Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

DEUTSCHE KNOWLEDGE SERVICES PTE., LTD.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8861
For: Refund

Members:

DEL ROSARIO, P.J., *Chairperson,*
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
JUL 10 2017 : 3:23 pm

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DECISION

MINDARO-GRULLA, J.:

This is a Petition for Review filed by Deutsche Knowledge Services Pte., Ltd. as petitioner, against Commissioner of Internal Revenue as respondent, before the Court in Division, pursuant to Section 7(a)(2) of Republic Act (RA) No. 1125, An Act Creating the Court of Tax Appeals, as amended[1], as well as Rule 4, Section 3(a)(2),

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[1] Sec. 7. *Jurisdiction*. – The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

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(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds or internal revenue taxes, fees of other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial;

x x x x x x

in relation to Rule 8, Section 4(a) of the Revised Rules of the Court of Tax Appeals (RRCTA)[2], as amended.

Petitioner seeks for refund or issuance of tax credit certificate in the amount of ₱20,881,608.09, allegedly representing petitioner's excess and unutilized input value-added tax (VAT) on purchases of goods and services attributable to its zero-rated sales for the 1st quarter of calendar year (CY) 2013.

Petitioner Deutsche Knowledge Services Pte., Ltd. is the Philippine branch of a multinational company organized and existing

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[2] Rule 4, Sec. 3. *Cases within the jurisdiction of the Court in Division.* - The Court in Division shall exercise:

> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
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> (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided,* that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further,* that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules;
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> x x x x x x

Rule 8. Sec. 4. *Where to appeal; mode of appeal.-*

> (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.
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under and by virtue of the laws of Singapore, with registered office address at One Raffles Quay, #17-10 South Tower, Singapore 048583.[3] It was registered with the Bureau of Internal Revenue (BIR) on June 16, 2005 as a VAT taxpayer with Taxpayer Identification No. (TIN) 238-763-115-000.[4]

Petitioner is licensed to do business as a regional operating headquarters (ROHQ) in the Philippines by the Securities and Exchange Commission (SEC), pursuant to the Omnibus Investments Code of 1987, as amended by Republic Act No. 8756 and its implementing rules and regulations, to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing; and communication and business development.[5]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue empowered to perform the duties of his office, including, among others, the duty to act upon and approve claims for refund or tax credit as provided by law. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

On April 18, 2013, petitioner filed with the BIR, through eFiling and Payment System (eFPS), its Quarterly VAT Return for the 1st quarter of CY 2013.[6]

On March 13, 2014[7], petitioner filed with the BIR-Large Taxpayers Regular Audit Division 3 (LTRAD 3) an Application for Tax Credits/Refund (BIR Form No. 1914) of its excess and unutilized input VAT for the 1st quarter of CY 2013 in the total amount of ₱20,881,608.09.[8]

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[3] Par. 1, Stipulated Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, vol. II, p. 1445.
[4] Par. 4, Stipulated Facts, JSFI, Docket, vol. II, p. 1446; Exhibit "P-2", Docket, vol. II, p. 1670.
[5] Par. 3, Stipulated Facts, JSFI, Docket, vol. II, pp. 1445-1446; Exhibit "P-1", Docket, vol. II, pp. 1652-1669.
[6] Par. 5, Stipulated Facts, JSFI, Docket, vol. II, p. 1446; Exhibit "P-3", Docket, vol. II, pp. 1671-1674.
[7] Exhibits "P-4" and "P-4-a", Docket, vol. II, pp. 1697-1702.
[8] Par. 6, Stipulated Facts, JSFI, Docket, vol. II, p. 1446.

To date, respondent had not acted with finality on petitioner's administrative claim for refund of unutilized input VAT for the 1st quarter of CY 2013.[9] Hence, this instant Petition for Review was filed on August 8, 2014.

In his Answer[10] filed on September 9, 2014, respondent interposed the following Special and Affirmative Defenses:

> "4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau;
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> 5. The amount of ₱20,881,608.09, representing alleged excess and unutilized input VAT on purchases of goods and services attributable to its zero-rated sales for the 1st quarter of calendar year 2013 was not properly documented.
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> 6. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund and failure to sustain the burden is fatal to the claim for refund/credit.
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> 7. Petitioner must show that it has complied with the provisions of Section 112 of the NIRC of 1997 on the prescriptive period for claiming tax refund/credit.
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> 8. Petitioner must prove that it paid the alleged VAT input taxes for the periods stated.
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> 9. Petitioner must prove that its sale of services is subject to VAT at zero percent (0%).
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> 10. Petitioner must prove that its alleged unutilized input VAT has not been applied against any output tax liabilities both in the current or succeeding year.
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> 11. There is no record of petitioner ever submitting complete documents to substantiate its administrative claim for

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[9] Par. 7, Stipulated Facts, JSFI, Docket, vol. II, p. 1446.
[10] Docket, vol. I, pp. 41-48.

refund. Such is a requirement, otherwise, the administrative body will have sufficient reason to deny the claim. As held by the Honorable Supreme Court in the case of *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue, G.R.* 145526, *16 March 2007:*

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11. The implementing rule for these complete documents required by law is RMO No. 53-98. Annex B-1 of said RMO lists all the required documents as follows:

xxx xxx xxx

12. As stated above, the first documentary requirement is that provided in Annex B of the said RMO. Annex B provides for more requirements as follows:

xxx xxx xxx

13. Far from complying with the checklist of requirements, petitioner merely submitted eleven (11) documents in support of its administrative claim for refund. This is not a claim for erroneously or illegally collected taxes where petitioner has the discretion of choosing the evidence it deems fit to prove its case. This is a claim for excess but legally collected, unutilized input taxes. It does not have to prove its case because the law already acknowledges it is entitled to refund. Thus, it merely has to substantiate the export sales and the excess amount. Hence, petitioner's failure to comply with the duly mandated legal requirements in such claims for refund/tax credit warranted the denial by inaction of the administrative claim.

14. The power to tax is the most effective instrument to raise needed revenues to finance and support myriad activities of the government for the delivery of basic services essential to the promotion of the general welfare and enhancement of peace, progress, and prosperity of the people. (***Mactan Cebu International Airport Authority vs. Marcos, 261 SCRA 667, 690***). Consequently, any delay in implementing tax measures would be to the detriment of the

public. It is for this reason that claims for refund are required to be done within certain time frames. In the instant petition, the failure of petitioner to comply with such periods is fatal to its cause.

15. Moreover, petitioner's failure to submit documents supporting its claim for refund makes its administrative claim for refund pro-forma. This pro-forma administrative claim should not be taken as proper compliance with the requirements of the law that an administrative claim for refund should have been filed prior to the institution of a judicial claim for refund. Thus, without a validly and duly filed administrative claim for refund, the Honorable Court is without jurisdiction to entertain the Petition for Review. Petitioner's failure to comply with a condition precedent prior to the institution of its petition for review makes it dismissible for absence of jurisdiction on the part of the Honorable Court.

16. The claimant has the burden of proof to establish the factual basis of his claim for tax credit or refund. After all tax refunds, like tax exemptions, are construed strictly against the taxpayer **(Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue, 280 SCRA 459; Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332, both cited in Benguet Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5392 promulgated October 30, 1998)**.

17. Partaking of the nature of exemptions, claims for refund are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language **(Sps. Aguilar vs. Commissioner of Internal Revenue, et al., CA G.R.SP No. 16432, March 30, 1999)**. Being in the nature of tax exemptions, these claims are regarded as in derogation of sovereign authority and to be construed strictissimi juris against the claimant and liberally in favor of the taxing authority **(Commissioner of Internal Revenue vs. Procter and Gamble Philippines Manufacturing Corporation, 204 SCRA 377)**.

18. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and such, they are looked upon with disfavor

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(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211)."

A Notice of Pre-Trial Conference was issued by the Court on September 15, 2014, setting the case for pre-trial conference on November 6, 2014.[11] Accordingly, Respondent's Pre-Trial Brief[12] was filed on September 25, 2014; while petitioner's Pre-Trial Brief[13] was filed on October 31, 2014.

Pre-trial conference ensued. The parties submitted their Joint Stipulation of Facts and Issues[14] on December 9, 2014. Thereafter, on January 29, 2015, the Court issued a Pre-Trial Order[15] adopting the parties' joint stipulations and the pre-trial was deemed terminated.

Meanwhile, upon petitioner's motion[16], this Court commissioned Ms. Katherine O. Constantino as the Independent Certified Public Accountant (CPA) for the case.[17]

During trial, petitioner presented (1) Ms. Rachel Concepcion[18], petitioner's Legal Entity Controller; and (2) Ms. Katherine O. Constantino[19], the Independent CPA, as its witnesses.

Petitioner filed its Formal Offer of Evidence[20] on May 14, 2015. In the Resolutions dated August 28, 2015[21], December 18, 2015[22], and August 4, 2016[23], the Court admitted all of petitioner's evidence except

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[11] Docket, vol. I, p. 50.
[12] Docket, vol. I, pp. 51-54.
[13] Docket, vol. II, pp. 1420-1429.
[14] Docket, vol. II, pp. 1445-1452.
[15] Docket, vol. II, pp. 1517-1522.
[16] Motion to Commission Independent Certified Public Accountant filed on January 20, 2015, Docket, vol. II, pp. 1482-1485.
[17] Minutes of the Hearing dated January 29, 2015, Docket, vol. II, p. 1523-1525.
[18] Minutes of the Hearing dated February 17, 2015, Docket, vol. II, pp. 1539-1542; Exhibit "P-11", Docket, vol. I, pp. 60-93.
[19] Minutes of the Hearing dated April 7, 2015, Docket, vol. II, pp. 1565-1568; Exhibit "P-757", Docket, vol. II, pp. 1555-1563.
[20] Docket, vol. II, pp. 1613-1651.
[21] Docket, vol. IV, pp. 3219-3221.
[22] Docket, vol. IV, pp. 3259-3261.
[23] Docket, vol. IV, pp. 3932-3935.

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for Exhibits "P-6.20", "P-8.25" to "P-8.27"[24], "P-8.29" to "P-8.32", "P-8.34", and "P-8.37".

Petitioner's documentary evidence are as follows:

Exhibit	Description
P-1	Petitioner's Securities and Exchange (SEC) Certificate of Registration and License dated April 25, 2005 (S.E.C. reg. No. FS2005506950)
P-2	Petitioner's Certificate of Registration issued by the Bureau of Internal Revenue (BIR)
P-3	Original Quarterly VAT Return for the 1st Quarter of CY 2013, filed on April 18, 2013 with filing reference no. 101300007197460
P-3.1	Original Quarterly VAT Return for the 2nd Quarter of CY 2013, filed on July 19, 2013 with filing reference no. 101300007570564
P-3.2	Original Quarterly VAT Return for the 3rd Quarter of CY 2013, filed on October 18, 2013 with filing reference no. 101300007952415
P-3.3	Original Quarterly VAT Return for the 4th Quarter of CY 2013, filed on January 21, 2014 with filing reference no. 101400008384284
P-3.4	Amended Quarterly VAT Return for the 4th Quarter of CY 2013, filed on January 23, 2014 with filing reference no. 101400008398108
P-3.5	Original Quarterly VAT Return for the 1st Quarter of CY 2014, filed on April 21, 2014 with filing reference no. 101400008874963
P-3.6	Original Quarterly VAT Return for the 2nd Quarter of CY 2014, filed on July 21, 2014 with filing reference no. 101400009334461
P-3.7	Amended Quarterly VAT Return for the 2nd Quarter of CY 2014, filed on October 15, 2014 with filing reference no. 10140000989213
P-4	Petitioner's Application for Tax Credits/Refunds (BIR Form No. 1914) for the 1st quarter of CY 2013 filed with the BIR on March 13, 2014
P-4-a	Petitioner's Letter-Claim for Refund of its unutilized input VAT for the 1st Quarter of CY 2013 dated March 13, 2014 and filed with the BIR on even date
P-5	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Inlandsbank issued by the SEC
P-5.1	Certification of Non- Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Amsterdam issued by the Securities and Exchange Commission
P-5.2	Certification of Non- Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Riad issued by the Securities and Exchange Commission

[24] Exhibit "P-8.28" was already admitted in evidence in the Resolution dated August 28, 2015, Docket, vol. IV, p. 3219.

Exhibit	Description
P-5.3	Certification of Non- Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Dubai (DIFC) issued by the Securities and Exchange Commission
P-5.4	Certification of Non-Registration in the Philippines of Deutsche Bank Sociedad Anonima Espanola issued by the Securities and Exchange Commission
P-5.5	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Zurich issued by the Securities and Exchange Commission
P-5.6	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Wien issued by the Securities and Exchange Commission
P-5.7	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Asia Pacific Head Office issued by the Securities and Exchange Commission
P-5.8	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Singapur issued by the Securities and Exchange Commission
P-5.9	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Bangkok issued by the Securities and Exchange Commission
P-5.10	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Mumbai issued by the Securities and Exchange Commission
P-5.11	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Hong Kong issued by the Securities and Exchange Commission
P-5.12	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Jakarta issued by the Securities and Exchange Commission
P-5.13	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Ho-Chi Minh City issued by the Securities and Exchange Commission
P-5.14	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Seoul issued by the Securities and Exchange Commission
P-5.15	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Labuan issued by the Securities and Exchange Commission
P-5.16	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Brussel issued by the Securities and Exchange Commission
P-5.17	Certification of Non-Registration in the Philippines of Deutsche Bank (Malaysia) Berhad issued by the Securities and Exchange Commission
P-5.18	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale New York issued by the Securities and Exchange Commission
P-5.19	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale London issued by the Securities and Exchange Commission

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Exhibit	Description
P-5.20	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Tokyo issued by the Securities and Exchange Commission
P-5.21	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Paris issued by the Securities and Exchange Commission
P-5.22	Certification of Non-Registration in the Philippines of Deutsche Bank Aktiengesellschaft Filiale Prague issued by the Securities and Exchange Commission
P-5.23	Certification of Non-Registration in the Philippines of Deutsche Bank Luxembourg S.A. issued by the Securities and Exchange Commission
P-5.24	Certification of Non-Registration in the Philippines of Deutsche Securities Inc. issued by the Securities and Exchange Commission
P-5.25	Certification of Non-Registration in the Philippines of Deutsche Bank PBC Spolka Akcyjna issued by the Securities and Exchange Commission
P-5.26	Certification of Non-Registration in the Philippines of Deutsche Bank Suisse SA issued by the Securities and Exchange Commission
P-5.27	Certification of Non-Registration in the Philippines of Deutsche Bank Societa Per Azioni issued by the Securities and Exchange Commission
P-5.28	Certification of Non-Registration in the Philippines of Deutsche Asset Management Investmentgesselchaft issued by the Securities and Exchange Commission
P-5.29	Certification of Non-Registration in the Philippines of Deutsche Bank China Co Ltd Shanghai Branch issued by the Securities and Exchange Commission
P-5.30	Certification of Non-Registration in the Philippines of DWS Holding and Service Gmbh issued by the Securities and Exchange Commission
P-5.31	Certification of Non-Registration in the Philippines of RREEF Management Gmbh issued by the Securities and Exchange Commission
P-5.32	Certification of Non-Registration in the Philippines of Deutsche Bank Real Estate (Japan) YK issued by the Securities and Exchange Commission
P-5.33	Certification of Non-Registration in the Philippines of RREEF Management LLC issued by the Securities and Exchange Commission
P-5.34	Certification of Non-Registration in the Philippines of Deutsche Bank Securities Inc. issued by the Securities and Exchange Commission
P-5.35	Certification of Non-Registration in the Philippines of Deutsche Asia Pacific Holdings Pte Ltd issued by the Securities and Exchange Commission
P-5.36	Certification of Non-Registration in the Philippines of PT Deutsche Securities Indonesia issued by the Securities and Exchange Commission

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Exhibit	Description
P-5.37	Certification of Non-Registration in the Philippines of Deutsche Group Services Pty Limited issued by the Securities and Exchange Commission
P-5.38	Certification of Non-Registration in the Philippines of Deutsche Bank Trust Company Americas issued by the Securities and Exchange Commission
P-5.39	Certification of Non-Registration in the Philippines of DB Services New Jersey Inc issued by the Securities and Exchange Commission
P-5.40	Certification of Non-Registration in the Philippines of DB International (Asia) Limited issued by the Securities and Exchange Commission
P-5.41	Certification of Non-Registration in the Philippines of DBOI Global Services Private Limited issued by the Securities and Exchange Commission
P-5.42	Certification of Non-Registration in the Philippines of Global Markets Centre Private Limited issued by the Securities and Exchange Commission
P-5.43	Certification of Non-Registration in the Philippines of Deutsche Trustees Malaysia Berhad issued by the Securities and Exchange Commission
P-5.44	Certification of Non-Registration in the Philippines of DB Consorzio S. Cons. a.r.l. issued by the Securities and Exchange Commission
P-6	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Inlandsbank
P-6.1	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Johannesburg
P-6.2	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Amsterdam
P-6.3	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Riad
P-6.4	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Dubai (DIFC)
P-6.5	IntraGroup Service Agreement between Petitioner and OOO Deutsche Bank
P-6.6	IntraGroup Service Agreement between Petitioner and Deutsche Bank Sociedad Anonima Espanola
P-6.7	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Zurich
P-6.8	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Wien
P-6.9	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Asia Pacific Head Office
P-6.10	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Singapur
P-6.11	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Bangkok
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P-6.14	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Jakarta
P-6.15	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Ho-Chi Minh City
P-6.16	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Seoul
P-6.17	IntraGroup Service Agreement between Petitioner and Deutsche Bank (Malaysia) Berhad, Deutsche Bank Aktiengesellschaft Filiale Labuan, DB Trustees Malaysia Berhad, et. Al.
P-6.18	IntraGroup Service Agreement between Petitioner and DWS Investment SA
P-6.19	Amendment to UK DKS Schedules of Services
P-6.21	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale London
P-6.22	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Tokyo
P-6.23	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Paris
P-6.24	IntraGroup Service Agreement between Petitioner and Deutsche Bank Aktiengesellschaft Filiale Prague
P-6.25	IntraGroup Service Agreement between Petitioner and Deutsche Bank Luxembourg SA
P-6.26	IntraGroup Service Agreement between Petitioner and Deutsche Securities Inc.
P-6.27	IntraGroup Service Agreement between Petitioner and Deutsche Bank Polska Spolka Akcyjna
P-6.28	IntraGroup Service Agreement between Petitioner and Deutsche Bank Suisse SA
P-6.29	IntraGroup Service Agreement between Petitioner and Deutsche Bank Societa Per Azioni
P-6.30	IntraGroup Service Agreement between Petitioner and Deutsche Bank China Co Ltd
P-6.31	IntraGroup Service Agreement between Petitioner and DWS Holding and Service GMBH
P-6.32	IntraGroup Service Agreement between Petitioner and RREEF Management GMBH
P-6.33	IntraGroup Service Agreement between Petitioner and Deutsche Bank Real Estate (Japan) YK
P-6.34	IntraGroup Service Agreement between Petitioner and Deutsche Asset Management Korea Company Limited
P-6.35	IntraGroup Service Agreement between Petitioner and Deutsche Asia Pacific Holdings Pte Ltd
P-6.36	IntraGroup Service Agreement between Petitioner and PT Deutsche Securities Indonesia
P-6.37	IntraGroup Service Agreement between Petitioner and Deutsche Group Services Pty Limited
P-6.38	IntraGroup Service Agreement between Petitioner and Deutsche Bank Polska S.A.
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P-6.40	IntraGroup Service Agreement between Petitioner and DB International (Asia) Limited

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P-6.41	IntraGroup Service Agreement between Petitioner and DBOI Global Services Private Limited
P-6.42	IntraGroup Service Agreement between Petitioner and Global Markets Centre Private Limited/Deutsche CIB Centre Private Limited
P-6.43	IntraGroup Service Agreement between Petitioner and Deutsche Bank Netherlands N V
P-6.44	IntraGroup Service Agreement between Petitioner and DB Consorzio S. Cons. a.r.l.
P-7	Authenticated Company Registration Document of Deutsche Bank Aktiengesellschaft Inlandsbank
P-7.1	Authenticated Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Hongkong
P-7.2	Authenticated Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Jakarta
P-7.3	Authenticated Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale London
P-7.4	Authenticated Company Registration Document of Deutsche Securities Inc.
P-7.5	Authenticated Company Registration Document of Deutsche Asia Pacific Holdings Pte Ltd
P-7.6	Authenticated Company Registration Document of Deutsche Group Services Pty Limited
P-8	Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Johannesburg stored in AMInet
P-8.1	Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Riad stored in AMInet
P-8.2	Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Dubai (DIFC) stored in AMInet
P-8.3	Company Registration Document of OOO Deutsche Bank stored in AMInet
P-8.4	Company Registration Document of Deutsche Bank Sociedad Anonima Espanola stored in AMInet
P-8.5	Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Zurich stored in AMInet
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P-8.12	Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Seoul stored in AMInet
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P-8.14	Company Registration Document of DWS Investment SA stored in AMInet

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P-8.15	Company Registration Document of Deutsche Bank Americas Holding Corp stored in AMInet
P-8.16	Company Registration Document of Deutsche Bank Aktiengesellschaft Filiale Brussel stored in AMInet
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P-9.3	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Riad
P-9.4	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Dubai (DIFC)
P-9.5	Original computer printout of AMInet Company Profile Fact Sheet of OOO Deutsche Bank
P-9.6	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Sociedad Anonima Espanola
P-9.7	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Zurich

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P-9.9	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Asia Pacific Head Office
P-9.10	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Singapur
P-9.11	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Bangkok
P-9.12	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Mumbai
P-9.13	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Hongkong
P-9.14	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Jakarta
P-9.15	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Ho-Chi-Minh City
P-9.16	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Seoul
P-9.17	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Labuan
P-9.18	Original computer printout of AMInet Company Profile Fact Sheet of DWS Investment SA
P-9.19	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Americas Holding Corp
P-9.20	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Brussel
P-9.21	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank (Malaysia) Berhad
P-9.22	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale New York
P-9.23	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale London
P-9.24	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Tokyo
P-9.25	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Paris
P-9.26	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Aktiengesellschaft Filiale Prague
P-9.27	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Luxembourg SA
P-9.28	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Securities Inc.
P-9.29	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Polska Spolka Akcyjna
P-9.30	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Suisse SA
P-9.31	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Societa Per Azioni
P-9.32	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Asset Management Investmentgesselchaft

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Exhibit	Description
	mbH vormals DEGEF Deutsche Gesellschaft für Fondsverwaltung
P-9.33	Original computer printout of Deutsche Bank China Co Ltd Shanghai Branch
P-9.34	Original computer printout of AMInet Company Profile Fact Sheet of DWS Holding and Service GMBH
P-9.35	Original computer printout of AMInet Company Profile Fact Sheet of RREEF Management GMBH
P-9.36	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Real Estate (Japan) YK
P-9.37	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Investment Management Americas Inc.
P-9.38	Original computer printout of AMInet Company Profile Fact Sheet of RREEF Management LLC
P-9.39	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Asset Management Korea Company Limited
P-9.40	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Securities Inc.
P-9.41	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Asia Pacific Holdings Pte Ltd
P-9.42	Original computer printout of AMInet Company Profile Fact Sheet of PT Deutsche Securities Indonesia
P-9.43	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Group Services Pty Limited
P-9.44	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank PBC Spolka Akcyjna
P-9.45	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Securities Korea Co
P-9.46	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Trust Company Americas
P-9.47	Original computer printout of AMInet Company Profile Fact Sheet of DB Services New Jersey Inc
P-9.48	Original computer printout of AMInet Company Profile Fact Sheet of DB Investment Partners Inc
P-9.49	Original computer printout of AMInet Company Profile Fact Sheet of Bankers International Corporation
P-9.50	Original computer printout of AMInet Company Profile Fact Sheet of DB International (Asia) Limited
P-9.51	Original computer printout of AMInet Company Profile Fact Sheet of DB Energy Trading LLC
P-9.52	Original computer printout of AMInet Company Profile Fact Sheet of DBOI Global Services Private Limited
P-9.53	Original computer printout of AMInet Company Profile Fact Sheet of Global Markets Centre Private Limited/Deutsche CIB Centre Private Limited
P-9.54	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Trustees Malaysia Berhad
P-9.55	Original computer printout of AMInet Company Profile Fact Sheet of Deutsche Bank Netherlands N V
P-9.56	Original computer printout of AMInet Company Profile Fact Sheet of DB Consorzio S. Cons. a.r.l.
P-10	Deutsche Bank Comprehensive List of Shareholdings 2013 (*Gesamtverzeichnis des Anteilsbesitzes 2013*)

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Exhibit	Description
P-11	Sworn Statement of Ms. Rachel Concepcion to Questions Propounded by Atty. Nathan Michael O. Pico dated October 31, 2014
P-11-a	Signature of Ms. Concepcion as found in her Sworn Statement dated October 31, 2014
P-12	Petitioner's Independent CPA Report dated March 2, 2015
P-12-1	Signature of Ms. Constantino
P-13	Sales Schedule
P-14	Printer's Certificate of Delivery and/or Invoices dated March 20, 2012
P-15	Summary of Purchases
P-16	Reconciliation schedule of input VAT
P-17	Schedule of Amortization of Input VAT
P-18	Journal Entries on Input Tax in Capital Goods
P-19	Monthly VAT Return for January 2013 filed on February 19, 2013 with filing reference no. 091300006959006
P-20	Monthly VAT Return for February 2013 filed on March 12, 2013 with filing reference no. 091300007050156
P-21	Certificate of Inward Remittance dated October 25, 2013
P-22	Authority to Print with OCN No. 8AU0000168406 dated March 20, 2012 covering official receipts serial numbers 1203 to 1405
P-23	Amended Quarterly VAT Return for the 3rd Quarter of CY 2014, filed on January 20, 2015 with filing reference no. 101500010378365
P-24	Quarterly VAT Return for the 4th Quarter of CY 2014, filed on January 23, 2015 with filing reference no. 101500010401784
P-25	Sales Invoice No. 115913 of Accent Micro Technologies Inc. dated November 3, 2010 issued to Petitioner
P-26	Third Amended and Restated Schedule of Services for Project DKS TOV FAS Asset Management Americas
P-27	IntraGroup Service Agreement of Deutsche Bank PBC S.A. and Petitioner
P-28	Third Amended and Restated Schedule of Services for Project DKS TOV FAS Asset Management Americas
P-29	Third Amended and Restated Schedule of Services for Project DKS TOV FAS Asset Management Americas
P-30	Third Amended and Restated Schedule of Services for Project DKS TOV FAS Asset Management Americas
P-31	Certificate of Non-Registration of Bankers International Corporation issued by the Securities and Exchange Commission
P-32	Certificate of Non-Registration of DB Energy Trading LLC issued by the Securities and Exchange Commission
P-33	Sales Invoice No. 113013 of Accent Micro Technologies Inc. dated August 6, 2010 issued to Petitioner
P-34	Certificate of Non-Registration of Deutsche Asset Management Korea Company Limited issued by the Securities and Exchange Commission
P-35	Certificate of Non-Registration of Deutsche Bank Aktienesellschaft Inlandsbank Filiale Johannesburg South Africa issued by the Securities and Exchange Commission

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Exhibit	Description
P-36	Certificate of Non-Registration of Deutsche Bank Americas Holding Corp issued by the Securities and Exchange Commission
P-37	Certificate of Non-Registration of Deutsche Bank Netherlands N.V. issued by the Securities and Exchange Commission
P-38	Certificate of Non-Registration of Deutsche Bank Polska Spolka Akcyjna issued by the Securities and Exchange Commission
P-39	Certificate of Non-Registration of Deutsche Investment Management Americas Inc. issued by the Securities and Exchange Commission
P-40	Certificate of Non-Registration of Deutsche Securities Korea Co. issued by the Securities and Exchange Commission
P-41	Certificate of Non-Registration of DWS Investment SA issued by the Securities and Exchange Commission
P-42	Certificate of Non-Registration of OOO Deutsche Bank issued by the Securities and Exchange Commission
P-43	Certificate of registration of the Corporation/Association Duly Consularized with the Philippine Consulate of DB International (Asia) Limited
P-44	Certificate of registration of the Corporation/Association Duly Consularized with the Philippine Consulate of Deutsche Bank (Malaysia) Berhad
P-45	Certificate of registration of the Corporation/Association Duly Consularized with the Philippine Consulate of Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office
P-46	Certificate of registration of the Corporation/Association Duly Consularized with the Philippine Consulate of Deutsche Bank AG New York Branch
P-47	Certificate of registration of the Corporation/Association Duly Consularized with the Philippine Consulate of Deutsche Bank Aktiengesellschaft, Seoul Branch
P-48	Certificate of registration of the Corporation/Association Duly Consularized with the Philippine Consulate of Deutsche Bank Aktiengesellschaft
P-49	Certificate of registration of the Corporation/Association Duly Consularized with the Philippine Consulate of Deutsche Bank Securities Inc.
P-50	Sales Invoice No. 114022 of Accent Micro Technologies Inc. dated August 27, 2010 issued to Petitioner
P-51	Sales Invoice No. 115040 of Accent Micro Technologies Inc. dated November 4, 2010 issued to Petitioner
P-52 to P-226	Official Receipts with Attached Invoices – Zero-Rated Sales
P-227 to P-229	Official Receipts with Attached Invoices – Vatable 12% Sales
P-230 to 736	Official Receipts with Attached Invoices – Input VAT supports for Purchase of Services, Goods Other than Capital Goods, Capital Goods Not Exceeding P1 Million, Capital Goods Exceeding P1 Million and Services Rendered by Non Resident Citizens
P-737	Sales Invoice No. 117706 of Accent Micro Technologies Inc. dated January 18, 2011 issued to Petitioner

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Exhibit	Description
P-738	Sales Invoice No. 11703 of Accent Micro Technologies Inc. dated January 18, 2011 issued to Petitioner
P-739	Sales Invoice No. 117705 of Accent Micro Technologies Inc. dated January 18, 2011 issued to Petitioner
P-740 to P-756	Official Receipts with Attached Invoices – Input VAT supports for Purchase of Services, Goods Other than Capital Goods, Capital Goods Not Exceeding P1 Million, Capital Goods Exceeding P1 Million and Services Rendered by Non Resident Citizens
P-757	Sworn Statement of Ms. Katherine O. Constantino to Questions Propounded by Atty. Nathan Michael O. Pico dated April 1, 2015
P-757-a	Signature of Ms. Katherine O. Constantino

On the other hand, respondent manifested that he will no longer present evidence.[25]

The case was submitted for decision on August 4, 2016[26], considering respondent's Memorandum[27] filed on September 28, 2015 and petitioner's Memorandum[28] filed on May 30, 2016.

The parties submitted the following issue[29] for this Court's resolution:

> **Whether or not petitioner is entitled to the claim for refund of or issuance of Tax Credit Certificate (TCC) for excess or unutilized input VAT in the amount of ₱20,881,608.09 for the 1st quarter of CY 2013.**

Petitioner anchors its claim on Section 108(B)(2) in relation to Sections 110(B) and 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which state:

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

[25] Minutes of the Hearing dated April 7, 2015, Docket, vol. II, pp. 1565-1568.
[26] Resolution dated August 4, 2016, Docket, vol. IV, pp. 3932-3935.
[27] Docket, vol. IV, pp. 3239-3248.
[28] Docket, vol. IV, pp. 3894-3918.
[29] Issues, JSFI, Docket, vol. II, p. 1446.

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(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:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

(2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

SEC. 110. *Tax Credits.* –

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(B) *Excess Output or Input Tax.* – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: xxx *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.[30]

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

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[30] As amended by Republic Act No. 9361, November 21, 2006.

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.

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(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."

From the foregoing provisions, in order to be entitled to a tax credit or refund of excess input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

1. that the taxpayer is VAT-registered;
2. that the claim for refund was filed within the prescriptive periods;

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3. that there must be zero-rated or effectively zero-rated sales;
4. that input taxes were incurred or paid;
5. that such input taxes are attributable to zero-rated or effectively zero-rated sales; and
6. that the input taxes were not applied against any output VAT liability.

First Requisite:

The first requisite requires that the taxpayer is VAT-registered. In the JSFI, the parties agreed that petitioner was registered with the BIR on June 16, 2005 as VAT-registered taxpayer with Taxpayer Identification No. 238-763-115-000[31].

Second Requisite:

The second requisite requires that the claim for refund/tax credit must be filed within the prescriptive period, both in the administrative and judicial levels.

Petitioner's administrative claim for refund/tax credit is governed by Section 112(A) of the NIRC of 1997, as amended, which categorically provides that the application for tax credit certificate/refund must be filed within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the first quarter of CY 2013, which closed on March 31, 2013. Counting two years from the said date, petitioner had until March 31, 2015, within which to file its administrative claim for refund/tax credit. Thus, petitioner's administrative claim filed on March 13, 2014[32], together with its supporting documents, with the LTRAD 3 of the BIR, was seasonably filed.

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[31] Par. 4, Stipulated Facts, JSFI, Docket, vol. II, p. 1446; Exhibit "P-2", Docket, vol. II, p. 1670.
[32] Exhibits "P-4" and "P-4-a", Docket, vol. II, pp. 1697-1702.

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On the other hand, the timeliness of petitioner's judicial appeal is governed by Section 112(C) of the NIRC of 1997, as amended, which provides that the CIR has 120 days from the date of the submission of the complete documents in support of the application for refund/tax credit within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the Court of Tax Appeals within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for refund/tax credit, the remedy of the taxpayer is to appeal the inaction of the CIR to the CTA within 30 days.

Applying the foregoing to the present claim, from March 13, 2014, the date when petitioner filed its administrative claim and submitted its complete documents in support of its application for refund/tax credit certificate, respondent had 120 days, or until July 11, 2014 to decide on petitioner's claim. Considering that respondent did not act on petitioner's claim on or before July 11, 2014, the latter had until August 11, 2014[33], the last day of the 30-day period, within which to file its judicial claim. Evidently, petitioner likewise seasonably filed its judicial claim when it filed the instant Petition for Review on August 8, 2014.

Third Requisite:

The third requisite requires that the taxpayer be engaged in zero-rated or effectively zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b) and 108(B)(1) and (2), and the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with *Bangko Sentral ng Pilipinas* (BSP) rules and regulations.

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[34], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. the services must be other than processing, manufacturing or repacking of goods;

[33] August 10, 2014 being a Sunday.
[34] G.R. No. 153205, January 22, 2007.

2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

Petitioner satisfied the *first* requisite.

It is undisputed that petitioner is licensed to do business as ROHQ in the Philippines by the SEC pursuant to the Omnibus Investments Code of 1987, as amended by Republic Act No. 8756 and its implementing rules and regulations, to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistics services; research and development services and product development; technical support and maintenance; data processing and communication and business development.[35] Such services are not in the same category as "processing, manufacturing or repacking of goods".

In compliance with the *third* requisite, petitioner presented the following documents showing its client-affiliates are non-resident foreign corporations doing business outside the Philippines:

1. SEC Certifications of Non-Registration of Company[36];
2. Certificates/Articles of Association/Registration/Foreign Incorporation[37];
3. Printout of AMInet Company Profile Fact Sheets[38]; and
4. Intragroup Service Agreements[39]

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[35] Par. 3, Stipulated Facts, JSFI, Docket, vol. II, pp. 1445-1446; Exhibit "P-1", Docket, vol. II, pp. 1652-1669.

[36] Exhibits "P-5" to "P-5.44", "P-31" to "P-32", and "P-34" to "P-42", Docket, vol. II, pp. 1703-1747, and Folder 12, Box 1.

[37] Exhibits "P-7" to P-7.6", "P-8" to "P-8.41" (though Exhibits "P-8.25" to "P-8.27", "P-8.29" to "P-8.32", "P-8.34" and "P-8.37" were denied admission), and "P-43" to P-49", Docket vol. II, pp. 2003-2076, Docket, vol. II-III, pp. 2077-3063, and Folder 13, Box 1.

[38] Exhibits "P-9" to "P-9.56", Docket, vol. III, pp. 3064-3140.

[39] Exhibits "P-6" to "P-6.44" (though Exhibit "P-6.20" was denied admission); "P-26" to "P-30", Docket vol. II, pp. 1748-2002, and Folder 11, Box 1.

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Each of the aforesaid documents, standing alone, is inadequate proof that petitioner's client is a non-resident foreign corporation doing business outside the Philippines.

While the SEC Certificates of Non-Registration show that the named entities therein are not registered corporations/partnerships in the Philippines, the same do not prove that such entities are non-resident foreign corporations doing business outside the Philippines. Likewise, the service agreements only show the names and addresses of petitioner's customers to whom it renders services but the same do not establish that such customers are non-resident foreign corporations doing business outside the Philippines. Also, the Certificates/Articles of Association/Registration/Foreign Incorporation only prove that the named entities therein were incorporated/organized abroad but do not establish that such entities are not doing business in the Philippines.

In order to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by **both** SEC Certificate of Non-registration **and** Certificates/Articles of Association/Registration/Foreign Incorporation, and that there is no other indication that the recipient of the services is doing business in the Philippines.

This Court, however, cannot give credence to the purported foreign business registration print-outs retrieved from the AMInet database which is a database set up by Deutsche Bank Global (the Head Office located in Germany). The said documents are not sufficient to establish the fact that the service recipients are non-resident foreign corporations doing business outside the Philippines, as they may be considered self-serving and can be easily manipulated to favor petitioner in view of its affinity with the entity that maintains or keeps the said database.

In this case, the table below shows whether petitioner complied with the third requisite:

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	SEC Certificate of Non-Registration (Exhibit No.)	**Certificate/Article of Association/Registration/ Foreign Incorporation/ (Exhibit No.)**
Deutsche Bank Aktiengesellschaft Inlandsbank	P-5	P-7
Deutsche Bank Aktiengesellschaft Filiale Johannesburg	P-35	P-8
Deutsche Bank Aktiengesellschaft, Filiale Amsterdam	P-5.1	***None***
Deutsche Bank Aktiengesellschaft, Filiale Riad	P-5.2	P-8.1
Deutsche Bank Aktiengesellschaft, Filiale Dubai (DIFC)	P-5.3	***None***
OOO Deutsche Bank	P-42	***None***
Deutsche Bank Sociedad Anonima Espanola	P-5.4	***None***
Deutsche Bank Aktiengesellschaft, Filiale Zurich	P-5.5	***None***
Deutsche Bank Aktiengesellschaft, Filiale Wien	P-5.6	***None***
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	P-5.7	P-45
Deutsche Bank Aktiengesellschaft, Filiale Singapore	P-5.8	P-8.6
Deutsche Bank Aktiengesellschaft, Filiale Bangkok	P-5.9	P-8.7
Deutsche Bank Aktiengesellschaft, Filiale Mumbai	P-5.10	P-8.8
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	P-5.11	P-7.1 / P-8.9
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	P-5.12	P-7.2
Deutsche Bank Aktiengesellschaft, Filiale Ho-Chi-Minh City	P-5.13	P-8.11
Deutsche Bank Aktiengesellschaft, Filiale Seoul	P-5.14	P-47
Deutsche Bank Aktiengesellschaft, Filiale Labuan	P-5.15	P-8.13
DWS Investment SA	P-41	***None***
Deutsche Bank Americas Holding Corp	P-36	P-8.15
Deutsche Bank Aktiengesellschaft, Filiale Brussel	P-5.16	***None***
Deutsche Bank (Malaysia) Berhad	P-5.17	P-44
Deutsche Bank Aktiengesellschaft, Filiale New York	P-5.18	P-46
Deutsche Bank Aktiengesellschaft, Filiale London	P-5.19	P-7.3 / P-8.17
Deutsche Bank Aktiengesellschaft, Filiale Tokyo	P-5.20	***None***
Deutsche Bank Aktiengesellschaft, Filiale Paris	P-5.21	P-8.19
Deutsche Bank Aktiengesellschaft, Filiale Prague	P-5.22	***None***
Deutsche Bank Luxembourg S.A.	P-5.23	P-8.20
Deutsche Securities Inc.	P-5.24	P-7.4
Deutsche Bank Polska Spolka Akcyjna	P-38	***None***
Deutsche Bank Suisse SA	P-5.26	***None***
Deutsche Bank Societa Per Azione	P-5.27	***None***
Deutsche Asset Management Investmentgesselchaft	P-5.28	***None***
Deutsche Bank China Co. Ltd. Shanghai Branch	P-5.29	***None***
DWS Holding & Service GMBH	P-5.30	P-8.23
RREEF Management GMBH	P-5.31	P-8.24
Deutsche Bank Real Estate Japan YK	P-5.32	***None***
Deutsche Investment Management Americas Inc.	P-39	***None***
RREEF Management LLC	P-5.33	***None***
Deutsche Asset Management Korea Company Limited	P-34	P-8.28
Deutsche Bank Securities Inc.	P-5.34	P-49
Deutsche Asia Pacific Holdings Pte Ltd.	P-5.35	P-7.5

PT Deutsche Securities Indonesia	P-5.36	***None***
Deutsche Group Services Pty Limited	P-5.37	P-7.6
Deutsche Bank PBC Spolka Akcyjna	P-5.25	***None***
Deutsche Securities Korea Co	P-40	P-8.33
Deutsche Bank Trust Company Americas	P-5.38	***None***
DB Services New Jersey, Inc.	P-5.39	***None***
DB Investment Partners Inc	***None***	P-8.35
Bankers International Corporation	P-31	***None***
DB International (Asia) Limited	P-5.40	P-43
DB Energy Trading LLC	P-32	P-8.36
DBOI Global Services Private Limited	P-5.41	***None***
Global Markets Centre Private Limited	P-5.42	***None***
Deutsche Global Markets Limited	***None***	P-8.38
Deutsche Trustees Malaysia Berhad	P-5.43	P-8.39
Deutsche Bank Netherlands N V	P-37	P-8.40
DB Consorzio S. Cons. A.R.L.	P-5.44	***None***
Deutsche Bank Aktiengesellschaft	***None***	P-48

Correspondingly, only the sales of services by petitioner to entities which have the said two (2) required documents will be treated as subject to the 0% VAT rate, pursuant to Section 108(B)(2) of the NIRC of 1997, as amended.

Corollary to the *second* requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties and for every sale, barter or exchange of services issue a VAT official receipt which must contain the following information:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.

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(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* – The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term **"zero-rated sale"** shall be written or printed prominently on the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and *(Emphasis supplied)*

SECTION 4.113-1. *Invoicing Requirements.* –

(A) A VAT-registered person shall issue: –

xxx xxx xxx

(2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.

Only VAT-registered persons are required to print their **TIN followed by the word 'VAT' in their invoice or official receipts**. Said documents shall be considered as a "VAT Invoice" or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

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VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) ***Information contained in VAT invoice or VAT official receipt.*** – The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) VAT, the term **"zero-rated sale"** shall be written or printed prominently on the invoice or receipt; *(Emphasis supplied)*

Pursuant to the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must likewise be supported by VAT zero-rated official receipts.

To prove that petitioner rendered services to its foreign affiliates and was paid in foreign currency duly accounted for in accordance with the rules and regulations of the BSP for the 1st quarter of CY 2013, petitioner submitted documents such as Sales Schedule[40], Zero-rated official receipts with attached Invoices[41], and Certificate of Inward Remittance[42] issued by Deutsche Bank AG Manila.

Upon verification of the foregoing pieces of evidence, the Court finds that out of the ₱1,413,943,646.13 zero-rated sales declared per VAT Return for the 1st quarter of CY 2013, only the amount of €25,282,504.57 with peso equivalent of ₱1,347,489,133.11, as

[40] Exhibit "P-13".
[41] Exhibits "P-52" to "P-226".
[42] Exhibit "P-21".

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presented below, qualifies for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended:

Customer's Name	O.R. Date	O.R. No.	OR Exhibit No.	OR Amount (in Euro)	Amount in Peso
DB Energy Trading LLC	25-Mar-13	3129	P-217	4,209.08	223,353.61
DB International (Asia) Limited	1-Feb-13	3016	P-110	16,164.20	896,255.43
DB International (Asia) Limited	1-Feb-13	3017	P-111	114,097.07	6,326,333.39
Deutsche Asia Pacific Holdings Pte Ltd	1-Feb-13	3015	P-109	12,638.95	700,791.10
Deutsche Asia Pacific Holdings Pte Ltd	28-Feb-13	3085	P-175	11,133.69	595,159.19
Deutsche Asset Management (Korea) Company Limited	31-Jan-13	3014	P-108	9,100.32	501,665.51
Deutsche Asset Management (Korea) Company Limited	26-Feb-13	3076	P-166	4,934.44	261,535.09
Deutsche Asset Management (Korea) Company Limited	22-Mar-13	3127	P-215	7,197.99	379,407.14
Deutsche Bank (Malaysia) Berhad	23-Jan-13	2999	P-93	7,841.35	423,462.15
Deutsche Bank (Malaysia) Berhad	23-Jan-13	3000	P-94	26,292.30	1,419,882.27
Deutsche Bank (Malaysia) Berhad	23-Jan-13	3001	P-95	7,101.60	383,512.89
Deutsche Bank (Malaysia) Berhad	27-Feb-13	3080	P-170	26,837.64	1,429,712.74
Deutsche Bank (Malaysia) Berhad	27-Feb-13	3084	P-174	3,945.34	210,178.80
Deutsche Bank (Malaysia) Berhad	25-Mar-13	3130	P-218	3,457.29	183,460.09
Deutsche Bank (Malaysia) Berhad	25-Mar-13	3131	P-219	15,590.45	827,302.71
Deutsche Bank (Malaysia) Berhad	25-Mar-13	3132	P-220	5,752.27	305,242.54
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Jan-13	2967	P-65	728,239.09	39,557,750.74
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	6-Feb-13	3022	P-116	211.90	11,649.79
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	13-Feb-13	3029	P-122	868,236.66	47,541,209.98
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Feb-13	3051	P-143	260,748.24	14,117,535.51
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	13-Mar-13	3095	P-183	43,865.20	2,324,942.45
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	19-Mar-13	3118	P-206	67,081.94	3,530,554.70
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	20-Mar-13	3121	P-209	618,029.94	32,461,015.21
Deutsche Bank Aktiengesellschaft, Filiale Bangkok	18-Jan-13	2979	P-77	8,859.58	478,861.10
Deutsche Bank Aktiengesellschaft, Filiale Bangkok	24-Jan-13	3004	P-98	17,705.68	956,525.99
Deutsche Bank Aktiengesellschaft, Filiale Bangkok	21-Feb-13	3064	P-156	8,803.10	475,446.36
Deutsche Bank Aktiengesellschaft, Filiale Bangkok	18-Mar-13	3106	P-194	671.09	35,357.40
Deutsche Bank Aktiengesellschaft, Filiale Ho-Chi-Minh-City	13-Feb-13	3026	P-119	5,714.24	312,889.21
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	15-Jan-13	2969	P-67	122,847.44	6,654,282.20
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	4-Feb-13	3020	P-114	81.30	4,490.00

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Deutsche Bank Aktiengesellschaft, Filiale Hongkong	4-Feb-13	3021	P-115	1,468.69	81,112.04
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	15-Feb-13	3042	P-134	124,130.92	6,724,067.67
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	22-Feb-13	3073	P-163	248,207.02	13,343,517.56
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	19-Mar-13	3119	P-207	1,044,111.60	54,952,094.68
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	21-Feb-13	3062	P-154	7,653.07	413,334.43
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	22-Feb-13	3069	P-159	8,146.91	437,974.88
Deutsche Bank Aktiengesellschaft, Filiale Johannesburg	28-Jan-13	3008	P-102	3,281.00	180,338.95
Deutsche Bank Aktiengesellschaft, Filiale Johannesburg	28-Feb-13	3081	P-171	3,281.00	175,388.15
Deutsche Bank Aktiengesellschaft, Filiale Labuan	2-Jan-13	2951	P-52	789.07	42,785.95
Deutsche Bank Aktiengesellschaft, Filiale Labuan	24-Jan-13	3003	P-97	2,117.13	114,375.15
Deutsche Bank Aktiengesellschaft, Filiale Labuan	20-Feb-13	3060	P-152	2,166.70	118,173.38
Deutsche Bank Aktiengesellschaft, Filiale Labuan	26-Mar-13	3137	P-224	570.65	30,112.51
Deutsche Bank Aktiengesellschaft, Filiale London	10-Jan-13	2961	P-59	1,125,553.88	59,853,117.20
Deutsche Bank Aktiengesellschaft, Filiale London	17-Jan-13	2975	P-73	1,094,122.64	59,063,475.41
Deutsche Bank Aktiengesellschaft, Filiale London	15-Feb-13	3043	P-135	1,773,241.65	96,055,010.66
Deutsche Bank Aktiengesellschaft, Filiale London	18-Feb-13	3048	P-140	136,078.12	7,367,596.02
Deutsche Bank Aktiengesellschaft, Filiale London	19-Feb-13	3053	P-145	5,816.97	315,530.37
Deutsche Bank Aktiengesellschaft, Filiale London	14-Mar-13	3097	P-185	69,671.00	3,667,356.03
Deutsche Bank Aktiengesellschaft, Filiale London	19-Mar-13	3117	P-205	7,378,283.58	388,322,604.81
Deutsche Bank Aktiengesellschaft, Filiale Mumbai	14-Jan-13	2964	P-62	65,875.15	3,581,362.26
Deutsche Bank Aktiengesellschaft, Filiale Mumbai	14-Feb-13	3034	P-126	16,785.47	914,343.04
Deutsche Bank Aktiengesellschaft, Filiale Mumbai	14-Feb-13	3035	P-127	53,522.73	2,915,777.01
Deutsche Bank Aktiengesellschaft, Filiale New York	14-Jan-13	2963	P-61	35,742.64	1,941,530.55
Deutsche Bank Aktiengesellschaft, Filiale New York	15-Jan-13	2968	P-66	40,102.46	2,178,354.80
Deutsche Bank Aktiengesellschaft, Filiale New York	16-Jan-13	2972	P-70	59.55	3,214.66
Deutsche Bank Aktiengesellschaft, Filiale New York	23-Jan-13	2997	P-91	512,605.61	27,682,614.97
Deutsche Bank Aktiengesellschaft, Filiale New York	4-Feb-13	3018	P-112	4,183.01	231,017.06
Deutsche Bank Aktiengesellschaft, Filiale New York	14-Feb-13	3032	P-124	17,951.43	976,924.36
Deutsche Bank Aktiengesellschaft, Filiale New York	25-Feb-13	3075	P-165	514,757.92	27,707,225.97

Deutsche Bank Aktiengesellschaft, Filiale New York	21-Mar-13	3122	P-210	16,793.69	884,336.23
Deutsche Bank Aktiengesellschaft, Filiale New York	22-Mar-13	3125	P-213	95,506.14	5,034,142.97
Deutsche Bank Aktiengesellschaft, Filiale New York	25-Mar-13	3129	P-217	470,864.86	24,986,307.27
Deutsche Bank Aktiengesellschaft, Filiale New York	25-Mar-13	3129	P-217	1,050,879.36	55,764,608.48
Deutsche Bank Aktiengesellschaft, Filiale New York	25-Mar-13	3129	P-217	(288,899.90)	(15,330,389.43)
Deutsche Bank Aktiengesellschaft, Filiale Paris	17-Jan-13	2974	P-72	4,706.91	254,360.68
Deutsche Bank Aktiengesellschaft, Filiale Paris	14-Feb-13	3033	P-125	4,706.91	256,424.12
Deutsche Bank Aktiengesellschaft, Filiale Riad	18-Feb-13	3050	P-142	14,407.15	780,037.68
Deutsche Bank Aktiengesellschaft, Filiale Seoul	1-Mar-13	3088	P-178	19,884.77	1,059,288.54
Deutsche Bank Aktiengesellschaft, Filiale Seoul	7-Mar-13	3093	P-181	74,307.14	3,939,028.92
Deutsche Bank Aktiengesellschaft, Filiale Seoul	27-Mar-13	3142	P-211	8,195.76	428,834.62
Deutsche Bank Aktiengesellschaft, Filiale Singapur	14-Jan-13	2962	P-60	247,187.74	13,427,171.30
Deutsche Bank Aktiengesellschaft, Filiale Singapur	15-Jan-13	2970	P-68	165,236.37	8,950,365.06
Deutsche Bank Aktiengesellschaft, Filiale Singapur	14-Feb-13	3037	P-129	175,221.85	9,535,646.67
Deutsche Bank Aktiengesellschaft, Filiale Singapur	14-Feb-13	3038	P-130	3,981.20	216,658.58
Deutsche Bank Aktiengesellschaft, Filiale Singapur	14-Feb-13	3039	P-131	14,566.27	792,702.53
Deutsche Bank Aktiengesellschaft, Filiale Singapur	14-Feb-13	3040	P-132	159,116.41	8,659,181.86
Deutsche Bank Aktiengesellschaft, Filiale Singapur	19-Mar-13	3120	P-208	39,021.27	2,053,708.17
Deutsche Bank Aktiengesellschaft, Filiale Singapur	22-Mar-13	3128	P-216	1,200,994.00	63,304,573.89
Deutsche Bank Aktiengesellschaft, Inlandsbank	21-Jan-13	2983	P-81	40,746.87	2,209,234.58
Deutsche Bank Aktiengesellschaft, Inlandsbank	21-Jan-13	2984	P-82	8,573.81	464,859.20
Deutsche Bank Aktiengesellschaft, Inlandsbank	21-Jan-13	2985	P-83	131,578.31	7,133,979.92
Deutsche Bank Aktiengesellschaft, Inlandsbank	21-Jan-13	2986	P-84	828.60	44,925.46
Deutsche Bank Aktiengesellschaft, Inlandsbank	20-Feb-13	3055	P-147	25,286.04	1,379,118.84
Deutsche Bank Aktiengesellschaft, Inlandsbank	20-Feb-13	3056	P-148	269,520.66	14,699,850.94
Deutsche Bank Aktiengesellschaft, Inlandsbank	20-Feb-13	3057	P-149	244,280.15	13,323,215.34
Deutsche Bank Aktiengesellschaft, Inlandsbank	20-Feb-13	3058	P-150	118,748.05	6,476,604.15
Deutsche Bank Aktiengesellschaft, Inlandsbank	20-Feb-13	3059	P-151	8,697.76	474,382.10
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3107	P-195	113,072.10	5,951,038.90

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Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3108	P-196	1,102.32	58,015.63
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3109	P-197	1,502,480.57	79,076,273.59
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3110	P-198	41,526.66	2,185,568.05
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3111	P-199	320,070.53	16,845,465.63
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3112	P-200	12,450.70	655,286.32
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3113	P-201	84,899.03	4,468,276.70
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3114	P-202	84,899.03	4,468,276.70
Deutsche Bank Aktiengesellschaft, Inlandsbank	19-Mar-13	3115	P-203	835.86	43,991.71
Deutsche Bank Aktiengesellschaft, Inlandsbank	22-Mar-13	3126	P-214	53,794.40	2,835,510.89
Deutsche Bank Americas Holding Corp	15-Jan-13	2968	P-66	53.03	2,880.58
Deutsche Bank Luxembourg S.A.	17-Jan-13	2976	P-74	3,609.10	194,828.24
Deutsche Bank Luxembourg S.A.	21-Feb-13	3068	P-158	3,609.10	194,923.78
Deutsche Bank Netherland N.V.	9-Jan-13	2957	P-55	1,274.15	68,002.98
Deutsche Bank Netherland N.V.	9-Jan-13	2958	P-56	2,631.59	140,451.25
Deutsche Bank Netherland N.V.	22-Jan-13	2992	P-88	13,124.00	705,541.40
Deutsche Bank Netherland N.V.	22-Jan-13	2993	P-89	4,751.45	257,751.15
Deutsche Bank Netherland N.V.	21-Feb-13	3067	P-157	4,751.45	256,620.92
Deutsche Bank Netherland N.V.	22-Feb-13	3071	P-161	13,124.00	711,935.53
Deutsche Bank Netherland N.V.	15-Mar-13	3101	P-189	430.89	22,803.46
Deutsche Bank Netherland N.V.	15-Mar-13	3102	P-190	4,397.62	232,729.83
Deutsche Bank Securities Inc.	18-Jan-13	2978	P-76	4,847.11	261,986.73
Deutsche Bank Securities Inc.	22-Mar-13	3125	P-213	9,744.48	513,633.00
Deutsche Group Services Pty Limited	15-Jan-13	2971	P-69	15,215.88	827,188.66
Deutsche Group Services Pty Limited	17-Jan-13	2977	P-75	121,973.07	6,599,411.67
Deutsche Group Services Pty Limited	15-Feb-13	3046	P-138	318,183.50	17,242,504.07
Deutsche Group Services Pty Limited	14-Mar-13	3098	P-186	193,875.30	10,211,826.60
Deutsche Group Services Pty Limited	25-Mar-13	3134	P-222	18,325.25	975,699.23
Deutsche Securities Inc.	10-Jan-13	2959	P-57	21,762.40	1,157,250.22
Deutsche Securities Inc.	15-Feb-13	3044	P-136	416,644.18	22,569,265.25
Deutsche Securities Inc.	15-Feb-13	3045	P-137	144,649.58	7,835,546.27
Deutsche Securities Korea Co.	8-Feb-13	3023	P-117	9,116.67	497,214.70
Deutsche Securities Korea Co.	1-Mar-13	3086	P-176	6,704.16	357,139.65
Deutsche Securities Korea Co.	27-Mar-13	3140	P-104	1,966.87	102,914.43
Deutsche Trustees Malaysia Berhad	23-Jan-13	2998	P-92	1,038.97	56,108.26
Deutsche Trustees Malaysia Berhad	27-Feb-13	3079	P-169	1,083.35	57,712.95
Deutsche Trustees Malaysia Berhad	26-Mar-13	3136	P-223	889.46	46,935.73
DWS Holding & Service GmbH	21-Jan-13	2987	P-85	19,912.46	1,079,623.91
DWS Holding & Service GmbH	25-Mar-13	3133	P-221	19,867.64	1,056,648.91
DWS Holding & Service GmbH	27-Mar-13	3139	P-226	4,324.50	227,321.44
RREEF Management GmbH	31-Jan-13	3012	P-106	18,214.87	999,452.83
RREEF Management GmbH	4-Mar-13	3089	P-179	24,672.19	1,314,320.87
TOTAL				**25,282,504.57**	**1,347,489,133.11**

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Fourth and Fifth Requisites:

Having resolved that petitioner had VAT zero-rated receipts for the 1st quarter of CY 2013 in the amount of ₱1,347,489,133.11, the Court proceeds to determine the amount of input VAT attributable thereto.

In its Quarterly VAT Return for the 1st quarter of CY 2013[43], petitioner reported input VAT in the aggregate amount of ₱20,964,520.35, of which the amount of ₱20,881,608.09 is the subject of the present claim, as computed below:

Purchases of Capital Goods not exceeding P1M	₱ 38,047.30
Purchases of Capital Goods Exceeding P1M	448,559.31
Domestic Purchases of Goods Other than Capital Goods	125,844.00
Domestic Purchases of Services	19,833,171.53
Services rendered by non-residents	518,898.21
TOTAL	**₱ 20,964,520.35**
Divided by total declared sales	1,419,557,833.96
Multiply by zero-rated sales	1,413,943,646.13
Input VAT claimed for Refund/TCC	**₱ 20,881,608.09**

In support of its input VAT claim, petitioner presented the corresponding invoices, official receipts, BIR Forms No. 1600 and other documents[44] issued by its suppliers; which were examined by the Court-commissioned Independent CPA, Ms. Katherine O. Constantino. The Independent CPA summarized her findings as follows:[45]

FINDINGS	Reference to ICPA Report	Amount
PROPERLY SUPPORTED INPUT TAX		
Purchases of goods with properly supported Invoices	Annex 9-a	₱ 45,895.62
Purchases of services with properly supported Official Receipts (ORs)	Annex 9-b	18,557,115.54
Purchases of capital goods not exceeding one (1) million with properly supported Invoices	Annex 9-c	38,047.30

[43] Exhibit "P-3", Docket, vol. II, pp. 1671-1674.
[44] Exhibits "P-230" to "P-736" and "P-740" to "P-756", Folder 17, Box 2.
[45] Exhibit "P-12", pp. 13-14 and 17.

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Services rendered to non-resident citizen with properly supported BIR Forms 1600 and payment confirmation forms		Annex 9-d	518,898.21
Purchases of Capital Goods exceeding one (1) Million with properly supported Invoices.		Annex 10-a	254,666.91
Total			**₱ 19,414,623.58**
OTHER FINDINGS			
Purchases of Goods other than Capital Goods			
1	Purchases of goods supported by VAT REG. TIN Invoices without VAT breakdown	Annex 9-e	₱ 8,192.15
2	Purchases of goods supported by VAT REG. TIN Invoices with date not within the year of claim	Annex 9-f	68,708.01
3	Purchases of goods supported by VAT REG. TIN Invoices with date not within the year of claim and without VAT breakdown	Annex 9-g	3,048.22
	subtotal		***₱ 79,948.38***
Purchases of Services			
1	Purchases of services supported by VAT REG. TIN. ORs with date not within the year of claim	Annex 9-h	₱ 45,523.06
2	Purchases of services supported by VAT REG. TIN. ORs with note that states "Not to be used for claim of Input Tax"	Annex 9-i	125,061.57
3	Purchases of services supported by NON-VAT REG. TIN ORs without VAT breakdown	Annex 9-j	2,697.86
4	Purchases of services supported by TIN NO. VAT / VAT REG. TIN ORs with incorrect VAT breakdown	Annex 9-k	93,943.43
5	Purchases of services supported by VAT REG. TIN. ORs with incorrect Petitioner's TIN and date not within the quarter of claim	Annex 9-l	12,527.88
6	Purchases of services supported by VAT REG. TIN. ORs with incorrect VAT breakdown and date not within the quarter of claim	Annex 9-m	87,019.41
7	Purchases of services supported by VAT REG. TIN. ORs with note that states "Not to be used for claim of Input Tax" and date not within the quarter of claim	Annex 9-n	6,723.21
8	Purchases of services supported by VAT REG. TIN. ORs with unclear Petitioner's TIN but with correct VAT breakdown when computed independently	Annex 9-o	2,970.00
9	Purchases of services supported by VAT REG. TIN ORs with date not within the quarter of claim and a correct VAT breakdown when computed independently	Annex 9-p	2,128.50
10	Purchases of services supported by VAT REG. TIN ORs with incomplete Petitioner's Name and without Petitioner's TIN	Annex 9-q	2,264.00
11	Purchases of services supported by certified true copy VAT REG. TIN ORs without Petitioner's TIN and a correct VAT breakdown when computed independently	Annex 9-r	259,039.60
12	Purchases of services supported by VAT REG. TIN ORs with abbreviated Petitioner's Name but without Petitioner's TIN and a date not within the year of claim	Annex 9-s	1,027.00

13 Purchases of services supported by Certified True Copy VAT REG. TIN ORS with date not within the quarter of claim.	Annex 9-t	33,659.89
14 Purchases of services supported by Certified True Copy VAT REG. TIN ORS	Annex 9-u	75,717.96
15 Purchases of services supported by documents other than VAT ORs	Annex 9-v	371,559.49
16 Purchases of services without support documents		154,193.13
subtotal		***₱ 1,276,055.99***
Purchases of Capital Goods exceeding one (1) million		
Purchases of capital goods exceeding one (1) million supported by VAT REG. TIN Invoices dated not within the year of claim.	Annex 10-b	193,892.40
Total		**₱ 1,549,896.77**
Grand Total		**₱ 20,964,520.35**

From the foregoing, the Court finds that the input VAT in the amount of ₱1,549,896.77 should be disallowed for not being properly substantiated by VAT invoices or official receipts as prescribed under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-2, 4.110-8, and 4.113-1 of RR No. 16-05, as amended.

In addition, the input VAT in the amount of ₱2,910,858.21, as detailed below, shall be disallowed for petitioner's failure to meet the substantiation requirements prescribed under the aforesaid VAT law and regulations:

FINDINGS	Date of Invoice /Official Receipt	Invoice / Official Receipt No.	Disallowed Input VAT	Exhibit
A. PURCHASES OF CAPITAL GOODS NOT EXCEEDING 1MILLION				
Documents submitted do not clearly reflect the breakdown of the amount of purchases as well as the corresponding Input VAT				
Accent Micro Technologies, Inc.	18-Mar-13	146658	₱ 6,292.99	P-338
Accent Micro Technologies, Inc.	18-Mar-13	146659	6,292.99	P-339
Accent Micro Technologies, Inc.	14-Mar-13	146461	42.86	P-340
Accent Micro Technologies, Inc.	14-Mar-13	146454	803.57	P-341
Accent Micro Technologies, Inc.	14-Mar-13	146452	482.14	P-342
Accent Micro Technologies, Inc.	14-Mar-13	146455	321.43	P-343
Accent Micro Technologies, Inc.	14-Mar-13	146456	321.43	P-344
Accent Micro Technologies, Inc.	14-Mar-13	146462	42.86	P-345
Total			**₱ 14,600.27**	
B. PURCHASES OF SERVICES				

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1. Not dated within the period of claim				
6-24 Property Holdings, Inc.	10-Apr-13	3595	₱ 377,508.24	P-239
6-24 Property Holdings, Inc.	10-Apr-13	3596	1,928,106.96	P-240
6-3 Property Holdings, Inc.	10-Apr-13	3127	471.43	P-241
Baniqued & Baniqued	17-Apr-13	3846	7,800.00	P-369
Baniqued & Baniqued	17-Apr-13	3845	7,800.00	P-370
Chittick Fire & Security	17-Apr-13	8104	695.52	P-392
Cibi Information, Inc.	22-May-13	32121	1,786.86	P-395
Crown Worldwide Movers, Inc.	3-Apr-13	26606	19,512.00	P-402
DHL Express (Philippines) Corp	17-Apr-13	2243607	1,660.00	P-427
Exclusive Cars International	3-Apr-13	9160	18,771.43	P-459
Federal Phoenix Assurance	4-Oct-13	101756	301,026.27	P-465
Makati Shangri-La Hotel	3-Apr-13	200633	14,493.00	P-533
Mesco Express Service Corp.	6-Sep-13	8400	5,403.44	P-539
IBM Philippines, Inc.	22-May-13	24293	(618.48)	P-536
Zuniega Olaso Macapundag	10-Apr-13	1520	4,620.00	P-627
Subtotal			***₱ 2,689,036.67***	
2. VAT not separately indicated				
Professional Skills Enrichment	13-Feb-13	15666	₱ 27,120.00	P-580
Subtotal			***₱ 27,120.00***	
3. No BIR Authority to Print				
PLDT	8-Feb-13	802393	₱ 6.43	P-667
PLDT	30-Jan-13	1148736	353.57	P-668
PLDT	8-Feb-13	802390	1.91	P-669
PLDT	30-Jan-13	1148730	105.13	P-670
PLDT	8-Feb-13	802381	4.27	P-671
PLDT	30-Jan-13	1148728	235.13	P-672
PLDT	8-Feb-13	802385	582.86	P-673
PLDT	30-Jan-13	1148724	32,057.14	P-674
PLDT	8-Feb-13	802380	4.27	P-675
PLDT	30-Jan-13	1148726	235.13	P-676
PLDT	8-Feb-13	802383	4.27	P-677
PLDT	30-Jan-13	1148731	235.13	P-678
PLDT	8-Feb-13	802386	2.72	P-679
PLDT	30-Jan-13	1148735	148.41	P-680
PLDT	8-Feb-13	802382	2.83	P-681
PLDT	30-Jan-14	1148729	157.84	P-682
PLDT	8-Feb-13	802389	1.91	P-683
PLDT	30-Jan-14	1148727	105.13	P-684
PLDT	8-Feb-13	802392	6.43	P-689
PLDT	8-Feb-13	802384	4.27	P-685
PLDT	30-Jan-13	1148725	235.13	P-686
PLDT	30-Jan-13	1148732	302.18	P-686
Subtotal			***₱ 34,792.09***	
4. Over-claimed Input VAT (The input VAT amount being claimed is more than the input VAT per ORs)				

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ASIAPEOPLEWORKS! INC.		6-Mar-13	390	₱ 34.35	P-364
per claim	*1,875.62*				
per Official Receipt	*1,841.27*				
Johnson Controls IFM Phils. Co		23-Jan-13	3185	64,415.45	P-524
per claim	*71,430.99*				
per Official Receipt	*7,015.54*				
Johnson Controls IFM Phils. Co		6-Feb-13	3144	2,865.48	P-525
per claim	*3,177.56*				
per Official Receipt	*312.08*				
Johnson Controls IFM Phils. Co		6-Feb-13	3145	4,685.61	P-526
per claim	*262,393.50*				
per Official Receipt	*257,707.89*				
Johnson Controls IFM Phils. Co		20-Feb-13	3204	1,301.76	P-527
per claim	*72,898.29*				
per Official Receipt	*71,596.53*				
Papertone Corporation		27-Feb-13	868	241.88	P-549
per claim	*13,545.53*				
per Official Receipt	*13,303.65*				
Papertone Corporation		13-Mar-13	218	17.45	P-551
per claim	*977.57*				
per Official Receipt	*960.12*				
Papertone Corporation		13-Mar-13	217	18.36	P-552
per claim	*1,028.57*				
per Official Receipt	*1,010.21*				
Taurus Electrical Services		9-Jan-13	63	618.04	P-612
per claim	*34,610.12*				
per Official Receipt	*33,992.08*				
Taurus Electrical Services		30-Jan-13	69	2,805.72	P-613
per claim	*157,122.65*				
per Official Receipt	*154,316.93*				
Taurus Electrical Services		6-Feb-13	71	329.21	P-614
per claim	18,435.92				
per Official Receipt	18,106.71				
Taurus Electrical Services		13-Mar-13	76	1,097.51	P-615
per claim	61,460.52				
per Official Receipt	60,363.01				
Subtotal				***₱ 78,430.82***	
Total				**₱2,829,379.58**	
C. PURCHASES OF CAPITAL GOODS EXCEEDING 1MILLION					
Document submitted does not reflect the breakdown of the amount of purchase as well as the Input VAT					
Accent Micro Technologies, Inc.		4-Jan-13	143444	₱ 7,810.27	P-275
Accent Micro Technologies, Inc.		4-Jan-13	143443	11,715.41	P-287
Accent Micro Technologies, Inc.		11-Jan-13	143705	482.14	P-299
Accent Micro Technologies, Inc.		17-Jan-13	143919	15,620.55	P-301
Accent Micro Technologies, Inc.		22-Jan-13	144082	267.86	P-308

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Accent Micro Technologies, Inc.	30-Jan-13	144449	2,871.43	P-311
Accent Micro Technologies, Inc.	17-Jan-13	143916	18,878.98	P-313
Accent Micro Technologies, Inc.	4-Feb-13	144774	3,199.11	P-317
Accent Micro Technologies, Inc.	5-Feb-13	144840	2,833.50	P-320
Accent Micro Technologies, Inc.	8-Feb-13	144959	3,199.11	P-321
Total			**₱ 66,878.36**	
Total Additional Disallowances per this Court's Findings			**₱ 2,910,858.21**	

Thus, out of petitioner's total reported input VAT of ₱20,964,520.35 for the first quarter of CY 2013, only the amount of ₱16,503,765.37 represents valid input VAT, computed as follows:

	Domestic Purchases of Capital Goods not exceeding ₱1 million	**Domestic Purchases of Goods Other than Capital Goods**	**Domestic Purchase of Services**	**Services Rendered by Non-residents**	**Domestic Purchase of Capital Goods exceeding ₱1 million**	**Total**
Input VAT per VAT Return	₱ 38,047.30	₱ 125,844.00	₱ 19,833,171.53	₱ 518,898.21	₱ 448,559.31	₱ 20,964,520.3
Less: Disallowances						
Per ICPA Report		79,948.38	1,276,055.99		193,892.40	1,549,896.7
Per this Court's further verification	14,600.27		2,829,379.58		66,878.36	2,910,858.2
Total	*14,600.27*	*79,948.38*	*4,105,435.57*	-	*260,770.76*	*4,460,754.9*
Valid Input VAT	**₱ 23,447.03**	**₱ 45,895.62**	**₱15,727,735.96**	**₱518,898.21**	**₱ 187,788.55**	**₱16,503,765.3**

While the above valid input taxes are duly substantiated by documents, the same are not entirely creditable for the subject period of claim. It must be noted that part of the above valid input VAT is the amount of ₱187,788.55, representing input VAT on purchases of capital goods exceeding ₱1 Million. Pursuant to Section 110(A) of the NIRC of 1997, as amended, as implemented by Section 4.110-3 of RR No. 16-2005, input VAT claim 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 ₱1 Million, 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 ₱1 Million, the total input taxes shall be allowed as tax credit/refund in the month of acquisition.

While petitioner was able to substantiate the amount of ₱187,788.55 out of the total claimed input VAT of ₱448,559.31 on capital goods purchases exceeding ₱1 Million, only the amortization[46] for the first quarter of 2013 in the amount of ₱11,274.91 may be claimed by petitioner as valid input tax credits for the same taxable quarter, as determined below:

Exhibit No.	Registered Name of Supplier	Date of Invoice	Invoice Number	Input VAT Applied for Refund	Life	No of Months Amortized	Amortization
P-277	Accent Micro Tech. Inc.	1/4/2013	143456	₱ 7,810.27	48	3	₱ 488.14
P-278	Accent Micro Tech. Inc.	1/4/2013	143445	15,620.55	48	3	976.28
P-279	Accent Micro Tech. Inc.	1/7/2013	143524	6,292.99	48	3	393.31
P-289	Accent Micro Tech. Inc.	1/4/2013	143478	23,430.82	48	3	1,464.43
P-292	Accent Micro Tech. Inc.	1/4/2013	143446	42,956.50	48	3	2,684.78
P-295	Accent Micro Tech. Inc.	1/17/2013	143917	3,905.14	48	3	244.07
P-296	Accent Micro Tech. Inc.	1/17/2013	143924	3,905.14	48	3	244.07
P-297	Accent Micro Tech. Inc.	1/17/2013	143918	7,810.27	48	3	488.14
P-298	Accent Micro Tech. Inc.	1/17/2013	143925	3,199.11	48	3	199.94
P-302	Accent Micro Tech. Inc.	1/17/2013	143923	11,715.41	48	3	732.21
P-303	Accent Micro Tech. Inc.	1/17/2013	143920	12,585.98	48	3	786.62
P-304	Accent Micro Tech. Inc.	1/22/2013	144083	3,905.14	48	3	244.07
P-309	Accent Micro Tech. Inc.	1/22/2013	144084	6,292.99	48	3	393.31
P-305	Accent Micro Tech. Inc.	1/22/2013	144085	7,810.27	48	3	488.14
P-306	Accent Micro Tech. Inc.	1/22/2013	144086	3,905.14	48	3	244.07
P-310	Accent Micro Tech. Inc.	1/22/2013	144087	3,905.14	48	3	244.07
P-307	Accent Micro Tech. Inc.	1/21/2013	144019	85.71	48	3	5.36
P-312	Accent Micro Tech. Inc.	1/25/2013	144277	482.14	48	3	30.13
P-315	Accent Micro Tech. Inc.	2/5/2013	144826	1,273.71	48	2	53.07
P-316	Accent Micro Tech. Inc.	2/4/2013	144778	3,905.14	48	2	162.71
P-318	Accent Micro Tech. Inc.	2/4/2013	144775	6,292.99	48	2	262.21
P-319	Accent Micro Tech. Inc.	2/5/2013	144833	42.86	48	2	1.79
P-322	Accent Micro Tech. Inc.	2/12/2013	145068	1,928.57	48	2	80.36
P-323	Accent Micro Tech. Inc.	2/12/2013	145066	1,928.57	48	2	80.36
P-324	Accent Micro Tech. Inc.	2/12/2013	145067	2,892.86	48	2	120.54
P-325	Accent Micro Tech. Inc.	2/18/2013	145269	3,905.14	48	2	162.71
	TOTAL			**₱187,788.55**			**₱11,274.91**

As such, only the remaining amount of ₱16,327,251.73, as computed below, represents petitioner's valid input VAT for the first quarter of CY 2013:

Domestic Purchases of Capital Goods not exceeding ₱1 million	₱ 23,447.03
Domestic Purchases of Goods Other than Capital Goods	45,895.62

[46] Based on estimated useful life of 48 months as used by petitioner.

Domestic Purchase of Services	15,727,735.96
Services Rendered by Non-residents	518,898.21
Domestic Purchases of Capital Goods exceeding ₱1 million	11,274.91
Total	**₱16,327,251.73**

A portion, however, of the ₱16,327,251.73 shall be applied against the reported output VAT liability of ₱673,702.54. As a result, only the remaining input VAT of ₱15,653,549.19 can be attributed to the entire zero-rated receipts amounting to ₱1,413,943,646.13 and only the input VAT of ₱14,917,841.65 is attributable to the valid zero-rated receipts of ₱1,347,489,133.11, computed as follows:

Valid Input VAT	₱ 16,327,251.73
Less: Output Tax Due	673,702.54
Total	**₱ 15,653,549.19**
Divide by Total Zero-Rated Sales declared per return	1,413,943,646.13
Multiply by Valid Zero-rated Sales	1,347,489,133.11
Excess Input VAT Attributable to Valid Zero-Rated Sales	**₱ 14,917,841.65**

Sixth Requisite:

Even though the claimed input VAT was carried over by petitioner in its succeeding Quarterly VAT Returns[47], the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed"[48] in its Quarterly VAT Return for the first quarter of CY 2014. Consequently, the subject claim no longer formed part of the excess input VAT of ₱83,094,023.33[49] as of the end of the first quarter of CY 2014 which was to be carried over to the succeeding second quarter[50] of CY 2014.

In fine, petitioner has sufficiently proven its entitlement to a refund or issuance of a tax credit certificate in the amount of ₱14,917,841.65, representing its unutilized and excess input VAT attributable to its zero-rated receipts for the 1st quarter of CY 2013.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is

[47] Exhibits "P-3.1" to "P-3.5", Docket, vol. II, pp. 1675-1692.
[48] Exhibit "P-3.5", Line 23D, Docket, vol. II, p. 1688.
[49] Exhibit "P-3.5", Line 29, Total Amount Payable (Overpayment), Docket, vol. II, p. 1689.
[50] Exhibit "P-3.7", Line 20E, Docket, vol. II, p. 1695.

ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE to petitioner in the reduced amount of **₱14,917,841.65**, representing petitioner's unutilized input taxes for the 1st quarter of CY 2013 attributable to its zero-rated sales.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

(With Concurring & Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

C E R T I F I C A T I O N

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

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, 1st Division

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

DEUTSCHE KNOWLEDGE SERVICES PTE, LTD.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8861

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:
JUL 10 2017 3:23pm

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CONCURRING & DISSENTING OPINION

DEL ROSARIO, P.J.:

While I agree with the *ponencia*'s conclusion that Deutsche Knowledge Services Pte. Ltd. (Deutsche Knowledge) is entitled to a partial refund of its input value-added tax (VAT), with due respect, I am constrained to withhold my assent on the ruling that effectively declares as indispensable both a certificate of nonregistration of corporation/partnership issued by the Philippine Securities and Exchange Commission (SEC) and certificate/articles of foreign incorporation/association in proving that a nonresident foreign corporation is doing business outside the Philippines. I submit that the SEC Certifications of Non-Registration of Company and Intra-Group Service Agreements presented by Deutsche Knowledge were sufficient to prove that its clients are doing business outside the Philippines.

On this point, I reiterate the position I have previously taken in *Deutsche Knowledge Services Pte. Ltd. vs. Commissioner of Internal*

Revenue,[1] involving the same parties in this case albeit relating to a different taxable period:

> "It was the conclusion of the Court in Division that in order to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported, at the very least, by **both** SEC certificate of non-registration of corporation / partnership and certificate /articles of foreign incorporation /association /registration. The *ponencia* agrees with the Court in Division in holding that it cannot be determined if the alleged non-resident foreign clients are existing, operating and registered in a foreign country without proof of their incorporation, association or registration in a foreign country, **notwithstanding the presence of SEC Certifications of Non-Registration of Company, and Intra-Group Service Agreements which were presented by petitioner to prove that its clients are nonresident foreign corporation.**
>
> With due respect, while it is indispensable to present the SEC certificate of non-registration of corporation/partnership, the other evidence presented by petitioner, that is -- the Intra-Group Service Agreements, should appropriately be given probative value in lieu of the certificate/articles of foreign incorporation/association/registration required by the Court. **The Intra-Group Service Agreements do not only show the names of petitioner's customers to whom it rendered service. More importantly, these documents confirm that the entities mentioned therein are doing business outside the Philippines as they specify the nature of services that petitioner renders in support of its customers' business process.**" (*Boldfacing supplied*)

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[1] CTA EB No. 1290, August 16, 2016; also quoted in Commissioner of Internal Revenue vs. *Deutsche Knowledge Services Pte. Ltd. / Deutsche Knowledge Services Pte. Ltd. vs. Commissioner of Internal Revenue*, CTA EB Nos. 1297 & 1302, May 18, 2017.

> Thus, aside from those clients of petitioner already considered by the Court in Division in the assailed Decision as nonresident foreign corporations, certain clients of petitioner whose identities are supported with the corresponding SEC Certificates of Non-Registration **<u>and</u>** Intra-Group Service Agreements may still be considered as non-resident foreign corporation for zero-rating purpose."

Consistent with the foregoing, I submit that Deutsche Knowledge's sale of services to entities which are supported by SEC Certifications of Non-Registration of Company <u>and</u> Intra-Group Service Agreements, proving that the services were rendered to nonresident foreign corporations doing business outside the Philippines, also qualify for zero-rating.

I also find it necessary to address the *ponencia*'s conclusion that the foreign business registration print-outs retrieved from the AMInet database are self-serving, *viz.*:

> "This Court, however, cannot give credence to the purported foreign business registration print-outs retrieved from the AMInet database which is a database set up by Deutsche Bank Global (the Head Office located in Germany). The said documents are not sufficient to establish the fact that the service recipients are non-resident foreign corporations doing business outside the Philippines, **as they may be considered self-serving and can be easily manipulated to favor petitioner in view of its affinity with the entity that maintains or keeps the said database.**" (*Boldfacing supplied*)

The declaration in *People of the Philippines vs. Mary Lou Omictin y Singco*[2] about the nature of a self-serving evidence is instructive:

> "xxx The phrase self-serving evidence is a concept which has a well-defined judicial meaning. *Hernandez v. Court of Appeals* clarified what self-serving evidence is and what it is not, thus:
>
> > The common objection known as "self-serving" is not correct because almost all testimonies are self-serving. The proper basis for objection is "hearsay" (Wenke, Making and Meeting Objections, 69).

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[2] G.R. No. 188130, July 26, 2010.

> Petitioner fails to take into account the distinction between self-serving statements and testimonies made in court. Self-serving statements are those made by a party out of court advocating his own interest; they do not include a party's testimony as a witness in court (National Development Co. v. Workmen's Compensation Commission, 19 SCRA 861 [1967]).
>
> **Self-serving statements are inadmissible because the adverse party is not given the opportunity for cross-examination, and their admission would encourage fabrication of testimony.** This cannot be said of a party's testimony in court made under oath, with full opportunity on the part of the opposing party for cross-examination.

> This principle was reiterated in the more recent *People v. Villarama*, where the Court ruled, "x x x [A] self-serving declaration is one that is made by a party, out of court and in his favor. It does not include the testimony he gives as a witness in court." Assayed against the foregoing standards, Ambrosio's testimony is not self-serving and is admissible in evidence." (Boldfacing supplied)

Applying by analogy *Omictin* to the case at bar, the documents testified on by Deutsche Knowledge's witness, Ms. Rachel Concepcion, may not be denied evidentiary weight for being self-serving, as the Commissioner of Internal Revenue (CIR) has been given the opportunity to cross-examine and test the credibility of Ms. Concepcion.

In truth, the CIR had all the opportunity to object to and rebut the exhibits submitted by Deutsche Knowledge in Court, which were identified by Ms. Concepcion in her Sworn Statement filed on October 31, 2014,[3] and which were the subject of her testimony on February 17, 2015.[4] **To be specific, in petitioner's Formal Offer of Evidence, the foreign business registration print-outs retrieved from the AMInet database, marked as Exhibits "P-8" to "P-8.41," and the companies' profile fact sheets also retrieved from the AMInet database, marked as Exhibits "P-9" to "P-9.56," were specifically offered by petitioner for the purpose of proving that: "*petitioner's clients which are non-resident foreign corporations are actually doing business outside the Philippines.*"[5] In CIR's Comment (on petitioner's Formal Offer of Evidence), the CIR interposed no objection to the admission of aforestated exhibits for the purposes for which they were offered, subject only to the condition that the same are faithful reproductions of the**

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[3] CTA Docket, pp. 57-93.
[4] CTA Docket, p. 1539.
[5] CTA Docket, pp. 1626-1636.

originals upon due comparison. [6] The case was even submitted for decision *sans* respondent presenting any evidence in refutation of the testimony of Ms. Concepcion.[7] Indeed, Ms. Concepcion's unrebutted testimony *vis-a-vis* the documents she identified is entitled to full faith and credit, there being no inherent improbability in the substance thereof

All told, I vote to **PARTIALLY GRANT** the Petition for Review filed by Deutsche Knowledge with modification to include the sales of services of Deutsche Knowledge to its clients whose identities are supported by their respective SEC Certifications of Non-Registration of Company and Intra-Group Service Agreements.

ROMAN G. DEL ROSARIO
Presiding Justice

[6] CTA Docket, p. 3200.
[7] CTA Docket, p. 3935.