REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Third Division

DUMEX PHILIPPINES, INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO.7790
(CTA EB No. 917)

Members:

BAUTISTA, Chairperson, and
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

AUG 10 2015
3:20 p.m.

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DECISION

BAUTISTA, J.:

The Case

The Petition for Review seeks for the issuance of a tax credit certificate ("TCC") in the total amount of Fifty-Nine Million Nine Hundred Seventy Thousand Seven Hundred Ninety-Nine Pesos and Forty-Eight Centavos (PhP59,970,799.48), representing unutilized/excess input value-added tax ("VAT") on importation of goods and domestic purchases of goods and services from the commencement of its operations until the cancellation of its VAT registration.

The Parties

Petitioner Dumex Philippines, Inc. ("DPI") is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address located at E. Rodriguez Jr., Avenue, Ugong Norte, Quezon City.[1] It is registered under Tax Identification Number ("TIN") 005-519-191-000 with Revenue District Office ("RDO") No. 40 of the Bureau of Internal Revenue ("BIR") in Cubao, Quezon City for VAT purposes.[2]

Respondent Commissioner of Internal Revenue ("CIR") is the public officer vested with the power to decide, approve and grant refunds or tax credits. She may be served with summons and other court process at the 2nd Floor BIR Building, Quezon Avenue, corner Scout Santiago, Quezon City.[3]

The Facts

The relevant antecedents are succinctly recited by the Court *En Banc* in its Decision dated June 25, 2013, as follows:[4]

> "On July 20, 2007, petitioner's Board of Directors approved the cessation of its operations effective July 31, 2007.
>
> On September 25, 2007, petitioner filed with BIR RDO No. 40 an Application for Tax Clearance, which was received by the BIR on September 26, 2007.
>
> On September 26, 2007, petitioner, likewise filed an Application for Registration Information Update to cancel its VAT registration due to permanent closure of its business.
>
> On November 5, 2007, petitioner also filed with the BIR an administrative claim for issuance of a TCC in the amount of PhP59,970,799.48, representing its unused/excess input VAT credits as of August 31, 2007 from importation of goods and domestic purchases of goods and services.

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[1] *Records*, CTA Case No. 7790, p. 1.
[2] *Id.*, p. 3.
[3] *Id.*, p. 333.
[4] *Id.*, pp. 834-835; penned by Associate Justice Lovell R. Bautista, with Associate Justice Olga Palanca-Enriquez (Retired), and Associate Justice Amelia Cotangco-Manalastas concurring.

And on May 26, 2008, due to respondent's inaction thereto, petitioner filed the . . . Petition for Review.

On June 16, 2008, respondent filed her Answer, interposing the following Special and Affirmative Defenses:

> '5. Claims for refund are strictly construed against the taxpayer as the same partakes the nature of a tax exemption;
>
> 6. The [p]etitioner should prove its legal basis for claiming the amount being refunded;
>
> 7. The [p]etitioner should show proof that the [*sic*] it has unutilized input taxes; and
>
> 8. Failure on the part of the [p]etitioner to prove the same is fatal to its cause of action.'

On July 21, 2008, the parties entered their Joint Stipulation of Facts and Issues, which was approved by the Court in a Resolution dated July 25, 2008.

During trial, petitioner presented its evidence, while respondent was deemed to have waived her right to present evidence for failure to appear despite due notice.

On January 5, 2010, the Court issued a Resolution transferring the case to the Third Division of the Court [(hereinafter referred to as the "CTA-Third Division")], pursuant to CTA Administrative Circular No. 01-2010, entitled *"Implementing the Fully Expanded Membership in the Court of Tax Appeals"* [d]ated January 5, 2010.

On August 23, 2011, the Court resolving respondent's [']Motion to Dismiss, with petitioner's Opposition/Comment (to Respondent's Motion to Dismiss)['], dismissed the same for lack of merit.

> On September 26, 2011, the case was submitted for decision, considering petitioner's [']Memorandum (of Petitioner Dumex Philippines, Inc.)['] filed on June 25, 2011, *sans* respondent's [']Memorandum['].''[5]

On April 3, 2012, the CTA-Third Division rendered its Decision denying petitioner's claim for failure of petitioner to present the Certificate of Tax Clearance ("CTC"), as prescribed in Sections 52(C) and 235 of the 1997 National Internal Revenue Code, as amended ("Tax Code"). The dispositive portion of which states:

> "**WHEREFORE**, the Petition for Review is hereby **DENIED.**
>
> **SO ORDERED.**"[6]

On April 26, 2012, a "Motion for Reconsideration (of Petitioner Dumex Philippines, Inc. relative to the Decision of the Honorable Court dated April 3, 2012)"[7] was filed. Respondent failed to file any comment/opposition thereto despite due notice.[8]

On June 25, 2012, the CTA-Third Division issued a Resolution[9] denying petitioner's Motion for Reconsideration for lack of merit.

On July 12, 2012, petitioner filed its Petition for Review before the Court *En Banc* and alleges that it was able to secure the CTC. Therefore, it prays that the Court *En Banc* shall admit and take judicial notice of the same; that the Petition for Review be given due course; that the Decision of the CTA-Third Division be set aside; and that its claim be refunded in the amount of PhP59,970,799.48.[10]

On the other hand, respondent failed to file her Comment.[11]

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[5] *Id.*
[6] *Id.*, p. 694.
[7] *Id.*, pp. 696-708.
[8] *Id.*, p. 739.
[9] *Id.*, p. 743.
[10] *Id.*, pp. 752-757.
[11] *Id.*, p. 607.

On December 13, 2012,[12] the parties were required to submit their respective memoradum within a period of thirty (30) days from receipt of the resolution.

On February 14, 2013, petitioner filed its "Memorandum (of Petition-Appellant Dumex Philippines, Inc.),[13] while respondent failed to file her memorandum.[14]

After considering the memorandum filed by petitioner, the Court *En Banc* notes that petitioner filed its application for CTC on September 26, 2007; that the CTC was only issued on July 5, 2012 by the Division Chief of the Collection of BIR Revenue Region No. 7; that it is now introducing the CTC as new evidence before it; and that it urges it to take judicial notice and admit the same together with the Verification Slip issued by the Division Chief Division Chief of the Collection of BIR Revenue Region No. 7.[15]

Since the aforestated documents are not among the documents which the Court can take judicial notice of pursuant to Section 1 Rule 129, of the Rules of Court, the Court *En Banc* ruled that a hearing was necessary so that both parties can be heard with regard to these documents.

Therefore, the Court *En Banc*, on June 25, 2013, promulgated a Decision[16] which ordered the setting aside of the Decision dated April 3, 2012 and Resolution dated June 25, 2012 of the CTA-Third Division, and ordered the remanding of the case for the reception evidence. The dispositive portion of which states:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby partly **GRANTED**. The Decision dated April 3, 2012 and the Resolution dated June 25, 2012, both of the CTA-Third Division, are hereby **SET ASIDE**. The case is hereby **REMANDED** to the CTA-Third Division for the reception of the following documents as evidence: a) Certificate of Tax Clearance dated July 5, 2012 issued by the Division Chief of the

[12] *Id.*
[13] *Id.*, pp. 815-827.
[14] *Id.*, p. 829.
[15] *Id.*, pp. 832-841.
[16] *Id.*, pp. 832-842.

Collection Division of BIR Revenue Region No. 7; b) Verification Slip dated July 5, 2012 issued by the Division Chief of the Collection Division of BIR Revenue Region No. 7; and, c) letter instructing the cancellation of petitioner's Certificate of Registration No. 3RC0000075223 issued by the Regional Director of Revenue Region No. 7, Jonas DP Amora. Thereafter, the CTA-Third Division is directed to make a proper and immediate determination of the propriety of the claim for refund or tax credit certificate, and consequently, make a declaration of the specific amount of refund or tax credit certificate to which petitioner is entitled to, if any.

SO ORDERED."[17]

On October 22, 2013, petitioner filed a "Motion To Set Hearing (of Petitioner Dumex Philippines, Inc.)"[18] with the CTA-Third Division for the purpose of presenting and identifying the following documents as evidence:[19]

1. CTC dated July 5, 2012 issued by the Division Chief of the Collection Division of BIR Revenue Region No. 7, Ms. Ruth Vivian G. Gadia;

2. Verification Slip dated July 5, 2012 issued by the Division Chief of the Collection Division of BIR Revenue Region No. 7, Ms. Gadia; and

3. Letter instructing the cancellation of petitioner's Certificate of Registration No. 3RC0000075223 issued by the Regional Director of Revenue Region No. 7, Mr. Jonas DP Amora.

On November 4, 2013,[20] the CTA-Third Division resolved to set the case for the presentation of the aforestated documents including additional testimonies of witnesses[21] who would identify and authenticate the same.

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[17] Emphasis Supplied.
[18] *Records*, pp. 846-849.
[19] *Id.*, p. 847.
[20] *Id.*, pp. 851-852.
[21] Revenue Region No. 7 of the BIR Regional Director Jonas DP Amora, Administrative Officer of the Collection Division Amore Bati, and Secretary Melanie Capitan.

After a postponement of the scheduled hearing on January 16, 2014,[22] on the February 20, 2014 hearing,[23] the following documents were marked:

Exhibit	Description of the Document
AAAA[24]	Judicial Affidavit of Regional Director of Revenue Region No. 7, Mr. Amora
AAAA-1[25]	Signature of Mr. Amora on page 2 of Exhibit "AAAA"
BBBB[26]	Letter of Mr. Amora addressed to petitioner informing the latter that its Certificate of Registration numbered 3RC0000075223 has been cancelled.
BBBB-1[27]	Signature of Mr. Amora on Exhibit "BBBB"

While on the May 29, 2014 hearing,[28] the following Exhibits were marked:

Exhibit	Description of the Document
CCCC[29]	CTC dated July 5, 2012 issued by the Division Chief of the Collection Division of BIR Revenue Region No. 7, Ms. Gadia
CCCC-1[30]	Name and signature of Ms. Gadia
DDDD[31]	Verification Slip dated July 5, 2012 issued by the Division Chief of the Collection Division of BIR Revenue Region No. 7, Ms. Gadia
DDDD-1[32]	Signature of Ms. Gadia

On July 22, 2014, the CTA-Third Division resolved to admit Exhibits "BBBB," "CCCC," and "DDDD," and ordered the parties to file simultaneously within fifteen (15) days their respective Supplemental Memoranda.[33]

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[22] *Records*, p. 859.
[23] *Id.*, p. 866.
[24] *Id.*, pp. 862-863.
[25] *Id.*, p. 863.
[26] *Id.*, p. 865.
[27] *Id.*
[28] *Id.*, p. 889.
[29] *Id.*, p. 890.
[30] *Id.*
[31] *Id.*, p. 891
[32] *Id.*
[33] *Id.*, p. 889.

In compliance with the order of the CTA-Third Division, petitioner filed its Supplemental Memorandum on June 9, 2014,[34] while respondent failed to file her Supplemental Memorandum within the period granted.[35]

Thus, on August 20, 2014, the CTA-Third Division promulgated a Resolution[36] submitting the case for Amended Decision.

The Issues[37]

I. **WHETHER THE PETITIONER INDEED CANCELLED ITS VAT REGISTRATION DUE TO CESSATION OF BUSINESS;**

II. **WHETHER THE PETITIONER HAS ACCUMULATED AND INCURRED EXCESS AND UNUTILIZED INPUT VAT IN THE AMOUNT OF PHP59,970,799.48 ARISING FROM THE IMPORTATION OF GOODS AND DOMESTIC PURCHASES OF GOODS AND SERVICES WHICH WERE NOT APPLIED AGAINST ANY OUTPUT TAX DURING THE PERIOD COVERED BY THE CLAIM; and**

III. **WHETHER THE UNUTILIZED INPUT VAT OF PETITIONER IS SUBSTANTIATED BY DOCUMENTARY EVIDENCE.**

The Ruling of the Court

The prevailing rule on claims for tax credit or tax refund of excess and unutilized VAT on account of cessation of business is Section 112(B) of the Tax Code, which provides:

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

xxx xxx xxx

[34] *Id.*, pp. 893-900.
[35] *Id.*, p. 906.
[36] *Id.*
[37] *Id.*, p. 685.

> (B) Cancellation of VAT Registration. — A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of this Code may, within two (2) years from the date of cancellation, apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes." (Emphasis ours)

From the above-quoted Section of the Tax Code, a taxpayer whose VAT registration has been cancelled due to retirement of business is entitled to a refund or issuance of a TCC when the following requisites are present:[38]

1. It was a VAT-registered entity;

2. Its VAT registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106 (C) of the Tax Code;

3. It has unused input tax; and

4. It has applied with the BIR for the issuance of TCC for such unused input tax within two (2) years from the date of the cancellation of its VAT registration.

The Court finds it appropriate to determine first petitioner's compliance with the last requisite pertaining to the timeliness of the filing of the instant claim since it will determine the necessity of resolving the other requisites.

Based on the records of the case, petitioner's Board of Directors resolved to cease its operations effective July 31, 2007, as evidenced by a Board Resolution dated July 20, 2007. Subsequent thereto, on September 26, 2007, petitioner filed an Application for Tax Clearance, and an Application for Registration Information Update to cancel its VAT registration with the respondent. Thus, effective October 1, 2007, petitioner's VAT registration is considered cancelled. Counting two (2)

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[38] CTA Case No. 7850, *Associated Swedish Steels Phils., Inc. vs. Commissioner of Internal Revenue,* September 16, 2011.

years from the said date of cancellation, petitioner has until October 1, 2009 to apply for refund or the issuance of a tax credit certificate of its unused input tax.[39]

Therefore, the administrative claim filed with respondent on November 5, 2007, and the Petition for Review filed with the CTA-Third Division on May 26, 2008, were made within the prescribed period.[40]

Now the Court shall proceed to determine the other requisites.

For the first requisite, it has been complied with as shown by petitioner's Certificate of Registration with the BIR.[41]

For the second requisite, relevant is the provision of Section 4.106-2 of Revenue Regulations ("RR") No. 7-95, which provides:

> "SEC. 4.106-2. Procedures for claiming refunds or tax credits of input tax –
>
> xxx xxx xxx
>
> (b)Cancellation of VAT registration – A person whose VAT registration has been cancelled due to retirement from or cessation of status under Section 100(c) of the Code may, within two (2) years from the date of cancellation apply for the issuance of a tax credit certificate for any unused internal revenue taxes. <u>However, he shall be entitled to a refund if he has no pending internal revenue tax liabilities.</u>" (Emphasis ours)

From the foregoing, a person whose registration has been cancelled due to cessation of business must show that it has no pending internal revenue tax liabilities.

[39] *Records*, p. 692.
[40] *Id.*
[41] *Id., Joint Stipulation of Facts and Issues*, p. 43.

In the case ***SMI-ED Philippines Landholdings, Inc. vs. Commissioner of Internal Revenue*** ("SMI-ED En Banc Case"),[42] the CTA *En Banc* had the occasion to discuss the indispensable requirement of a CTC. The CTA *En Banc* ruled:

> "The rationale behind these Sections[43] is to insure that no corporation may escape payment of taxes and other liabilities to the government simply by opting to dissolve the corporation and retire from business or reorganize its business."

Undoubtedly, a CTC is an essential requirement for a claim of unutilized/excess input VAT on importation of goods and domestic purchases of goods and services from commencement of its operations until the cancellation of its VAT registration, as prescribed by Section 112(B) of the Tax Code.

In the instant case, the Court *En Banc* noted that petitioner filed an application for CTC on September 26, 2007, and it was only on July 5, 2012 when the CTC was issued by the respondent, or after the promulgation of the CTA-Third Division Decision and Resolution dated April 3, 2012 and June 25, 2012, respectively.[44] Taking now into account petitioner's presentation of the CTC,[45] the second requisite is complied with.

For the third requisite, the Court shall consider the VAT invoicing requirements provided by Sections 4.104-5 and 4.108-1 of RR No. 7-95, and Section 4.113-1 of RR No. 16-2005, to wit:

> "*SECTION 4.104-5. Substantiation of claims for input tax credit.* — (a) Input taxes shall be allowed only if the domestic purchase of goods, properties or services is made in the course of trade or business. The input tax should be supported by an invoice or receipt showing the information as required under Section 108 (a) and 238 of the Code. Input tax on purchases of real property should be supported by a

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[42] CTA EB No. 208 (CTA Case No. 6740), February 27, 2008.
[43] In reference to Section 4.106-2 of RR No. 7-95.
[44] *Records*, CTA EB No. 917, penned by Presiding Justice Roman G. Del Rosario, with the concurrence of the Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Amelia R. Cotangco-Manalastas and Ma. Belen M. Ringpis-Liban.
[45] *Id.*, p. 890.

copy of the public instrument *i.e.* deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with the VAT receipt issued by the seller.

A cash-register machine tape issued to a VAT registered buyer by a VAT-registered seller form a machine duly registered with the BIR in lieu of the regular sales invoice, shall constitute valid proof of substantiation of tax credit only if the name and TIN of the purchaser is indicated in the receipt and authenticated by a duly authorized representative of the seller.

(b) Input tax on importations shall be supported with the import entry or other equivalent document showing actual payment of VAT on the imported goods.

(c) Presumptive input tax shall be supported by an inventory of goods as shown in a detailed list to be submitted to the BIR.

(d) Input tax on 'deemed sale' transactions shall be substantiated with the required invoices.

(e) Input tax from payments made to non-residents shall be supported by a copy of the VAT declaration/return filed by the resident licensee/lessee in behalf of the non-resident licensor/lessor evidencing remittance of the VAT due." (Emphasis ours)

"*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 rate' imprinted on the invoice covering zero-rated sales; and

6. the invoice value or consideration.

In the case of sale of real property subject to VAT and where the zonal or market value is higher than the actual consideration, the VAT shall be separately indicated in the invoice or receipt.

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 Sections 100 and 102 of the Code.

The invoice or 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." (Emphases ours)

"*SEC. 4.113-1. Invoicing Requirements.* --

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

1. A VAT invoice for every sale, barter or exchange of goods or properties; and

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.

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

(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:

a. The amount of tax shall be shown as a separate item in the invoice or receipt;

b. If the sale is exempt from VAT, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

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;

d. If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) In the case of sales in the amount of one thousand pesos (PhP1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section."[46] (Emphases ours)

The Court shall adopt the findings of the Independent Certified Public Accountant ("ICPA") Report[47] dated March 23, 2009 on the following disallowed items:

1) Input VAT claims with no supporting documents: a) Missing APVs, CRVs, JVs and/or		

[46] RR No. 16-05.
[47] *Records*, pp. 176-213.

supporting invoices and official receipts b) Input VAT claims supported by Draft Import Entry and Internal Revenue Declaration c) Input VAT claims with no supporting vatable invoices and/or receipts d) Input VAT claims supported by photocopied VAT registered/VAT TIN invoices and receipts	13,713,375.16 5,696,099.71 1,571,996.98 335,932.75	21,317,404.60
2) **Input VAT claims with supporting documents other than those enumerated in Section 4.110-7 of RR 16-2005** a) Input VAT claims supported by invoices on purchases of services, and official receipts for purchase of goods b) Supported by other documents c) Supported by Non VAT/Zero rated invoices and/or official receipts d) Supported by invoices and receipts named to other Companies/individual e) Input VAT claims were more than the actual input vat rate per invoices and/or receipts f) Supported by Vatable invoices and/or receipts which have no date g) Supported invoices and receipts with no VAT TIN h) Supported by duly VAT registered tape receipts without the necessary information such as the name, address and TIN of the purchaser i) Supported by invoices and receipts with no VAT registration j) Supported by invoices and/or official receipts with tampered VAT registration and/or VAT TIN	14,516,680.89 1,822,924.11 514,538.74 111,006.51 78,504.35 101,754.21 7,769.43 4,478.78 23,896.23 2,925.75	17,184,479.00
TOTAL DISALLOWANCES PER ICPA REPORT		**Php38,501,883.60**

Thus, the ICPA finds that the following items shall be the adjusted input VAT[48] for the period June 1, 2000 to August 31, 2007:

PARTICULARS	AMOUNT OF INPUT VAT
1. Summary of Input VAT claims on importations of goods supported by Import Entry And Internal Revenue Declaration Form with reference import entry and serial numbers.	Php98,135,960.45
2. Summary of Input VAT claims on purchases of goods and/or services supported by VAT registered/VAT TIN Invoices and Official Receipts.	77,374,352.40
3. Summary of Input VAT claims on purchases of goods and/or services supported by Vatable invoices and/or receipts attached to the system generated Payable Management Report and/or CRVs which were properly posted in the General Ledger.	7,990,924.20
4. Summary of Input VAT claims supported by Debit Notes/Debit Memos in reference to BIR Ruling [DA-614-04] dated December 6, 2004	6,885,608.95
TOTAL	**Php190,386,846.00**

The Court is now tasked to determine whether the alleged properly substantiated input VAT per ICPA Report in the total amount of Php190,386,846.00 have complied with the invoicing requirements prescribed in Sections 4.104-5 and 4.108-1 of RR No. 7-95 and Section 11 of Republic Act ("RA") No. 9337,[49] as implemented in Sections 4.113-1 (A) and (B) of RR No. 16-2005.

VAT on Importations

Pursuant to Section 4.104-5(b) of RR No. 7-95, as amended by RR No. 16-2005, "input tax on importations shall be supported with the import entry or other equivalent document showing actual payment of VAT on the imported goods."

Per ICPA Report,[50] the total allowable input tax on importations amount to PhP98,135,960.45, broken down as follows per year:

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[48] *Id., ICPA Report,* p. 192.

[49] *An Act Amending Sections 24, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 and 288 of the National Internal Revenue Code of 1997, as amended, and for Other Purposes,* July 1, 2005.

[50] *Records,* p. 193.

YEAR	PER ICPA REPORT
2000	3,383,207.00
2001	14,628,591.00
2002	8,859,261.00
2003	20,925,942.00
2004	26,956,745.00
2005	22,305,783.45
2006	1,076,431.00
TOTAL ALLOWABLE INPUT VAT PER ICPA REPORT	**PhP98,135,960.45**

A perusal of the Exhibits[51] as marked by the ICPA, and considered by the ICPA as allowable input VAT on importations, show that there are importations which do not provide a breakdown and proof of payment of input VAT on importations. Below is a table that provides the allowable input VAT on importations per ICPA Report, per Court's further verification, and the allowable input VAT:

YEAR	ALLOWABLE INPUT VAT ON IMPORTATIONS PER ICPA	DISALLOWANCE PER COURT'S FURTHER VERIFICATION	ALLOWABLE INPUT VAT ON IMPORTATIONS
2000	3,383,207.00	3,383,207.00[i]	0.00
2001	14,628,591.00	9,518,217.00[ii]	5,110,374.00
2002	8,859,261.00	348,892.00[iii]	8,510,369.00
2003	20,925,942.00	0.00	20,925,942.00
2004	26,956,745.00	899,567.00[iv]	26,057,178.00
2005	22,305,783.45	15,098,727.67[v]	7,207,055.78
2006	1,076,431.00	0.00	1,076,431.00
TOTAL	PhP98,135,960.45	PhP29,248,610.67	**PhP68,887,349.78**

Thus, from the total allowable input VAT per ICPA Report in the total amount of PhP98,135,960.45, the Court shall disallow the total amount of PhP29,248,610.67 for failure to comply with the substantiation requirements *i.e.*, absence of breakdown of input VAT and absence of proof of payment, as prescribed by Section 4.104-5 of

[51] *Records, Formal Offer of Evidence, Exhibits "ZZ 1-1" to "ZZ 7-3."*

RR No. 7-95, as amended by RR No. 16-2005. Therefore, the total allowable input VAT on importations is PhP68,887,349.78.

Domestic purchases of goods and services

The Court shall determine whether the input VAT claims on purchases of goods and/or services supported by VAT registered/VAT TIN Sales Invoices ("SIs") and Official Receipts ("ORs") in the total amount of PhP77,374,352.40 have indeed complied with the substantiation requirements as provided in the ICPA Report.

The Court deems it best to divide the discussion of this item into two portions, which is based on the periods covered, *i.e.* June 1 2000 to October 31, 2005; and November 1, 2005 to August 31, 2007. As for the period June 1, 2000 to October 31, 2005, the input VAT must be duly substantiated in accordance with Sections 4.104-5 and 4.108-1 of RR No. 7-95. While for the period November 1, 2005 to August 31, 2007, the input VAT must be duly substantiated in accordance with Section 11 of the RA No. 9337, as implemented in Sections 4.113-1 (A) and (B) of RR No. 16-2005.

PERIODS COVERED		INPUT VAT CLAIMS PER ICPA REPORT[52]	TOTAL
a) June 1, 2000 to October 31, 2005	June 1 to December 31, 2000	PhP4,994,606.44	
	2001	5,679,915.33	
	2002	14,762,612.91	
	2003	12,436,165.80	
	2004	15,571,110.66	
	January 1 to October 31, 2005	14,182,237.14	PhP67,626,648.28
b) November 1, 2005 to August 31, 2007	November 1 to December 31, 2005	PhP2,837,548.58	
	2006	6,591,468.62	
	January 1 to August 31, 2007	318,686.93	9,747,704.13
		TOTAL	**PhP77,374,352.41**

a) *For the Period June 1, 2000 to October 31, 2005 - PhP67,626,648.28*

[52] *Id.*

Below is a table containing the list of Exhibits that should be disallowed for this period for failing to comply with the substantiation requirements under Sections 4.104-5 and 4.108-1 of RR No. 7-95. It must be noted that during this period the "VAT is computed by multiplying the total amount indicated in the SI or OR by 1/11," pursuant to Section 4.104-4 of RR No. 7-95.

DATE	EXHIBITS	BOX NO.	DISALLOWED INPUT VAT	TOTAL
1) Details in the OR and SI is no longer visible				
Year 2000	AAA 1-8	2	64.66	
Year 2000	AAA 1-21	2	65.55	
Year 2000	AAA 1-255	2	44.43	
Year 2000	AAA 1-267	2	71.73	
Year 2000	AAA 1-391	2	52.00	
Year 2000	AAA 1-394	2	100.91	
Year 2000	AAA 1-480	2	30.00	
Year 2000	AAA 1-558	2	7.27	
Year 2001	AAA 2-54	3	217.27	
Year 2001	AAA 2-190	3	227.27	
Year 2001	AAA 2-494	3	79.55	
Year 2002	AAA 3-338	7	5,827.50	
Year 2003	AAA 4-3876	17	272.73	7,060.87
2) No SI was provided to support the input VAT claimed on domestic purchases of goods				
Year 2000	AAA 1-268	2	40.91	
Year 2001	AAA 2-1117	5	5,000.00	
Year 2002	AAA 3-3282	11	117,090.91	122,131.82
3) No OR was provided to support the input VAT claimed on domestic purchases of services				
Year 2001	AAA 2-1098 to AAA 2-1113	5	5,829.81	
Year 2001	AAA 2-1410	6		

			52,920.00	
Year 2001	AAA 2-1689 to AAA 1696	6	1,984.63	
Year 2002	AAA 3-552	7	1,467.33	
Year 2003	AAA 4-264	12	1,000.00	
Year 2003	AAA 4-265	12	65.00	
Year 2003	AAA 4-1283	13	11,025.00	
Year 2003	AAA 4-1290	13	2,822.40	
Year 2003	AAA 4-1773 to AAA 4-1782	14	3,696.94	
Year 2003	AAA 4-2438 to AAA 4-2446	15	1,513.60	
Year 2003	AAA 4-2448 to AAA 2449	15	803.55	
Year 2003	AAA 4-2451 to AAA 4-2453	15	623.37	
Year 2003	AAA 4-2455 to AAA 4-2458	15	1,735.70	
Year 2003	AAA 4-2460 to AAA 4-2462	15	1,084.03	
Year 2003	AAA 4-2862	16	184.51	
Year 2003	AAA 4-3776	17	90.91	
Year 2004	AAA 5-705 (APV 27697)	19	69,759.01	
Year 2004	AAA 5-3674	22	8,183.00	
Year 2004	AAA 5-3675	22	8,166.67	
Year 2004	AAA 5-3676	22	8,166.67	
Jan-05 to Oct-05	AAA 6-153	23	45,000.00	
Jan-05 to Oct-05	AAA 6-264 to AAA 6-269	23	27,712.37	
Jan-05 to Oct-05	AAA 6-1816	25	9,463.69	263,298.19
4) Supporting SIs or ORs were issued not in the name of petitioner				
Year 2000	AAA 1-9	2	407.51	
Year 2000	AAA 1-24	2	68.00	
Year 2000	AAA 1-70	2	45.45	

Year 2000	AAA 1-81	2	17.50	
Year 2000	AAA 1-157	2	14.64	
Year 2000	AAA 1-237	2	23.48	
Year 2000	AAA 1-374	2	36.34	
Year 2000	AAA 1-396	2	94.47	
Year 2000	AAA 1-396	2	17.00	
Year 2000	AAA 1-408	2	68.73	
Year 2000	AAA 1-408	2	42.50	
Year 2000	AAA 1-413	2	43.53	
Year 2000	AAA 1-415	2	33.36	
Year 2000	AAA 1-416	2	26.59	
Year 2000	AAA 1-418	2	12.73	
Year 2000	AAA 1-419	2	26.84	
Year 2000	AAA 1-421	2	15.91	
Year 2000	AAA 1-433	2	46.75	
Year 2000	AAA 1-433	2	8.50	
Year 2000	AAA 1-435	2	55.71	
Year 2001	AAA 2-8	3	22.73	
Year 2001	AAA 2-346	3	1,818.19	
Year 2001	AAA 2-520	3	75.82	3,022.28
5) Input VAT on domestic purchases of goods were supported by ORs instead SIs				
Year 2000	AAA 1-373	2	37.91	
Year 2000	AAA 1-377	2	13.48	
Year 2000	AAA 1-395	2	26.82	
Year 2000	AAA 1-447	2	34.09	

Year 2000	AAA 1-459	2	90.41	
Year 2000	AAA 1-484	2	38.82	
Year 2000	AAA 1-509	2	11.82	
Year 2000	AAA 1-513	2	66.36	
Year 2000	AAA 1-521	2	30.73	
Year 2000	AAA 1-564	2	27.32	
Year 2001	AAA 2-20	3	23.45	
Year 2001	AAA 2-30	3	12.00	
Year 2001	AAA 2-34	3	70.63	
Year 2001	AAA 2-140	3	17.27	
Year 2001	AAA 2-141	3	24.00	
Year 2001	AAA 2-1269	5	36.45	
Year 2002	AAA 3-584	7	144.55	
Year 2004	AAA 5-1616	20	67.73	
Year 2004	AAA 5-3834	22	31.81	805.65
6) Input VAT on domestic purchases of services were supported by SIs instead of ORs				
Year 2000	AAA 1-104	2	105.09	
Year 2000	AAA 1-200	2	68.43	
Year 2000	AAA 1-367	2	49.12	222.64
7) Input VAT on domestic purchases of services were supported by undated ORs				
Year 2003	AAA 4-2761 to AAA 4-2774	16	53,346.15	
Year 2004	AAA 5-1657 to AAA 5-1663	20	71,837.47	
Year 2004	AAA 5-1690 to AAA 5-1692 AAA 5-1694 to AAA 5-1715	20	59,108.47	184,292.09
8) No VAT was actually paid by petitioner based on the SI and OR provided				
Year 2002	AAA 3-963	8	21,666.67	21,666.67

9) Input VAT on domestic purchase of services was supported by OR without BIR Authority to Print				
Year 2004	AAA 5-291	18	78,414.02	78,414.02
10) Missing Exhibits				
Year 2000	AAA 1-349	2	12.34	
Year 2000	AAA 1-364	2	21.82	
Year 2000	AAA 1-381	2	135.45	
Year 2002	AAA 3-132	7	10,636.36	
Year 2004	AAA 5-1180	19	27,430.15	
Year 2004	AAA 5-2701	21	6,633.87	
Year 2004	AAA 5-2702	21	35,000.00	79,869.99
11) Excess input VAT claim				
Year 2001	AAA 2-555 to 2-577	4	0.08	
Year 2001	AAA 2-1209 to AAA 2-1213 AAA 2-1218 to AAA 2-1221 AAA 2-1242	5	82,701.02	
Year 2001	AAA 2-1389 to AAA 2-1390	6	3,140.61	
Year 2001	AAA 2-1391	6	550.00	
Year 2001	AAA 2-1404	6	133.59	
Year 2002	AAA 3-219 to AAA 3-222	7	258,143.54	
Year 2002	AAA 3-2014 to AAA 3-2025 AAA 3-2027 to AAA 3-2028 AAA 3-2030 to AAA 3-2032	9	30,441.40	
Year 2003	AAA 4-388	12	97,181.82	
Year 2003	AAA 4-553	12	70,616.73	
Jan-05 to Oct-05	AAA6-456 to AAA 6-457 AAA 6-459 to AAA 6-466 AAA 6-468 to AAA 6-478	23	8,583.65	551,492.44

	AAA 6-480 to AAA 6-485 AAA 6-491 to AAA 6-492			
TOTAL DISALLOWED INPUT VAT				**PhP1,312,276.66**

Consequently, only the remaining amount of Php66,314,371.62[53] represents petitioner's valid input VAT for the period June 1, 2000 to October 31, 2005.

Accordingly, the disallowed input VAT on purchases of goods and services per year beginning June 1, 2000 to October 30, 2005 may be summarized as follows:

YEAR	INPUT VAT CLAIMS PER ICPA REPORT	DISALLOWANCES	PROPERLY SUBSTANTIATED INPUT VAT
June 1 to December 31, 2000	4,994,606.44	2,353.01[vi]	4,992,253.43
2001	5,679,915.33	154,884.37[vii]	5,525,030.96
2002	14,762,612.91	445,418.26[viii]	14,317,194.65
2003	12,436,165.80	246,062.44[ix]	12,190,103.36
2004	15,571,110.66	372,798.87[x]	15,198,311.79
January 1 to October 30, 2005	14,182,237.14	90,759.71[xi]	14,091,477.43
TOTAL	**PhP67,626,648.28**	**PhP1,312,276.66**	**PhP66,314,371.62**

b) <u>For the Period November 1, 2005 to August 30, 2007 - PhP9,747,704.13</u>

The notable amendment in the invoicing requirements by Section 4.113-1 (B) of RR No. 16-05 of Section 4.108-1 of RR No. 7-95 is the mandatory requirement that "the amount of tax shall be shown as a separate item in the invoice of receipt." Below is the list of Exhibits that complied with the aforementioned amendment:

[53] *Php67,626,648.28 less Php1,312,276.66*

DATE	RANGE OF EXHIBITS FOR THE PERIOD	EXHIBITS THAT COMPLIED WITH SECTION 4.113-1 (B) OF RR NO. 16-05	BOX NO.	ALLOWED VAT
Nov-05	AAA 6-2956 to AAA 6-3239	AAA 6-2995	27	2,727.27
		AAA 6-3170	27	1,000.00
Dec-05	AAA 6-3240 to AAA 6-3472	AAA 6-3243	27	7,822.06
		AAA 6-3244	27	20,492.00
		AAA 6-3347	27	2,727.27

TOTAL ALLOWED INPUT VAT from Nov 1 to Dec 31, 2005 **34,768.60**

Jan-06	AAA 7-1 to AAA 7-167	AAA 7-32	28	3,950.50
		AAA 7-58	28	77.91
		AAA 7-58	28	593.60
		AAA 7-104	28	1,115.64
		AAA 7-107	28	39,772.73
		AAA 7-109	28	64,040.00
		AAA 7-143	28	109.09
		AAA 7-143	28	109.09
		AAA 7-146	28	18.55
		AAA 7-146	28	136.00
		AAA 7-160	28	25.27
		AAA 7-163	28	77.91
		AAA 7-165	28	35.09
		AAA 7-166	28	77.91
Feb-06 (Feb 1, 2006 12% VAT)	AAA 7-168 to AAA 7-343	AAA 7-182	28	6,254.18
		AAA 7-190	28	493.37
		AAA 7-203	28	121.50
		AAA 7-204	28	

				74.09
		AAA 7-240	28	76.22
		AAA 7-267	28	717.86
		AAA 7-268	28	2,488.39
		AAA 7-269	28	522.70
		AAA 7-271	28	321.43
		AAA 7-285	28	6,370.71
		AAA 7-289	28	626.79
		AAA 7-291	28	1,860.00
		AAA 7-308	28	631.61
		AAA 7-317	28	482.14
		AAA 7-321	28	89.36
		AAA 7-336	28	253.63
		AAA 7-337	28	128.57
		AAA 7-338	28	109.09
		AAA 7-339	28	128.57
Mar-06	AAA 7-344 to AAA 7-577	AAA 7-353	28	37.71
		AAA 7-357	28	30.07
		AAA 7-364	28	375.00
		AAA 7-401	28	600.00
		AAA 7-407	28	49.08
		AAA 7-421	28	74.53
		AAA 7-442	28	33.96
		AAA 7-444	28	94.50
		AAA 7-503	28	3,400.00
		AAA 7-513	28	39,150.00

		AAA 7-519	28	842.13
		AAA 7-520	28	92.68
		AAA 7-520	28	114.72
		AAA 7-527	28	100.00
		AAA 7-527	28	53.57
		AAA 7-536	28	140.79
		AAA 7-564	28	102.00
Apr- June 2006	AAA 7-578 to AAA 7-826	AAA 7-585	29	23,640.00
		AAA 7-745	29	1,200.00
		AAA 7-751	29	888.21
		AAA 7-796	29	600.00
		AAA 7-798	29	46.93
		AAA 7-799	29	31.16
		AAA 7-806	29	1,016.57
		AAA 7-807	29	1,971.43
		AAA 7-808	29	1,045.29
		AAA 7-818	29	861.00
		AAA 7-823	29	32.14
July – Dec. 2006	AAA 7-827 to AAA 7-1108	AAA 7-930	29	20.89
		AAA 7-931	29	19.93
		AAA 7-931	29	39.11
		AAA 7-932	29	22.50
		AAA 7-966	29	600.00
		AAA 7-986	29	3,889.29
		AAA 7-1014	29	37.50
		AAA 7-1014	29	

				24.64
		AAA 7-1038	29	46.07
		AAA 7-1052	29	53.57
		AAA 7-1075	29	1,200.00

TOTAL ALLOWED INPUT VAT IN 2006 **214,466.47**

YEAR 2007	AAA-8-1 to AAA-8-43	AAA 8-3	29	600.00
		AAA 8-15	29	600.00
		AAA 8-21	29	600.00
		AAA 8-23	29	152.14
		AAA 8-28	29	600.00

TOTAL ALLOWED INPUT VAT FROM JAN 1 TO AUGUST 30, 2007 **2,552.14**

Consequently, the computation of the disallowed input VAT claims for the period November 1, 2005 to August 31, 2007 is summarized, as follows:

YEAR	INPUT VAT CLAIMS PER ICPA REPORT	DISALLOWED FOR FAILURE TO COMPLY WITH SECTION 4.113 (B) OF RR NO. 16-05	PROPERLY SUBSTANTIATED INPUT VAT
November 1 to December 31, 2005	2,837,548.58	2,802,779.98	34,768.60
2006	6,591,468.62	6,377,002.15	214,466.47
January 1 to August 31, 2007	318,686.93	316,134.79	2,552.14
TOTAL	**PhP9,747,704.13**	**PhP9,495,916.92**	**PhP251,787.21**

Thus, out of the total amount of Php9,747,704.13 input VAT claim per ICPA Report found to be supported by VAT registered SIs and ORs for the period November 1 2005 to August 31, 2007, only the total amount of PhP251,787.21 shall be considered as allowable Input VAT since its respective SIs or ORs had expressly indicated *"the amount of tax as a separate item"* pursuant to Section 4.113-1 (B) (a) of RR No. 16-05.

Hence, the Exhibits not found in table above which amounts to PhP9,495,916.92 shall be disallowed.

Below is a summary of the disallowed input VAT claims on domestic purchases of goods and services for the period June 1, 2000 to October 31, 2005, and for the period November 1, 2005 to August 31, 2007:

	PERIOD COVERED	DISALLOWANCES	TOTAL
a) June 1, 2000 to October 31, 2005	June 1 to December 31, 2000	2,353.01	
	2001	154,884.37	
	2002	445,418.26	
	2003	246,062.44	
	2004	372,798.87	
	January 1 to October 31, 2005	90,759.71	PhP1,312,276.66
b) November 1, 2005 to August 31, 2007	November 1 to December 31, 2005	2,802,779.98	
	2006	6,377,002.15	
	January 1 to August 31, 2007	316,134.79	9,495,916.92
		TOTAL	**PhP10,808,193.58**

Vatable invoices and/or receipts that are attached to system generated payable management report and/or Check Register Vouchers (CRVs)

On this portion, the Court shall discuss whether the input VAT claims on purchases of goods and/or services supported by VAT registered/VAT TIN SIs and ORs attached to the system generated Payable Management Report and/or Check Register Vouchers ("CRVs") in the total amount of PhP7,990,924.20 have indeed complied with the substantiation requirements as found in the ICPA Report.

The Court shall divide the discussion into two basing on the periods, namely, (*i*) for the period June 1, 2000 to October 31, 2005; and (*ii*) for the period November 1, 2005 to August 31, 2007.

For the period June 1, 2000 to October 31, 2005, the prevailing substantiation requirements are those provided in Sections 4.104-5 and 4.108-1 of RR No. 7-95, while the prevailing invoicing requirements for the period November 1, 2005 to August 31, 2007 shall be those provided in Section 11 of RA 9337, as implemented in Sections 4.113-1 (A) and (B) of RR No. 16-2005.

a) For the period June 1, 2000 to October 31, 2005

The table below provides for the Exhibits that are disallowed after further verification by the Court for the period June 1, 2000 to October 31, 2005, for failing to present the SIs for each purchase of goods and ORs for each purchase of services, as required under Section 4.104-5 of RR No. 7-95, as follows:

DATE	RANGE OF EXHIBITS FOR THE PERIOD	EXHIBIT	BOX NO.	DISALLOWED VAT AMOUNT
Year 2000	BBB-1-1 to BBB-1-318	BBB 1-9 to BBB 1-17	30	1,777.08
		BBB 1-27	30	127.26
		BBB 1-34 to BBB 1-39	30	724.08
		BBB 1-43	30	259.93
		BBB 1-44	30	27.11
		BBB 1-49 to BBB 1-53	30	1,205.94
DISALLOWED INPUT VAT IN 2000				**PhP4,121.40**

From the foregoing table, the disallowed input VAT on VATable SIs and/or ORs that are attached to system generated payable management report and/or CRVs, for the period June 1, 2000 to October 30, 2005, amounts to PhP4,121.40.

b) For the period November 1, 2005 to August 31, 2007

There is a notable amendment in the invoicing requirements in Section 4.108-1 of RR No. 7-95 when compared with the invoicing requirements in Section 4.113-1 (B) of RR No. 16-05. The latter revenue regulation requires that "*the amount of tax shall be shown as a separate item in the invoice or receipt.*" Consequently, the table below shall provide a list of exhibits which complied with the aforementioned requirements:

Date	Range of Exhibits for the period	Exhibits that complied with Section 4.113-1 (B) of RR 16-05	Box No.	Allowed Input VAT Amount
YEAR 2006	BBB-1-1 to BBB-1-318	BBB 6-19	30	385.71
		BBB 6-28	30	720.00
ALLOWABLE INPUT VAT IN 2006				**1,105.71**

The Exhibits not found above shall be disallowed as it failed to comply with Section 4.113.1(B) of RR No. 16-05.

Thus, the allowable input VAT attached to the system generated payable management report/and or CRVs per ICPA Report is in the total amount of PhP7,990,924.20. However, the Court shall disallow the total amount of PhP70,202.38 for failure to present the SIs for each purchase of goods or ORs for each purchase of services. Thus, the total allowable input VAT on VATable SIs and/or ORs that are attached to the system generated payable management report and/or CRVs is PhP7,928,964.62. The table below summarizes the foregoing:

YEAR	INPUT VAT ATTACHED TO SYSTEM GENERATED PAYABLE MANAGEMENT REPORT AND/OR CRVS PER ICPA REPORT	COURT'S DISALLOWANCES UPON FURTHER VERIFICATION	ALLOWED INPUT VAT
June 1 to December 31, 2000	5,170,944.29	4,121.40	5,175,065.69
2001	1,178,225.17	0.00	1,178,225.17
2002	138,138.27	0.00	138,138.27
2003	843,898.72	0.00	843,898.72
2005	592,531.06	0.00	592,531.06
2006	67,186.69	66,080.98	1,105.71
TOTAL	**PhP7,990,924.20**	**PhP70,202.38**	**PhP7,928,964.62**

Input VAT claims supported by Debit Notes/Debit Memos

The amount PhP6,885,608.95[54] representing input VAT claims supported by Debit Notes/Debit Memos shall be disallowed since the input tax are not supported by a SI or an OR, pursuant to Sec. 4.104-5 of RR No. 7-95 and Section 4.108-1 of RR No. 16-05.

Properly Substantiated Input VAT pursuant to Secs.4.104-4, 4.104-5 and 4.108-1 of RR 7-95 and Secs. 4.113-1 (A) and (B) of RR 16-05

In sum, the properly substantiated input VAT for the period June 1, 2000 to October 31, 2005 and the period November 1, 2005 to August 30, 2007, pursuant to Sections 4.104-4, 4.104-5, and 4.108-1 of RR No. 7-95 and Sections 4.113-1(A) and (B) of RR No. 16-05 is computed as follows:

Input VAT claimed by Dumex per ICPA Report		228,888,729.60[55]
Less: Disallowances		
A. *Per ICPA findings:*		
1. Input VAT claims with no supporting documents	21,317,404.60	
2. Input VAT claims with supporting documents other than those enumerated in Section 4.110-7 of RR 16-2005	17,184,479.00	38,501,883.60
B. *Per Court's Findings (as previously discussed):*		
1. Input VAT claims on Importations	29,248,610.67	
2. Input VAT claims on Purchases of goods and/or services supported by VAT registered Invoices and Official Receipts	10,808,193.58	
3. Vatable invoices and/or receipts that are attached to system generated payable management report and/or CRVs	70,202.38	
4. Input VAT claims supported by Debit		

[54] *Annex F of Summary of Annexes for Exhibit "SSS"*
[55] Records, p.191.

Notes/Debit Memos in reference to BIR Ruling [DA -614-04] dated December 6, 2004	6,885,608.95	47,012,615.58
PROPERLY SUBSTANTIATED INPUT VAT		**Php143,374,230.42**

Since the output VAT in the amount of PhP171,266,703.95[56] is found to be in order and the adjusted input VAT of petitioner in the amount of PhP143,374,230.42 per computation, is lesser than the former, then petitioner has no excess unutilized input VAT which may be refunded as provided on Sections 4.104-4, 4.104-5 and 4.108-1 of RR No. 7-95 and Sections 4.113-1 (A) and (B) of RR No. 16-05, to wit:

Output Tax declared per VAT returns (from 2000 to August 2007)	171,266,703.95
Less: Properly Substantiated Input VAT	**143,374,230.42**
No Excess Unutilized Input VAT	**PhP27,892,473.53**

WHEREFORE, premises considered, petitioner's Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

I CONCUR:

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

[56] *Id.*, p. 212.

ATTESTATION

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

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

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i

YEAR 2000	EXHIBIT	DISALLOWED INPUT VAT	REASON FOR DISALLOWANCE
	ZZ 1-1	386,614.00	No proof of payment of input VAT
	ZZ 1-2	380,802.00	No proof of payment of input VAT
	ZZ 1-3	244,898.00	No proof of payment of input VAT
	ZZ 1-4	244,898.00	No proof of payment of input VAT
	ZZ 1-5	172,794.00	No proof of payment of input VAT
	ZZ 1-6	105,513.00	No proof of payment of input VAT
	ZZ 1-7	95,339.00	No proof of payment of input VAT
	ZZ 1-8	260,643.00	No proof of payment of input VAT

	ZZ 1-9	245,789.00	No proof of payment of input VAT
	ZZ 1-10	203,305.00	No proof of payment of input VAT
	ZZ 1-11	203,305.00	No proof of payment of input VAT
	ZZ 1-12	164,007.00	No proof of payment of input VAT
	ZZ 1-13	144,036.00	No proof of payment of input VAT
	ZZ 1-14	101,856.00	No proof of payment of input VAT
	ZZ 1-15	96,677.00	No proof of payment of input VAT
	ZZ 1-16	91,158.00	No proof of payment of input VAT
	ZZ 1-17	84,595.00	No proof of payment of input VAT
	ZZ 1-18	83,971.00	No proof of payment of input VAT
	ZZ 1-19	73,007.00	No proof of payment of input VAT
	TOTAL Disallowed Input VAT for Taxable Year 2000	**PhP3,383,207.00**	

ii

YEAR 2001	**EXHIBIT**	**AMOUNT OF DISALLOWED INPUT VAT**	**REASON FOR DISALLOWANCE**
	ZZ 2-3	389,983.00	No breakdown of input VAT
	Disallowed Input VAT due to No breakdown of input VAT	**389,983.00**	
	ZZ 2-12	246,677.00	No proof of payment of input VAT
	ZZ 2-15	126,109.00	No proof of payment of input VAT
	ZZ 2-31	147,510.00	No proof of payment of input VAT
	ZZ 2-32	129,118.00	No proof of payment of input VAT

	ZZ 2-33	125,140.00	No proof of payment of input VAT
	ZZ 2-34	157,776.00	No proof of payment of input VAT
	ZZ 2-35	127,364.00	No proof of payment of input VAT
	ZZ 2-36	123,623.00	No proof of payment of input VAT
	ZZ 2-37	128,209.00	No proof of payment of input VAT
	ZZ 2-38	129,466.00	No proof of payment of input VAT
	ZZ 2-39	130,681.00	No proof of payment of input VAT
	ZZ 2-40	273,249.00	No proof of payment of input VAT
	ZZ 2-41	154,855.00	No proof of payment of input VAT
	ZZ 2-42	268,268.00	No proof of payment of input VAT
	ZZ 2-43	139,102.00	No proof of payment of input VAT
	ZZ 2-44	265,425.00	No proof of payment of input VAT
	ZZ 2-45	148,691.00	No proof of payment of input VAT
	ZZ 2-46	151,213.00	No proof of payment of input VAT
	ZZ 2-47	146,055.00	No proof of payment of input VAT
	ZZ 2-48	142,286.00	No proof of payment of input VAT
	ZZ 2-49	137,504.00	No proof of payment of input VAT
	ZZ 2-50	138,743.00	No proof of payment of input VAT
	ZZ 2-51	265,311.00	No proof of payment of input VAT
	ZZ 2-52	480,951.00	No proof of payment of input VAT
	ZZ 2-53	150,279.00	No proof of payment of input VAT
	ZZ 2-54	127,486.00	No proof of payment of input VAT
	ZZ 2-55	145,616.00	No proof of payment of input VAT
	ZZ 2-56	135,142.00	No proof of payment of input VAT

	ZZ 2-57	129,753.00	No proof of payment of input VAT
	ZZ 2-58	131,765.00	No proof of payment of input VAT
	ZZ 2-59	128,309.00	No proof of payment of input VAT
	ZZ 2-60	224,295.00	No proof of payment of input VAT
	ZZ 2-61	124,152.00	No proof of payment of input VAT
	ZZ 2-62	117,146.00	No proof of payment of input VAT
	ZZ 2-63	131,366.00	No proof of payment of input VAT
	ZZ 2-64	117,048.00	No proof of payment of input VAT
	ZZ 2-65	115,003.00	No proof of payment of input VAT
	ZZ 2-66	144,947.00	No proof of payment of input VAT
	ZZ 2-67	129,984.00	No proof of payment of input VAT
	ZZ 2-68	145,682.00	No proof of payment of input VAT
	ZZ 2-69	11,545.00	No proof of payment of input VAT
	ZZ 2-70	133,282.00	No proof of payment of input VAT
	ZZ 2-71	136,050.00	No proof of payment of input VAT
	ZZ 2-72	147,562.00	No proof of payment of input VAT
	ZZ 2-73	134,137.00	No proof of payment of input VAT
	ZZ 2-74	148,045.00	No proof of payment of input VAT
	ZZ 2-75	151,920.00	No proof of payment of input VAT
	ZZ 2-76	132,010.00	No proof of payment of input VAT
	ZZ 2-77	129,789.00	No proof of payment of input VAT
	ZZ 2-78	133,962.00	No proof of payment of input VAT
	ZZ 2-79	126,804.00	No proof of payment of input VAT
	ZZ 2-80	126,804.00	No proof of payment of input VAT

	ZZ 2-81	136,845.00	No proof of payment of input VAT
	ZZ 2-82	129,764.00	No proof of payment of input VAT
	ZZ 2-83	128,696.00	No proof of payment of input VAT
	ZZ 2-84	131,522.00	No proof of payment of input VAT
	ZZ 2-85	168,789.00	No proof of payment of input VAT
	ZZ 2-86	173,527.00	No proof of payment of input VAT
	ZZ 2-87	131,772.00	No proof of payment of input VAT
	ZZ 2-88	134,110.00	No proof of payment of input VAT
	Disallowed Input VAT due to No Proof of Payment of Input VAT	**9,128,234.00**	
	TOTAL Disallowed Input VAT for Taxable Year 2001	**PhP9,518,217.00**	

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YEAR 2002	EXHIBIT	AMOUNT OF DISALLOWED INPUT VAT	REASON FOR DISALLOWANCE
	ZZ 3-23	112,207.00	No proof of payment of input VAT
	ZZ 3-29	121,402.00	No proof of payment of input VAT
	ZZ 3-58	115,283.00	No proof of payment of input VAT
	TOTAL Disallowed Input VAT for Taxable Year 2002	**PhP348,892.00**	

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YEAR 2004	EXHIBIT	AMOUNT OF DISALLOWED INPUT VAT	REASON FOR DISALLOWANCE

	ZZ 5-1	237,679.00	No proof of payment of input VAT
	ZZ 5-29	342,466.00	No proof of payment of input VAT
	ZZ 5-79	319,422.00	No proof of payment of input VAT
	TOTAL Disallowed Input VAT for Taxable Year 2004	**PhP899,567.00**	

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YEAR 2005	EXHIBIT	AMOUNT OF DISALLOWED INPUT VAT	REASON FOR DISALLOWANCE
	ZZ 6-1	369,381.00	No proof of payment of input VAT
	ZZ 6-2	298,421.00	No proof of payment of input VAT
	ZZ 6-3	259,407.00	No proof of payment of input VAT
	ZZ 6-4	340,457.00	No proof of payment of input VAT
	ZZ 6-5	330,153.00	No proof of payment of input VAT
	ZZ 6-6	344,035.00	No proof of payment of input VAT
	ZZ 6-7	351,648.00	No proof of payment of input VAT
	ZZ 6-8	284,966.00	No proof of payment of input VAT
	ZZ 6-9	265,382.00	No proof of payment of input VAT
	ZZ 6-10	350,144.00	No proof of payment of input VAT
	ZZ 6-11	345,599.00	No proof of payment of input VAT
	ZZ 6-12	275,680.00	No proof of payment of input VAT
	ZZ 6-13	344,956.00	No proof of payment of input VAT
	ZZ 6-14	316,910.00	No proof of payment of input VAT
	ZZ 6-15	345,454.00	No proof of payment of input VAT
	ZZ 6-16	273,435.00	No proof of payment of input VAT
	ZZ 6-17	286,402.00	No proof of payment of input VAT
	ZZ 6-18	286,845.00	No proof of payment of input VAT
	ZZ 6-19	350,101.00	No proof of payment of input VAT
	ZZ 6-20	251,929.00	No proof of payment of input VAT
	ZZ 6-21	345,347.00	No proof of payment of input VAT
	ZZ 6-22	341,161.00	No proof of payment of input VAT
	ZZ 6-23	291,012.00	No proof of payment of input VAT

	ZZ 6-24	328,542.00	No proof of payment of input VAT
	ZZ 6-25	284,019.00	No proof of payment of input VAT
	ZZ 6-26	276,093.00	No proof of payment of input VAT
	ZZ 6-27	263,395.00	No proof of payment of input VAT
	ZZ 6-28	274,360.00	No proof of payment of input VAT
	ZZ 6-29	363,406.00	No proof of payment of input VAT
	ZZ 6-30	174,993.00	No proof of payment of input VAT
	ZZ 6-31	343,129.00	No proof of payment of input VAT
	ZZ 6-32	343,008.00	No proof of payment of input VAT
	ZZ 6-33	306,831.00	No proof of payment of input VAT
	ZZ 6-34	105,072.13	No proof of payment of input VAT
	ZZ 6-35	225,422.00	No proof of payment of input VAT
	ZZ 6-36	276,917.00	No proof of payment of input VAT
	ZZ 6-37	371,298.00	No proof of payment of input VAT
	ZZ 6-38	294,199.00	No proof of payment of input VAT
	ZZ 6-39	307,382.00	No proof of payment of input VAT
	ZZ 6-40	282,558.00	No proof of payment of input VAT
	ZZ 6-41	319,410.00	No proof of payment of input VAT
	ZZ 6-43	336,786.00	No proof of payment of input VAT
	ZZ 6-44	329,694.00	No proof of payment of input VAT
	ZZ 6-45	403,318.00	No proof of payment of input VAT
	ZZ 6-47	288,825.54	No proof of payment of input VAT
	ZZ 6-57	374,374.00	No proof of payment of input VAT
	ZZ 6-58	411,786.00	No proof of payment of input VAT
	ZZ 6-59	149,617.00	No proof of payment of input VAT
	ZZ 6-65	415,468.00	No proof of payment of input VAT

	TOTAL Disallowed Input VAT for Taxable Year 2005	**PhP15,098,727.67**	

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DATE	EXHIBITS	BOX NO.	DISALLOWED VAT AMOUNT	REASON FOR DISALLOWANCE
Year 2000	AAA 1-8	2	64.66	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-9	2	407.51	Not in the name of Dumex
Year 2000	AAA 1-21	2	65.55	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-24	2	68.00	Not in the name of Dumex
Year 2000	AAA 1-70	2	45.45	Not in the name of Dumex
Year 2000	AAA 1-81	2	17.50	Not in the name of Dumex
Year 2000	AAA 1-104	2	105.09	Sales Invoice was provided instead of OR
Year 2000	AAA 1-157	2	14.64	Not in the name of Dumex
Year 2000	AAA 1-200	2	68.43	Sales Invoice was provided instead of OR
Year 2000	AAA 1-237	2	23.48	Not in the name of Dumex
Year 2000	AAA 1-255	2	44.43	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-267	2	71.73	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-268	2	40.91	No Invoice was provided
Year 2000	AAA 1-349	2	12.34	Missing Exhibit
Year 2000	AAA 1-364	2	21.82	Missing Exhibit
Year 2000	AAA 1-367	2	49.12	Sales Invoice was provided instead of OR
Year 2000	AAA 1-373	2	37.91	OR was provided instead of Sales Invoice
Year 2000	AAA 1-374	2	36.34	Not in the name of Dumex
Year 2000	AAA 1-377	2	13.48	OR was provided instead of Sales Invoice
Year 2000	AAA 1-381	2	135.45	Missing Exhibit
Year 2000	AAA 1-391	2	52.00	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-394	2	100.91	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-395	2	26.82	OR was provided instead of Sales Invoice
Year 2000	AAA 1-396	2	94.47	Not in the name of Dumex
Year 2000	AAA 1-396	2	17.00	Not in the name of Dumex
Year 2000	AAA 1-408	2	68.73	Not in the name of Dumex
Year 2000	AAA 1-408	2	42.50	Not in the name of Dumex
Year 2000	AAA 1-413	2	43.53	Not in the name of Dumex
Year 2000	AAA 1-415	2	33.36	Not in the name of Dumex
Year 2000	AAA 1-416	2	26.59	Not in the name of Dumex
Year 2000	AAA 1-418	2	12.73	Not in the name of Dumex
Year 2000	AAA 1-419	2	26.84	Not in the name of Dumex
Year 2000	AAA 1-421	2	15.91	Not in the name of Dumex
Year 2000	AAA 1-433	2	46.75	Not in the name of Dumex
Year 2000	AAA 1-433	2	8.50	Not in the name of Dumex
Year 2000	AAA 1-435	2	55.71	Not in the name of Dumex

Year 2000	AAA 1-447	2	34.09	OR was provided instead of Sales Invoice
Year 2000	AAA 1-459	2	90.41	OR was provided instead of Sales Invoice
Year 2000	AAA 1-480	2	30.00	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-484	2	38.82	OR was provided instead of Sales Invoice
Year 2000	AAA 1-509	2	11.82	OR was provided instead of Sales Invoice
Year 2000	AAA 1-513	2	66.36	OR was provided instead of Sales Invoice
Year 2000	AAA 1-521	2	30.73	OR was provided instead of Sales Invoice
Year 2000	AAA 1-558	2	7.27	Details in the OR/Invoice is no longer visible
Year 2000	AAA 1-564	2	27.32	OR was provided instead of Sales Invoice
TOTAL DISALLOWED INPUT VAT IN 2000			**PhP2,353.01**	

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YEAR	EXHIBITS	BOX NO.	DISALLOWED VAT AMOUNT	REASON FOR DISALLOWANCE
Year 2001	AAA 2-8	3	22.73	Not in the name of Dumex
Year 2001	AAA 2-20	3	23.45	OR was provided instead of Sales Invoice
Year 2001	AAA 2-30	3	12.00	OR was provided instead of Sales Invoice
Year 2001	AAA 2-34	3	70.63	OR was provided instead of Sales Invoice
Year 2001	AAA 2-54	3	217.27	Details in the OR/Invoice is no longer visible
Year 2001	AAA 2-140	3	17.27	OR was provided instead of Sales Invoice
Year 2001	AAA 2-141	3	24.00	OR was provided instead of Sales Invoice
Year 2001	AAA 2-190	3	227.27	Details in the OR/Invoice is no longer visible
Year 2001	AAA 2-346	3	1,818.19	Not in the name of Dumex
Year 2001	AAA 2-494	3	79.55	Details in the OR/Invoice is no longer visible
Year 2001	AAA 2-520	3	75.82	Not in the name of Dumex
Year 2001	AAA 2-555 to 2-577	4	0.08	Excess Input VAT
Year 2001	AAA 2-1098 to AAA 2-1113	5	5,829.81	No OR was Provided
Year 2001	AAA 2-1117	5	5,000.00	No Invoice was Provided
Year 2001	AAA 2-1209 to AAA 2-1213 AAA 2-1218 to AAA 2-1221 AAA 2-1242	5	82,701.02	Excess Input VAT
Year 2001	AAA 2-1269	5	36.45	OR was provided instead of Sales Invoice
Year 2001	AAA 2-1389 to AAA 2-1390	6	3,140.61	Excess Input VAT

Year 2001	AAA 2-1391	6	550.00	Excess Input VAT
Year 2001	AAA 2-1404	6	133.59	Excess Input VAT
Year 2001	AAA 2-1410	6	52,920.00	No OR was provided
Year 2001	AAA 2-1689 to AAA 1696	6	1,984.63	No OR was provided

TOTAL DISALLOWED INPUT VAT IN 2001 **PhP154,884.37**

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YEAR	EXHIBITS	BOX NO.	DISALLOWED VAT AMOUNT	REASON FOR DISALLOWANCE
Year 2002	AAA 3-132	7	10,636.36	Missing Exhibit
Year 2002	AAA 3-219 to AAA 3-222	7	258,143.54	Excess Input VAT
Year 2002	AAA 3-338	7	5,827.50	Details in the OR/Invoice is no longer visible
Year 2002	AAA 3-552	7	1,467.33	No OR was provided
Year 2002	AAA 3-584	7	144.55	OR was provided instead of Sales Invoice
Year 2002	AAA 3-963	8	21,666.67	No VAT was actually paid
Year 2002	AAA 3-2014 to AAA 3-2025 AAA 3-2027 to AAA 3-2028 AAA 3-2030 to AAA 3-2032	9	30,441.40	Excess Input VAT
Year 2002	AAA 3-3282	11	117,090.91	No Invoice was provided

TOTAL ALLOWABLE INPUT VAT IN 2002 **PhP445,418.26**

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YEAR	EXHIBITS	BOX NO.	DISALLOWED VAT AMOUNT	REASON FOR DISALLOWANCE
Year 2003	AAA 4-264	12	1,000.00	No OR was provided
Year 2003	AAA 4-265	12	65.00	No OR was provided
Year 2003	AAA 4-388	12	97,181.82	Excess Input VAT
Year 2003	AAA 4-553	12	70,616.73	Excess Input VAT
Year 2003	AAA 4-1283	13	11,025.00	No OR was provided

Year 2003	AAA 4-1290	13	2,822.40	No OR was provided
Year 2003	AAA 4-1773 to AAA 4-1782	14	3,696.94	No OR was provided
Year 2003	AAA 4-2438 to AAA 4-2446	15	1,513.60	No OR was provided
Year 2003	AAA 4-2448 to AAA 2449	15	803.55	No OR was provided
Year 2003	AAA 4-2451 to AAA 4-2453	15	623.37	No OR was provided
Year 2003	AAA 4-2455 to AAA 4-2458	15	1,735.70	No OR was provided
Year 2003	AAA 4-2460 to AAA 4-2462	15	1,084.03	No OR was provided
Year 2003	AAA 4-2761 to AAA 4-2774	16	53,346.15	OR is undated
Year 2003	AAA 4-2862	16	184.51	No OR was provided
Year 2003	AAA 4-3776	17	90.91	No OR was provided
Year 2003	AAA 4-3876	17	272.73	Details in the OR/Invoice is no longer visible
TOTAL DISALLOWED INPUT VAT IN 2003			**PhP246,062.44**	

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YEAR	EXHIBITS	BOX NO.	DISALLOWED VAT AMOUNT	REASON FOR DISALLOWANCE
Year 2004	AAA 5-291	18	78,414.02	NO BIR PERMIT indicated in the OR
Year 2004	AAA 5-705 (APV 27697)	19	69,759.01	No OR was provided
Year 2004	AAA 5-1180	19	27,430.15	Missing Exhibit
Year 2004	AAA 5-1616	20	67.73	OR was provided instead of Sales Invoice
Year 2004	AAA 5-1657 to AAA 5-1663	20	71,837.47	OR is undated

Year 2004	AAA 5-1690 to AAA 5-1692 AAA 5-1694 to AAA 5-1715	20	59,108.47	OR is undated
Year 2004	AAA 5-2701	21	6,633.87	Missing Exhibit
Year 2004	AAA 5-2702	21	35,000.00	Missing Exhibit
Year 2004	AAA 5-3674	22	8,183.00	No OR was provided
Year 2004	AAA 5-3675	22	8,166.67	No OR was provided
Year 2004	AAA 5-3676	22	8,166.67	No OR was provided
Year 2004	AAA 5-3834	22	31.81	OR was provided instead of Sales Invoice
TOTAL DISALLOWED INPUT VAT IN 2004			**PhP372,798.87**	

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YEAR	EXHIBITS	BOX NO.	DISALLOWED VAT AMOUNT	REASON FOR DISALLOWANCE
Jan-05 to Oct-05	AAA 6-153	23	45,000.00	No OR was provided
Jan-05 to Oct-05	AAA 6-264 to AAA 6-269	23	27,712.37	No OR was provided
Jan-05 to Oct-05	AAA6-456 to AAA 6-457 AAA 6-459 to AAA 6-466 AAA 6-468 to AAA 6-478 AAA 6-480 to AAA 6-485 AAA 6-491 to AAA 6-492	23	8,583.65	Excess Input VAT
Jan-05 to Oct-05	AAA 6-1816	25	9,463.69	no OR was provided

TOTAL DISALLOWED INPUT VAT FROM JAN 1 TO OCT 30 2005	**PhP90,759.71**