REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

SILICON PHILIPPINES INC. (formerly INTEL PHILIPPINES MANUFACTURING, INC.), Petitioner,	**C.T.A. E.B. NO. 219 (C.T.A. CASE NO. 6493)**
	Present:
- versus -	**ACOSTA,** *P.J.* **CASTAÑEDA, JR.,** **BAUTISTA,** **UY,** **CASANOVA,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** FEB 18 2008 GV Apolinario 2:00 p.m.

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DECISION

UY, J.:

This is a Petition for Review before the Court of Tax Appeals *En Banc* filed on November 9, 2006 pursuant to Republic Act No. 1125, as amended by Republic Act No. 9282, seeking a review of the denial of petitioner's claim for refund or issuance of tax credit certificate in the Decision dated June 14, 2006, as well as the Resolution dated October 5, 2006, both rendered by the First Division of this Court (Court in Division)[1] in CTA Case No. 6493 entitled "Intel Philippines Manufacturing, Inc., petitioner, vs. Commissioner of Internal Revenue, respondent". Petitioner's subject claim represents its alleged

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[1] Ponencia of Associate Justice Caesar A. Casanova and concurred by Associate Justice Lovell R. Bautista, with dissenting opinion by Presiding Justice Ernesto D. Acosta.

unutilized input value-added taxes paid on purchases of goods and services attributable to zero-rated sales for the period from April 1, 2000 to June 30, 2000 in the total amount of P20,411,419.07.

THE FACTS

The antecedent facts, as found by the Court in Division, are as follows:

Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at No. 1321 Apolinario St., Bangkal, Makati City. It is registered as a Value-Added Tax (VAT) taxpayer pursuant to Section 107 of the National Internal Revenue Code (NIRC) of 1997 effective January 30, 1996 and was issued Certificate of Registration No. 32A-3-002649 and BIR Form No. 1556 — Certificate of Registration No. 94-048-02621. It is also registered with the Board of Investments (BOI) per Certificate of Registration No. 85-1010 dated October 25, 1985 as a preferred pioneer enterprise for the production/manufacture and export of tested and untested integrated circuits such as large scale integrated circuits and microprocessor.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue vested with the authority to exercise the functions of said office, including the power to refund any internal revenue tax erroneously or illegally assessed or collected and holding office at the BIR National Office Building, Diliman, Quezon City.

During the second quarter of the taxable year 2000, petitioner allegedly generated and recorded zero-rated export sales in the amount of P458,707,670.09 which was paid for in US Dollars, inwardly remitted and/or offset against inter-company payable in accordance with existing regulations of the Bangko Sentral ng Pilipinas. Petitioner contends that as confirmed by the respondent per VAT Ruling No. 102(a)(1)-402-88, the said export sales are zero-rated for VAT purposes pursuant to Sec. 106(A)(2)(a)(1) and Sec. 108(B)(1) of the NIRC of 1997.

Petitioner allegedly paid for the same period input VAT on domestic purchases and importations of goods in the sum of P20,443,952.93, which are all attributable to its alleged zero-rated sales. These input taxes of P20,443,952.93 were declared in petitioner's Quarterly VAT Return for the second quarter of 2000, however, the zero-rated sales reflected in the return amounted to P468,707,670.09 instead of P458,707,670.09.

On August 10, 2000, petitioner filed with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance, an administrative claim for the refund/tax credit of its alleged input VAT payment of P20,411,419.07 per BIR Form No. 2552 entitled "APPLICATION FOR TAX CREDIT/REFUND OF VALUE-ADDED TAX PAID" and Claimant Information Sheet No. 36230.

Petitioner maintains that it only filed a lesser amount because it has misplaced the other invoices/official receipts issued by its other suppliers. And since the input taxes of P20,411,419.07 were allegedly attributable to zero-rated sales and have not been applied against any output VAT, petitioner claims that it is entitled to the refund/tax credit thereof pursuant to Section 4.100-2(a) of Revenue Regulations No. 7-95 and Section 112 of the NIRC of 1997.

Due to the inaction of the respondent on its claim, petitioner filed on June 28, 2002, a Petition for Review with the Court in Division, docketed as C.T.A. Case No. 6493, in order to toll the running of the two-year period within which it may judicially claim as refund or tax credit the aforesaid input VAT in the amount of P20,411,419.07.

On June 14, 2006, the Court in Division rendered the assailed Decision denying petitioner's claim for refund or issuance of a tax credit certificate on the ground that its sales invoices were not duly registered and the required information, particularly the BIR authority to print, the TIN-VAT number (TIN-V) and the imprinted word "zero-rated", were likewise not indicated therein, in violation of the provisions of Section 113 of the NIRC of 1997 as implemented by Section 4.108-1 of Revenue Regulations No. 7-95. As a consequence thereof, petitioner's reported export sales for the second quarter of 2000 did not qualify for zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997; thus, its claim for refund or tax credit allegedly attributable to it in the amount of P20,411,419.07 was not granted. Pertinent thereto, the Court in Division said :

> "Thus, without **duly registered VAT sales invoices** containing the required information, particularly the **BIR authority to print**, petitioner's TIN-VAT number and the imprinted word 'zero-rated', petitioner's reported export sales of P468,707,670.09 for the second quarter of 2000 cannot qualify for zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997. Consequently, petitioner's claimed input VAT payment allegedly attributable thereto in the amount of P20,411,419.07 cannot be granted.
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> **WHEREFORE,** the Petition for Review is hereby **DENIED** for lack of merit."[2]

[2] Decision, CTA Case No. 6493, p.11; Docket, p.53.

A Dissenting Opinion was rendered by the Honorable Presiding Justice Ernesto D. Acosta, Chairperson of the Court in Division, stating his position that petitioner should be entitled to the tax refund or tax credit of the amount of its unutilized input VAT attributable to its zero-rated sales considering that :

> "x x x the pronouncement of 'defects' in the said invoices has no valid basis and this Court (in Division) must give the other pieces of evidence submitted an equally persuasive weight as the supposedly technically defective VAT invoices in deciding whether to grant petitioner's claim.
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> xxx xxx xxx
>
> Even assuming that there was a violation of the questioned requirements to indicate the word 'zero-rated' and BIR Permit to Print, such omission does not automatically invalidate the invoices for purposes of proving export sales made by the petitioner. The sales invoices are still material, relevant and competent since they still directly prove the amount of export sales made by the petitioner. It must be pointed out that 'admissibility' refers to the question of whether or not the evidence is to be considered, while 'competency' refers to whether or not the evidence is expressly excluded by law or the rules. Clearly, the said invoices comply with the above standards in both counts."[3]

On July 5, 2006, petitioner filed its Motion for Reconsideration seeking reconsideration of the aforesaid Decision. Subsequently, the Court in Division denied the said Motion in its Resolution[4] dated October 5, 2006 for lack of merit. The Honorable Presiding Justice Ernesto D. Acosta reiterated his dissent thereto.

Hence, this recourse before the Court *En Banc* praying that the Decision and Resolution dated June 14, 2006 and October 5, 2006, respectively, be reversed and set aside, and a new one be issued granting

[3] Dissenting Opinion, CTA Case No. 6493; Docket, pp.55-62 at pp.56 and 59.
[4] Docket, pp.89-94.

petitioner's claim for refund/issuance of a tax credit certificate in its favor in the amount of P20,411,419.07 representing its excess and unutilized input VAT incurred for the second quarter of the taxable year 2000.

THE ISSUE

The sole issue for the consideration of this Court is whether or not petitioner violated the invoicing requirements set forth in the applicable provisions of the NIRC of 1997, which caused the denial of its claim for refund or issuance of tax credit of its excess and unutilized creditable input VAT for the second quarter of taxable year 2000.

On November 17, 2006, this Court issued a Resolution requiring respondent to file a Comment thereto. However, upon the expiration of the given period, respondent failed to file the same. Subsequently, this case was deemed submitted for decision on March 16, 2007.

THE COURT EN BANC'S RULING

The petition is partly meritorious.

To begin with, it is worth mentioning that the Court in Division in its assailed Decision denied petitioner's claim for refund or issuance of a tax credit certificate in its favor on the ground that all the subject export sales invoices presented and formally offered by petitioner have no probative value considering that the same are not deemed duly registered VAT sales invoices, and that it failed to reflect the BIR authority to print, the petitioner's TIN-V, and the imprinted word "zero-rated".

In the instant petition, petitioner asserts that there is no legal basis in requiring the imprinting of the BIR authority to print number and the word "zero-rated" on its export sales invoices. Moreover, there is allegedly nothing under the law which states that absence of such information on the face of the official receipts or export sales invoices invalidates the same for purposes of proving the zero-rated export sales.

It also argues that the pertinent provisions of the NIRC of 1997 do not require that the aforesaid details be imprinted or reflected in the invoices. The said provisions are quoted hereunder for easy reference, to wit:

> "**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; 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. xxx"
>
> "**Sec. 237. Issuance of Receipts or Sales or Commercial Invoices. –** All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That in the case of sales, receipts or transfers in the amount of One Hundred Pesos (P100.00) or more, or regardless of amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client; Provided, further, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser."

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Based on the above-cited provisions, it is petitioner's belief that what is merely required from a VAT-registered person is the issuance of a "duly registered receipt" for sale of goods or services to qualify for zero-rating and consider its export sales to be zero-rated under Section 106(A)(2)(a)(1) of the NIRC of 1997. Therefore, it is petitioner's stand that the additional requirements provided in Section 4.108-1 of Revenue Regulations (RR) No. 7-95 of imprinting the authority to print number and reflecting the words "zero-rated" on the VAT invoice or receipt are invalid.

Likewise, failure to indicate petitioner's TIN-V on the face of the subject invoices is allegedly not fatal to its claim for refund or tax credit because the imprinting requirement of the TIN-V applies only to domestic or local sales considering that the seller's output tax, which is the input tax on the part of the local purchaser, may be claimed by the latter as a credit against its own output VAT. And considering that petitioner exports all of its finished products to a non-resident foreign purchaser, the aforesaid requirement becomes inapplicable.

After careful review of the records and thorough consideration of petitioner's allegations and arguments raised in the instant petition, and in line with the decision of the Supreme Court in ***Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue***,[5] a reversal of the assailed Decision and Resolution becomes necessary.

In the said ***Intel Technology Philippines*** case, the Supreme Court clarified the issue as to whether or not the provision of Section 113, in relation

[5] G. R. No. 166732, April 27, 2007, 522 SCRA 657.

to Section 237 of the NIRC of 1997, was violated by reason of petitioner's failure to indicate the BIR Authority to Print and TIN-V on its sales invoices in the following manner:

> "It is clear from the foregoing *(pertaining to Sections 113, 237 and 238 of the NIRC of 1997, Section 4.108-1 of RR 7-95 and Section 19d of RR 2-90)* that **while entities engaged in business are required to secure from the BIR an authority to print receipts or invoices and to issue duly registered receipts or invoices, it is not required that the BIR authority to print be reflected or indicated therein. Only the following items are required to be indicated in the receipts or invoices: (1) a statement that the seller is a VAT-registered entity followed by its TIN-V**; (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; (3) date of the transaction; (4) quantity of merchandise; (5) unit cost; (6) description of merchandise or nature of service; (7) the name, business style, if any, and address of the purchaser, customer or client in the case of sales, receipt or transfers in the amount of ₱100.00 or more, or regardless of the amount, where the sale or transfer is made by a person liable to VAT to another person also liable to VAT, or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees; and (8) the TIN of the purchaser where the purchaser is a VAT-registered person.
>
> xxx xxx xxx
>
> It bears reiterating that while the pertinent provisions of the Tax Code and the rules and regulations implementing them require entities engaged in business to secure a BIR authority to print invoices or receipts and to issue duly registered invoices or receipts, **it is not specifically required that the BIR authority to print be reflected or indicated therein. Indeed, what is important with respect to the BIR authority to print is that it has been secured or obtained by the taxpayer, and that invoices or receipts are duly registered** (*Emphasis and underscoring Ours*)."[6]

As gleaned from the foregoing jurisprudence, although entities engaged in business are required to secure from the BIR an authority to print receipts or invoices, and to issue duly registered receipts or invoices, it is not

[6] Ibid.

necessary that the BIR authority to print be reflected or indicated therein. It is sufficient that the BIR authority to print has been secured or obtained by the taxpayer, and that invoices or receipts are duly registered.

On the other hand, the aforesaid decision recognizes that such receipts or invoices should contain **a statement that the seller is a VAT-registered entity <u>followed by its TIN-V</u> being one of the items required to be indicated therein**. Hence, this Court maintains that official receipts and sales invoices should indicate the TIN-V of the taxpayer, in accordance with Section 113, in relation to Sections 237 and 238 of the NIRC of 1997.

A perusal of petitioner's subject sales invoices reveals that its TIN-V is actually indicated/imprinted thereon. Therefore, it has substantially complied with the aforesaid provisions of the NIRC of 1997.

As to the imprinting requirement of the word "zero-rated" on the VAT official receipts or invoices representing zero-rated sales or effectively zero-rated sales, records of the case, particularly petitioner's subject sales invoices,[7] clearly show that the word "zero-rated" were likewise indicated/imprinted thereon. Hence, it has substantially complied with the specific imprinting requirement provided for under Section 4.108-1 of RR No. 7-95.

In view of the foregoing discussion and jurisprudential pronouncement, the invalidation of petitioner's sales invoices submitted in support of its claim for refund/tax credit by the Court in Division in the instant case must be set aside.

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[7] Exhibits "T-1" to "T-3" (including petitioner's pro-forma invoices), CTA Case No. 6493.

Correspondingly, it becomes essential to re-examine and re-evaluate petitioner's documentary substantiation of its input VAT paid, consisting of purchase invoices issued by the supplier/s of petitioner reflecting the actual amount, nature of goods sold to petitioner, the selling price as well, which when taken together, are the best evidence to prove input VAT paid by petitioner. However, a review of petitioner's supporting documents for its zero-rated export sales becomes unnecessary as no output VAT was imposed on its zero-rated export sales.

Corollary thereto, Section 112(A) of the NIRC of 1997 is the focal provision to be considered, to wit:

> "**Section 112. Refunds or Tax Credits of Input Tax**. –
>
> (A) Zero-rated or Effectively Zero-rated Sales. - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or 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."

As provided under Section 112 of the NIRC of 1997, a taxpayer engaged in zero-rated or effectively zero-rated transactions, may apply for a refund or issuance of a tax credit certificate for input taxes paid attributable to such sales if the following requisites are complied with: (1) the taxpayer is engaged in sales which are zero-rated (like export sales) or effectively zero-rated; (2) the taxpayer is VAT-registered; (3) the claim must be filed within two years after the close of the taxable quarter when such sales were made; (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax; and (5) in case of zero-rated sales under Section 106(A)(2)(a)(1) and (2), Section 106(B), and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with BSP rules and regulations.

We take note that in the ***Intel Technology Philippines*** case,[8] the Supreme Court specified the necessity to comply with the requirements set forth in Section 112(A) of the NIRC of 1997. The High Court said:

> "To stress, petitioner, as a VAT-registered entity, is engaged in export sales of advanced and large-scale ICs and, as such, under Section 106 (A)(2)(a)(1) of the Tax Code, its sales or transactions are subject to VAT at 0% rate. **Further, subject to the requirements stated in Section 112(A), it is entitled to claim refund or issuance of a tax credit certificate for input VAT taxes attributable to its export sales**. As the Court had the occasion to explain since no output VAT was imposed on the zero-rated export sales, what the government reimburses or refunds to the claimant is the input VAT paid – **thus, the necessity for the *input VAT paid* to be substantiated by purchase invoices or official receipts**. These sales invoices or receipts issued by the supplier are necessary to substantiate the actual amount or quality of goods sold and their selling price, **and, taken collectively, are the best means to prove the input VAT payments of the claimant.**
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> In a claim for refund or issuance of a tax credit certificate attributable to zero-rated sales, what is to be closely scrutinized is the documentary substantiation of the input VAT paid, as may be proven by other export documents, rather than the

[8] Supra.

supporting documents for the zero-rated export sales. xxx" *(Emphasis and underscoring Ours)*

It bears stressing that substantiation of input VAT is indispensable in order to ascertain that what will be refunded to the petitioner are only those taxes that have actually been remitted and paid to the coffers of the Government and, accordingly, to determine whether these have not yet been utilized by the petitioner in the succeeding quarters.

In the case at bench, We look into petitioner's reported export sales amounting to P468,707,670.09 (reflected in its original Quarterly VAT Return for the second quarter of 2000), as qualified for zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, from which input VAT may be attributable. This will allow Us to determine whether or not petitioner has completely and sufficiently complied with the provision of Section 112 of the NIRC of 1997, and ultimately resolve whether or not petitioner is entitled to the refund or issuance of a tax credit certificate in the amount of P20,411,419.07 allegedly representing unutilized input VAT paid on purchases of goods and services attributable to zero-rated sales for the period of April 1, 2000 to June 30, 2000.

Anent the substantiation requirements on the claimed input VAT payment of P20,411,419.07 for the period April 1, 2000 to June 30, 2000, the commissioned independent certified public accountant (ICPA), Ms. Ma. Wencita C. Salvador, in her Report dated January 29, 2004,[9] noted that the said amount tallies with the total amount shown in the summary of audited input VAT paid on purchases, to wit:

[9] Exhibit "P".

	Amount
Input Tax Schedule – Batch 1	P 16,345,435.27
Input Tax Schedule – Batch 2	717,342.73
Input Tax Schedule – Batch 3	439,222.19
Sub-total - Local Purchases	**P 17,502,000.19**
Local Sales	(32,533.86)
Adjustment	(213,442.26)
Total Local Purchases	**P 17,256,024.07**
Importations	3,155,395.00
Input Tax for Refund	**P 20,411,419.07**

The ICPA further noted the following exceptions as far as the total claimed unutilized input taxes are concerned:

Exceptions	Findings	Exhibit No.	Amount
Exception A	Missing official receipts and invoices	Exhibit R-1	P 2,014,515.77
Exception B	Incorrect computation of Input VAT	Exhibit R-2	1,936,002.10
Exception C	Claimant is not the actual buyer	Exhibit R-3	23,079.20
Exception D	Purchases with missing official receipts	Exhibit R-4	1,666,250.29
Exception E	Purchases with missing invoices	Exhibit R-5	618,705.42
Exception F	Claim is not within the refund period	Exhibit R-6	236,113.86
Total			**P 6,494,666.64**

Of the total exceptions of P6,494,666.64, the amount of P1,015,964.00 represents disallowances from importations while the remaining amount of P5,478,702.64 pertains to local purchases.

Based on the above findings, only the amount of P13,916,752.43 (P20,411,419.07 less P6,494,666.64) may be a valid claim for tax credit or refund, which is composed of input VAT on local purchases of P11,777,321.43 and input VAT on importations of P2,139,431.00.

Likewise, relevant to the case at bench is the applicability of Revenue Memorandum Order (RMO) No. 9-00, which took effect on February 2, 2000, providing that sales of goods, properties or services made by a VAT-registered supplier to a BOI registered entity whose products are one hundred percent (100%) exported shall be accorded automatic VAT zero-rating, subject to the following reportorial and documentary requirements, prescribed under Section 3 thereof, to wit:

> "**SECTION. 3.** *Sales of goods, properties or services made by a VAT registered supplier to a BOI registered exporter shall be accorded automatic zero-rating, i.e., without necessity of applying for and securing approval of the application for zero-rating as provided in Revenue Regulations No.7-95, subject to the following conditions:*
>
> (1) The supplier must be VAT-registered;
>
> (2) The BOI-registered buyer must likewise be VAT-registered;
>
> (3) The buyer must be a BOI-registered manufacturer/producer whose products are 100% exported. For this purpose, a Certification to this effect must be issued by the Board of Investments (BOI) and which certification shall be good for one year unless subsequently re-issued by the BOI;
>
> (4) The BOI-registered buyer shall furnish each of its suppliers with a copy of the aforementioned BOI Certification which shall serve as authority for the supplier to avail of the benefits of zero-rating for its sales to said BOI-registered buyers; and
>
> (5) The VAT-registered supplier shall issue for each sale to BOI-registered manufacturer/exporters a duly registered VAT invoice with the words "zero-rated" stamped thereon in compliance with Sec.4.108-1(5) of Revenue Regulations No.7-95. The supplier must likewise indicate in the VAT-invoice the name and BOI-registry number of the buyer."

Records show that petitioner was issued a certification by the BOI[10] attesting to the fact that petitioner is a BOI-registered entity. Hence, even if petitioner was able to substantiate its domestic purchases of goods and

[10] Exhibit "C".

services with VAT sales invoices and official receipts, the amount of P11,777,321.43 is entirely not allowable as input tax credit pursuant to RMO No. 9-00.

To reiterate, under Section 3.4 of RMO No. 9-00, sales of goods, properties and services made by VAT registered suppliers to BOI-registered entities whose products are 100% exported shall be accorded automatic zero-rating and, that is, without the necessity of applying for and securing the approval of the application for zero-rating, as provided under RR No. 7-95. The petitioner being a BOI-registered entity with 100% exports, and considering the sales of properties or services made by VAT registered suppliers to the petitioner is automatic zero-rated, there is no VAT that has to be passed on to the petitioner; and consequently, petitioner would not gain input taxes on its purchases of goods, properties or services. Therefore, in the absence of any clear and convincing proof that petitioner's local suppliers passed on or shifted the VAT on such domestic purchases to petitioner, it cannot claim the amount of P11,777,321.43 as input tax credits on its domestic purchases for the period April 1, 2000 to June 30, 2000.

Now, as earlier mentioned, the amount of P2,139,431.00 may be a valid claim for input VAT on petitioner's importations, computed as follows:

Claimed input VAT on importations			P3,155,395.00
Less:	Exceptions under Exception E - AWL/BL 802231807	P 482.00	
	Exceptions under Exception E - AWL/BL 2306056094	28,272.00	
	Exceptions under Exception D – AWL/BL 697162	987,210.00	1,015,964.00
Valid input VAT per ICPA			**P2,139,431.00**

A scrutiny of the machine validated Bureau of Customs (BOC) import entry declarations and official receipts supporting petitioner's valid claimed input VAT shows that the same was directly paid to the BOC, and in accordance with the substantiation requirements prescribed under Section 4.104-5 of RR No.7-95.

In sum, petitioner's valid claim amounts to P2,139,431.00 which represents the input VAT on its importations made for the period April 1, 2000 to June 30, 2000.

Anent the determination of whether or not the input VAT has been credited against any output tax or has been carried forward to the succeeding quarter or quarters, records show that the same was already net of output tax and was not carried over to the succeeding quarters. The input VAT claim of P20,411,419.07 (which includes the amount of P2,139,431.00) is already net of the output VAT liability of petitioner for the second quarter of taxable year 2000 in the amount of P32,533.86. Furthermore, in its Quarterly VAT Return[11] for the third quarter of the same taxable year, petitioner deducted the total claim of P20,411,419.07[12] as "Any VAT Refund/ TCC Claimed" from the "Total Available Input Tax." Clearly, the input VAT claim of P20,411,419.07 was not carried over to the succeeding quarter/s.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. The assailed Decision and Resolution dated June 14, 2006 and October 5, 2006, respectively, in CTA Case No. 6493 are hereby **REVERSED** and **SET ASIDE**.

Accordingly, respondent is **ORDERED to REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of

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[11] Exhibit "L".
[12] Exhibit "L-1".

P2,139,431.00 representing its unutilized input taxes attributable to its zero-rated sales for the period April 1, 2000 to June 30, 2000.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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 *En Banc*.

ERNESTO D. ACOSTA
Presiding Justice