**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***SPECIAL THIRD DIVISION***

**CHEVRON HOLDINGS INC.**
[formerly CALTEX (ASIA) LIMITED],
*Petitioner,* **CTA Case No. 8064**

**- versus-**

**Members:**

**Bautista,** *Chairperson*
**Cotangco-Manalastas,** *JJ.*

**COMMISSIONER OF INTERNAL REVENUE,**
*Respondent.*

**Promulgated:**

OCT 14 2013

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**D E C I S I O N**

**COTANGCO-MANALASTAS, *J.:***

This Petition for Review filed on March 31, 2010 by Chevron Holdings Inc. [formerly Caltex (Asia) Limited] seeks the refund or issuance of tax credit certificate in the amount of ₱177,337,492.52, representing accumulated and unutilized input value-added tax (VAT) for taxable year 2008.

## FACTS

Petitioner Chevron Holdings, Inc. is a corporation organized and existing under the laws of the State of Delaware, United States of America, and is licensed by the Securities and Exchange Commission (SEC) to transact business in the Philippines as a Regional Operating Headquarters (ROHQ).[1] It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer under OCN 9RC0000136077.[2] Petitioner renders services to its affiliates, subsidiaries or branches in the Asia-Pacific and North America regions pursuant to Service Agreements[3] executed with its affiliates.

[1] Par. 1, Petition for Review, docket, p. 1.
[2] Exhibit "A"; Par. 2, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), docket, p. 154.
[3] Exhibits "R" to "R-17".

The Commissioner of Internal Revenue (respondent) is the government official charged with the administration and enforcement of national internal revenue laws, including the granting of refund and tax credit of taxes erroneously or illegally collected. She holds office at the BIR National Office Building, Diliman, Quezon City.

Petitioner duly filed its Audited Financial Statements for taxable year 2008 and its Quarterly VAT Returns, Annual Income Tax Return, and Monthly VAT Returns for taxable year 2008 with the BIR.[4]

Petitioner filed an administrative claim for refund of its purported unutilized input VAT for the four quarters of taxable year 2008 on March 5, 2010[5] and was later amended on March 31, 2010[6]. Due to inaction of respondent on the administrative claim for refund, petitioner filed the instant Petition for Review with this Court on March 31, 2010.[7]

Respondent filed her Answer[8] on June 11, 2011, interposing the following special and affirmative defenses:

> "5. Taxes paid and collected by the Bureau of Internal Revenue (BIR) are presumed to have been made in accordance with law, rules and regulations and the burden to prove otherwise is upon petitioner.
>
> 6. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau.
>
> 7. Petitioner must prove it is entitled to a claim for refund under the strictest terms.
>
> 8. Petitioner must prove that it paid the alleged VAT input taxes for the period in question.
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> 9. Petitioner must prove that the same alleged VAT input taxes was not utilized against any output tax liability.
>
> 10. Petitioner must prove that the alleged VAT input taxes for the period in question are attributable to its alleged VAT zero-rated sales.

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[4] Pars. 6 and 7, Stipulation of Facts, JSFI, docket, pp. 155-156; Exhibits "F" to "Q".
[5] Exhibit "N-4".
[6] Par. 3, Stipulation of Facts, JSFI, docket, p. 155.
[7] Par. 4, Stipulation of Facts, JSFI, docket, p. 155.
[8] Docket, pp. 92-102.

11. Petitioner must prove that the administrative and judicial claims were filed within the period prescribed by law.

12. Petitioner's assertion that its services rendered to its affiliates, subsidiaries or branches abroad are subject to zero (0%) percent VAT cannot be accorded weight. Plain allegations without any evidentiary document to support its claim will not justify petitioner's application for tax refund.

13. Petitioner must prove that its sales are VAT zero-rated as contemplated under Section 112(A) of the Tax Code of 1997.

14. The claim for refund in the amount of One Hundred Seventy Seven Million Three Hundred Thirty Seven Thousand Four Hundred Ninety Two Pesos and 52/100 (P177,337,492.52) allegedly representing accumulated and unutilized VAT input taxes paid by it for the taxable year 2008 is not properly documented. To support its claim, it is indispensable for petitioner to prove the following:

a) Registration requirements of a value-added taxpayer in compliance with Section 9.236.1 (a) of Revenue Regulations No. 16-2005 and Section 236 of the NIRC of 1997, as amended;

b) Invoicing and accounting requirements for VAT-registered persons as well as the filing and payment of VAT pursuant to the provisions of Section 113 and 114 of the 1997 Tax Code, as amended. Failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of claim for input tax of the taxpayer claimant. (Revenue Memorandum Circular No. 42-2003).

c) Petitioner must prove that it has fully complied with the requirements of Section 9.236.1.a of RR No. 16-2005 and Revenue Memorandum Order No. 53-98, otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax credit/refund which is a condition *sine qua non* prior to the filing of judicial claim;

d) In relation thereto, Section 112 (C) of the NIRC of 1997, as amended, requires submission of complete documents in support of the application for tax refund filed with respondent before the one hundred twenty (120) day period shall apply and before petitioner could avail of the judicial remedies provided by law. Ergo, petitioner's failure to submit proof of compliance with the aforesaid requirements warrants the dismissal of the instant Petition for Review;

15. In the case entitled *'San Roque Power Corp. vs. Commissioner of Internal Revenue'*, the Supreme Court had the occasion to say:

> 'In order to claim a refund or tax credit under Section 112 (A), petitioner must comply with the following criteria:
>
> 1. The taxpayer is VAT-registered;
> 2. The tax-payer is engaged in zero-rated or effectively zero-rated sales;
> 3. The input taxes are due or paid;
> 4. The input taxes are not transitional input taxes;
> 5. The input taxes have not been applied against output taxes during and in the succeeding quarters;
> 6. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales;
> 7. For zero-rated sales under Section 106 (A) (2) (1) and (2); 106 (B), and 108 (B) (1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;
> 8. Where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and that the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and
> 9. The claim is filed within 2 years after the close of the taxable quarter when such sales were made.'

16. For a judicial claim for refund of input VAT to prosper, the petitioner must prove that there must be (a) zero-rated or effectively zero-rated sales; (b) that input taxes were incurred or paid; (c) that the input taxes are attributable to zero-rated or effectively zero-rated sales; (d) that the input taxes were not applied against any output VAT liability; and (e) the claim for refund/tax credit must be filed within the two year prescriptive period. *(EG & G Omni, Inc. v. CIR, CTA Case No. 5987, March 26, 2004)*

17. Corollary thereto, Sec. 4.110.8 of RR 16-2005 explicitly provides:

> 'Input Taxes for the importation of goods or the domestic purchases of goods, properties or services is made in the course of trade or business, whether such input taxes shall be

> credited against zero-rated sales or subjected to the 5% Final Withholding VAT must be substantiated and supported by the following documents and must be reported in the information returns required to be submitted to the Bureau: (1) For the importation of goods – import entry or other equivalent document showing actual payment of VAT on imported goods; (2) For domestic purchases of goods and properties – invoice showing the information required under Sections 113 and 237 of the Tax Code.'

18. In its Petition for Review, petitioner alleged that it filed the administrative claim for tax credit/refund on its unutilized input VAT on March 5, 2010 and subsequently, amended the same on March 31, 2010. On March 31, 2010 or the same day that it filed the amended administrative claim for refund, petitioner filed its judicial claim for refund before this Honorable Court. Suffice it to say that respondent was not given an opportunity to act on the matter.

19. Guided by the pertinent provision of Section 112 (C) of the NIRC of 1997, as amended, respondent should have been given a period of one hundred twenty (120) days from March 31, 2010 or until July 29, 2010 to resolve the administrative claim for refund. As clearly provided by law, it is only after the expiration of the aforesaid period that petitioner is given 30 days or until August 23, 2010 within which to elevate the same before the Honorable Court of Tax Appeals. Ergo, since petitioner prematurely filed its judicial claim on March 31, 2010, the Honorable Court cannot acquire jurisdiction over the instant case.

20. Granting for the sake of argument that the running of the one hundred twenty (120) day period starts to run on March 5, 2010 or the date when the original administrative claim for refund was filed by petitioner, respondent, therefore, is given until July 3, 2010 within which to act on the administrative claim for refund. It is only after July 3, 2010 that petitioner is given a period of thirty days or until August 2, 2010 the right to raise the same before the Honorable Court should an unfavorable decision be given by respondent or the latter fails to act on the matter. Again, since petitioner prematurely filed the Petition for Review on March 31, 2010, the Honorable Court has no jurisdiction to hear and decide the instant case.

21. The provision of law regarding prescriptive periods are jurisdictional, compliance with which is essential for this Honorable Court to exercise authority over the instant case. Such statutes or rules are construed as mandatory as they have been absolutely indispensable to the prevention of

needless delays and to the orderly and speedy discharge of business and are necessary incidents to the proper, efficient and orderly discharge of official functions.

22. It is well-established in this jurisdiction that claims for refund are construed strictly against the claimant for the same partake of the nature of exemption from taxation and are therefore held against the claimant. Petitioner must present clear and convincing evidence to merit a tax refund. The taxpayer bears the burden of establishing the factual basis of its claim for refund.

23. Likewise, for a judicial claim to prosper, the party must not only prove that it is a VAT-registered entity, it must substantiate the input VAT paid by purchase invoices or official receipts (*Commissioner of Internal Revenue vs. Manila Mining Corporation, 468 SCRA 571*). Such that failure to comply with the requirements for a valid request for refund including the requirement for a valid sales invoice is fatal to the claim for refund. (*EG & G Omni, Inc. v. CIR, CTA Case No. 5987, March 26, 2004*)

24. Basic is the rule that tax refunds are regarded as tax exemptions that are in derogation of the sovereign authority and are to be construed strictissimi juris against the person or entity claiming the exemption (*Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue, G.R. No. 141973, June 28, 2005*). The burden of proof is upon him who claims the exemption and he must be able to justify his claim by the clearest grant under Constitutional or statutory law and he cannot be permitted to rely upon vague implications. (*BPI Leasing Corporation v. the Honorable Court of Appeals, et al., G.R. No. 127624, November 18, 2003*). The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted (*Sea-Land Service vs. Court of Appeals, 357 SCRA 444*)."

Both petitioner's Pre-Trial Brief[9] and respondent's Pre-Trial Brief[10] were filed on July 13, 2010.

In the Pre-trial Order dated September 27, 2010, the Court considered the stipulations of the parties as stated in their Joint Stipulation of Facts and Issues[11] filed on August 27, 2010, terminated the pre-trial, and ordered the presentation of petitioner's evidence.[12]

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[9] Docket, pp. 106-115.
[10] Docket, pp. 116-122.
[11] Docket, pp. 154-157.
[12] Pre-trial Order dated September 27, 2010, docket, pp. 159-164.

During trial, petitioner presented Jose C. Catequista, Editha B. Marquez, Ma. Teresa S. De Leon, and Ruth T. Medina as its witnesses. On the other hand, during the November 21, 2012 hearing, respondent's counsel manifested that respondent would no longer present any witness and would just submit the case for decision.[13]

The case was submitted for decision on January 29, 2013, after petitioner filed its Memorandum on January 21, 2013 and respondent filed her Memorandum on January 22, 2013.[14]

## ISSUES

The parties submitted the following issues[15] for this Court's resolution:

"A. Whether petitioner's sales of services are zero-rated.

B. Whether Petitioner has complied with the invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT in compliance with the provisions of Sections 113 and 114 of the Tax Code of 1997, as amended.

C. Whether Petitioner has complied with the submission of complete documents in support of its administrative claim for refund pursuant to Section 112(D) of the Tax Code of 1997, as amended, Section 9.236.1 or RR No. 16-2005 and Revenue Memorandum Order No. 53-98.

D. Whether petitioner paid input VAT on its purchases of goods and services for the 1st to 4th quarter of taxable year 2008.

E. Whether the input taxes petitioner paid for the 1st to 4th quarters of taxable year 2008 were not applied against output VAT liabilities during said period and in succeeding quarters.

F. Whether petitioner's claim for refund and/or issuance of tax credit certificates for the amount of Php177,337,492.52 representing its unutilized and/or

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[13] Minutes of the hearing dated November 21, 2012, docket, p. 840.
[14] Resolution dated January 29, 2013, docket, p. 914.
[15] Docket, pp. 156-157.

unapplied input VAT for the 1st to 4th quarters of taxable year 2008 are attributable to its zero-rated VAT sales.

G. Whether petitioner's administrative and judicial claims for refund were filed within the prescribed period."

**DISCUSSION/RULING**

The Court will first resolve whether petitioner's administrative and judicial claims were filed within the prescriptive period.

Petitioner contends that when the instant Petition for Review was filed, the controlling doctrine was that the administrative and judicial claims must be filed within the two-year period from payment of tax, as provided under Section 112(A) in relation to Section 229 of the Tax Code. It cites, among others, *Commissioner of Internal Revenue vs. Toledo Power Inc.*[16], *Commissioner of Internal Revenue vs. CE Cebu Geothermal Power Company, Inc.*[17], and *Kepco Philippines Corporation vs. The Commissioner of Internal Revenue*[18] to support its claim.

Petitioner further avers that the doctrine in *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*[19] *(Aichi case)* should be applied prospectively. At the time of filing of the instant Petition for Review, it relied in good faith on established jurisprudence promulgated by this Court and affirmed by the Supreme Court, which consistently construed the prescriptive period of input tax refund as two years from filing of the VAT return. Retroactive application of the *Aichi case* undermines the established rule on judicial precedents and unfairly punishes petitioner for *bona fide* adhering to jurisprudence that was valid, in force, and uniformly applied at the time.

Respondent, on the other hand, argues that petitioner failed to exhaust administrative remedies. She points out that petitioner filed its administrative claim and amended the same on March 5, 2010 and March 31, 2010, respectively.

[16] CTA EB No. 321, May 7, 2008.
[17] CTA EB Nos. 426 and 427, May 29, 2009.
[18] CTA Case No. 6965, February 26, 2007.
[19] G.R. No. 184823, October 6, 2010.

Also, respondent contends that petitioner did not give the former the opportunity to act on the claim as the latter filed its judicial claim on March 31, 2010, before the lapse of the 120-day period. Thus, as petitioner failed to observe the 120-day period as prescribed by law and pursuant to *Aichi case* doctrine, the Court has no jurisdiction to take cognizance of the instant petition and the dismissal of the same is warranted.

Section 112 of the National Internal Revenue Code (NIRC) of 1997, provides:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-rated or Effectively Zero-rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period

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

Further, in *Aichi case*[20], the Supreme Court ruled that in case of tax refunds under Section 112 of the NIRC of 1997, as amended, the phrase "within two years" applies only to the filing of the administrative claim for refund and not to the filing of the judicial claim. Likewise, the 120-day period is jurisdictional in filing an appeal with the CTA.

However, in the recent case of *Commissioner of Internal Revenue vs. San Roque Power Corporation, Taganito Mining Corporation and Philex Mining Corporation*[21] *(San Roque case)*, the Supreme Court held:

> "To repeat, a claim for tax refund or credit, like a claim for tax exemption, is construed strictly against the taxpayer. One of the conditions for a judicial claim of refund or credit under the VAT System is compliance with the 120+30 day mandatory and jurisdictional periods. Thus, **strict compliance with the 120+30 day periods is necessary for such a claim to prosper, whether before, during, or after the effectivity of the *Atlas* doctrine, except for the period from the issuance of BIR Ruling No. DA-489-03 on 10 December 2003 to 6 October 2010 when the *Aichi* doctrine was adopted, which again reinstated the 120+30 day periods as mandatory and jurisdictional.**
>
> xxx xxx xxx
>
> BIR Ruling No. DA-489-03 does provide a valid claim for equitable estoppel under Section 246 of the Tax Code. BIR Ruling No. DA-489-03 *expressly* states that the **'taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review.'** Prior to this ruling, the BIR held, as shown by its position in the Court of Appeals, that the expiration of the 120-day period is mandatory and jurisdictional before a judicial claim can be filed.
>
> There is no dispute that the 120-day period is mandatory and jurisdictional, and that the CTA does not acquire jurisdiction over a judicial claim that is filed before the expiration of the 120-day period. There are, however, two exceptions to this rule. **The first exception is if the**

[20] G.R. No. 184823, October 6, 2010.
[21] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

> **Commissioner, through a specific ruling, misleads a particular taxpayer to prematurely file a judicial claim with the CTA.** Such specific ruling is applicable only to such particular taxpayer. **The second exception is where the Commissioner, *through a general interpretative rule* issued under Section 4 of the Tax Code, misleads all taxpayers into filing prematurely judicial claims with the CTA.** In these cases, the Commissioner cannot be allowed to later on question the CTA's assumption of jurisdiction over such claim since equitable estoppel has set in as expressly authorized under Section 246 of the Tax Code.
>
> xxx xxx xxx
>
> BIR Ruling No. DA-489-03 is a general interpretative rule because it was a response to a query made, not by a particular taxpayer, but by a government agency tasked with processing tax refunds and credits, that is, the **One Stop Shop Inter-Agency Tax Credit and Drawback Center of the Department of Finance.** This government agency is also the addressee, or the entity responded to, in BIR Ruling No. DA-489-03. Thus, while this government agency mentions in its query to the Commissioner the administrative claim of Lazi Bay Resources Development, Inc., the agency was in fact asking the Commissioner what to do in cases like the tax claim of Lazi Bay Resources Development, Inc., where the taxpayer did not wait for the lapse of the 120-day period.
>
> Clearly, BIR Ruling No. DA-489-03 is a general interpretative rule. Thus, **all taxpayers can rely on BIR Ruling No. DA-489-03 from the time of its issuance on 10 December 2003 up to its reversal by this Court in *Aichi* on 6 October 2010, where this Court held that the 120+30 day periods are mandatory and jurisdictional.**" *(Emphasis supplied)*

The present claim covers the four taxable quarters of year 2008, which closed on March 31, 2008, June 30, 2008, September 30, 2008, and December 31, 2008. Counting two years from the said dates, petitioner had until March 31, 2010, June 30, 2010, September 30, 2010, and December 31, 2010, respectively, within which to file its administrative claim for refund. Petitioner filed its original administrative claim on March 5, 2010[22]; thus, it was filed well within the two-year period prescribed under Section 112(A) of the NIRC of 1997.

Petitioner filed its judicial claim on March 31, 2010, before the lapse of the 120-day period prescribed by law.

[22] Exhibit "N-4"; Par. 3, Stipulation of Facts, JSFI, docket, p. 155.

However, considering the doctrine in the *San Roque case*, the mandatory and jurisdictional nature of the 120+30-day period does not apply on claims for refund that were filed during the period of December 10, 2003 to October 6, 2010. Accordingly, petitioner's judicial claim for the four quarters of 2008 shall be considered as timely filed.

Anent the issue of submission of complete documents in support of petitioner's administrative claim, petitioner argues that it attached to its administrative claim filed on March 5, 2010 its BIR Certificate of Registration, Annual Income Tax Return, Audited Financial Statements, Quarterly and Monthly VAT Returns for year 2008, and Service Agreements with its foreign affiliates. It further alleges that it complied with respondent's request for presentation of books of accounts and other accounting records by submitting additional documents consisting of Articles of Incorporation and By-Laws, SEC Certificate of Registration, list of company officers, Claimant Information Sheet, VAT Registration Payment for taxable year 2008/Annual Registration, VAT return showing the amount of tax credit certificate applied, VAT returns prior to period of claim with excess input carry-over (taxable year 2007), BIR Authority to Print Invoice/Receipts, Computerized Accounting System, Schedule of Bank Credit Memo, Schedule of Acquisition, Depreciation and Disposal of Property, Plant and Equipment, and Schedule of zero-rated taxable and exempt sales. It has also informed respondent that all other voluminous documents shall be made available to its revenue officers for examination at its office premises.

Respondent, in her Memorandum, contends that Section 112(C) clearly states that there should be a prior administrative claim filed with respondent before judicial resort can be had before this Court, where relevant documents must be submitted by the taxpayer to support its claim for refund. Failure on the part of the taxpayer to submit relevant documents in the administrative level makes the administrative claim for refund or tax credit *pro-forma* and shall be construed as if no administrative claim was filed.[23] She likewise points out that petitioner failed to submit the documentary requirements provided in Revenue Memorandum Order (RMO) No. 53-98.

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[23] Docket, pp. 904-905.

Records show that petitioner, upon the filing of its administrative claim[24] on March 5, 2010, simultaneously submitted the supporting documents. This is evident from petitioner's letter, which states:

> "In support of our request, we attach the following:
>
> 1. Application for Tax Credit/Refund (BIR Form No. 914)
> 2. SEC Certificate of Registration as amended
> 3. BIR Certificate of Registration (BIR Form No. 2303)
> 4. Annual Income Tax Return for taxable year 2008 (BIR Form No. 1702)
> 5. Quarterly VAT returns for taxable year 2008 (BIR Form No. 2550Q)
> 6. Monthly VAT returns for taxable year 2008 (BIR Form No. 2550M)
> 7. Audited Financial Statements for year ended December 31, 2008
> 8. Service Agreements with affiliates of MSSC.
>
> We reserve the right to submit other documents as may be required by this Honorable Office."

The term "complete documents" under Section 112(C) of the NIRC of 1997 should be understood to refer to those documents that are necessary to support the application for refund or tax credit certificate, as determined by the taxpayer. The BIR examiner can require the taxpayer to submit additional documents but the examiner cannot demand what type of supporting documents should be submitted. Otherwise, the taxpayer will be at the mercy of the examiner, who may require the production of documents that the taxpayer cannot submit. Moreover, it is basic that respondent ought to know the tax records of all taxpayers.[25]

Clearly, petitioner has submitted supporting documents for its claim for refund.

The Court will now address the other stipulated issues.

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[24] Exhibit "N-4", p. 10.

[25] *Diageo Philippines, Inc. vs. Commissioner of Internal Revenue*, CTA Case Nos. 7846 and 7865, January 16, 2012.

For the four quarters of taxable year 2008, petitioner duly filed with the BIR its Quarterly VAT declaring the following:

| | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter | Total |
|---|---|---|---|---|---|
| | *(Exhibit "F")* | *(Exhibit "G")* | *(Exhibit "H")* | *(Exhibit "I")* | |
| Vatable Sales/ Receipts | ₱ 134,461,442.54 | ₱ 138,685,850.30 | ₱ 156,933,440.14 | ₱ 177,384,511.44 | ₱ 607,465,244.42 |
| Zero-Rated Sales/ Receipts | 851,422,577.20 | 817,860,770.89 | 887,499,022.46 | 1,158,123,247.65 | 3,714,905,618.20 |
| **Total Sales/ Receipts** | **985,884,019.74** | **956,546,621.19** | **1,044,432,462.60** | **1,335,507,759.09** | **4,322,370,862.62** |
| | | | | | |
| **Output Tax Due** | **16,135,373.10** | **16,642,302.04** | **18,832,012.82** | **21,286,141.37** | **72,895,829.33** |
| | | | | | |
| Less: Allowable Input Tax | | | | | |
| Input Tax Carried Over from Previous Quarter | 196,500,668.53 | 224,672,224.94 | 214,640,905.97 | 264,805,262.32 | 196,500,668.53 |
| Input Tax Deferred on Capital Goods Exceeding ₱1 Million from Previous Quarter | 56,047,954.94 | 52,541,098.61 | 51,207,104.97 | 48,038,623.69 | 56,047,954.94 |
| **Total** | **252,548,623.47** | **277,213,323.55** | **265,848,010.94** | **312,843,886.01** | **252,548,623.47** |
| Current transactions | | | | | |
| Purchase of Capital Goods not exceeding ₱1M | 211,314.29 | - | 18,800.90 | - | 230,115.19 |
| Purchase of Capital Goods exceeding ₱1M | - | 2,280,557.37 | 468,003.02 | - | 2,748,560.39 |
| Purchase of Goods (other than Capital Goods) | 1,032,649.22 | 930,498.73 | 849,007.44 | 1,284,560.48 | 4,096,715.87 |
| Purchase of Services | 39,338,233.78 | 38,798,792.83 | 65,048,282.71 | 46,911,553.19 | 190,096,862.51 |
| Services Rendered by Non-residents | 217,875.89 | 70,097.22 | - | 152,877.04 | 440,850.15 |
| **Total** | **40,800,073.18** | **42,079,946.15** | **66,384,094.07** | **48,348,990.71** | **197,613,104.11** |
| | | | | | |
| **Total Available Input Tax** | **293,348,696.65** | **319,293,269.70** | **332,232,105.01** | **361,192,876.72** | **450,161,727.58** |
| Less: Deductions from Input Tax | | | | | |
| Input Tax on Purchases of Capital Goods exceeding ₱1 Million deferred for the succeeding period | 52,541,098.61 | 51,207,104.97 | 48,038,623.68 | 44,394,339.34 | 44,394,339.34 |
| VAT Refund/TCC claimed | - | 36,802,956.72 | - | - | 36,802,956.72 |
| Others | - | - | 556,206.19 | - | 556,206.19 |
| **Total** | **52,541,098.61** | **88,010,061.69** | **48,594,829.87** | **44,394,339.34** | **81,753,502.25** |
| | | | | | |
| **Total Allowable Input Tax** | **240,807,598.04** | **231,283,208.01** | **283,637,275.14** | **316,798,537.38** | **368,408,225.33** |
| **Net VAT Overpayment** | **₱224,672,224.94** | **₱214,640,905.97** | **₱ 264,805,262.32** | **₱ 295,512,396.01** | **₱ 295,512,396.00** |

As indicated in the returns, petitioner's total allowable input VAT arising from its amortization of input VAT on purchases of capital goods exceeding ₱1Million, domestic purchases of capital goods not exceeding ₱1Million, domestic purchases of goods other than capital goods, domestic purchases of services, and services rendered by non-residents for the four quarters of 2008 amounted to ₱209,266,719.71, broken down as follows:

| | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter | Total |
|---|---|---|---|---|---|
| Input Tax Deferred on Capital Goods exceeding ₱1Million from Previous Quarter | ₱ 56,047,954.94 | ₱ 52,541,098.61 | ₱ 51,207,104.97 | ₱ 48,038,623.69 | ₱ 56,047,954.94 |
| Add: Input Tax on Capital Goods exceeding ₱1Million Purchased this Quarter | - | 2,280,557.37 | 468,003.02 | - | 2,748,560.39 |
| Total: Unamortized Input Tax on Capital Goods exceeding ₱1Million | ₱ 56,047,954.94 | ₱ 54,821,655.98 | ₱ 51,675,107.99 | ₱ 48,038,623.69 | ₱ 58,796,515.33 |
| Less: Input Tax on Purchases of Cap Goods exceeding ₱1M deferred for the succeeding period | 52,541,098.61 | 51,207,104.97 | 48,038,623.68 | 44,394,339.34 | 44,394,339.34 |
| Amortization of Input Tax on Capital Goods exceeding ₱1 Million | ₱ 3,506,856.33 | ₱ 3,614,551.01 | ₱ 3,636,484.31 | ₱ 3,644,284.35 | ₱ 14,402,175.99 |
| Add: Input Tax on: | | | | | |
| Purchase of Capital Goods not exceeding ₱1 Million | 211,314.29 | - | 18,800.90 | - | 230,115.19 |
| Purchases of Goods Other than Capital Goods | 1,032,649.22 | 930,498.73 | 849,007.44 | 1,284,560.48 | 4,096,715.87 |
| Purchase of Services | 39,338,233.78 | 38,798,792.83 | 65,048,282.71 | 46,911,553.19 | 190,096,862.51 |
| Services Rendered by Non-Residents | 217,875.89 | 70,097.22 | - | 152,877.04 | 440,850.15 |
| **Total Allowable Input Tax Per Return** | **₱44,306,929.51** | **₱43,413,939.79** | **₱69,552,575.36** | **₱51,993,275.06** | **₱209,266,719.71** |

Out of the ₱209,266,719.71 total allowable input VAT reflected in its 2008 Quarterly VAT Returns, petitioner is claiming refund of the amount of ₱177,337,492.52[26] input VAT allegedly attributable to its declared zero-rated sales/receipts for the same period, broken down as follows:

| 2008 | Input VAT Claim |
|---|---|
| 1st Quarter | ₱ 37,802,114.97 |
| 2nd Quarter | 36,662,187.06 |
| 3rd Quarter | 58,249,601.15 |
| 4th Quarter | 44,623,589.35 |
| **Total** | **₱177,337,492.52** |

[26] Petition for Review, docket, p. 6.

Pursuant to Section 112(A) of the NIRC of 1997, as amended, in order to be entitled to a tax credit or refund of excess input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

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

As the Court already declared that the administrative and judicial claims of petitioner were timely filed, the Court will proceed to address the aforesaid remaining requisites.

Anent the first requisite, petitioner alleges that the services it renders to its affiliates abroad are subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which reads as follows:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[27], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. the services must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

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

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> (A) *Invoicing Requirements.* - A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

[27] G.R. No. 153205, January 22, 2007.

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

xxx xxx xxx

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

xxx xxx xxx

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

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

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

xxx xxx xxx

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

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

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

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

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

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

xxx xxx xxx

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

Records prove that petitioner is registered with the BIR as VAT taxpayer[28] and the services it performs in the Philippines through its Regional Operating Headquarters such as general administration and planning; business planning and coordination; sourcing and procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communications and business development[29] are not in the same category as "processing, manufacturing or repacking of goods".

For services rendered for the four taxable quarters of 2008, petitioner received US dollar payments with the peso equivalent of ₱3,714,905,618.20, which were accounted for in accordance with the BSP rules and regulations as evidenced by the bank certification of inward remittances[30] issued by JP Morgan Chase Bank N.A and duly supported by VAT zero-rated official receipts[31] issued by petitioner to its affiliate-clients.

To prove that its affiliate-clients are non-resident foreign corporations doing business outside the Philippines, petitioner presented Certifications of Non-Registration of Corporation/Partnership issued by the Securities and Exchange Commission[32] of the Republic of the Philippines, Service Agreements[33], Articles of Association, Articles/Certificate of Incorporation[34], and printed screenshots of the United States SEC website for company filings of Chevron Corporation[35], enumerated as follows: /

[28] Par. 2, Stipulation of Facts, JSFI, docket, p. 154.
[29] Exhibit "D", Notes to Financial Statements as of and for the years ended December 31, 2008 and 2007, Note 1 – General Information.
[30] Exhibits "B" to "B-3", "W" to "W-2", "X" to "X-4", and "Y" to "Y-3".
[31] Exhibits "S-1" to "S-117", "T-1" to "T-115", "U-1" to "U-138", and "V-1" to "V-133".
[32] Exhibits "C" to "C-43", and "HHHH" to "HHHH-62".
[33] Exhibits "R" to "R-17".
[34] Exhibits "SS" to "EEEE".
[35] Exhibits "GGGG" to "GGGG-8".

| **Name of Affiliate** | **SEC Certificate (Exhibit)** | **Service Agreements (Exhibit)** | **Certificate / Articles of Association / Incorporation/ Certificate of Registration (Exhibit)** | **State, Province or Country in which organized per printed screenshots of U.S. SEC website (Exhs. $G^4$ to $G^9$)** |
|---|---|---|---|---|
| Cabinda Gulf Oil Co. Ltd. | "C-9" | | | Bermuda |
| Caltex Oil Products Company | | | "XX" | |
| Caltex Oil Zambia Ltd. | "$H^4$" | | | |
| Caltex Trading and Transport Corporation | "C-1" | | "EEEE" | |
| Chevron China Investment Co. Ltd. | | | | |
| Chevron (Lao) Limited | "$H^4$-2" | | | |
| Chevron (Mauritius) Limited | | | "AAA" | |
| Chevron (Thailand) Limited | | | "BBB" | Bahamas |
| Chevron (Tianjin) Lub Co. Ltd | "$H^4$-3" | | | |
| Chevron Africa - Pakistan Services | "$H^4$-6" | | | |
| Chevron Africa Holdings Limited | "$H^4$-4" | | | |
| Chevron Africa Latin America EP | "$H^4$-5" | | | |
| Chevron Alkalij | | | | |
| Chevron Asia Pacific Holdings Limited | "C-42" | | "CCC", "DDDD" | |
| Chevron Asia Pacific PTE Ltd. | C-39 | | "EEE" | |
| Chevron Asia South Ltd. | "$H^4$-7" | | | |
| Chevron Australia PTY Ltd. | | | "FFF" | Australia |
| Chevron Bahrain | "$H^4$-9" | | | |
| Chevron Bahrain Trading Company B.S. | "$H^4$-8" | | | |
| Chevron Bangladesh Blocks 13/14 LTD | "$H^4$-10" | | | |
| Chevron Benin S.A. | "$H^4$-11" | | | |
| Chevron Business and Real Estate Service | "$H^4$-12" | | | |
| Chevron Business Support Center | "$H^4$-13" | | | |
| Chevron Cambodia Ltd. | "$H^4$-14" | "R-2" | | |
| Chevron Canada Ltd. | "C-24" | | | Canada |
| Chevron Congo | "$H^4$-15" | | | |
| Chevron Corporation | | | | |
| Chevron Cote | "$H^4$-16" | | | |
| Chevron Egypt Lubricants SAE | | | | |
| Chevron Energy Technology Co. | "C-41" | | | |
| Chevron Environmental Management Company | "$H^4$-17" | | | California |
| Chevron Exploration and Production | | | | |
| Chevron Geothermal Salak Ltd. | "$H^4$-18" | | | |
| Chevron Global Downstream LLC | | | | |
| Chevron Global Energy Inc. | | | | Delaware |
| Chevron Global Gas | | | | |

| | | | | |
|---|---|---|---|---|
| Chevron Global Lubricants | “$H^{4}$-19” | | | |
| Chevron Global Technology Services Company | “C-36” | | | Delaware |
| Chevron Global Trading Limited | “C-34” | | “LLL” | |
| Chevron Holdings Inc. - Taiwan | “C-27” | | | |
| Chevron HongKong Ltd. | | | | |
| Chevron Indonesia Co. | “$H^{4}$-20” | | | |
| Chevron Information Technology Co. | “$H^{4}$-21” | | | |
| Chevron International E&P Tech. Services | “$H^{4}$-22”, “$H^{4}$-25” | | | |
| Chevron International Exploration Production | “$H^{4}$-23” | | | |
| Chevron International Gas Inc. | “$H^{4}$-24” | | | |
| Chevron International Limited | | | | |
| Chevron International PTE Ltd. | | | | |
| Chevron Japan Ltd. | | | “PPP” | |
| NPPC/Chevron Joint Venture | “$H^{4}$-54” | | | |
| Chevron Kenya Ltd. | “C-20” | | | |
| Chevron Korea Inc. | “$H^{4}$-27” | | | |
| Chevron Kuo PTE Ltd. | “$H^{4}$-28” | | | |
| Chevron Limited | “C-21” | | | |
| Chevron Lubricants Lanka Limited | | | | |
| Chevron Malawi Ltd. | “$H^{4}$-30” | | | |
| Chevron Malaysia Limited | | | “TTT” | |
| Chevron Mauritius Ltd. | | | “AAA” | |
| Chevron NA Exploration Prod Co. | “$H^{4}$-31” | | | |
| Chevron Netherlands BV | “$H^{4}$-32” | | | |
| Chevron New Zealand | | “R-4 | “UUU” | New Zealand |
| Chevron Nigeria Limited | “C-28” | | | Nigeria |
| Chevron North Sea Limited | “C-30” | | | |
| Chevron Oil Nigeria | “C-18” | | | |
| Chevron Oronite Company LLC | “C-23” | | | Delaware |
| Chevron Oronite PTE Ltd. | “$H^{4}$-33” | | | Singapore |
| Chevron Overseas Petroleum | “$H^{4}$-35” | | “XXX” | |
| Chevron Overseas Services Corporation | “$H^{4}$-36” | | | |
| Chevron Pakistan Limited | “$H^{4}$-37” | | | Bahamas |
| Chevron Petroleum Nigeria Ltd. | “$H^{4}$-38” | | | |
| Chevron Pipe Line Company | “$H^{4}$-39” | | | Delaware |
| Chevron Policy Gov't Public Affairs | “$H^{4}$-40” | | | |
| Chevron Products Company | | | | |
| Chevron Remittance Processing | “$H^{4}$-41” | | | |
| Chevron Reunion Limited | | | | |
| Chevron Services Company | | “R-15” | | |
| Chevron Services Corporation | “$H^{4}$-42” | | | |
| Chevron Shipping Co. LLC | “C-43” | | | |
| Chevron Singapore PTE Ltd. | | | | |
| Chevron South Africa PTY Limited | | | | |

| | | | | |
|---|---|---|---|---|
| Chevron Tankers Limited | | | "AAAA" | |
| Chevron Tanzania Limited | "$H^{4}$-43" | | | |
| Chevron Texaco Global Energy Inc. | "C-17" | | | |
| Chevron Texaco China Energy Co. | | | "BBBB" | |
| Chevron Thailand Exploration and Production Ltd. | C-32 | | | Bermuda |
| Chevron Togo SA | | | | |
| Chevron Trading PTE Ltd. | | | | |
| Chevron Uganda Ltd. | "$H^{4}$-44" | | | |
| Chevron USA (Singapore Branch) | | "R-3" | | |
| Chevron USA Inc. - Shipping Branch | | | | |
| Chevron Vietnam Block Ltd. | "$H^{4}$-45" | | | |
| CNS - Energy Technology Co. UK | "$H^{4}$-47" | | | |
| CT Global Trading | "$H^{4}$-48" | | | |
| CUSA - Global Lubricants Asia Pacific | "$H^{4}$-49" | | | |
| CUSA - Project Olympic Branch | "C-40" | | | |
| CXA Exports Ltd. | "$H^{4}$-50" | | | |
| Fuel and Marine Marketing LLC | "$H^{4}$-51" | | | |
| LNG Marketing and Trading | "C-10" / "$H^{4}$-52" | | | |
| LNG Regasification Ventures | "$H^{4}$-53" | | | |
| Project Resources Company | "$H^{4}$-56" | | | |
| PT Chevron Oil Products Indonesia | "$H^{4}$-55" | | | |
| PT Chevron Pacific Indonesia | | | "UU" | Indonesia |
| Singapore Telecommunications Limited | "$H^{4}$-57" | | | |
| Star Holding Company Limited | "$H^{4}$-58" | | "CCCC" | |
| Star Petroleum Refining Co. Ltd. | "$H^{4}$-59" | | | |
| Talcor PTY Ltd. | "$H^{4}$-60" | | | |
| Texaco Cameroun | "$H^{4}$-61" | | | |
| UNOCAL East China Sea Ltd. | "$H^{4}$-62" | | | |

Each one of the enumerated documents, standing alone, is inadequate proof that petitioner's client is a non-resident foreign corporation doing business outside the Philippines. While the SEC Certificates of Non-Registration show that the named entities therein are not registered corporations/partnerships in the Philippines, the same do not prove that such entities are non-resident foreign corporations doing business outside the Philippines. Likewise, the Service Agreements only show the names of petitioner's customers to whom it renders services but the same do not establish that such customers are non-resident foreign corporations doing business outside the Philippines. Also, the Articles of Association, the Articles/Certificate of Incorporation, and the printed screenshots of the United States SEC website for company filings of Chevron Corporation only prove that the named entities therein were incorporated or organized abroad but do not establish that such entities are not doing business in the Philippines.

In order to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by **both** SEC certificate of Non-Registration of Corporation/Partnership **and** Certificate/Articles of Foreign Incorporation/Association or printed screenshots of US SEC website showing the state/province/country where the entity was organized. Thus, only the following clients of petitioner shall be considered as non-resident foreign corporations doing business outside the Philippines:

| **Name of Affiliate** | **SEC Certificate (Exhibit)** | **Certificate / Articles of Association / Incorporation/ Certificate of Registration (Exhibit)** | **State, Province or Country in which organized per printed screenshots of U.S. SEC website (Exhs. $G^4$ to $G^9$)** |
|---|---|---|---|
| Cabinda Gulf Oil Co. Ltd. | "C-9" | | Bermuda |
| Caltex Trading and Transport Corporation | "C-1" | "EEEE" | |
| Chevron Asia Pacific Holdings Limited | "C-42" | "CCC", "DDDD" | |
| Chevron Asia Pacific PTE Ltd. | "C-39" | "EEE" | |
| Chevron Canada Ltd. | "C-24" | | Canada |
| Chevron Environmental Management Company | "$H^4$-17" | | California |
| Chevron Global Technology Services Company | "C-36" | | Delaware |
| Chevron Global Trading Limited | "C-34" | "LLL" | |
| Chevron Nigeria Limited | "C-28" | | Nigeria |
| Chevron Oronite Company LLC | "C-23" | | Delaware |
| Chevron Oronite PTE Ltd. | "$H^4$-33" | | Singapore |
| Chevron Overseas Petroleum Inc. | "$H^4$-35" | "XXX" | |
| Chevron Pakistan Limited | "$H^4$-37" | | Bahamas |
| Chevron Pipe Line Company | "$H^4$-39" | | Delaware |
| Chevron Thailand Exploration and Production Ltd. | "C-32" | | Bermuda |
| Star Holding Company Limited | "$H^4$-58" | "CCCC" | |

Accordingly, petitioner's sales of services to the afore-mentioned entities for the year 2008 in the amount of ₱148,916,911.18 shall be subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, detailed as follows: /

| OR No. | OR Date | Name of Affiliate | Sales (in USD) | Sales (in Php) | Exhibit |
|---|---|---|---|---|---|
| ***First Quarter of 2008*** | | | | | |
| ***JANUARY*** | | | | | |
| 2947 | 29-Jan-08 | Cabinda Gulf Oil Co. Ltd. | $ 151,107.76 | ₱ 6,183,184.73 | S-1 |
| 2976 | 25-Jan-08 | Chevron Asia Pacific PTE Ltd. | 6,501.89 | 267,435.42 | S-7 |
| 2977 | 25-Jan-08 | Chevron Global Trading | 5,756.33 | 236,769.09 | S-17 |
| 2996 | 25-Jan-08 | Chevron Environmental Mngt. Co. | 339.02 | 13,944.55 | S-12 |
| 2973 | 25-Jan-08 | Chevron Oronite Co. LLC | 11,710.89 | 481,691.76 | S-32 |
| 2951 | 18-Jan-08 | Chevron Oronite PTE Ltd. | 678.04 | 27,758.26 | S-33 |
| 2953 | 30-Jan-08 | Chevron Thailand Exploration | 196.34 | 7,990.66 | S-45 |
| 2965 | 25-Jan-08 | Star Holding Co. Limited | 163,491.16 | 6,724,710.43 | S-55 |
| ***FEBRUARY*** | | | | | |
| 3021 | 26-Feb-08 | Cabinda Gulf Oil Co. Ltd. | 3,509.90 | 142,652.77 | S-57 |
| 3013 | 22-Feb-08 | Chevron Asia Pacific PTE Ltd. | 6,563.00 | 267,250.15 | S-61 |
| 3023 | 26-Feb-08 | Chevron Global Trading | 1,436.74 | 58,393.38 | S-64 |
| 3017 | 26-Feb-08 | Chevron Oronite Co. LLC | 18,047.82 | 733,517.04 | S-72 |
| 3012 | 22-Feb-08 | Star Holding Co. Limited | 9,120.19 | 371,355.34 | S-84 |
| ***MARCH*** | | | | | |
| 3046 | 25-Mar-08 | Cabinda Gulf Oil Co. Ltd. | 3,440.40 | 143,261.66 | S-85 |
| 3049 | 25-Mar-08 | Chevron Global Trading | 1,463.75 | 59,827.69 | S-95 |
| 3045 | 25-Mar-08 | Chevron Oronite Co. LLC | 6,449.21 | 268,551.48 | S-104 |
| 2941 | 27-Mar-08 | Chevron Thailand Exploration | 2,150.05 | 89,463.52 | S-111 |
| 3047 | 25-Mar-08 | Star Holding Co. Limited | 2,751.78 | 114,586.84 | S-117 |
| | | | ***Subtotal*** | **₱16,192,344.77** | |
| ***Second Quarter of 2008*** | | | | | |
| ***APRIL*** | | | | | |
| 825 | 25-Apr-08 | Chevron Global Trading | $ 9,261.27 | ₱ 388,547.80 | T-17 |
| 826 | 25-Apr-08 | Cabinda Gulf Oil Co. Ltd. | 6,445.72 | 270,424.07 | T-18 |
| 830 | 25-Apr-08 | Chevron Oronite Co. LLC | 2,708.77 | 113,643.88 | T-22 |
| 832 | 25-Apr-08 | Star Holding Co. Limited | 1,952.31 | 81,907.32 | T-24 |
| 838 | 25-Apr-08 | Chevron Environmental Mngt. Co. | 272.06 | 11,414.02 | T-30 |
| 808 | 28-Apr-08 | Caltex Transport and Trading Corp. | 1,204.51 | 50,659.26 | T-41 |
| ***MAY*** | | | | | |
| 848 | 23-May-08 | Cabinda Gulf Oil Co. Ltd. | 117,807.83 | 5,116,051.52 | T-47 |
| 856 | 28-May-08 | Caltex Transport and Trading Corp. | 1,499.21 | 65,515.46 | T-52 |
| 868 | 27-May-08 | Chevron Global Trading | 5,507.06 | 239,931.86 | T-57 |
| 850 | 29-May-08 | Chevron Nigeria Limited | 20,014.08 | 873,473.81 | T-64 |
| 845 | 26-May-08 | Chevron Oronite PTE Ltd. | 239.13 | 10,386.84 | T-65 |
| 872 | 27-May-08 | Chevron Pipe Line Company | 382.30 | 16,656.07 | T-66 |
| 869 | 27-May-08 | Star Holding Co. Limited | 2,498.73 | 108,864.79 | T-76 |
| ***JUNE*** | | | | | |
| 913 | 25-Jun-08 | Chevron Pipe Line Company | 433.71 | 19,362.05 | T-100 |
| 911 | 25-Jun-08 | Star Holding Co. Limited | 2,452.47 | 109,485.27 | T-115 |
| 909 | 25-Jun-08 | Cabinda Gulf Oil Co. Ltd. | 3,983.66 | 177,841.96 | T-77 |
| 880 | 26-Jun-08 | Caltex Transport and Trading Corp. | 1,499.21 | 66,800.19 | T-79 |
| 884 | 17-Jun-08 | Chevron Oronite Co. LLC | 8,255.82 | 366,887.83 | T-98 |
| 904 | 25-Jun-08 | Chevron Oronite Co. LLC | 22,804.01 | 1,018,036.16 | T-99 |
| | | | ***Subtotal*** | **₱9,105,890.16** | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| ***Third Quarter of 2008*** | | | | | |
| ***JULY*** | | | | | |
| 950 | 28-Jul-08 | Cabinda Gulf Oil Co. Ltd. | $ 128,984.90 | ₱ 5,696,483.22 | U-1 |
| 970 | 28-Jul-08 | Chevron Environmental Mngt. Co. | 240.05 | 10,601.56 | U-11 |
| 962 | 28-Jul-08 | Chevron Global Trading | 2,168.34 | 95,762.47 | U-16 |
| 957 | 28-Jul-08 | Chevron Nigeria Limited | 7,236.40 | 319,588.04 | U-34 |
| 958 | 28-Jul-08 | Chevron Oronite Co. LLC | 5,271.22 | 232,797.92 | U-36 |
| 971 | 28-Jul-08 | Chevron Oronite PTE Ltd. | 210.98 | 9,317.71 | U-37 |
| 972 | 28-Jul-08 | Chevron Pipe Line Company | 205.76 | 9,087.18 | U-38 |
| 943 | 25-Jul-08 | Star Holding Co. Limited | 284.26 | 12,516.51 | U-59 |
| ***AUGUST*** | | | | | |
| 999 | 26-Aug-08 | Cabinda Gulf Oil Co. Ltd. | 13,162.11 | 165,319.91 | U-60 |
| 1002 | 26-Aug-08 | Caltex Transport and Trading Corp. | 1,499.21 | 68,365.61 | U-63 |
| 998 | 26-Aug-08 | Chevron Global Trading | 3,749.39 | 170,976.27 | U-71 |
| 996 | 26-Aug-08 | Chevron Oronite Co. LLC | 7,908.33 | 360,628.47 | U-81 |
| 979 | 21-Aug-08 | Chevron Overseas Petroleum | 512.11 | 23,367.05 | U-82 |
| 1004 | 26-Aug-08 | Chevron Pipe Line Company | 297.66 | 13,573.62 | U-83 |
| 985 | 21-Aug-08 | Star Holding Co. Limited | 547,707.00 | 24,976,036.63 | U-97 |
| ***SEPTEMBER*** | | | | | |
| 1022 | 23-Sep-08 | Chevron Thailand Exploration | 703.96 | 32,560.29 | U-105 |
| 1035 | 25-Sep-08 | Star Holding Co. Limited | 107,280.15 | 4,984,025.40 | U-117 |
| 1041 | 25-Sep-08 | Chevron Global Trading | 3,749.39 | 174,189.31 | U-123 |
| 1045 | 25-Sep-08 | Chevron Asia Pacific PTE Ltd. | 86.68 | 4,026.98 | U-127 |
| 1046 | 26-Sep-08 | Chevron Canada Ltd. | 11,374.00 | 528,413.74 | U-128 |
| 1049 | 26-Sep-08 | Cabinda Gulf Oil Co. Ltd. | 3,506.33 | 162,897.22 | U-131 |
| 1050 | 26-Sep-08 | Caltex Transport and Trading Corp. | 3,073.81 | 142,803.19 | U-132 |
| | | | ***Subtotal*** | **₱38,193,338.30** | |
| ***Fourth Quarter of 2008*** | | | | | |
| ***OCTOBER*** | | | | | |
| 1111 | 24-Oct-08 | Cabinda Gulf Oil Co. Ltd. | $ 144,528.53 | ₱ 7,022,766.28 | V-2 |
| 1073 | 28-Oct-08 | Caltex Transport and Trading Corp. | 70,003.17 | 340,786.86 | V-4 |
| 1093 | 27-Oct-08 | Chevron Canada Ltd. | 8,537.13 | 418,076.89 | V-16 |
| 1106 | 27-Oct-08 | Chevron Environmental Management Co. | 308.14 | 15,090.11 | V-23 |
| 1104 | 27-Oct-08 | Chevron Global Tech Services | 308.14 | 15,090.11 | V-29 |
| 1094 | 27-Oct-08 | Chevron Global Trading | 5,404.64 | 264,673.85 | V-30 |
| 1122 | 30-Oct-08 | Chevron Nigeria Limited | 638.34 | 31,337.26 | V-44 |
| 1089 | 27-Oct-08 | Chevron Oronite Co. LLC | 17,259.27 | 845,214.01 | V-46 |
| 1090 | 27-Oct-08 | Star Holding Co. Limited | 17,165.71 | 840,632.22 | V-64 |
| ***NOVEMBER*** | | | | | |
| 1145 | 25-Nov-08 | Cabinda Gulf Oil Co. Ltd. | 3,316.35 | 165,156.87 | V-68 |
| 1150 | 26-Nov-08 | Chevron Global Trading | 3,749.39 | 186,908.77 | V-77 |
| 1134 | 25-Nov-08 | Chevron Oronite Co. LLC | 18,639.26 | 928,250.00 | V-89 |
| 1152 | 26-Nov-08 | Chevron Oronite PTE Ltd. | 270.83 | 13,501.00 | V-90 |
| 1136 | 25-Nov-08 | Chevron Thailand Exploration | 6,350.76 | 316,272.91 | V-97 |
| 1146 | 26-Nov-08 | Star Holding Co. Limited | 107,280.15 | 5,347,963.61 | V-101 |
| ***DECEMBER*** | | | | | |
| 1178 | 19-Dec-08 | Cabinda Gulf Oil Co. Ltd. | 4,675.81 | 219,727.91 | V-102 |
| 1182 | 23-Dec-08 | Caltex Transport and Trading Corp. | 1,499.21 | 69,860.67 | V-104 |
| 1181 | 19-Dec-08 | Chevron Canada Ltd. | 2,153.15 | 101,181.86 | V-110 |

| | | | | | |
|---|---|---|---|---|---|
| 1174 | 19-Dec-08 | Chevron Oronite Co. LLC | 12,166.68 | 571,742.48 | V-119 |
| 1159 | 04-Dec-08 | Chevron Pakistan Ltd. | 1,269,012.60 | 62,636,357.35 | V-120 |
| 1161 | 18-Dec-08 | Star Holding Co. Limited | 107,280.15 | 5,074,746.93 | V-133 |
| | | | ***Subtotal*** | **₱ 85,425,337.95** | |
| | | | | | |
| ***Total Valid Zero-Rated Sales for the 1st, 2nd, 3rd and 4th quarter of 2008*** | | | | **₱148,916,911.18** | |

The rest of petitioner's declared zero-rated sales in the amount of ₱3,565,988,707.02 (₱3,714,905,618.20 less ₱148,916,911.18) shall be denied VAT zero-rating for petitioner's failure to prove that the entities to whom it rendered services are non-resident foreign corporations doing business outside the Philippines.

Having resolved that petitioner had valid VAT zero-rated sales for the four quarters of 2008 in the amount of ₱148,916,911.18, the Court will now determine the amount of unutilized and excess input VAT attributable thereto.

In support of its reported input VAT of ₱209,266,719.71, petitioner presented various suppliers' invoices, official receipts, and other documents which were all examined by the Court-commissioned Independent CPA, Mr. Jose C. Catequista. In his Partial/Preliminary Report and Supplemental/Final Report dated October 11, 2010[36] and May 31, 2011[37], respectively, Mr. Catequista accounted for the total amount of ₱208,595,755.40 input VAT, broken down as follows:

| Particulars | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | Total |
|---|---|---|---|---|---|
| **PARTIAL / PRELIMINARY REPORT** | | | | | |
| Purchases of goods supported by valid VAT invoices[38] | ₱ 641,570.95 | ₱ 539,269.72 | - | ₱ 973,425.20 | ₱ 2,154,265.87 |
| Purchases of services supported by valid VAT ORs[39] | 32,746,200.67 | 31,058,725.33 | ₱29,749,021.69 | 41,091,796.85 | 134,645,744.54 |
| Purchases of services supported by CTC VAT ORs[40] | - | 1,969,797.60 | - | - | 1,969,797.60 |
| ***Subtotal*** | **₱33,387,771.62** | **₱33,567,792.65** | **₱29,749,021.69** | **₱42,065,222.05** | **₱138,769,808.01** |
| **SUPPLEMENTAL / FINAL REPORT** | | | | | |
| Purchases of goods supported by valid VAT invoices[41] | ₱ 140,805.55 | ₱ 168,393.88 | ₱ 753,182.65 | ₱ 115,572.79 | ₱ 1,177,954.87 |

[36] Exhibits "NN" to "NN-3".
[37] Exhibits ""WWWWWW" to "WWWWWW-3".
[38] Exhibits "FF-1" to "FF-78", "HH-1" to "HH-102", and "LL-1" to "LL-108".
[39] Exhibits "GG-1" to "GG-180", "II-1" to "II-290", "KK-1" to "KK-122", and "MM-1" to "MM-319"
[40] Exhibits "JJ-1" to "JJ-7".

| | | | | | |
|---|---|---|---|---|---|
| Purchases of services supported by valid VAT ORs[42] | 4,515,442.20 | 3,776,628.98 | 32,933,697.02 | 1,878,825.50 | 43,104,593.70 |
| Amortized input VAT on capital goods exceeding P1M[43] | 3,148,303.24 | 3,255,662.29 | 3,275,286.64 | 3,281,936.35 | 12,961,188.52 |
| Input VAT on purchases of goods and services with noted exceptions[44] | 2,326,863.58 | 2,216,476.08 | 2,461,388.79 | 4,136,493.33 | 11,141,221.78 |
| Amortized input VAT on capital goods exceeding P1M with noted exceptions[45] | 358,554.13 | 358,888.72 | 361,197.67 | 362,348.00 | 1,440,988.52 |
| ***Subtotal*** | **₱10,489,968.70** | **₱9,776,049.95** | **₱39,784,752.77** | **₱9,775,175.97** | **₱ 69,825,947.39** |
| | | | | | |
| **Total Input VAT accounted by the ICPA** | **₱43,877,740.32** | **₱43,343,842.60** | **₱69,533,774.46** | **₱51,840,398.02** | **₱208,595,755.40** |

As earlier stated, petitioner reflected in its 2008 Quarterly VAT Returns the following input taxes in the total amount of ₱209,266,719.71:

| | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | Total |
|---|---|---|---|---|---|
| Total Input VAT per Return | ₱44,306,929.51 | ₱43,413,939.79 | ₱69,552,575.36 | ₱51,993,275.06 | **₱209,266,719.71** |

On the other hand, petitioner's claim was computed based on the lower input VAT of ₱206,659,149.05, as shown below:

| | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter | Total |
|---|---|---|---|---|---|
| Sales subject to VAT | ₱134,461,442.54 | ₱138,685,850.30 | ₱ 156,933,440.14 | ₱ 177,384,511.44 | ₱ 607,465,244.42 |
| Zero-rated sales | 851,422,577.20 | 817,860,770.89 | 887,499,022.46 | 1,158,123,247.65 | 3,714,905,618.20 |
| **Total Sales** | **985,884,019.74** | **956,546,621.19** | **1,044,432,462.60** | **1,335,507,759.09** | **4,322,370,862.62** |
| | | | | | |
| % of Zero-rated Sales/Total Sales | 86.36% | 85.50% | 84.97% | 86.72% | |
| **Total Input Tax** | **43,772,037.59** | **42,879,047.88** | **68,549,680.43** | **51,458,383.15** | **206,659,149.05** |
| Input Tax attributable to Zero-rated Sales | ₱ 37,802,114.96 | ₱ 36,662,187.06 | ₱ 58,249,601.15 | ₱ 44,623,589.35 | ₱ 177,337,492.51 |

Thus, the Court shall have as reference point the lower input VAT of ₱206,659,149.05 in the determination of petitioner's refundable claim.

[41] Exhibits "FF-79" to "FF-100", "HH-103" to "HH-144", , "LL-109" to "LL-129", and "NNNNN-1" to "NNNNN-109".
[42] Exhibits "GG-181" to "GG-291", "II-291" to "II-484", "KK-123" to "KK-450", and "MM-320" to "MM-441".
[43] Exhibits "LLLLLL-1" to "LLLLLL-459".
[44] Exhibits "PPPP" to "BBBBB-4", "CCCCC" to "MMMMM-7", "OOOOO" to "WWWWW-6", and "XXXXX" to "KKKKKK-43".
[45] Exhibits "MMMMMM" to "TTTTTT-1".

Based on his review and validation of petitioner's claimed input VAT, the Independent CPA noted the following exceptions totalling ₱11,141,221.78:

| Particulars | Input VAT | Exhibit |
|---|---|---|
| **FIRST QUARTER OF 2008** | | |
| a. Domestic purchases of goods supported by invoices without authority to print | ₱ 1,587.06 | PPPP to PPPP-1 |
| b. Domestic purchases of goods supported by service invoice only | 7,890.12 | QQQQ to QQQQ-1 |
| c. Domestic purchases of goods with statement account or billing statement as support only | 165,000.00 | RRRR to RRRR-1 |
| d. Domestic purchases of services supported by Non-VAT ORs | 3,629.04 | SSSS to SSSS-6 |
| e. Domestic purchases of services with invoice as support only | 592,346.42 | TTTT to TTTT-24 |
| f. Domestic purchases of services supported by ORs without authority to print | 11,652.00 | UUUU to UUUU-1 |
| g. Domestic purchases of services with statement of account or billing statement as support only | 64,420.54 | VVVV to VVVV-7 |
| h. Domestic purchases of services supported by zero-rated ORs only | 4,066.20 | WWWW to WWWW-1 |
| i. Domestic purchases of services supported by photocopied VAT ORs only | 1,044.64 | XXXX to XXXX-1 |
| j. Domestic purchases of services supported by CTC of official receipts which have no TIN of the Company | 164,392.62 | YYYY to YYYY-5 |
| k. Domestic purchases of services with certification from supplier as support only | 42,894.74 | ZZZZ to ZZZZ-1 |
| l. Domestic purchases of services supported by provisional receipt only | 10,997.14 | AAAAA to AAAAA-2 |
| m. Domestic purchases of services supported by ORs dated out of the calendar year 2008 | 42,093.41 | BBBBB to BBBBB-4 |
| n. Domestic purchases of goods without supporting documents | 80,191.72 | |
| o. Domestic purchases of services without supporting documents | 1,134,657.93 | |
| ***Subtotal*** | **₱ 2,326,863.58** | |
| | | |
| **SECOND QUARTER OF 2008** | | |
| a. Domestic purchases of goods with OR as support only | ₱ 93,071.90 | CCCCC to CCCCC-1 |
| b. Domestic purchases of goods supported by invoices without authority to print | 302.14 | DDDDD to DDDDD-1 |
| c. Domestic purchases of goods supported by photocopied VAT invoices only | 1,516.07 | EEEEE to EEEEE-1 |
| d. Domestic purchases of goods with statement of account or billing statement support only | 1,690.49 | FFFFF to FFFFF-4 |
| e. Domestic purchases of services supported by Non-VAT ORs only | 36,667.50 | GGGGG to GGGGG-14 |
| f. Domestic purchases of services with invoices as support only | 1,548,553.26 | HHHHH to HHHHH-6 |
| g. Domestic purchases of services supported by ORs without authority to print | 17,978.65 | IIIII to IIIII-2 |
| h. Domestic purchases of services with statement of account or billing statement as support only | 25,446.43 | JJJJJ to JJJJJ-2 |
| i. Domestic purchases of services supported by CTC of OR which have no TIN of the company | 77,407.11 | KKKKK to KKKKK-5 |
| j. Domestic purchases of services supported by ORs dated out of the calendar year 2008 | 2,411.05 | LLLLL to LLLLL-1 |
| k. Domestic purchases of services supported by provisional receipt only | 217,564.00 | MMMMM to MMMMM-7 |
| l. Domestic purchases of goods without supporting documents | 6,882.86 | |
| m. Domestic purchases of services without supporting documents | 186,984.62 | |
| ***Subtotal*** | **₱ 2,216,476.08** | |

| | | |
|---|---|---|
| | | |
| **THIRD QUARTER OF 2008** | | |
| a. Domestic purchases of goods with OR as support only | ₱ 2,678.57 | OOOOO to OOOOO-1 |
| b. Domestic purchases of goods supported by invoices without authority to print | 2,063.97 | PPPPP to PPPPP-3 |
| c. Domestic purchases of services with certification from supplier as support only | 9,600.34 | QQQQQ to QQQQQ-3 |
| d. Domestic purchases of services with invoice as support only | 732,610.78 | RRRRR to RRRRR-57 |
| e. Domestic purchases of services supported by ORs without authority to print | 1,333.24 | SSSSS to SSSSS-3 |
| f. Domestic purchases of services with statement of account or billing statement as support only | 1,490,783.20 | TTTTT to TTTTT-14 |
| g. Domestic purchases of services supported by ORs without TIN VAT | 4.29 | UUUUU to UUUUU-1 |
| h. Domestic purchases of services supported by Non-VAT ORs | 32,544.42 | VVVVV to VVVVV-6 |
| i. Domestic purchases of services supported by provisional receipt only | 6,085.37 | WWWWW to WWWWW-6 |
| j. Domestic purchases of goods without supporting documents | 12,349.29 | |
| k. Domestic purchases of services without supporting documents | 171,335.32 | |
| ***Subtotal*** | **₱ 2,461,388.79** | |
| | | |
| **FOURTH QUARTER OF 2008** | | |
| a. Domestic purchases of goods with OR as support only | ₱ 60,448.12 | XXXXX to XXXXX-6 |
| b. Domestic purchases of goods supported by invoices without authority to print | 104,876.91 | YYYYY to YYYYY-6 |
| c. Domestic purchases of goods supported by photocopied VAT invoices only | 6,873.21 | ZZZZZ to ZZZZZ-1 |
| d. Domestic purchases of goods with statement of account or billing statement support | 1,801.50 | AAAAAA to AAAAAA-2 |
| e. Domestic purchases of services with certification from supplier as support only | 23,064.88 | BBBBBB to BBBBBB-2 |
| f. Domestic purchases of services with invoices as support only | 996,575.32 | CCCCCC to CCCCCC-62 |
| g. Domestic purchases of services supported by ORs without authority to print | 397.44 | DDDDDD to DDDDDD-2 |
| h. Domestic purchases of services with statement of account or billing statement as support | 3,448.34 | EEEEEE to EEEEEE-5 |
| i. Domestic purchases of services supported by zero rated ORs only | 10,125.00 | FFFFFF to FFFFFF-1 |
| j. Domestic purchases of services supported by CTC of official receipts which have no TIN of the Company | 10,560.00 | GGGGGG to GGGGGG-1 |
| k. Domestic purchases of services supported by certified copies of official receipts which have no TIN of the Company | 1,803,526.68 | HHHHHH to HHHHHH-1 |
| l. Domestic purchases of services supported by Non-VAT ORs | 5,007.86 | IIIIII to IIIIII-3 |
| m. Domestic purchases of services supported by provisional receipt | 38,461.70 | JJJJJJ to JJJJJJ-4 |
| n. Domestic purchases of services supported by ORs dated out of the calendar year 2008 | 696,017.41 | KKKKKK to KKKKKK-43 |
| o. Domestic purchases of goods without supporting documents | 19,660.75 | |
| p. Domestic purchases of services without supporting documents | 355,648.21 | |
| ***Subtotal*** | **₱ 4,136,493.33** | |
| | | |
| **Total Exceptions Noted for the First, Second, Third and Fourth Quarter of 2008** | **₱ 11,141,221.78** | |

The Court finds the noted exceptions of the Independent CPA in order. The aforesaid input taxes of ₱11,141,221.78 shall be disallowed from petitioner's claim for not being properly substantiated by VAT invoices or receipts as prescribed under Sections 110(A) and 113(A) and (B) of the

NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-05, as amended.

In addition, input taxes in the amount of ₱141,445,432.89, detailed below, shall likewise be disallowed:

| | | INPUT VAT | | | | |
|---|---|---|---|---|---|---|
| **Exhibit** | **Supplier's Name** | **1st Qtr** | **2nd Qtr** | **3rd Qtr** | **4th Qtr** | **Total** |
| | | | | | | |
| **1. Domestic purchases of services supported by VAT official receipts stamped with "Certified True Copy"** | | | | | | |
| "JJ-1" | RCBC Realty Corp | | ₱ 1,320.00 | | | ₱ 1,320.00 |
| "JJ-2" | RCBC Realty Corp | | 6,000.00 | | | 6,000.00 |
| "JJ-2" | RCBC Realty Corp | | 688,050.79 | | | 688,050.79 |
| "JJ-3" | 6750 Ayala Avenue Joint Venture | | 930,191.69 | | | 930,191.69 |
| "JJ-3" | 6750 Ayala Avenue Joint Venture | | 65,673.72 | | | 65,673.72 |
| "JJ-3" | 6750 Ayala Avenue Joint Venture | | 202,613.33 | | | 202,613.33 |
| "JJ-"3" | 6750 Ayala Avenue Joint Venture | | 16,962.95 | | | 16,962.95 |
| "JJ-4" | RCBC Realty Corp | | 6,000.00 | | | 6,000.00 |
| "JJ-5" | Headstrong Philippines, Inc. | | 792.45 | | | 792.45 |
| "JJ-6" | Headstrong Philippines, Inc. | | 22,391.47 | | | 22,391.47 |
| "JJ-7" | Headstrong Philippines, Inc. | | 29,801.20 | | | 29,801.20 |
| | **Subtotal** | | **₱1,969,797.60** | | | **₱1,969,797.60** |
| | | | | | | |
| **2. Domestic purchase of services without supporting VAT official receipt** | | | | | | |
| | Copylandia Office Systems Corporation (OR indicated per schedule – OR 177398 dated 10/15/08) | | | ₱ 7,071.42 | | ₱ 7,071.42 |
| | **Subtotal** | | | **₱ 7,071.42** | | **₱ 7,071.42** |
| | | | | | | |
| **3. Domestic purchases of services supported by VAT official receipts wherein the VAT was not separately indicated** | | | | | | |
| GG-14 | DHL Express (Philippines) Corp. | ₱ 10,875.80 | | | | ₱ 10,875.80 |
| GG-21 | Angara Abello Concepcion Regala and Cruz | 2,400.00 | | | | 2,400.00 |
| GG-24 | Ponce Enrile Reyes and Manalastas Law Offices | 3,000.00 | | | | 3,000.00 |

| | | | | | | |
|---|---|---|---|---|---|---|
| GG-41 | Newport Learning Center Inc. | 4,285.71 | | | | 4,285.71 |
| GG-59 | Network Solutions and Interfaces Corp. | 16,744.51 | | | | 16,744.51 |
| GG-84 | CSO International Inc. | 66,150.00 | | | | 66,150.00 |
| GG-89 | DHL Express (Philippines) Corp. | 4,777.40 | | | | 4,777.40 |
| GG-143 | Facilities Managers, Inc. | 126,947.37 | | | | 126,947.37 |
| GG-177 | Accenture Inc. | 10,478,365.06 | | | | 10,478,365.06 |
| GG-178 | Accenture Inc. | 7,655,020.90 | | | | 7,655,020.90 |
| GG-179 | Accenture Inc. | 9,534,104.70 | | | | 9,534,104.70 |
| GG-180 | Accenture Inc. | 788,481.62 | | | | 788,481.62 |
| GG-209 | Accenture Inc. | 884,068.10 | | | | 884,068.10 |
| GG-217 | Accenture Inc. | 689,565.00 | | | | 689,565.00 |
| GG-286 | Accenture Inc. | 507,817.22 | | | | 507,817.22 |
| II-120 | Asia Special Situations M3P2 (SPV-AMC), Inc. | | ₱ 10,700.94 | | | 10,700.94 |
| II-164 | Frasers Hospitality Investments, Inc. | | 17,704.27 | | | 17,704.27 |
| II-165 | Frasers Hospitality Investments, Inc. | | 10,022.21 | | | 10,022.21 |
| II-166 | Frasers Hospitality Investments, Inc. | | 3,426.64 | | | 3,426.64 |
| II-167 | Frasers Hospitality Investments, Inc. | | 19,578.86 | | | 19,578.86 |
| II-168 | Frasers Hospitality Investments, Inc. | | 15,419.89 | | | 15,419.89 |
| II-169 | Frasers Hospitality Investments, Inc. | | 2,245.23 | | | 2,245.23 |
| II-170 | Frasers Hospitality Investments, Inc. | | 9,586.47 | | | 9,586.47 |
| II-171 | Frasers Hospitality Investments, Inc. | | 3,854.97 | | | 3,854.97 |
| II-172 | Frasers Hospitality Investments, Inc. | | 11,329.48 | | | 11,329.48 |
| II-173 | Frasers Hospitality Investments, Inc. | | 19,578.86 | | | 19,578.86 |
| II-174 | Frasers Hospitality Investments, Inc. | | 2,141.67 | | | 2,141.67 |
| II-175 | Frasers Hospitality Investments, Inc. | | 13,508.19 | | | 13,508.19 |
| II-179 | Firstfoods Food Services, Inc. | | 750.00 | | | 750.00 |
| II-214 | Frasers Hospitality Investments, Inc. | | 13,508.19 | | | 13,508.19 |
| II-221 | Frasers Hospitality Investments, Inc. | | 20,351.30 | | | 20,351.30 |
| II-222 | Frasers Hospitality Investments, Inc. | | 20,109.45 | | | 20,109.45 |
| II-223 | Frasers Hospitality Investments, Inc. | | 13,875.09 | | | 13,875.09 |
| II-224 | Frasers Hospitality Investments, Inc. | | 14,846.73 | | | 14,846.73 |

| | | | | | | |
|---|---|---|---|---|---|---|
| II-236 | Somerset Salcedo Makati Service Residences | | 14,139.60 | | | 14,139.60 |
| II-278 | Accenture, Inc. | | 10,648,827.67 | | | 10,648,827.67 |
| II-279 | Accenture, Inc. | | 1,440,559.62 | | | 1,440,559.62 |
| II-280 | Accenture, Inc. | | 9,763,213.71 | | | 9,763,213.71 |
| II-281 | Accenture, Inc. | | 420,866.92 | | | 420,866.92 |
| II-283 | Accenture, Inc. | | 405,569.82 | | | 405,569.82 |
| II-375 | Manila Bean Food Group Inc. | | 6,464.45 | | | 6,464.45 |
| II-421 | Manila Bean Food Group Inc. | | 14,062.87 | | | 14,062.87 |
| II-422 | Manila Bean Food Group Inc. | | 5,459.63 | | | 5,459.63 |
| II-423 | Makati Shangri-La Manila | | 44,196.43 | | | 44,196.43 |
| II-424 | Santa Fe Moving and Relocation Services Phils., Inc. | | 1,944.00 | | | 1,944.00 |
| II-460 | Accenture, Inc. | | 306,904.15 | | | 306,904.15 |
| II-461 | Ricardo A. Delos Santos | | 321.43 | | | 321.43 |
| II-478 | Asian Relocation Management Inc. | | 13,186.84 | | | 13,186.84 |
| II-479 | Ascott Makati | | 27,672.37 | | | 27,672.37 |
| II-481 | Larsen and Tourbo Infotech Limited | | 752,426.00 | | | 752,426.00 |
| KK-114 | Accenture, Inc. | | | ₱13,891,381.93 | | 13,891,381.93 |
| KK-116 | Accenture, Inc. | | | 12,717,117.15 | | 12,717,117.15 |
| KK-134 | Accenture, Inc. | | | 12,676,062.73 | | 12,676,062.73 |
| KK-138 | Accenture, Inc. | | | 9,612,141.40 | | 9,612,141.40 |
| KK-150 | Accenture, Inc. | | | 459,532.07 | | 459,532.07 |
| KK-167 | Accenture, Inc. | | | 668,644.01 | | 668,644.01 |
| KK-175 | Accenture, Inc. | | | 303,036.64 | | 303,036.64 |
| KK-216 | Accenture, Inc. | | | 278,693.95 | | 278,693.95 |
| KK-220 | Accenture, Inc. | | | 414,887.25 | | 414,887.25 |
| LL-9 | Sky Signs Incorporated | | | | ₱ 4,660.71 | 4,660.71 |
| MM-103 | Accenture, Inc. | | | | 11,383,895.64 | 11,383,895.64 |
| MM-104 | Accenture, Inc. | | | | 15,916,240.89 | 15,916,240.89 |
| MM-105 | Rajah Travel Corporation | | | | 1,115.16 | 1,115.16 |
| MM-198 | Frasers Hospitality Investments, Inc. | | | | 15,384.31 | 15,384.31 |
| MM-219 | Accenture, Inc. | | | | 5,329,657.24 | 5,329,657.24 |
| MM-277 | Ascott Makati | | | | 68,381.45 | 68,381.45 |
| MM-278 | Asia Special Situations M3P2 (SPV-AMC) Inc. | | | | 17,214.90 | 17,214.90 |
| MM-279 | Asia Special Situations M3P2 (SPV-AMC) Inc. | | | | 22,717.25 | 22,717.25 |
| MM-280 | EDS Electronic Data Systems (Phils) Inc. | | | | 216,249.60 | 216,249.60 |
| MM-281 | Asia Special Situations M3P2 (SPV-AMC) Inc. | | | | 18,934.54 | 18,934.54 |

| | | | | | | |
|---|---|---|---|---|---|---|
| MM-282 | Asia Special Situations M3P2 (SPV-AMC) Inc. | | | | 831.12 | 831.12 |
| MM-283 | Asia Special Situations M3P2 (SPV-AMC) Inc. | | | | 12,028.02 | 12,028.02 |
| MM-284 | Asia Special Situations M3P2 (SPV-AMC) Inc. | | | | 17,751.13 | 17,751.13 |
| MM-285 | Frasers Hospitality Investments, Inc. | | | | 25,813.10 | 25,813.10 |
| MM-286 | Frasers Hospitality Investments, Inc. | | | | 16,086.96 | 16,086.96 |
| MM-287 | Frasers Hospitality Investments, Inc. | | | | 16,086.96 | 16,086.96 |
| MM-288 | Frasers Hospitality Investments, Inc. | | | | 21,960.82 | 21,960.82 |
| MM-289 | Frasers Hospitality Investments, Inc. | | | | 16,641.69 | 16,641.69 |
| MM-290 | Frasers Hospitality Investments, Inc. | | | | 17,214.90 | 17,214.90 |
| MM-291 | Frasers Hospitality Investments, Inc. | | | | 554.72 | 554.72 |
| MM-292 | Frasers Hospitality Investments, Inc. | | | | 22,717.26 | 22,717.26 |
| MM-293 | Frasers Hospitality Investments, Inc. | | | | 25,107.70 | 25,107.70 |
| MM-294 | Frasers Hospitality Investments, Inc. | | | | 554.72 | 554.72 |
| MM-295 | Frasers Hospitality Investments, Inc. | | | | 16,641.69 | 16,641.69 |
| MM-296 | Frasers Hospitality Investments, Inc. | | | | 24,271.57 | 24,271.57 |
| MM-297 | Frasers Hospitality Investments, Inc. | | | | 18,286.13 | 18,286.13 |
| MM-298 | Frasers Hospitality Investments, Inc. | | | | 24,937.74 | 24,937.74 |
| MM-299 | Frasers Hospitality Investments, Inc. | | | | 18,897.56 | 18,897.56 |
| MM-300 | Frasers Hospitality Investments, Inc. | | | | 27,561.72 | 27,561.72 |
| MM-301 | Frasers Hospitality Investments, Inc. | | | | 17,674.70 | 17,674.70 |
| MM-302 | Frasers Hospitality Investments, Inc. | | | | 18,286.13 | 18,286.13 |
| MM-303 | Frasers Hospitality Investments, Inc. | | | | 18,897.56 | 18,897.56 |
| MM-304 | Frasers Hospitality Investments, Inc. | | | | 19,452.28 | 19,452.28 |
| MM-305 | Frasers Hospitality Investments, Inc. | | | | 22,517.17 | 22,517.17 |
| MM-306 | Frasers Hospitality Investments, Inc. | | | | 26,670.08 | 26,670.08 |
| MM-307 | Frasers Hospitality Investments, Inc. | | | | 25,889.68 | 25,889.68 |

| | | | | | | |
|---|---|---|---|---|---|---|
| MM-308 | Frasers Hospitality Investments, Inc. | | | | 4,343.73 | 4,343.73 |
| MM-309 | Frasers Hospitality Investments, Inc. | | | | 2,798.24 | 2,798.24 |
| MM-310 | Frasers Hospitality Investments, Inc. | | | | 2,420.57 | 2,420.57 |
| MM-311 | Frasers Hospitality Investments, Inc. | | | | 3,589.67 | 3,589.67 |
| MM-312 | Fresh N' Famous Foods, Inc. - Delifrance | | | | 11,720.33 | 11,720.33 |
| MM-313 | Somerset Salcedo Makati | | | | 20,453.75 | 20,453.75 |
| MM-314 | Fuji Xerox Philippines, Inc. | | | | 25,817.65 | 25,817.65 |
| MM-315 | Fuji Xerox Philippines, Inc. | | | | 22,730.40 | 22,730.40 |
| MM-316 | Fuji Xerox Philippines, Inc. | | | | 19,076.86 | 19,076.86 |
| MM-317 | Manila Bean Food Group Inc. | | | | 1,927.92 | 1,927.92 |
| MM-318 | Manila Bean Food Group Inc. | | | | 3,374.23 | 3,374.23 |
| MM-342 | Yellow Can Food Corporation | | | | 71.25 | 71.25 |
| **Subtotal** | | **₱30,772,603.39** | **₱24,088,353.95** | **₱51,021,497.13** | **₱33,586,109.40** | **₱139,468,563.87** |
| **Total** | | **₱30,772,603.39** | **₱26,058,151.55** | **₱51,028,568.55** | **₱33,586,109.40** | **₱141,445,432.89** |

The input taxes under No. 1 in the amount of ₱1,969,797.60 pertaining to petitioner's domestic purchases of services shall be denied because the supporting VAT official receipts which were merely stamped "Certified True Copy" cannot be given credence and probative value because it cannot be ascertained whether the certifier whose name or signature appearing in each of the official receipt is actually the authorized custodian of the said document.

The input taxes under No. 2 in the amount of ₱7,071.42 pertaining to petitioner's domestic purchase of services from Copylandia Office Systems Corporation shall also be denied because the corresponding VAT official receipt with serial number 177398 and dated October 15, 2008 as indicated in the Schedule of Input Taxes was not presented by petitioner.

The input taxes under No. 3 in the amount of ₱139,468,563.87 shall likewise be disallowed because the VAT was not separately indicated in the supporting VAT official receipts in violation of Section 113(B)(2)(a) of the NIRC of 1997, as amended.

Considering all of the aforesaid disallowances, out of the total input VAT claim of ₱206,659,149.05, only the amount of ₱54,072,494.38 represents petitioner's valid input tax, computed as follows:

| | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | Total |
|---|---|---|---|---|---|
| Input VAT Claim | ₱ 43,772,037.59 | ₱ 42,879,047.88 | ₱ 68,549,680.43 | ₱ 51,458,383.15 | ₱206,659,149.05 |
| Less: Disallowances | | | | | |
| Per ICPA's report | 2,326,863.58 | 2,216,476.08 | 2,461,388.79 | 4,136,493.33 | 11,141,221.78 |
| Per this Court's further verification | 30,772,603.39 | 26,058,151.55 | 51,028,568.55 | 33,586,109.40 | 141,445,432.89 |
| **Valid Input VAT** | **₱10,672,570.62** | **₱14,604,420.25** | **₱15,059,723.09** | **₱13,735,780.42** | **₱54,072,494.38** |

At this point, the Court would take into consideration the output taxes reported by petitioner in its Quarterly VAT Returns for the year 2008 and would compare the same with the foregoing substantiated input taxes, to wit:

| | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | Total |
|---|---|---|---|---|---|
| Output Tax | ₱16,135,373.10 | ₱16,642,302.04 | ₱18,832,012.82 | ₱21,286,141.37 | ₱72,895,829.33 |
| Valid Input Tax | 10,672,570.62 | 14,604,420.25 | 15,059,723.09 | 13,735,780.42 | 54,072,494.38 |
| **Output Tax Still Due** | **₱5,462,802.48** | **₱2,037,881.79** | **₱3,772,289.73** | **₱7,550,360.95** | **₱18,823,334.95** |

As shown above, petitioner's properly substantiated input taxes for the year 2008 are not enough to cover its output taxes for the same year. While petitioner reflected in its Quarterly VAT Return[46] for the first quarter of 2008, the amount of ₱196,500,668.53 as "Input Tax Carried Over from Previous Quarter", the Court found that petitioner failed to present VAT invoices or receipts to prove the existence of such amount. Hence, the input tax carry-over of ₱196,500,668.53 cannot be validly applied against petitioner's output tax for the year 2008 pursuant to Section 110 of the NIRC of 1997, as amended, which states:

> "SEC. 110. *Tax Credits.* -
>
> (A) *Creditable Input Tax.* -
>
> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

[46] Exhibit "F".

xxx xxx xxx

> (B) *Excess Output or Input Tax.* - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. xxx"

Since there is no excess input VAT which may be the subject of a claim for refund or tax credit under Section 112(A) of the NIRC of 1997, as amended, the instant claim must be denied.

**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**AMELIA R. COTANGCO-MANALASTAS**
Associate Justice

CONCURS:

**LOVELL R. BAUTISTA**
Associate Justice

**ATTESTATION**

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

**LOVELL R. BAUTISTA**
Associate Justice
Chairperson

## CERTIFICATION

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

**ROMAN G. DEL ROSARIO**
Presiding Justice