner respectively submitted the Supplemental ICPA Report and the Supplemental Sworn Statements of Armando L. Magpantay Jr., the Court-commissioned ICPA.

Petitioner filed its Supplemental Formal Offer of Evidence[8] on August 26, 2016, with respondent's Comment filed on September 5, 2016.

This Court issued a Resolution[9] on October 17, 2016, admitting petitioner's Exhibits "LLLL-10", "LLLL-10-a", "LLLL-10-1", "LLLL-10-2", "LLLL-10-3", "LLLL-11", and "LLLL-11-A". Thereafter, the parties were directed to file their memoranda.

Petitioner filed its Memorandum[10] on November 18, 2016; while respondent filed a Manifestation[11] on November 24, 2016, manifesting

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[5] Docket, Vol. 3, p. 1566.
[6] Docket, Vol. 4, pp. 1611-1632.
[7] Docket, Vol. 4, pp. 1634-1642.
[8] Docket, Vol. 4, pp. 1645-1649.
[9] Docket, Vol. 4, pp. 1655-1656.
[10] Docket, Vol. 4, pp. 1657-1670.
[11] Docket, Vol. 4, p. 1671.

that he will adopt his Answer to the Petition for Review filed on March 12, 2010[12] as his Memorandum, in lieu of filing a Memorandum. Consequently, this Court issued a Resolution[13] on December 12, 2016, declaring the case submitted for decision.

Based on the parties' Joint Stipulation of Facts and Issues[14], the following are the issues to be resolved:

1. Whether or not petitioner is entitled to the issuance of a tax credit certificate for its unutilized/excess input VAT payments for the 4th Quarter of 2007 amounting to ₱23,254,465.64;

2. Whether or not petitioner is a value added taxpayer pursuant to the provisions of the National Internal Revenue Code ("NIRC") of 1997 as amended;

3. Whether or not petitioner has complied with the invoicing and accounting requirements for VAT-registered persons as well as the filing and payment of VAT in compliance with the provisions of Sections 113 and 114 of the NIRC;

4. Whether or not petitioner has complied with the submission of complete documents in support of the administrative claim for refund pursuant to Section 112(D) of the NIRC;

5. Whether or not the input taxes of ₱23,254,465.64 representing petitioner's excess and unutilized input VAT for the 4th Quarter of 2007 were:

   a. Paid by petitioner;
   b. Attributable to zero-rated sales;
   c. Not applied against any output tax; and

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[12] Docket, Vol. 1, pp. 114-124.
[13] Docket, Vol. 4, p. 1675.
[14] Docket, Vol. 1, p. 456.

6. Whether or not petitioner's claim for unutilized input VAT was filed within the period prescribed by law.

Pertinent to the resolution of the case at bench is Section 112(A) and (C) of the National Internal Revenue Code of 1997, as amended, which provides:

"SEC. 112. *Refunds or Tax Credits of Input Tax.* –

(A) *Zero-Rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

xxx xxx xxx

(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the

taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Pursuant to the above-quoted provision and as laid down by the Supreme Court in a number of cases[15], a taxpayer engaged in zero-rated or effectively zero-rated sales is entitled to a refund or tax credit of input taxes attributable to such sales upon compliance with the following requisites:

1. That the taxpayer-claimant must be VAT-registered;
2. That there must be zero-rated or effectively zero-rated sales;
3. That input taxes were incurred or paid;
4. That such input taxes are attributable to zero-rated or effectively zero-rated sales;
5. That the input taxes were not applied against any output VAT liability during and in the succeeding quarters; and
6. That the claim for refund was filed within the prescriptive period both in the administrative and judicial levels.

Petitioner's administrative and judicial claims were timely filed

The last requisite had been resolved by the CTA *En Banc* in its Decision in the case of *Air Liquide Philippines, Inc. vs. Commissioner of Internal Revenue*[16], which was affirmed by the Supreme Court in its Decision in the case of *Commissioner of Internal Revenue vs. Air Liquide Philippines, Inc.*[17]. The pertinent portion of the CTA *En Banc* Decision reads as follows:

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[15] *Commissioner of Internal Revenue vs. Toledo Power Company*, G.R. Nos. 195175 and 199645, August 10, 2015; *Luzon Hydro Corporation vs. Commissioner of Internal Revenue*, G.R. No. 188260, November 13, 2013; *Southern Philippines Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179632, October 19, 2011; *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007.

[16] CTA EB No. 943, July 29, 2013.

[17] G.R. No. 210646, July 29, 2015.

> "Based on the foregoing, the Supreme Court reiterated that the observance of the 120+30-day period is mandatory and jurisdictional. Taxpayers who file their judical claims for tax refund or issuance of tax credit certificate without observing the 120+30-day period are deemed to have prematurely filed their judical claims, thus depriving the Court of Tax Appeals of jurisdiction over their claims. By way of exception, taxpayers who from December 10, 2003 up to October 6, 2010 filed their judicial claims for tax refund or issuance of tax credit certificate without regard to the 120+30-day period are exempted from the strict application of the same. As was discussed in *San Roque, Taganito and Philex,* **premature filing during the excepted period does not constitute an infirmity on the jurisdiction of the Court of Tax Appeals to act on the claim.**
>
> As can be seen from the records of this case, petitioner filed its administrative claim for its unutilized input VAT for the fourth quarter of taxable year 2007 on December 23, 2009 and its judicial claim on December 29, 2009. Clearly, the administrative claim was filed with the CIR within two years after the close of the taxable quarter when the zero-rated sales were made, as provided in Section 112 (A) of the 1997 Tax Code. Petitioner can also rely on BIR Ruling No. DA-489-03 since the instant judicial claim was filed within the excepted period."

This Court will now proceed to determine petitioner's compliance with the remaining requisites for refund of input VAT.

Petitioner is a VAT-registered entity with zero-rated sales for the fourth quarter of CY 2007

Petitioner is registered with the BIR as a VAT entity under Certificate of Registration No. OCN 9RC0000057089 and is duly registered with the Securities and Exchange Commission as a business engaged in the manufacture, production, purchase, wholesale, importation, marketing and generally dealing in all kinds of industrial, medical and specialty liquid gases, other chemicals and their residual components.

For the fourth quarter of CY 2007, petitioner allegedly sold its products and rendered related services to entities registered with the PEZA, the Subic Bay Metropolitan Authority (SBMA), and the Board of Investments (BOI). Petitioner posits that such sales of goods and related services are considered export sales under Republic Act (RA) No. 7916, as amended by RA No. 8748, RA No. 7227, and Executive Order (EO) No. 226, subject to zero percent (0%) VAT under Sections 106(A)(2)(a)(5) and 108(B)(3) of the NIRC of 1997, as amended.

> "SEC. 106. *Value-added Tax on Sale of Goods or Properties.* –
>
> (A) *Rate and Base of Tax.* – There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor: *Provided*, That the President, upon the recommendation of the Secretary of Finance, shall, effective January 1, 2006, raise the rate of value-added tax to twelve percent (12%), after any of the following conditions has been satisfied:
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> xxx xxx xxx
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* – The term **'export sales'** means:
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> xxx xxx xxx
>
> (5) **Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws.**" *(Emphasis supplied)*
>
> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx

(B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

xxx xxx xxx

(3) **Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate.**" *(Emphasis supplied)*

The Court agrees with petitioner.

Sales by a VAT-registered taxpayer from the customs territory to entities located in export processing zones are considered export sales under EO No. 226, otherwise known as the "Omnibus Investments Code of 1987", the relevant portions of which read as follows:

"ARTICLE 23. 'Export Sales' shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of exports products exported directly by a registered export producer or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same: *Provided,* That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents: *Provided, further,* **That without actual exportation the following shall be considered constructively exported for purposes of this provision**: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) **sales to export processing zones**; xxx" *(Emphasis supplied)*

"ARTICLE 77. *Tax Treatment of Merchandise in the Zone.* – (1) Except as otherwise provided in this Code, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed,

manipulated, manufactured, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the provisions of law to the contrary notwithstanding.

(2) **Merchandise purchased by a registered zone enterprise from the customs territory and subsequently brought into the zone, shall be considered as export sales and the exporter thereof shall be entitled to the benefits allowed by law for such transaction.**" *(Emphasis supplied)*

Further, RA No. 7916 otherwise known as "The Special Economic Zone Act of 1995", as amended by RA No. 8748, provides that ECOZONES are considered separate customs territory, and the business establishments operating within the ECOZONES are entitled to certain fiscal incentives. Sections 8 and 23 of RA No. 7916, as amended by RA No. 8748, provide:

"SECTION 8. *ECOZONE to be Operated and Managed as Separate Customs Territory.* – The ECOZONES shall be managed and operated by the PEZA as separate customs territory."

"SECTION 23. *Fiscal Incentives.* – Business establishments operating within the ECOZONES shall be entitled to the fiscal incentives as provided for under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987. xxx"

RA No. 7227, otherwise known as the "Bases Conversion and Development Act of 1992", provides a similar provision treating the Subic Special Economic Zone as a separate customs territory, thus:

"SECTION 12. *Subic Special Economic Zone.* – xxx

xxx xxx xxx

(b) The Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring free flow

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> or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines;"

Since the Ecozone is considered as a foreign territory by legal fiction, sales of goods and services made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within the Ecozone are considered exports to a foreign country subject to zero percent (0%) VAT. This was elucidated by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Toshiba Information Equipment (Phils.), Inc.*[18], to wit:

> "This Court agrees, however, that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory.
>
> xxx xxx xxx
>
> Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the **ECOZONES as a separate customs territory; thus, creating the fiction that the ECOZONE is a foreign territory. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.**
>
> Given the preceding discussion, what would be the VAT implication of sales made by a supplier from the Customs Territory to an ECOZONE enterprise?

[18] G.R. No. 150154, August 9, 2005.

> The Philippine VAT system adheres to the **Cross Border Doctrine**, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, **actual export of goods and services from the Philippines to a foreign country must be free of VAT**; while, those destined for use or consumption within the Philippines shall be imposed with ten percent (10%) VAT." *(Emphasis supplied)*

Similarly, in the case of *Commissioner of Internal Revenue vs. Sekisui Jushi Philippines, Inc.*[19], the Supreme Court held:

> "Notably, **while an ecozone is geographically within the Philippines, it is deemed a separate customs territory and is regarded in law as foreign soil.** Sales by suppliers from outside the borders of the ecozone to this separate customs territory are **deemed as exports and treated as export sales. These sales are zero-rated or subject to a tax rate of zero percent**." *(Emphasis supplied)*

With respect to sales by a VAT-registered supplier to a BOI-registered 100% exporter, Section 4.106-5 of Revenue Regulations (RR) No. 16-05[20] provides:

> "SECTION 4.106-5. *Zero-Rated Sales of Goods or Properties.* – A zero-rated sale of goods or properties (by a VAT-registered person) is a taxable transaction for VAT purposes, but shall not result in any output tax. However, the input tax on purchases of goods, properties or services, related to such zero-rated sale, shall be available as tax credit or refund in accordance with these Regulations.
>
> The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export sales.* – '*Export Sales*' shall mean:
>
> xxx xxx xxx

[19] G.R. No. 149671, July 21, 2006.
[20] Consolidated Value-Added Tax Regulations of 2005 issued on September 1, 2005.

(5) Transactions considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

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

For purposes of zero-rating, the export sales of registered export traders shall include commission income. The exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee; and *Provided, finally,* that **sales of goods, properties or services made by a VAT-registered supplier to a BOI-registered manufacturer/producer whose products are 100% exported are considered export sales**. A certification to this effect must be issued by the Board of Investment (BOI) which shall be good for one year unless subsequently re-issued by the BOI." *(Emphasis supplied)*

Clearly, petitioner's sales of goods and services to entities registered with the PEZA and SBMA and those registered with the BOI whose products are 100% exported are considered "export sales" subject to zero percent VAT rate pursuant to Sections 106(A)(2)(a)(5) and 108(B)(3) of the NIRC of 1997, as amended.

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To substantiate its reported zero-rated sales/receipts of ₱206,341,201.16[21] for the fourth quarter of CY 2007, petitioner presented the sales invoices[22] it issued to its clients for the subject period of claim, the Certification[23] from PEZA dated April 28, 2010 attesting that the enterprises listed therein are registered with PEZA, the Certificates[24] of Registration and Tax Exemption issued by SBMA on December 2, 2006 and December 3, 2007 to NIDEC Subic Philipppines Corporation, the Certificate[25] of Registration and Tax Exemption issued by SBMA on March 3, 2007 to HHIC-PHIL Inc., the Certification[26] issued by the BOI on December 3, 2010 confirming that Shinkozan Corporation and Team Pacific Corporation were endorsed to the BIR for VAT zero-rated transactions within the validity period of January 1 to December 31, 2007, and the letter[27] dated December 7, 2010 from PEZA to petitioner confirming that it has issued VAT zero-rating certifications to the PEZA-registered enterprises enumerated therein.

A careful examination of these documents shows that petitioner's reported zero-rated sales/receipts in the amount of ₱57,978,201.30 should be disallowed for the following reasons:

Exhibit	Invoice No.	Customer Name	Amount of Sale		
			In USD	Forex Rate[28]	Amount (in PHP)
a) Sales of goods to MME Technologies, Inc. (MME) for which no PEZA Certification for 2007 VAT zero-rating of MME's transactions with its local suppliers of goods, properties and services was issued, as indicated in the PEZA letter dated December 7, 2010 (Exhibit "Y-5"). Moreover, while it was noted in the said letter that MME's PEZA registration date was November 25, 1999, the same is not indicative of the fact that the said entity was PEZA registered during the subject period of claim.					
For the month of October					
2814	86921	MME Technologies, Inc.	500.00	44.9740	22,487.00
2815	86973	MME Technologies, Inc.			17,737.07
2816	87012	MME Technologies, Inc.			10,343.71
2817	87085	MME Technologies, Inc.			19,045.91
2818	87089	MME Technologies, Inc.			21,104.20
2819	87117	MME Technologies, Inc.			9,078.55
2820	87132	MME Technologies, Inc.			20,322.90
2821	87135	MME Technologies, Inc.			15,194.27

[21] Exhibit "M", line 17.
[22] Exhibits "2560" to "4508".
[23] Exhibit "Y".
[24] Exhibits "Y-1" and "Y-2".
[25] Exhibit "Y-3".
[26] Exhibit "Y-4".
[27] Exhibit "Y-5".
[28] Exhibits "J", "K", and "L".

2822	87159	MME Technologies, Inc.			12,089.09
2823	87294	MME Technologies, Inc.			15,037.88
2824	87295	MME Technologies, Inc.			23,645.44
2825	87318	MME Technologies, Inc.			21,851.44
2826	87320	MME Technologies, Inc.			24,669.06
2827	87428	MME Technologies, Inc.			16,027.70
2828	87434	MME Technologies, Inc.			17,163.12
2829	87494	MME Technologies, Inc.			20,681.05
2830	87531	MME Technologies, Inc.			9,317.49
2831	87553	MME Technologies, Inc.			16,314.35
2832	87559	MME Technologies, Inc.			15,829.19
2833	87561	MME Technologies, Inc.			17,792.32
2834	87612	MME Technologies, Inc.			20,622.94
2835	87654	MME Technologies, Inc.			16,859.05
2836	87677	MME Technologies, Inc.			16,069.04
2837	87754	MME Technologies, Inc.			6,896.76
2838	87755	MME Technologies, Inc.			14,627.34
2839	87812	MME Technologies, Inc.			14,440.66
2840	87874	MME Technologies, Inc.			17,624.62
2841	87876	MME Technologies, Inc.			19,842.16
2842	87878	MME Technologies, Inc.			16,419.26
Subtotal					***489,133.57***
For the month of November					
3515	88035	MME Technologies, Inc.	500.00	43.9470	21,973.50
3516	88120	MME Technologies, Inc.			13,212.29
3517	88125	MME Technologies, Inc.			12,139.92
3518	88126	MME Technologies, Inc.			18,887.96
3519	88150	MME Technologies, Inc.			12,279.15
3520	88187	MME Technologies, Inc.			18,109.91
3521	88238	MME Technologies, Inc.			13,822.12
3522	88317	MME Technologies, Inc.			11,017.76
3523	88336	MME Technologies, Inc.			14,880.84
3524	88337	MME Technologies, Inc.			13,133.38
3525	88338	MME Technologies, Inc.			28,147.73
3526	88339	MME Technologies, Inc.			12,212.20
3527	88349	MME Technologies, Inc.			13,947.05
3528	88380	MME Technologies, Inc.			15,635.62
3529	88412	MME Technologies, Inc.			22,594.13
3530	88416	MME Technologies, Inc.			7,597.20
3531	88418	MME Technologies, Inc.			19,663.93
3532	88479	MME Technologies, Inc.			11,518.39
3533	88500	MME Technologies, Inc.			15,251.99
3534	88632	MME Technologies, Inc.			23,634.39
3535	88644	MME Technologies, Inc.			10,647.78
3536	88690	MME Technologies, Inc.			21,610.55
3537	88712	MME Technologies, Inc.			9,053.07
3538	88717	MME Technologies, Inc.			12,806.17
3539	88750	MME Technologies, Inc.			19,680.44
3540	88765	MME Technologies, Inc.			14,864.72
3541	88833	MME Technologies, Inc.			35,954.88

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3542	88906	MME Technologies, Inc.			20,880.08
3543	88920	MME Technologies, Inc.			12,297.22
Subtotal					***477,454.37***
For the month of December					
4148	89064	MME Technologies, Inc.	500.00	42.7590	21,379.50
4149	89174	MME Technologies, Inc.			11,026.34
4150	89175	MME Technologies, Inc.			18,159.18
4151	89178	MME Technologies, Inc.			17,153.63
4152	89190	MME Technologies, Inc.			13,737.62
4153	89208	MME Technologies, Inc.			18,031.52
4154	89257	MME Technologies, Inc.			17,506.97
4155	89495	MME Technologies, Inc.			17,023.24
4156	89496	MME Technologies, Inc.			29,580.33
4157	89497	MME Technologies, Inc.			16,883.62
4158	89498	MME Technologies, Inc.			24,397.62
4159	89499	MME Technologies, Inc.			17,411.81
4160	89502	MME Technologies, Inc.			25,017.72
4161	89503	MME Technologies, Inc.			17,161.43
4162	89505	MME Technologies, Inc.			19,629.61
4163	89506	MME Technologies, Inc.			13,007.15
4164	89507	MME Technologies, Inc.			21,784.62
4165	89573	MME Technologies, Inc.			15,757.69
4166	89633	MME Technologies, Inc.			19,524.70
4167	89683	MME Technologies, Inc.			15,542.15
4168	89696	MME Technologies, Inc.			19,801.21
4169	89802	MME Technologies, Inc.			15,234.44
4170	89841	MME Technologies, Inc.			9,301.76
4171	89844	MME Technologies, Inc.			8,738.99
4172	89867	MME Technologies, Inc.			10,792.47
Subtotal					***433,585.32***
Total					***1,400,173.26***
b) Sales of goods without proof that the corresponding customers were PEZA or SBMA-registered entities or BOI 100% exporters during the fourth quarter of CY 2007					
For the month of October					
3177	87966	TST, Inc.			530,519.00
3179	86952	TST, Inc.	600.00	44.9740	26,984.40
3178	88016	TST, Inc.			36,400.00
3180	87374	Twin V Tech Systems, Inc.			420.00
Subtotal					***594,323.40***
For the month of November					
3602	88845	NSG Micro Optics Phils., Inc.			1,750.00
3725	88480	Pilipinas Shell Petroleum Corp.			14,624.00
3837	88993	TST, Inc.			542,214.65
3839	88066	TST, Inc.	600.00	43.9470	26,369.85
3838	89044	TST, Inc.			33,600.00
Subtotal					***618,558.50***
For the month of December					
4230	89435	NSG Micro Optics Phils., Inc.			1,500.00
4459	89944	TST, Inc.			524,237.07

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4461	89095	TST, Inc.	600.00	42.7590	25,655.40
4460	89997	TST, Inc.			33,600.00
Subtotal					***584,992.47***
Total					***1,797,874.37***

c) Sale of goods supported by invoices without the term "zero-rated sale" written or printed thereon in violation of Section 113(B)(2)(c) of the NIRC of 1997, as amended. Instead, the invoices bear the statement "Not to be issued for non-VAT/exempt sale of goods, properties, or services. If issued, sales shall be subjected to VAT".

For the month of October					
2561	86935	AGC Flat Glass Phils., Inc.	1,448.72	44.9740	65,154.73
2562	87910	AGC Flat Glass Phils., Inc.			5,103,105.01
2563	87911	AGC Flat Glass Phils., Inc.			3,815,529.30
2564	87959	AGC Flat Glass Phils., Inc.			226,672.95
2565	88003	AGC Flat Glass Phils., Inc.			200.00
2587	87928	Air Liquide Pipeline Utilities Services	33,404.51	43.9470	1,468,028.00
2588	85798	Air Water Philippines, Inc.			(224.00)
2595	87290	Amkor Anam Technology			34,500.00
2596	87508	Amkor Anam Technology			6,000.00
2597	87759	Amkor Anam Technology			34,500.00
2648	86987	Franke Foodservice Systems Phils., Inc.			16,000.00
2649	86988	Franke Foodservice Systems Phils., Inc.			950.00
2650	86989	Franke Foodservice Systems Phils., Inc.			950.00
2651	87021	Franke Foodservice Systems Phils., Inc.			16,000.00
2652	87033	Franke Foodservice Systems Phils., Inc.			950.00
2653	87101	Franke Foodservice Systems Phils., Inc.			6,400.00
2654	87102	Franke Foodservice Systems Phils., Inc.			25,600.00
2655	87178	Franke Foodservice Systems Phils., Inc.			25,600.00
2656	87179	Franke Foodservice Systems Phils., Inc.			3,800.00
2657	87286	Franke Foodservice Systems Phils., Inc.			25,600.00
2658	87292	Franke Foodservice Systems Phils., Inc.			950.00
2659	87361	Franke Foodservice Systems Phils., Inc.			12,800.00
2660	87362	Franke Foodservice Systems Phils., Inc.			950.00
2661	87575	Franke Foodservice Systems Phils., Inc.			16,000.00
2662	87638	Franke Foodservice Systems Phils., Inc.			16,000.00
2663	87639	Franke Foodservice Systems Phils., Inc.			950.00
2664	87688	Franke Foodservice Systems Phils., Inc.			3,200.00
2665	87689	Franke Foodservice Systems Phils., Inc.			25,600.00
2666	87690	Franke Foodservice Systems Phils., Inc.			950.00
2667	87742	Franke Foodservice Systems Phils., Inc.			2,800.00
2668	87758	Franke Foodservice Systems Phils., Inc.			2,000.00
2710	87038	Imasen Philippine Mfg. Corp.			10,200.00
2711	87047	Imasen Philippine Mfg. Corp.			2,550.00
2712	87138	Imasen Philippine Mfg. Corp.			13,600.00
2713	87139	Imasen Philippine Mfg. Corp.			5,100.00
2714	87316	Imasen Philippine Mfg. Corp.			6,800.00
2715	87324	Imasen Philippine Mfg. Corp.			3,400.00
2716	87325	Imasen Philippine Mfg. Corp.			6,800.00
2717	87341	Imasen Philippine Mfg. Corp.			13,600.00
2718	87342	Imasen Philippine Mfg. Corp.			1,700.00

2719	87472	Imasen Philippine Mfg. Corp.			6,800.00
2720	87500	Imasen Philippine Mfg. Corp.			6,800.00
2721	87501	Imasen Philippine Mfg. Corp.			4,250.00
2722	87541	Imasen Philippine Mfg. Corp.			13,600.00
2723	87599	Imasen Philippine Mfg. Corp.			2,550.00
2724	87657	Imasen Philippine Mfg. Corp.			10,200.00
2725	87658	Imasen Philippine Mfg. Corp.			3,400.00
2726	87825	Imasen Philippine Mfg. Corp.			13,600.00
2727	87826	Imasen Philippine Mfg. Corp.			5,950.00
2728	87897	Imasen Philippine Mfg. Corp.			10,200.00
2729	87898	Imasen Philippine Mfg. Corp.			3,400.00
2746	86958	ISPL (Phils) Inc.			45,600.00
2747	86959	ISPL (Phils) Inc.			45,600.00
2748	87184	ISPL (Phils) Inc.			91,200.00
2749	87566	ISPL (Phils) Inc.			91,200.00
2750	87636	ISPL (Phils) Inc.			45,600.00
2751	87697	ISPL (Phils) Inc.			45,600.00
2752	87738	ISPL (Phils) Inc.			45,600.00
2753	87774	ISPL (Phils) Inc.			45,600.00
3131	86848	Shi Mfg. & Services (Phils.), Inc.	(1,305.00)	45.0630	(58,806.85)
3134	87845	Shi Mfg. & Services (Phils.), Inc.	1,305.00	43.9470	57,350.83
3135	87962	Shi Mfg. & Services (Phils.), Inc.	6,525.00	43.9470	286,754.17
3137	87186	Shinkonzan Corporation			5,100.00
3138	87713	Shinkonzan Corporation			5,100.00
3139	87833	Shinkonzan Corporation			5,100.00
3140	87894	Shinkonzan Corporation			5,100.00
3141	88008	Shinkonzan Corporation			9,000.00
3176	87153	Tong Hsing			25,000.00
Subtotal					***11,897,714.13***
For the month of November					
3230	88941	AGC Flat Glass Philippines, Inc.			4,005,819.14
3231	88942	AGC Flat Glass Philippines, Inc.			5,037,847.35
3232	88984	AGC Flat Glass Philippines, Inc.			343,209.37
3253	88957	Air Liquide Pipeline Utilities Services, Inc.	24,067.01	42.7980	1,030,019.89
3259	88105	Amkor Anam Technology			5,000.00
3260	88138	Amkor Anam Technology			3,000.00
3261	88296	Amkor Anam Technology			34,500.00
3262	88521	Amkor Anam Technology			6,000.00
3263	88591	Amkor Anam Technology			69,000.00
3264	88810	Amkor Anam Technology			2,500.00
3347	88077	Franke Foodservice Systems Phils, Inc.			10,000.00
3348	88078	Franke Foodservice Systems Phils, Inc.			1,500.00
3349	88079	Franke Foodservice Systems Philis, Inc.			13,200.00
3350	88160	Franke Foodservice Systems Phils, Inc.			25,600.00
3351	88161	Franke Foodservice Systems Phis, Inc.			950.00
3352	88325	Franke Foodservice Systems Phiis, Inc.			6,400.00
3353	88326	Franke Foodservice Systems Phils, Inc.			22,400.00
3354	88327	Franke Foodservice Systems Phils, Inc.			1,900.00
3355	88328	Franke Foodservice Systems Phils, Inc.			950.00
3356	88395	Franke Foodservice Systems Phils, Inc.			25,600.00

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3357	88396	Franke Foodservice Systems Phils, Inc.			19,200.00
3358	88397	Franke Foodservice Systems Phils, Inc.			6,400.00
3359	88398	Franke Foodservice Systems Phils, Inc.			3,800.00
3360	88399	Franke Foodservice Systems Phils, Inc.			950.00
3361	88503	Franke Foodservice Systems Phils, Inc.			19,200.00
3362	88504	Franke Foodservice Systems Phils, Inc.			9,600.00
3363	88650	Franke Foodservice Systems Phils, Inc.			6,400.00
3364	88732	Franke Foodservice Systems Phils, Inc.			9,600.00
3365	88746	Franke Foodservice Systems Phils, Inc.			19,200.00
3366	88789	Franke Foodservice Systems Phils, Inc.			16,000.00
3367	88877	Franke Foodservice Systems Phils, Inc.			950.00
3368	88880	Franke Foodservice Systems Phils, Inc.			950.00
3414	88240	Imasen Philippine Mfg. Corporation			10,200.00
3415	88241	Imasen Philippine Mfg. Corporation			3,400.00
3416	88446	Imasen Philippine Mfg. Corporation			10,200.00
3417	88447	Imasen Philippine Mfg. Corporation			4,250.00
3418	88461	Imasen Philippine Mfg. Corporation			10,200.00
3419	88462	Imasen Philippine Mfg. Corporation			4,250.00
3420	88558	Imasen Philippine Mfg. Corporation			10,200.00
3421	88559	Imasen Philippine Mfg. Corporation			4,250.00
3422	88640	Imasen Philippine Mfg. Corporation			13,600.00
3423	88641	Imasen Philippine Mfg. Corporation			1,700.00
3424	88667	Imasen Philippine Mfg. Corporation			1,700.00
3425	88668	Imasen Philippine Mfg. Corporation			6,800.00
3426	88724	Imasen Philippine Mfg. Corporation			17,000.00
3427	88725	Imasen Philippine Mfg. Corporation			2,550.00
3428	88848	Imasen Philippine Mfg. Corporation			13,600.00
3429	88849	Imasen Philippine Mfg. Corporation			2,550.00
3430	88927	Imasen Philippine Mfg. Corporation			6,800.00
3431	88928	Imasen Philippine Mfg. Corporation			1,700.00
3449	88114	ISPL (Phil) Inc.			45,600.00
3450	88256	ISPL (Phil) Inc.			45,600.00
3451	88351	ISPL (Phil) Inc.			45,600.00
3452	88435	ISPL (Phil) Inc.			45,600.00
3453	88568	ISPL (Phil) Inc.			45,600.00
3454	88657	ISPL (Phil) Inc.			45,600.00
3455	88798	ISPL (Phil) Inc.			45,600.00
3795	88988	Shi Mfg. & Services (Phils.), Inc.	16,965.00	42.7980	726,068.07
3798	88638	Shinkozan Corporation			5,100.00
3799	88729	Shinkozan Corporation			5,100.00
3800	89036	Shinkozan Corporation			9,000.00
3831	88402	Tong Hsing Electornics (Philippines) Inc.			25,000.00
3832	88569	Tong Hsing Electornics (Philippines) Inc.			12,500.00
3833	88658	Tong Hsing Electornics (Philippines) Inc.			25,000.00
3834	88739	Tong Hsing Electornics (Philippines) Inc.			37,500.00
3835	88808	Tong Hsing Electornics (Philippines) Inc.			25,000.00
3836	88808	Tong Hsing Electornics (Philippines) Inc.			37,500.00
Subtotal					***12,109,563.82***
For the month of December					
3889	89887	AGC Flat Glass Philippines, Inc.			4,701,809.68

3890	89888	AGC Flat Glass Philippines, Inc.			5,438,206.17
3891	89937	AGC Flat Glass Philippines, Inc.			248,498.91
3892	89984	AGC Flat Glass Philippines, Inc.			200.00
3910	89907	Air Liquide Pipeline Utilities Services, Inc.	43,924.33	41.4010	1,818,511.19
3916	89101	Amkor Anam Technology			13,800.00
3917	89102	Amkor Anam Technology			55,200.00
3918	89246	Amkor Anam Technology			69,000.00
3919	89262	Amkor Anam Technology			1,500.00
3920	89263	Amkor Anam Technology			7,500.00
3921	89310	Amkor Anam Technology			1,500.00
3922	89433	Amkor Anam Technology			2,000.00
3923	89434	Amkor Anam Technology			8,000.00
3924	89619	Amkor Anam Technology			2,000.00
3925	89620	Amkor Anam Technology			8,000.00
3926	89648	Amkor Anam Technology			10,000.00
3927	89658	Amkor Anam Technology			10,000.00
3928	89659	Amkor Anam Technology			10,000.00
3929	89660	Amkor Anam Technology			10,000.00
3930	89665	Amkor Anam Technology			2,000.00
3931	89668	Amkor Anam Technology			8,000.00
3932	89670	Amkor Anam Technology			9,000.00
3933	89765	Amkor Anam Technology			34,500.00
3993	89367	Fastech Electonique, Inc.			39,195.00
3994	89146	Franke Foodservice Systems Phils, Inc.			2,850.00
3995	89154	Franke Foodservice Systems Phils, Inc.			9,600.00
3996	89155	Franke Foodservice Systems Phils, Inc.			9,600.00
3997	89217	Franke Foodservice Systems Phils, Inc.			9,600.00
3998	89218	Franke Foodservice Systems Phils, Inc.			9,600.00
3999	89219	Franke Foodservice Systems Philis, Inc.			950.00
4000	89260	Franke Foodservice Systems Philis, Inc.			3,200.00
4001	89261	Franke Foodservice Systems Philis, Inc.			1,900.00
4002	89340	Franke Foodservice Systems Phils, Inc.			19,200.00
4003	89404	Franke Foodservice Systems Phils, Inc.			16,000.00
4004	89405	Franke Foodservice Systems Phils, Inc.			22,400.00
4005	89406	Franke Foodservice Systems Phils, Inc.			12,800.00
4006	89407	Franke Foodservice Systems Phils, Inc.			1,500.00
4007	89408	Franke Foodservice Systems Phils, Inc.			10,000.00
4008	89409	Franke Foodservice Systems Phils, Inc.			10,000.00
4009	89597	Franke Foodservice Systems Phils, Inc.			950.00
4010	89598	Franke Foodservice Systems Phils, Inc.			1,900.00
4037	89814	HHIC-Phil., Inc.			4,428,650.00
4038	89815	HHIC-Phil., Inc.			3,921,730.00
4039	89839	HHIC-Phil., Inc.			250,750.00
4040	89842	HHIC-Phil., Inc.			374,000.00
4041	89843	HHIC-Phil., Inc.			367,000.00
4042	89889	HHIC-Phil., Inc.			336,500.00
4043	89890	HHIC-Phil., Inc.			342,000.00
4044	89891	HHIC-Phil., Inc.			400,000.00
4045	90001	HHIC-Phil., Inc.			2,447,000.00
4063	89921	Imasen Philippine Mfg. Corporation			121,040.00

4078	89110	ISPL (Phils.), Inc.			45,600.00
4079	89326	ISPL (Phils.), Inc.			91,200.00
4080	89562	ISPL (Phils.), Inc.			45,600.00
4081	89654	ISPL (Phils.), Inc.			45,600.00
4082	89657	ISPL (Phils.), Inc.			45,600.00
4083	89769	ISPL (Phils.), Inc.			45,600.00
4415	89940	Shi Mfg. & Services (Phils.), Inc.	19,575.00	41.4010	810,424.57
4420	89272	Shinikozan Corp.			5,100.00
4421	89364	Shinikozan Corp.			5,100.00
4422	89375	Shinikozan Corp.			5,100.00
4423	89791	Shinikozan Corp.			5,100.00
4424	89796	Shinikozan Corp.			10,200.00
4425	89799	Shinikozan Corp.			5,100.00
4426	89800	Shinikozan Corp.			5,100.00
4427	89801	Shinikozan Corp.			5,100.00
4428	89832	Shinikozan Corp.			5,100.00
4455	89317	Tong Hsing Electornics (Philippines) Inc.			37,500.00
4456	89359	Tong Hsing Electornics (Philippines) Inc.			25,000.00
4457	89647	Tong Hsing Electornics (Philippines) Inc.			37,500.00
4458	89661	Tong Hsing Electornics (Philippines) Inc.			12,500.00
Subtotal					***26,932,265.52***
Total					***50,939,543.48***
d) Sales of services or lease of facilities and equipment were not supported by VAT zero-rated official receipts in violation of Section 113(A)(2) of the NIRC of 1997, as amended					
For the month of October					
2895	85836	NT Philippines, Inc.			(224.00)
3058	86933	PSI Technologies, Inc.			3,000.00
3062	86936	Samsung Electo-Mechanic Philippines			4,500.00
3158	86946	Team Pacific Corp.			8,150.00
3155	86947	Team Pacific Corp.			18,000.00
3171	86948	Temic Automotive Philippines			14,000.00
3174	86950	Tokyo Steel Philippines Corp.			38,250.00
3175	86951	Tokyo Steel Philippines Corp.			6,300.00
3181	86953	Vishay Philippines, Inc.			13,500.00
2586	86995	Air Liquide Pipeline Utilities Services	25,757.51	44.8630	1,155,559.17
2599	87969	Amkor Whitecap Asia Pacific			400.00
2623	87847	Cam Mechatronics (Phils), Inc.			900.00
2896	87849	NT Philippines, Inc.			9,260.00
2590	87967	Air Water Philippines, Inc.	90.00	43.9470	3,955.23
2603	87970	Analog Devices Gen. Trias			5,040.00
2622	87974	Bell Electronics Corporation			360.00
2624	87976	Cam Mechatronics (Phils), Inc.			450.00
2631	87979	Cirtek Electronics Corporation			2,050.00
2639	87980	Continental Temic Electronics Phils.			5,000.00
2731	87986	Integrated Microelectronics Inc.			5,400.00
2757	87987	Ju-Young Electronics Phils., Inc.			200.00
2768	87988	Kyocera Kinseki Philippines, Inc.			1,050.00
3016	87996	Orient Semiconductor Electronics			2,670.00
3128	88005	Samsung Electo-Mechanic Philippines			27,100.00

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2889	88006	Nidec Subic Philippines Corp.			3,500.00
2968	88007	ON Semiconductors Phils., Inc.			700.00
3154	88013	Tann Philippines			350.00
3173	88015	Temic Automotive Philippines			2,500.00
3227	88019	Yutaka Manufacturing Philippines, Inc.			20,000.00
Subtotal					***1,351,920.40***
For the month of November					
3269	87972	Austriamicrosystems (Philippines), Inc.			(22,500.00)
3266	88020	Analog Devices Gen. Trias, Inc.			70,000.00
3267	88021	Analog Devices Gen. Trias, Inc.			2,200.00
3447	88022	ISPL (Phil) Inc.			37,000.00
3314	88023	Bell Electronics Corporation			20,000.00
3326	88024	Cirtek Electronics Corp.			25,000.00
3332	88025	Continental Temic Electronics (Philippines), Inc.	1,125.00	43.9470	49,440.37
3443	88029	Ionics Ems Inc.			15,000.00
3445	88030	Ionics Ems Inc.			15,000.00
3459	88031	Katolec Philippines Corporation	900.00	43.9470	39,552.30
3482	88032	Luzon Electronics Tehnology, Inc.	750.00	43.9470	32,960.25
3398	88040	Hoya Glass Disk Philippines, Inc.	600.00	43.9470	26,368.20
3715	88041	Orient Semiconductor Electronics Philppines, Inc.			24,000.00
3723	88042	Philippines Toei Chemical Corporation			18,000.00
3726	88044	Pricon Microelectronics Inc.	600.00	43.9470	26,368.20
3755	88045	PSI Technologies Inc,			9,000.00
3756	88046	PSI Technologies Inc,			8,100.00
3757	88047	PSI Technologies Inc,			3,000.00
3753	88048	PSI Technologies Inc,			6,000.00
3229	88049	AGC Flat Glass Philippines, Inc.	1,448.72	43.9470	63,666.90
3761	88050	Samsung Electro-Mechancs Philippines Corporation			4,500.00
3590	88052	Nidec Subic Philippines Corporation	400.00	43.9470	17,578.80
3682	88053	ON Semiconductors Philippines, Inc.			798,000.00
3683	88054	ON Semiconductors Philippines, Inc.			65,000.00
3813	88060	Team Pacific Corporation			8,150.00
3825	88062	Temic Automotive (Phils.), Inc.			14,000.00
3840	88067	Vishay Philippines, Inc.			13,500.00
3292	88419	Austriamicrosystems (Philippines), Inc.			10,000.00
3842	88483	Walk-in Customers			2,400.00
3254	88995	Air Water Philippines, Inc.	90.00	42.7980	3,851.82
3265	88997	Amkor Whitecap Asia Pacific			400.00
3268	88998	Analog Devices Gen. Trias, Inc.			5,040.00
3312	89000	Austriamicrosystems (Philippines), Inc.			7,500.00
3318	89002	Bell Electronics Corporation			480.00
3319	89004	Cam Mechatronic (Phils.), Inc.			450.00
3331	89007	Cirtek Electronics Corp.			2,050.00
3338	89008	Continental Temic Electronics (Philippines), Inc.			5,800.00
3433	89014	Integrated Microelectronics Inc.			5,400.00
3458	89015	Ju-Young Electronics (Philippines) Inc.			200.00

3472	89016	Kyocera Kinseki Philippines Inc.			1,200.00
3481	89017	Littelfuse Philippine, Inc.			3,300.00
3549	89019	MSM Manila Inc.			5,000.00
3720	89024	Orient Semiconductor Electronics Philppines, Inc.			2,670.00
3228	89029	2Pi Microwave Technology, Inc.			400.00
3233	89031	AGC Flat Glass Philippines, Inc.			200.00
3789	89033	Samsung Electro-Mechancs Philippines Corporation			27,100.00
3592	89034	Nidec Subic Philippines Corporation			3,500.00
3681	89035	ON Semiconductors Philippines, Inc.			700.00
3413	89039	Ibiden Philippines, Inc.			5,200.00
3808	89041	Tann Philippines Inc.			350.00
3828	89043	Temic Automotive (Phils.), Inc.			2,500.00
3886	89047	Yutaka Manufacturing (Phils) Inc.			12,500.00
Subtotal					***1,497,076.84***
For the month of December					
3938	89049	Analog Devices Gen. Trias, Inc.			70,000.00
3939	89050	Analog Devices Gen. Trias, Inc.			2,200.00
4076	89051	ISPL (Phils.), Inc.			37,000.00
3966	89052	Bell Electronics Corporation			20,000.00
3972	89053	Cirtek Electronics Corp.			25,000.00
3979	89054	Continental Temic Electronics (Philippines), Inc.	1,125.00	42.7590	48,103.87
4072	89058	Ionics Ems Inc.			15,000.00
4074	89059	Ionics Ems Inc.			15,000.00
4088	89060	Katolec Phils., Corp.	900.00	42.7590	38,483.10
4113	89061	Luzon Electronics Tehnology, Inc.	750.00	42.7590	32,069.25
4047	89069	Hoya Glass Disk Philippines, Inc.	600.00	42.7590	25,655.40
4332	89070	Orient Semiconductor Electronics Philppines, Inc.			24,000.00
4342	89071	Philippine Toei Chemical Corporation			18,000.00
4344	89073	Pricon Microelectronics Inc.	600.00	42.7590	25,656.57
4371	89074	PSI Technologies Inc.			9,000.00
4372	89075	PSI Technologies Inc.			8,100.00
4373	89076	PSI Technologies Inc.			3,000.00
4369	89077	PSI Technologies Inc.			6,000.00
3888	89078	AGC Flat Glass Philippines, Inc.	1,448.72	42.7590	61,945.82
4376	89079	Samsung Electro-Mechancs Philippines Corporation			4,500.00
4377	89080	Samsung Electro-Mechancs Philippines Corporation			27,500.00
4220	89081	Nidec Subic Philippines, Inc.	400.00	42.7590	17,103.60
4301	89083	ON Semiconductors Philippines, Inc.			65,000.00
4443	89089	Team Pacific Corp.			8,150.00
4439	89090	Team Pacific Corp.			18,000.00
4450	89091	Temic Automotive (Phils.), Inc.			14,000.00
4070	89092	Ionics Ems Inc.			15,000.00
4453	89093	Tokyo Steel Philippines Corporation			38,250.00
4454	89094	Tokyo Steel Philippines Corporation			6,300.00
4462	89096	Vishay Philippines, Inc.			13,500.00
4412	89114	Shi Mfg. & Services (Phils.), Inc.	725.00	42.7590	31,000.28

4221	89163	Nidec Subic Philippines, Inc.			54,591.65
3980	89274	Continental Temic Electronics (Philippines), Inc.			42,500.00
4413	89469	Shi Mfg. & Services (Phils.), Inc.			18,700.00
4414	89470	Shi Mfg. & Services (Phils.), Inc.			18,700.00
3935	89595	Amkor Technology Philippines, Inc.			36,400.00
3936	89596	Amkor Technology Philippines, Inc.			36,400.00
4222	89700	Nidec Subic Philippines, Inc.			41,817.32
3911	89946	Air Water Philippines, Inc.	90.00	41.4010	3,726.09
3937	89948	Amkor Whitecap Asia Pacific			400.00
3941	89949	Analog Devices Gen. Trias, Inc.			5,040.00
3965	89951	Austriamicrosystems (Philippines), Inc.			10,000.00
3968	89953	Bell Electronics Corporation			480.00
3969	89955	Cam Mechatronic (Phils.), Inc.			450.00
3978	89958	Cirtek Electronics Corp.			2,170.00
3986	89959	Continental Temic Electronics (Philippines), Inc.			4,600.00
4065	89966	Integrated Microelectronics Inc,			5,400.00
4087	89967	Ju-Young Electronics (Philippines) Inc.			200.00
4104	89968	Kyocera Kinseki Philippines Inc.			1,350.00
4112	89969	Littelfuse Philippines, Inc.			3,300.00
4177	89971	MSM Manila Inc.			5,000.00
4339	89976	Orient Semiconductor Electronics Philppines, Inc.			2,670.00
3887	89982	2Pi Microwave Technology, Inc.			400.00
4406	89986	Samsung Electro-Mechancs Philippines Corporation			27,100.00
4223	89987	Nidec Subic Philippines, Inc.			3,500.00
4299	89988	ON Semiconductors Philippines, Inc.			700.00
4429	89989	Shinikozan Corp.			6,000.00
4062	89992	Ibiden Philippines, Inc.			5,200.00
4438	89994	Tann Philippines Inc.			350.00
4452	89996	Temic Automotive (Phils.), Inc.			2,500.00
4219	-	Nidec Subic Philippines, Inc.			(84,000.00)
4411	-	Shi Mfg. & Services (Phils.), Inc.			(550.00)
4419	-	Shinikozan Corp.			(6,000.00)
Subtotal					***991,612.95***
Total					***3,840,610.19***
GRAND TOTAL- DISALLOWED ZERO-RATED SALES/RECEIPTS					**57,978,201.30**

Thus, out of the reported zero-rated sales/receipts of ₱206,341,201.16, only the amount of ₱148,362,999.86, representing petitioner's sales of goods, is properly supported by PEZA, SBMA and BOI certifications and VAT zero-rated sales invoices issued in accordance with Section 113(A)(1) and (B) in relation to Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended. The amount of ₱148,362,999.86 is computed below:

	October	November	December	Total
Zero-Rated Sales/Receipts per VAT Return[29]	**₱67,808,772.48**	**₱64,179,474.93**	**₱74,352,953.75**	**₱206,341,201.16**
Less: Disallowances				
Sale of goods to MME Technologies, Inc. for which no PEZA Certification for 2007 VAT zero-rating of MME's transactions with its local suppliers of goods, properties and services was issued, as indicated in the PEZA letter dated December 7, 2010 (*Exhibit "Y-5*). Moreover, while it was noted in the said letter that MME's PEZA registration date was November 25, 1999, the same is not indicative of the fact that the said entity was PEZA registered during the subject period of claim.	489,133.57	477,454.37	433,585.32	1,400,173.26
Sales of goods without proof that the corresponding customers were PEZA or SBMA-registered entities or BOI 100% exporters during the fourth quarter of CY 2007	594,323.40	618,558.50	584,992.47	1,797,874.37
Sale of goods supported by invoices without the term "zero-rated sale" written or printed thereon in violation of Section 113(B)(2)(c) of the NIRC of 1997, as amended. Instead, the invoices bear the statement "Not to be issued for non-VAT/exempt sale of goods, properties, or services. If issued, sales shall be subjected to VAT".	11,897,714.14	12,109,563.82	26,932,265.52	50,939,543.48
Sales of services or lease of facilities and equipment without supporting VAT zero-rated official receipts in violation of Section 113(A)(2) of the NIRC of 1997, as amended	1,351,920.40	1,497,076.84	991,612.95	3,840,610.19
Total	**₱14,333,091.51**	**₱14,702,653.53**	**₱28,942,456.26**	**₱ 57,978,201.30**
Properly Substantiated Zero-Rated Sales	**₱53,475,680.97**	**₱49,476,821.40**	**₱45,410,497.49**	**₱148,362,999.86**

Petitioner incurred/paid input taxes attributable to zero-rated sales for the fourth quarter of CY 2007 and said input taxes were not applied against any output VAT liability during and in the succeeding quarters

After resolving that petitioner had VAT zero-rated sales for the subject period of claim in the total amount of ₱148,362,999.86, the

[29] Exhibits "M", line 17, "J-1", "K-1", and "L-1".

Court proceeds to determine whether petitioner incurred input taxes in connection thereto.

Petitioner submitted various suppliers' official receipts, invoices, Import Entry Internal Revenue Declarations (IEIRDs) and other documents[30] in support of the input VAT claim of ₱23,254,465.64 which was reflected in its Quarterly VAT Return for the fourth quarter of CY 2007 as follows:

	Input VAT
Purchases of Capital Goods not exceeding ₱1Million	₱ 6,025.74
Purchases of Capital Goods exceeding ₱1Million	597,447.34
Domestic Purchases of Goods other than Capital Goods	8,331,076.25
Importation of Goods other than Capital Goods	3,077,082.28
Domestic Purchases of Services	11,242,834.03
Total	**₱23,254,465.64**

Upon verification of the aforesaid documents, the Court-commissioned ICPA, Mr. Armando L. Magpantay, Jr., noted some exceptions on petitioner's input VAT claim in the aggregate amount of ₱7,307,683.83, with the following details:

Findings	**Exhibit**	**Input Tax**
Input VAT on importations and purchases of goods and services supported by sales invoices/official receipts which were dated outside the period of claim	LLLL-9-1	₱ 5,773,240.02
Input VAT on purchase of goods and services supported by documents with no printed authority to print	LLLL-9-2	1,295,842.60
Input VAT on importations which original documents cannot be located	LLLL-9-3	213,316.28
Input VAT on purchase of goods and services supported by documents other than official receipts and sales invoices (invalid documents)	LLLL-9-4	20,097.92
Erroneous VAT computation	LLLL-9-5	5,187.01
Total input VAT claims with exceptions		**₱7,307,683.83**

The above input taxes of ₱7,307,683.83 shall be disallowed for not being properly supported by VAT invoices, official receipts or IEIRDs in accordance with Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, and as implemented by Sections 4.110-8 and 4.113-1 of RR No. 16-05, as amended.

[30] Exhibits "1" to "1901", "1903" to "2148", and "2152" to "2559".

In addition, input taxes in the amount of ₱2,892,660.84, shall likewise be disallowed for failure to meet the substantiation requirements prescribed under the afore-mentioned laws and regulations:

Exhibit	Supplier Name	Invoice/Official Receipt No.	Date	Input VAT (In PHP)
a) Input VAT on purchase of capital goods exceeding ₱1Million supported by VAT official receipt instead of VAT invoice				
For the month of October 2007				
32	Business Machines Corp.	03977	23-Oct-07	8,625.00
Subtotal				***8,625.00***
b) *Input VAT on purchases of goods (other than capital goods) and services supported by invoices/official receipts but the amount of VAT was not separately indicated*				
For the month of October 2007				
126-130	Edupro, Inc.	7230	27-Nov-07	3,214.29
394	Mantrade Development Corp.	406051 A	17-Nov-07	209.83
395-401	Martian International Sales	39740	03-Oct-07	2,840.78
500-501	PLDT	127535	05-Nov-07	545.26
502-504	PLDT	127673	05-Nov-07	2,880.00
505	PLDT	127678	05-Nov-07	271.69
506	PLDT	127679	05-Nov-07	367.43
507	PLDT	127680	05-Nov-07	318.24
508	PLDT	127681	05-Nov-07	135.56
509	PLDT	127682	05-Nov-07	210.77
510	PLDT	127683	05-Nov-07	875.11
511	PLDT	127684	05-Nov-07	166.38
512	PLDT	127685	05-Nov-07	237.83
513	PLDT	127686	05-Nov-07	138.83
514	PLDT	127687	05-Nov-07	135.56
515	PLDT	127688	05-Nov-07	133.38
516	PLDT	127689	05-Nov-07	230.30
517	PLDT	127690	05-Nov-07	12.56
518	PLDT	127691	05-Nov-07	431.54
519	PLDT	127692	05-Nov-07	133.38
520	PLDT	127693	05-Nov-07	3,000.00
521	PLDT	127694	05-Nov-07	2,588.68
522	PLDT	127695	05-Nov-07	190.00
523	PLDT	127696	05-Nov-07	133.14
524	PLDT	127697	05-Nov-07	1,155.61
525	PLDT	127698	05-Nov-07	244.41
526	PLDT	127699	05-Nov-07	668.38
527	PLDT	127700	05-Nov-07	133.14
528	PLDT	127703	05-Nov-07	139.14
529	PLDT	127704	05-Nov-07	139.14
530	PLDT	127705	05-Nov-07	209.21
531	PLDT	127706	05-Nov-07	200.75
532	PLDT	127707	05-Nov-07	156.83

533	PLDT	127708	05-Nov-07	622.51
534	PLDT	127709	05-Nov-07	257.26
535	PLDT	127710	05-Nov-07	217.48
536	PLDT	127711	05-Nov-07	133.79
537	PLDT	127712	05-Nov-07	173.29
538	PLDT	127713	05-Nov-07	320.75
539	PLDT	127714	05-Nov-07	178.38
660-664	San Miguel Brewery, Inc.	632	27-Nov-07	81,215.88
672-688	Smart Communication, Inc.	8896	30-Oct-07	2,939.81
809	TSTC Corporation	199	26-Nov-07	6,458.40
For the month of November 2007				
1458-1459	PLDT	29170	20-Nov-07	571.20
1460	PLDT	29173	20-Nov-07	216.11
1461	PLDT	29174	20-Nov-07	407.04
1462	PLDT	29175	20-Nov-07	133.68
1463	PLDT	29176	20-Nov-07	172.19
1464	PLDT	29177	20-Nov-07	371.87
1465	PLDT	29178	20-Nov-07	249.24
1466	PLDT	29179	20-Nov-07	515.78
1467	PLDT	29180	20-Nov-07	196.24
1468	PLDT	29181	20-Nov-07	328.59
1469	PLDT	29182	20-Nov-07	203.32
1470	PLDT	29183	20-Nov-07	178.19
1471	PLDT	29184	20-Nov-07	178.19
1472	PLDT	29185	20-Nov-07	172.19
1473	PLDT	29186	20-Nov-07	798.92
1474	PLDT	29187	20-Nov-07	246.11
1475	PLDT	29188	20-Nov-07	1,259.84
1476	PLDT	29189	20-Nov-07	172.19
1477	PLDT	29190	20-Nov-07	232.21
1478	PLDT	29191	20-Nov-07	3,116.53
1479	PLDT	29192	20-Nov-07	3,000.00
1480	PLDT	29193	20-Nov-07	172.19
1481	PLDT	29194	20-Nov-07	603.10
1482	PLDT	29195	20-Nov-07	19.51
1483	PLDT	29196	20-Nov-07	200.20
1484	PLDT	29197	20-Nov-07	172.19
1485	PLDT	29198	20-Nov-07	174.37
1486	PLDT	29199	20-Nov-07	177.64
1487	PLDT	29200	20-Nov-07	184.19
1488	PLDT	29201	20-Nov-07	175.19
1489	PLDT	29202	20-Nov-07	1,146.49
1490	PLDT	29203	20-Nov-07	274.08
1491	PLDT	29204	20-Nov-07	174.37
1492	PLDT	29205	20-Nov-07	314.43
1493	PLDT	29206	20-Nov-07	619.25
1494	PLDT	29207	20-Nov-07	264.18
1624-1639	Smart Communication, Inc.	10220	28-Nov-07	3,362.18
For the month of December 2007				
2230	Officeland Furniture House	0161	08-Oct-07	278.57
2360	Puregold Price Club, Inc.	1212	10-Dec-07	16,742.83

2392	San Miguel Brewery, Inc.	0061	05-Dec-07	18,240.00
2393	San Miguel Brewery, Inc.	0055	27-Nov-07	21,096.00
2394	San Miguel Brewery, Inc.	0057	28-Nov-07	17,256.00
Subtotal				***209,331.29***
c) Input VAT on domestic purchase of goods (other than capital goods) supported by documents other than VAT invoice				
For the month of October 2007				
47	Caloocan Gas Station	135	31-Oct-07	5,161.07
Subtotal				***5,161.07***
d) Input VAT on domestic purchases of services supported by documents other than VAT official receipts				
For the month of October 2007				
391	Manila Water Company	3204778823	01-Oct-07	41,211.46
For the month of November 2007				
1154-1155	General Electric Phils., Inc.	160272	15-May-07	32,458.38
1331	Manila Water Company	3007584492	09-Nov-07	54,873.57
1495-1497	PLDT	Various SOA	17-Oct-07	2,880.00
For the month of December 2007				
1895-1899	Carry-All International Forwarders, Inc.	13461	05-Nov-07	4,821.42
2197	Manila Water Company	VNH030157705 409	21-Dec-07	45,545.15
Subtotal				***181,789.98***
e) Input VAT on domestic purchases of goods (other than capital goods) and services supported by VAT invoice/official receipt but dated outside the period of claim				
For the month of October 2007				
667	Siemens	53515421014163	24-Sep-07	8,544.60
668	Siemens	53515421014160	24-Sep-07	9,185.88
669	Siemens	53515421014162	24-Sep-07	13,596.84
670	Siemens	53515421014162	24-Sep-07	22,644.12
671	Siemens	53515421014159	24-Sep-07	41,024.52
For the month of November 2007				
879	Caloy Gonzales Paint & Auto Shop, Inc.	5466	18-Jan-08	765.00
967-969	Carry-All International Forwarders, Inc.	5065	05-Jun-09	16,553.57
970-973	Carry-All International Forwarders, Inc.	5214	08-May-09	2,790.00
983	Consolidated Industrial Gases, Inc.	555134388	01-Aug-07	68,388.19
984	Consolidated Industrial Gases, Inc.	555140361	29-Sep-07	38,990.33
1722	UPS-Delbros International Express, Ltd.	56149	11-Feb-08	11.05
For the month of December 2007				
1929	Corrosion Technical Services, Inc.	1076	08-Feb-08	840.00
2140-2141	Honda Cars Makati, Inc.	381912	08-Apr-08	4,980.74
2181	Leadsteel Fabrications	0116	10-Mar-07	72,428.57
2442	Toyota Shaw Ortigas	287663	28-Mar-08	327.06
2443-2450	Toyota Shaw Ortigas	287664	28-Mar-08	1,018.32

2451-2452	Toyota Shaw Ortigas	287665	28-Mar-08	195.07
Subtotal				***302,283.86***

f) Input VAT on domestic purchase of services with assigned exhibit number but the corresponding supporting document cannot be found from the records

For the month of December 2007				
1894	Carry-All International Forwarders, Inc.	-	-	1,500.00
Subtotal				***1,500.00***

g) *Input VAT on importation of goods (other than capital goods) supported by IEIRDs without machine validation or proof of VAT payment*

Exhibit	Supplier Name	AWB/BL Number	Date of Arrival	
For the month of October 2007				
2526	Union Engineering	4592460456	01-Oct-07	26,135.00
2527	Singapore Oxygen Air Liquide Pte. Ltd.	MNLSE070923000	04-Oct-07	89,896.00
2528	Singapore Oxygen Air Liquide Pte. Ltd.	SINCB7487820	23-Oct-07	179,120.00
2529	Singapore Oxygen Air Liquide Pte. Ltd.	MNLSE071037500	23-Oct-07	80,559.00
For the month of November 2007				
2531	Cryostar Singapore	USI02391675	11/19/2007	62,438.00
2532	Singapore Oxygen Air Liquide Pte. Ltd.	MNSE071103900	08-Nov-07	71,495.00
2535	Singapore Oxygen Air Liquide Pte. Ltd.	ULA00872923	16-Nov-07	77,358.00
2536	Man Diesel Singapore Pte. Ltd.	USI02400215	22-Nov-07	80,906.00
2537	SPX Vokes Ltd.	1036362	31-Oct-07	198,828.00
2538	Chart Cryogenic Engineering Systems	GOSUNSNR8052198	-	796,903.00
For the month of December 2007				
2543	Air Liquide Japan Ltd.	2192760986	31-Oct-07	8,401.00
2546	Toray International Inc.	2073575276	14-Nov-07	5,851.00
2553	Singapore Oxygen Air Liquide Pte. Ltd.	MNLSE071210100	14-Nov-07	69,727.00
2554	Turbocompressor	8166233202	04-Dec-07	76,836.00
2557	Sun Royal Ltd.	-	24-Dec-07	278,433.00
2558	SSB Cryogenic Equipment Ltd.	MISCSIN000059320	17-Nov-07	79,040.00
Subtotal				***2,181,926.00***

h) Input VAT on domestic purchase of services supported by official receipt without TIN-VAT and BIR authority to print

836	AGC Flat Glass Philippines, Inc.	210	08-Nov-07	2,043.64
Subtotal				***2,043.64***

Total Additional Input VAT Disallowances per this Court's Further Verification	**2,892,660.84**

Thus, out of the ₱23,254,465.64 input VAT claim for the fourth quarter of 2007, only the amount of ₱13,054,120.97 represents petitioner's properly substantiated input VAT, computed as follows:

Input VAT Claim	₱ 23,254,465.64
Less: Disallowances	
Per ICPA's report	7,307,683.83
Per this Court's further verification	2,892,660.84
Properly Substantiated Input VAT	**₱ 13,054,120.97**

However, included in the aforesaid input VAT of ₱13,054,120.97 is the amount of ₱327,177.55 pertaining to petitioner's purchases of capital goods exceeding ₱1Million, detailed as follows:

Input VAT on Purchases of Capital Goods Exceeding ₱1Million per VAT Return[31]			₱ 597,447.34
Less: Disallowances			
Per ICPA's report *(Exhibit "LLLL-9-1")*			
Exh. No.	**Supplier**		
October			
2	Accent Micro Technologies, Inc.	₱ 10,607.14	
3	Accent Micro Technologies, Inc.	65,559.86	
13	Arcco Corporation	206.17	
14	Arcco Corporation	677.67	
15	Arcco Corporation	2,237.00	
16	Arcco Corporation	9,791.21	
17	Arcco Corporation	10,179.79	
18	Arcco Corporation	15,734.09	
201	Fairchild Process Controls	8,820.00	
356	I-Secure Networks & Business Solutions, Inc.	21,428.57	
689	Stellite Commercial, Inc.	321.43	
690	Stellite Commercial, Inc.	396.43	
691	Stellite Commercial, Inc.	407.14	
692	Stellite Commercial, Inc.	460.71	
693	Stellite Commercial, Inc.	460.71	
694	Stellite Commercial, Inc.	814.28	
695	Stellite Commercial, Inc.	921.43	
696	Stellite Commercial, Inc.	1,842.85	
834	Zenith Electrical & Ind'l	3,750.00	
November			
1345	Materials Unlimited Corporation	6,428.57	
1623	Shimadzu Philippines Corporation	88,392.86	

[31] Exhibit "M", line 21D.

1723	Up-Town Industrial Sales	2,322.94	
1732	Vette Industrial Sales	1,135.18	
1733	Vette Industrial Sales	1,141.61	
1734	Vette Industrial Sales	1,714.29	
1735	Vette Industrial Sales	5,892.86	261,644.79
Per this Court's further verification			8,625.00
Properly Substantiated Input VAT on Purchases of Capital Goods Exceeding ₱1Million			**₱ 327,177.55**

Pursuant to Section 110(A)(2) of the NIRC of 1997, as amended, as implemented by Section 4.110-3 of RR No. 16-05, input VAT on capital goods purchases attributable to zero-rated sales may be claimed either in full during the month of acquisition, or spread over a period of time, depending on the aggregate acquisition cost of the capital goods in the calendar month. If the aggregate acquisition cost exceeds ₱1Million, the claim for input tax should be spread over 60 months or the estimated useful life of the capital goods, whichever is shorter. On the other hand, if aggregate acquisition cost does not exceed ₱1Million, the total input taxes shall be allowed as credit/refund in the month of acquisition.

Applying the cited provisions to the present case, out of the ₱327,177.55 input VAT related to petitioner's purchases of capital goods exceeding ₱1Million, only the amount ₱12,577.91 is creditable for the fourth quarter of CY 2007, computed as follows:

Exhibit	Supplier Name	Input Tax	Useful Life in Months	Monthly Input Tax Credit	Allowable Input Tax for the Fourth Quarter of 2007
For the month of October 2007					
1	Accent Micro Technologies, Inc.	₱ 48,214.28	60	₱ 803.57	₱ 2,410.71
188	Fairchild Process Controls	4,752.00	60	79.20	237.60
189	Fairchild Process Controls	1,440.00	60	24.00	72.00
190	Fairchild Process Controls	1,260.00	60	21.00	63.00
191	Fairchild Process Controls	4,200.00	60	70.00	210.00
192	Fairchild Process Controls	5,568.00	60	92.80	278.40
204	Fairchild Process Controls	2,376.00	60	39.60	118.80
205	Fairchild Process Controls	2,376.00	60	39.60	118.80
206	Fairchild Process Controls	6,960.00	60	116.00	348.00
207	Fairchild Process Controls	8,280.00	60	138.00	414.00
208	Fairchild Process Controls	10,920.00	60	182.00	546.00
213	Fairchild Process Controls	1,020.00	60	17.00	51.00
436	Nema Electric Co., Inc.	506.25	60	8.44	25.31
638	Samaritan Industrial Sales	337.50	60	5.63	16.88

639	Samaritan Industrial Sales	636.43	60	10.61	31.82
640	Samaritan Industrial Sales	991.07	60	16.52	49.55
641	Samaritan Industrial Sales	482.14	60	8.04	24.11
Subtotal					₱ 5,015.98
For the month of November 2007					
860	Best Value Trading Corp.	1,017.86	60	16.96	₱ 33.93
861	Best Value Trading Corp.	1,017.86	60	16.96	33.93
862	Best Value Trading Corp.	1,285.71	60	21.43	42.86
863	Best Value Trading Corp.	1,285.71	60	21.43	42.86
1025	Contronics Computer Center, Inc.	10,017.86	60	166.96	333.93
1026	Contronics Computer Center, Inc.	15,482.14	60	258.04	516.07
1137	Fairchild Process Controls	420.00	60	7.00	14.00
1138	Fairchild Process Controls	1,188.00	60	19.80	39.60
1139	Fairchild Process Controls	2,880.00	60	48.00	96.00
1140	Fairchild Process Controls	6,960.00	60	116.00	232.00
1146	Fairchild Process Controls	21,456.00	60	357.60	715.20
1348	MFT International Corp.	1,900.98	60	31.68	63.37
1349	MFT International Corp.	2,230.75	60	37.18	74.36
1350	MFT International Corp.	4,847.20	60	80.79	161.57
1399	P.T. Cerna Corporation	42,000.00	60	700.00	1,400.00
1400	P.T. Cerna Corporation	63,000.00	60	1,050.00	2,100.00
1606	Samaritan Industrial Sales	62.14	60	1.04	2.07
1607	Samaritan Industrial Sales	107.14	60	1.79	3.57
1608	Samaritan Industrial Sales	291.43	60	4.86	9.71
1609	Samaritan Industrial Sales	392.14	60	6.54	13.07
1610	Samaritan Industrial Sales	787.50	60	13.13	26.25
1611	Samaritan Industrial Sales	1,125.00	60	18.75	37.50
1613	Samaritan Industrial Sales	1,982.15	60	33.04	66.07
1614	Samaritan Industrial Sales	2,485.72	60	41.43	82.86
1615	Samaritan Industrial Sales	3,715.17	60	61.92	123.84
1659	Stellite Commercial, Inc.	460.71	60	7.68	15.36
1660	Stellite Commercial, Inc.	1,842.85	60	30.71	61.43
1724	UP-Town Industrial Sales, Inc.	8,571.43	60	142.86	285.71
1725	UP-Town Industrial Sales, Inc.	9,642.86	60	160.71	321.43
1730	UP-Town Industrial Sales, Inc.	7,702.50	60	128.38	256.75
1736	Vette Industrial Sales	2,272.23	60	37.87	75.74
1737	Vette Industrial Sales	2,454.37	60	40.91	81.81
1738	Vette Industrial Sales	2,917.02	60	48.62	97.23
1739	Vette Industrial Sales	3,055.45	60	50.92	101.85
Subtotal					₱ 7,561.93
Total		**₱ 327,177.55**			**₱ 12,577.91**

In sum, petitioner's net creditable input VAT amounts to ₱12,739,521.33, as computed below:

Properly Substantiated Input VAT		₱ 13,054,120.97
Less: Unamortized Input VAT on purchases of capital goods exceeding ₱1 Million		

Input VAT on purchases of capital goods exceeding ₱1 Million	₱ 327,177.55	
Less: Input VAT creditable for the fourth quarter of CY 2007	12,577.91	314,599.64
Net Creditable Input VAT		**₱12,739,521.33**

However, the net creditable input VAT of ₱12,739,521.33 is not entirely attributable to petitioner's declared zero-rated sales/receipts since petitioner had also reported VATable and exempt sales/receipts in its Quarterly VAT Return for the fourth quarter of CY 2007 as follows:[32]

	Amount
VATable Sales/Receipts	₱ 61,385,521.08
Zero-Rated Sales/Receipts	206,341,201.16
Exempt Sales/Receipts	1,065,877.70
Total Sales/Receipts	**₱268,792,599.94**

Allocating the creditable input VAT of ₱12,739,521.33 based on the percentage of each type of sales/receipts to total sales/receipts would show that the amount of ₱9,779,614.97 is attributable to petitioner's declared zero-rated sales/receipts while the rest of the input VAT pertains to VATable sales/receipts and exempt sales/receipts, as shown below:

	Amount	**Allocation Factor (Percentage to Total Sales/Receipts)**
VATable Sales/Receipts	₱ 61,385,521.08	22.837504118%
Zero-Rates Sales/Receipts	206,341,201.16	**76.765953083%**
Exempt Sales/Receipts	1,065,877.70	0.396542799%
Total Sales/Receipts	₱ 268,792,599.94	100.0000000%
Net Creditable Input VAT		₱ 12,739,521.33
Allocated as follows:		
VATable Sales/Receipts		₱ 2,909,388.71
Zero-Rates Sales/Receipts		**9,779,614.97**
Exempt Sales/Receipts		50,517.65
Total		₱ 12,739,521.33

[32] Exhibit "M", Lines 15A, 17, 18, and 19A.

After deducting the input VAT attributable to VATable sales in the amount of ₱2,909,388.71 from petitioner's output VAT liability of ₱7,366,262.53[33], petitioner still has a net output VAT payable of ₱4,456,873.82, computed as follows:

Output VAT Payable	₱ 7,366,262.53
Less: Input VAT Attributable to VATable Sales	2,909,388.71
Net Output VAT Payable	**₱4,456,873.82**

Since petitioner failed to submit VAT invoices/receipts proving the existence of its reported input VAT carry-over from previous quarter in the amount of ₱115,409,407.95[34], the net output VAT payable of ₱4,456,873.82 shall be offset against the ₱9,779,614.97 input VAT attributable to the declared zero-rated sales/receipts, thus, leaving an amount of ₱5,322,741.15 excess input VAT attributable to the declared zero-rated sales/receipts. However, only the amount of ₱3,827,145.72 input VAT is attributable to the properly substantiated zero-rated sales, as computed below:

Input VAT Attributable to the Declared Zero-Rated Sales/Receipts	₱ 9,779,614.97
Less: Net Output VAT Payable	4,456,873.82
Excess Input VAT Attributable to the Declared Zero-Rated Sales/Receipts	₱ 5,322,741.15
Multiply by Properly Substantiated Zero-Rated Sales	148,362,999.86
Divide by Declared Zero-Rated Sales/ Receipts Per VAT Return	206,341,201.16
Excess Input VAT Attributable to Properly Substantiated Zero-Rated Sales	**₱ 3,827,145.72**

Even though the claimed input VAT was carried over by petitioner in its succeeding Quarterly VAT Returns[35], the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed"[36] in its Quarterly VAT Return for the third quarter of taxable year 2009. Thus, the excess input VAT of ₱156,871,554.19[37] as of the end of the third quarter of taxable year 2009, which was to be carried over to the succeeding fourth quarter of the same taxable year, no longer includes the subject claim.

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[33] Exhibit "M", Line 15B.
[34] Exhibit "M", Line 20A.
[35] Exhibits "N" to "U" and "LLLL-10-1", pp. 1-14.
[36] Exhibit "U-4" and "LLLL-10-1", page 13/14, Line 23D; "LLLL-10", p. 1.
[37] Exhibit "U-5" and "LLLL-10-1", page 14/14, Line 29.

In sum, petitioner has sufficiently proven its entitlement to refund or issuance of tax credit certificate in the amount of ₱3,827,145.72, representing its unutilized excess input VAT for the fourth quarter of CY 2007 which is attributable to its zero-rated sales for the same period.

WHEREFORE, premises considered, the Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱3,827,145.72** in favor of Air Liquide Philippines, Inc., representing its unutilized excess input VAT for the fourth quarter of CY 2007.

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
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 the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice