REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

CE CEBU GEOTHERMAL POWER COMPANY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7181

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CE CEBU GEOTHERMAL POWER COMPANY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7278

Members:

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:

MAY 0 9 2008
3:00 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

This case is a consolidation of two Petitions for Review, praying that judgment be issued ordering respondent to refund or issue a tax credit certificate in favor of petitioner in the total amount of P23,646,088.82, representing petitioner's alleged unutilized input value-added tax (VAT)

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arising from its purchases of goods and services and importation of goods attributable to its zero-rated sale of power generation services for taxable year 2003.

CE Cebu Geothermal Power Company, Inc. (petitioner) is a corporation duly organized and existing under Philippine laws, with principal office at 24/F 6750 Building, Ayala Avenue, Makati City.[1] It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer in accordance with Section 236 of National Internal Revenue Code (NIRC), with Tax Identification No. 003-459-879-000.[2] Petitioner is engaged in the business of power generation and the subsequent sale of generated power to the Philippine National Oil Corporation (PNOC) pursuant to a Power Purchase Agreement with the PNOC. It has been accredited and certified as such by the Department of Energy, as evidenced by its Certificate of Accreditation (OSAC 94-06) issued on April 6, 1994.[3]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of said office including, among others, the power to decide, approve and grant refunds or tax credits of erroneously or excessively paid taxes.[4]

Petitioner filed with the BIR its Original Quarterly VAT Returns for the First to the Fourth Quarters of taxable year 2003 on the following dates:[5]

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[1] Par. 1, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 101.
[2] Par. 3, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 102.
[3] Exhibit "B"; Annex "A", Petition for Review.
[4] Par. 4, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 102.
[5] Par. 7, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, pp. 103-104.

Taxable Quarter	**Date of Filing**
First Quarter	April 25, 2003
Second Quarter	July 24, 2003
Third Quarter	October 27, 2003
Fourth Quarter	January 26, 2004

Subsequently, petitioner filed its Amended Quarterly VAT Returns for the First to the Fourth Quarter of taxable year 2003 on November 24, 2004, which reflected the following:[6]

2003 Taxable Quarter	Excess/Unutilized VAT Credits					
	Domestic purchases of capital goods	Domestic purchases of goods other than capital goods	Domestic purchases of services	Services rendered by non-residents	Importations other than capital goods	Total
1st	75,363.64	836,767.65	1,585,025.41	0	201,654.00	2,698,810.70
2nd	0	453,335.24	1,517,397.33	138,180.12	158,192.10	2,267,104.79
3rd	0	512,236.99	2,318,258.48	206,852.81	207,461.00	3,244,809.28
4th	0	988,720.19	8,490,081.86	0	5,956,562.00	15,435,364.05
Total Excess/Unutilized VAT credits for the First to Fourth quarters of 2003:						**23,646,088.82**

Petitioner filed an administrative claim for refund on the aforesaid unutilized input VAT with the BIR, on the following dates:[7]

Taxable Quarter	**Date of Filing**
First Quarter	January 20, 2005
Second Quarter	March 31, 2005
Third and Fourth Quarter	June 7, 2005

Since no action has been taken by respondent and in order to suspend the running of the two-year prescriptive period under the National Internal Revenue Code (NIRC) of 1997, as amended and Revenue Regulations No. 7-

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[6] Par. 8, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 104.
[7] Par. 9, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 104.

95; petitioner filed on March 30, 2005[8] a Petition for Review which was docketed as CTA Case No. 7181, seeking refund or issuance of tax credit certificate in the amount of P2,698,810.70, representing its unutilized input VAT from purchases of taxable goods and services and importation of goods for the First Quarter of taxable year 2003.

On June 30, 2005, another Petition for Review was filed by petitioner which was docketed as CTA Case No. 7278, praying for refund or issuance of tax credit certificate to petitioner in the total amount of P21,789,154.29, representing unutilized input VAT from its domestic purchases, services rendered by non-residents, and importation of goods and services for the Second to the Fourth Quarters of taxable year 2003.

On August 8, 2005, petitioner moved for the consolidation of CTA Case Nos. 7278 and 7181 inasmuch as both cases involve the same parties and issues. The motion was granted by the Court in a Resolution promulgated on October 12, 2005.

Respondent interposed the following Special and Affirmative Defenses in his Answer[9]:

> "4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau of Internal Revenue;
>
> 5. The amount of P2,698,810.70 being claimed by petitioner as alleged unutilized input VAT on purchases of goods and services for the first quarter of 2003 is not properly documented;
>
> 6. In an action for refund/credit, 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; gc

[8] Par. 13, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 105.
[9] CTA Case No. 7181.

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7. Petitioner must show that it has complied with the provisions of Sections 204 (C) and 229 of the 1997 Tax Code on prescriptive period for claiming tax refund/credit;

8. 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 as such, they are looked upon with disfavor (**Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211**)."

Petitioner pleaded the same Special and Affirmative Defenses in CTA Case No. 7278, except for the amount of P20,947,278.12, claimed by petitioner as its alleged unutilized input VAT from its domestic purchases, services rendered by non-residents, and importation of goods and services for the Second to the Fourth Quarters of taxable year 2003.

Petitioner presented testimonial and documentary evidence, while respondent merely submitted the case for decision without presenting evidence[10].

On September 25, 2007, the case was submitted for decision after petitioner filed its Memorandum sans respondent's Memorandum.

The issues[11] as stipulated by the parties are as follows:

"1. Whether or not the unutilized input VAT of the Petitioner for the first to fourth quarters of 2003 amounting to P23,646,088.82 are substantiated by documentary evidence in the form of invoices and official receipts.

2. Whether or not the said unutilized input VAT credits of the Petitioner for the first to fourth quarters of 2003 amounting to P23,646,088.82 were applied against any output tax of the Petitioner in the subsequent quarters.

3. Whether or not the Petitioner is entitled to a refund and/or issuance of tax credit certificate in the total amount of

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[10] Minutes of May 23, 2007 Hearing, *Rollo*, p. 270.

[11] Stipulated Issues for Trial, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 106.

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> P23,646,088.82, representing its unutilized input VAT from purchases of taxable goods and services and importation of goods for the first to fourth quarters of 2003."

The issues stipulated by the parties may be summed up into one issue:

"Whether or not, based on the evidence presented, petitioner is entitled to refund or issuance of a tax credit certificate worth P23,646,088.82, representing its unutilized input VAT from its purchases of goods and services and from importation of goods attributable to its zero-rated sales for taxable year 2003".

At this juncture, it must be pointed out that records show that the claimed amount of P23,646,088.82[12] pertains to the unutilized input VAT declared by petitioner in its VAT Returns for the four quarters of taxable year 2003, which is lower by P841,876.17 when compared with the amount of P24,487,964.99 being prayed for in the two separate Petitions for Review filed by petitioner, docketed as CTA Case No. 7181 and CTA Case No. 7278. Since petitioner is no longer pursuing the discrepancy of P841,876.17, this Court's decision shall have as reference point the amount of P23,646,088.82.

Pertinent to this case is Section 112(A) of the NIRC of 1997, as amended, which is quoted hereunder for ready reference, thus:

> "**Sec 112. Refunds or Tax Credits of Input Tax.**
>
> **(A) Zero-rated or Effectively Zero-rated Sales.** – Any VAT- registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax. xxx"

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[12] Par. 8, Consolidated Joint Stipulation of Facts and Issues, *Rollo*, p. 104.

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From the foregoing, in order to be entitled to refund or issuance of tax credit certificate of input VAT directly attributable to zero-rated or effectively zero-rated sales, petitioner must comply with the following requisites:

1. there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input VAT payments are directly attributable to zero-rated sales or effectively zero-rated sales;
4. that the input VAT payments were not applied against any output VAT liability; and
5. that the claim for refund was filed within the two-year prescriptive period.

Anent the first requisite, the Court examined and verified the pieces of evidence presented particularly, zero-rated sales invoices[13] and official receipts[14] and agree with the findings and observations of the Court-commissioned Independent Certified Public Accountant (ICPA) in his Report[15] dated May 26, 2006, stating as follows:

> **"I. VERIFICATION OF DOCUMENTS SUPPORTING THE SALES OF GENERATED POWER AND CORRESPONDING DOCUMENTS EVIDENCING THE PROCEEDS OF THE SALES OF GENERATED POWER**
>
> **1. Verification of documents supporting the sales of generated power for the period from January 1, 2003 to December 31, 2003.**
>
> We checked and noted that the sales of generated power for the period covered January 1, 2003 to December 31, 2003 as indicated in the Summary of Sales Invoices **(Exhibit JJ)** were supported by original copies of sales invoices issued by the Company to PNOC-EDC.
>
> We also checked that the sales invoices issued by the Company to PNOC-EDC supporting the sales of generated power for the period from January 1, 2003 to December 31,

[13] Exhibits "KK1" to "KK13".
[14] Exhibits "MM1" to "MM39".
[15] Exhibit "II".

2003 which were treated as zero-rated sales are original copies pre-printed with the word **'zero-rated'.** We present below our observations:

Observations	Amount	
	In Pesos	In Dollars
Sales Invoices preprinted word "zero-rated"	P 121,115,711.16	$ 40,042,328.26

We also checked that the photocopies of the sales invoices and the Summary of Sales Invoices prepared by the Company to be presented as ***Exhibit KK*** and ***Exhibit JJ*** during the hearing of the Company's case are faithful reproduction of the original copies we have examined.

2. Verification of documents supporting the proceeds of the sales of generated power

We checked that the proceeds of the sales of generated power of the Company for the period from January 1, 2003 to December 31, 2003, were supported by original copies of ORs issued by the Company to PNOC-EDC.

We also checked and noted that ORs issued by the Company to PNOC-EDC evidencing its receipts/collection of the proceeds of the sales of generated power which were treated as zero-rated sales from January 1, 2003 to December 31, 2003 were preprinted with the word **'zero-rated'**. We present below our observations.

Observations	Amount
ORs preprinted with word "zero-rated"	P 2,220,147,336.43[16]

We also checked that the photocopies of the official receipts (ORs) and the summary of official receipts to be presented as ***Exhibit MM*** and ***Exhibit LL*** during the hearing of the Company's case are faithful reproduction of the original copies we have examined."

Based on the ICPA Report, petitioner actually generated gross receipts in the amount of P2,220,147,336.43 from sales of generated power to PNOC-EDC for taxable year 2003. Such gross receipts qualify for VAT zero-rating,

[16] Amount per return is P 2,220,147,336.14. Difference due to rounding.

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pursuant to Section 6 of Republic Act No. 9136, or the "Electric Power Industry Reform Act of 2001," which states:

> **"SECTION. 6.** *Generation Sector* — Generation of electric power, a business affected with public interest shall be competitive and open.
>
> Upon the effectivity of this Act, any new generation company shall, before it operates, secure from the Energy Regulatory Commission (ERC) a certificate of compliance pursuant to the standards set forth in this Act, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws.
>
> Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall not be required to secure a national franchise.
>
> Upon the implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity shall not be subject to regulation by the ERC except as otherwise provided in this Act.
>
> **Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax zero-rated.**" (*Emphasis supplied*)

After establishing that petitioner had VAT zero-rated receipts in the amount of P2,220,147,336.43 for taxable year 2003, this Court shall now determine the amount of unutilized input VAT attributable thereto.

The ICPA noted the following findings and observations in his Report[17]:

> **"II. CHECK OF COMPLIANCE WITH THE SUBSTANTIATION REQUIREMENTS OF THE INPUT TAX CLAIM.**
>
> Based on the procedures we performed to check the Company's compliance with the substantiation requirements of input tax claimed for the period from January 1, 2003 to

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[17] Exhibit "II".

December 31, 2003, we present below our findings and observations (**See Exhibit PP**):

	Findings	Amount of Input Tax
A. Supported by VAT Invoices/ Receipts/IEIRDs/BIR form		
1	Domestic Purchases of goods and services supported by VAT Invoices/official receipts	P 9,878,030.52
2	Importation of goods supported by IEIRDs	3,764,914.79
3	Input Tax on importation of services supported by BIR form 1600	345,032.93
4	Domestic purchase of goods supported by a VAT invoice not dated within the VAT-taxable quarter but within the VAT-taxable year	65,453.72
5	Domestic purchase of goods supported by preprinted TIN-V invoice	34,923.31
6	Domestic purchases of goods supported by a certified true copy of the VAT invoice	111,387.26
7	Domestic purchase of service supported by VAT OR not dated within the VAT-taxable quarter but within the VAT-taxable year	44,601.76
8	Domestic purchase of services supported by a preprinted TIN-V OR	450,950.01
9	Domestic purchases of services supported by a certified true copy of the VAT OR	3,741,371.31
10	Importation of goods supported by a certified true copy of the IEIRD	1,956,749.10
11	Claiming of input tax on importation of goods supported by an original IEIRD and BOC/LBP OR not dated within the VAT taxable quarter but within the VAT taxable year	684,884.47
12	Input tax on payments to travel agencies	3,726.09
13	Input tax on OCT (Overseas Communication Tax) included in payments to telecommunication service providers	240.87
14	Input tax on purchases from service stations	62,094.10
15	Input tax on gross payments to insurance Companies	76.08
	TOTAL (CAPTION A)	**P21,144,436.32**

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B. Other Findings

1	Domestic purchase of goods supported by documents other than VAT invoice	P 9,697.92
2	Domestic purchase of goods supported by a VAT Invoice but not an original copy	58,022.87
4	Domestic purchase of goods supported by a VAT invoice issued in the name of Calenergy/ CE Luzon/ VGPC (whichever is applicable)	877.27
5	Domestic purchase of goods supported by TIN# only;TIN-NV/NON VAT invoice; stamped/handwritten TIN-V/VAT	54,603.72
6	Domestic purchase of goods supported by tape receipt but without the Company's name and/or TIN	457.11
7	Domestic purchase of goods supported by VAT invoice but without invoice date	2,300.66
8	Domestic purchase of goods not dated within the VAT-taxable year	92,608.53
9	Domestic purchase of goods supported by a VAT invoice with changes in the name of the Company	4,843.39
10	Domestic purchase of goods supported by invoices which are not BIR-registered	18,320.85
11	Domestic purchase of services supported by documents other than VAT OR	217,894.56
12	Domestic purchase of services supported by a VAT OR but not an original copy	28,464.16
13	Domestic purchases of services supported by a VAT OR issued in the name of Calenergy/ CE Luzon/ VGPC (whichever is applicable)	4,033.97
14	Domestic purchase of services supported by TIN-NV NON VAT OR; but stamped with "VAT"/"TIN VAT" or word "NON" was erased	64,978.61
15	Domestic purchases of services supported by TIN# only;TIN-NV/NON VAT OR; stamped/handwritten TIN-V/VAT	160,105.74
17	Domestic purchases of services with changes in the name of the company	376.64
18	Domestic purchase of services supported by documents bearing the old name of the supplier	12,742.21
19	Importation of goods supported by an original IEIRD and BOC OR not dated within the year	110,466.00

20	Overclaimed input tax on domestic purchases of goods/services due to erroneous computation (i.e. arithmetical error)	7,164.03
22	Input tax payments for printing services supported with documents other than a VAT OR	4,699.73
23	Overclaimed portion of input tax arising from forex rate used on foreign currency denominated purchases of goods and services	2,104.68
24	Supporting documents not available	1,646,889.85
	TOTAL (CAPTION B)	**P 2,501,652.50**
	GRAND TOTAL	**P 23,646,088.82**

We also checked that the photocopies of the Summary List of Purchases and the supporting documents evidencing the Company's purchases of goods and services and importations (e.g., sales invoices,ORs, IEIRDs, withholding VAT certificates, etc.) to be presented as ***Exhibit II*** and ***Exhibit JJ*** during the hearing of the Company's case are faithful reproduction of the original copies we have examined."

From the foregoing findings, the Court agrees with the ICPA that the input VAT claim of P2,501,652.50 classified under caption "**B. Other Findings**" shall be denied for failure to comply with the invoicing requirements under Section 113(A) of the NIRC of 1997, as amended, and Section 4.108-1 of Revenue Regulations No. 7-95, which provide as follows:

"**SEC. 113.** ***Invoicing and Accounting Requirements for VAT Registered Persons. —***

(A) *Invoicing Requirements.* — A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:

(1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and
(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."

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

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

xxx xxx xxx

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or receipts and this shall be considered as a 'VAT Invoice'. All purchases covered by invoices other than 'VAT Invoice' shall not give rise to any input tax.

If the taxable person is also engaged in exempt operations, he should issue separate invoices or receipts for the taxable and exempt operations. A 'VAT Invoice' shall be issued only for sales of goods, properties or services subject to VAT imposed in Section 100 and 102 of the Code.

xxx xxx xxx"

The Court verified further the evidence presented by petitioner under caption "**A. Supported by VAT Invoices/Receipts/IEIRDs/BIR Forms**" and agrees with the Independent CPA that said pieces of evidence are valid and sufficient to claim input tax credits, except for findings Nos. 5 and 8. The input taxes in the amounts of P34,923.31 and P450,950.01 under findings Nos. 5 and 8, respectively pertain to domestic purchases of goods and services that are supported by invoices and official receipts with preprinted "TIN-V" instead of "TIN-VAT", in violation of SEC. 4.108-1 of Revenue Regulations No. 7-95, to wit:

> "Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoices or receipts and this shall be considered as a 'VAT Invoice'. All purchases covered by invoices other than 'VAT Invoice' shall not give rise to any input tax."

Moreover, the input taxes of P240.87 under findings No. 13 described as: "**Input tax on OCT (Overseas Communications Tax) included in the payments to telecommunication service provider**"[18] shall be disallowed because overseas communications are VAT-exempt, pursuant to Section 109(J) of the NIRC of 1997, as amended, in relation to TITLE V, Section 120(A) of the same Code, to wit:

> "**SEC. 109. Exempt Transactions.** – The following shall be exempt from value-added tax:
>
> xxx xxx xxx
>
> (j) Services subject to percentage tax under Title V;"

> **"TITLE V – OTHER PERCENTAGES TAXES**
>
> **SEC. 120. Tax on Overseas Dispatch, Message or Conversation Originating from the Philippines.** –
>
> **(A) Persons liable.** – There shall be collected upon every overseas dispatch, message or conversation transmitted from the Philippines by telephone, telegraph, telewriter exchange,wireless and other communication equipment services, a tax of ten percent (10%) on the amount paid for such services. The tax imposed in this Section shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter." ge

[18] Independent CPA's Report, May 26, 2006, *Rollo*, p. 152.

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Accordingly, out of the total input VAT claim of P21,144,436.32 classified under Caption "A" in the Independent CPA's Report, the amount of P486,114.19 shall be denied, detailed as follows:

	Findings	Amount
5	Domestic purchase of goods supported by preprinted TIN-V Invoice	P 34,923.31
8	Domestic purchase of services supported by preprinted TIN-V OR	450,950.01
13	Input tax on OCT(Overseas Communication Tax) included in the payments to telecommunication service providers	240.87
	TOTAL	P 486,114.19

To recapitulate, from the P23,646,688.82 input VAT claim only the amount of P20,658,322.14 was properly substantiated by VAT invoices or official receipts, computed as follows:

Amount of Claim	P 23,646,688.82
Disallowances: Input VAT under caption B	2,501,652.49
Input VAT under caption A (Findings Nos 5, 8, and 13)	486,114.19
Substantiated Unapplied Input VAT	**P 20,658,322.14**

Anent the third requisite, petitioner's VAT Returns for taxable year 2003 showed that petitioner had no taxable sales/receipts but only zero-rated sales in the amount of P2,220,147,336.43 from the sale of its generated power to PNOC-EDC. Accordingly, the substantiated input VAT of P20,658,322.14 is entirely attributable to the reported zero-rated receipts of P2,220,147,336.43.

As regards the fourth requisite, while petitioner carried over its excess input tax credits for taxable year 2003 worth P23,646,088.82 to the succeeding quarters of 2004, the same remained unutilized because petitioner had no output VAT liability for the said taxable period. Moreover, petitioner deducted the amount of P23,646,088.82 in its VAT Returns for the First and Second Quarters of taxable year 2005, specifically, under Line 25A, as follows: *Je*

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First Quarter	Line 25A "Any VAT Refund/TCC Claimed	P 4,965,915.49	Exhibit Q
Second Quarter	Line 25A "Any VAT Refund/TCC Claimed	18,680,173.33	Exhibit R
	TOTAL	P 23,646,088.82	

Therefore, the input VAT claim of P23,646,088.82 was no longer carried over to the succeeding Third Quarter of taxable year 2005.

Finally, with respect to the requisite that the claim for refund must be filed within the two-year prescriptive period provided in Section 112(A) of NIRC of 1997, as amended, this Court finds that the refund claim was filed by petitioner within the two-year prescriptive period, as follows:

Quarter	Date Filed – Quarterly VAT Returns	Exhibit	Date Filed – Claim for Refund with BIR	Exhibit	Date Filed – Petitions with the CTA
First	April 25, 2003	D-2	January 20, 2005	N-1	March 30, 2005
Second	July 24, 2003	V-2	March 31, 2005	O-1	June 30, 2005
Third	October 27, 2003	W-2	June 7, 2005	P	June 30, 2005
Fourth	January 26, 2004	X-2	June 7, 2005	P	June 30, 2005

Clearly, both the administrative and judicial claims were filed well within the two-year prescriptive period provided by law.

In sum, since petitioner has complied with the requirements for tax refund claim provided in the NIRC of 1997 and applicable jurisprudence, this Court finds petitioner entitled to the refund of its unutilized input VAT, but in the reduced amount of P20,658,322.14, computed as follows:

Amount of Claimed Input VAT			P 23,646,088.82
Less:	Disallowances		
	a.	Input VAT under caption "B. Other Findings" of the CPA Report (*Exhibit II, pages 6 & 7*)	P 2,501,652.49
	b.	Input VAT under caption "A. Supported by VAT Invoices/Receipts/IEIRDs/BIR Form 1600" (nos. 5, 8 & 13) of the CPA Report (*Exhibit II, page 5*)	486,114.19
	Total disallowances		P 2,987,766.68
Refundable Input VAT			**P 20,658,322.14**

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WHEREFORE, the consolidated Petitions for Review are hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **TWENTY MILLION SIX HUNDRED FIFTY-EIGHT THOUSAND THREE HUNDRED TWENTY-TWO PESOS and 14/100 (P20,658,322.14)**, representing petitioner's unutilized input VAT from its purchases of goods and services and importation of goods attributable to zero-rated sales of power generation services for the four quarters of taxable year 2003.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

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CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice