Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

CE CASECNAN WATER AND ENERGY COMPANY, INC., *Petitioner,*	**CTA Case No. 8446**
	Members:
-versus-	**DEL ROSARIO, *Chairperson*** **UY,** *and* **MINDARO-GRULLA, *JJ.***
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 16 2013 4:29 pm

x---x

DECISION

DEL ROSARIO, P.J.:

This involves a Petition for Review[1] filed by CE Casecnan Water and Energy Company, Inc. (petitioner), assailing the inaction of the Commissioner of Internal Revenue (respondent)[2] on petitioner's administrative claim for refund or issuance of TCC in the total amount of ₱16,000,888.15, representing its unutilized input Value-Added Tax (VAT) for the 1st to 4th quarters of 2010, which are attributable to petitioner's zero-rated sales of generated power to the National Irrigation Administration (NIA).

THE PARTIES

Petitioner is a domestic corporation, duly organized and existing under and by virtue of Philippine laws. Its principal office is at Pantabangan, Nueva Ecija.[3]

Respondent is the duly appointed Commissioner of Internal Revenue, empowered to perform the duties of said office, including,

---

[1] Dated March 27, 2012. CTA Docket, p. 6.
[2] Section 112 (C) of the NIRC, as amended, in relation to Section 229.
[3] CTA Docket, p. 6.

among others, the power to decide, approve, and grant refunds or TCC of erroneously paid taxes, as provided by law.[4]

FACTS OF THE CASE

Petitioner was incorporated on September 21, 1994. Its primary purpose is "to design, develop, construct, erect, assemble, commission, finance, own and operate a combined irrigation and hydro-electric power project and related facilities in Central Luzon, Philippines for the conversion into electricity of water provided for and under contract with the National Irrigation Administration (the "Project"); provided that, in no event shall the corporation itself engage in the general supply or distribution of electricity, in retail trade or in the business of a public utility, or furnish electricity to end-users or consumers, or provide a public service or engage in industries or activities reserved by the Constitution or by law to corporations wholly or partially owned by Filipino Citizens."[5] It is a registered VAT taxpayer with the Bureau of Internal Revenue ("BIR") engaged in the business of power generation, with Tax Identification No. 004-500-931-000.[6]

Petitioner's multipurpose irrigation and power plant project, with an installed capacity of 140-150 MW hydropower generation power plant component, has been duly accredited and certified as a Private Sector Generation Facility by the Department of Energy ("DOE").[7] On July 27, 2005, the Energy Regulatory Commission ("ERC") issued Certificate of Compliance No. 05-07-GN8-10701[8] for petitioner's Hydroelectric Generation Facilities, which was renewed on June 21, 2010 by Certificate of Compliance No. 10-06-GN8-10701.[9]

On the following dates, petitioner filed its Original and Amended Quarterly VAT Returns for the taxable period January 2010 to December 2010:

---

[4] *Id.*
[5] Exhibit "A" Amended Articles of Incorporation, CTA Docket, p. 341.
[6] Exhibit "E" Certificate of Registration, CTA Docket, p. 373.
[7] Exhibit "B" Certificate of Accreditation No. 95-07-12 issued by the DOE on July 20, 1995, CTA Docket, p. 364.
[8] Exhibit "C" Certificate of Compliance, CTA Docket, p. 365.
[9] Exhibit "D" Certificate of Compliance, CTA Docket, p. 369.

Exhibit	Period	Date of Filing
Q	January to March 2010	April 26, 2010
G	Jan. to Mar. 2010 (Amended)	November 3, 2011
R	April to June 2010	July 26, 2010
H	April to June 2010 (Amended)	November 3, 2011
S	July to August 2010	October 26, 2010
I	July to August 2010 (Amended)	November 3, 2011
T	September to December 2010	January 25, 2010
J	Sept. to Dec. 2010 (Amended)	November 3, 2011

On November 9, 2011, petitioner filed with the Large Taxpayers Excise Audit Division I of the BIR ("BIR LTEAD I") an administrative claim for refund or issuance of TCC of its unutilized input VAT for the 1st to 4th quarters of 2010.[10] It allegedly has incurred unutilized input VAT from its purchases of capital goods, as well as non-capital goods, domestic purchases of service, and services rendered by non-residents in the total amount of ₱37,755,632.06.[11] Of this amount, petitioner allegedly did not carry over nor applied against output VAT in succeeding quarters its unutilized input VAT in the amount of ₱16,000,888.15.[12]

On November 18, 2011, petitioner filed with the BIR LTEAD I a copy of a certification issued by the Department of Finance stating that petitioner had not filed a similar claim for refund covering the period concerned.[13]

Due to the inaction of respondent in deciding the administrative claim for refund or issuance of TCC beyond the 120-day period provided for by Section 112 (C) of the National Internal Revenue Code of 1997 (1997 NIRC), as amended, petitioner filed the instant Petition for Review on March 27, 2012 before this Court.

Respondent interposed in her Answer[14] the following special and affirmative defenses: (i) petitioner's claim for refund was not properly documented; (ii) the burden of proof is on petitioner to establish its right to refund, and failure to sustain the burden is fatal to its claim; (iii) petitioner must show that it complied with the provisions

on

[10] Exhibit "P" CE Casecnan Water and Energy Company, Inc. Request for Refund for the Period January to December 2010, CTA Docket, p. 473.
[11] Exhibits "G", "H", "I", and "J", CTA Docket, p. 457, 459, 461, and 463, respectviely, and "Y-1" to "Y-4", Box 1 of the Formally Offered Exhibits.
[12] Exhibits "K", "L", "M", and "N", CTA Docket, p. 465, 467, 469, and 471, respectively, and "PP-1" to "PP-4", and "RR", Box 2 and 3 of the Formally Offered Exhibits.
[13] Exhibit "P-2", CTA Docket, p. 478.
[14] CTA Docket, pp. 107 – 117.

of Section 112 of the 1997 NIRC, as amended on the prescriptive period for claiming tax refund/credit; (iv) records do not show that petitioner submitted complete documents to substantiate its administrative claim for refund, thus making said claim *pro forma*; (v) without a validly and duly filed administrative claim for refund, this Court is without jurisdiction to entertain the petition for review; and, (vi) petitioner's failure to comply with a condition precedent prior to the institution of its petition for review makes it dismissible by this Court for lack of jurisdiction.

During trial, only petitioner presented its documentary and testimonial evidence while respondent manifested that she would not present evidence. On June 5, 2013,[15] the case was submitted for decision after the filing of respondent's Memorandum[16] on April 15, 2103, and petitioner's Memorandum[17] on May 10, 2013.

THE ISSUES

Both parties stipulated as to the following issues:

"1. Whether or not the Honorable Court has jurisdiction to act on the instant petition for review;

2. Whether or not the denial by inaction of the administrative application for refund was proper;

3. Whether or not petitioner is entitled to the refund/tax credit in the amount of ₱16,000,888.15 allegedly representing unutilized input VAT for the first to the fourth quarters [of calendar year 2010];

4. Whether or not petitioner's input VAT for the period from the first quarter to the fourth quarter of calendar year 2010 in the total amount of ₱16,000,888.15 is substantiated by documentary evidence in the form of invoices and official receipts;

5. Whether or not petitioner's input VAT for the period from the first quarter to the fourth quarter of calendar year 2010 in the total amount of ₱16,000,888.15 was applied or credited against any output VAT of the petitioner in the same or subsequent quarters;

6. Whether or not petitioner's input VAT for the first quarter to the fourth quarter of calendar year 2010 in the total amount of

---

[15] Resolution dated June 5, 2013, CTA Docket, p. 641.
[16] CTA Docket, pp. 590 - 602.
[17] CTA Docket, pp. 604 - 638.

₱16,000,888.15 is attributable or allocable to zero-rated sales of generated power;

7. Whether or not petitioner filed its administrative and judicial claims for refund or tax credit of its unutilized input VAT within the periods prescribed under the Tax Code; and,

8. Whether or not petitioner is entitled to a refund of, or issuance of a TCC for its unutilized input VAT amounting to ₱16,000,888.15, which input VAT: (i) arose from petitioner's domestic purchases of non-capital goods and services, services rendered by non-residents, importation of non-capital goods, and purchases of capital goods; and (ii) are all attributable to petitioner's zero-rated sales of generated power."[18]

The foregoing issues can be summarized into one issue:

"Whether or not petitioner is entitled to a refund of or issuance of a tax credit certificate in the total amount of ₱16,000,888.15, representing its unutilized input Value-Added Tax (VAT) for the 1st to 4th quarters of 2010, which are attributable to its zero-rated sales of generated power to NIA.

THE COURT'S RULING

Section 112 (A) of the 1997 NIRC, as amended, outlines the requirements for refund or tax credit of input tax due or paid which are attributable to the taxpayer's zero-rated sales. The provision reads:

> "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 or properties

[18] Amended Pre-Trial Order dated December 3, 2012, CTA Docket, p. 573.

> 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.
>
> xxx xxx xxx"

Thus, in order to be entitled to a refund or tax credit of unutilized input VAT attributable to zero-rated sales, the following requisites are to be complied with:

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

Timeliness of the filing of the administrative and judicial claims

As preliminary, it is appropriate to first determine the timeliness of the filing of petitioner's administrative and judicial claims. By determining whether or not the claim was timely filed, the Court will determine whether it is still necessary to resolve petitioner's compliance with the other requisites for input VAT refund.

As explicitly stated under Section 112(A) of the 1997 NIRC, as amended, the application for tax credit certificate/refund of unutilized excess input VAT must be filed within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the four taxable quarters of year 2010 which closed on March 31, 2010, June 30, 2010, September 30, 2010 and December 31, 2010. Records show that petitioner's administrative claim for refund was timely filed, *viz.*:

Period /Quarter Covered	Close of Taxable Quarter	Last Day for Filing of Administrative Claim for Refund	Date of Filing of Administrative Claim for Refund
1st Quarter of 2010	March 31, 2010	March 31, 2012	November 9, 2011
2nd Quarter of 2010	June 30, 2010	June 30, 2012	
3rd Quarter of 2010	September 30, 2010	September 30, 2012	
4th Quarter of 2010	December 31, 2010	December 31, 2012	

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

Respondent, in her Memorandum, contends that this Court has no jurisdiction to entertain the Petition for Review because no valid administrative claim was filed with respondent on account of petitioner's failure to submit complete documents in support of its administrative claim for refund. The "complete documents" required by law are allegedly those enumerated under Revenue Memorandum Order No. 53-98.

Records show, however, that petitioner, upon the filing of its administrative claim on November 9, 2011, simultaneously submitted the documents in support thereof. This is evident from the petitioner's letter claim which stated:[19]

> "In support of our request, we enclose the following documents for your perusal:
> 1. Duly accomplished BIR Form No. 1914 – Application for Tax Credits/Refunds;
> 2. SEC certificate of registration and articles of incorporation;

[19] Exhibit "P", CTA Docket, pp. 474-475.

3. BIR certificate of registration;
4. BOI certificate of registration;
5. DOE certificate of accreditation/ERC certificate of compliance;
6. VAT registration payment for the year 2010;
7. Project Agreement between CE Casecnan and NIA;
8. General Information Sheet;
9. Annual income tax return for taxable year ended December 31, 2010 together with the audited financial statements;
10. Quarterly VAT returns for the first to fourth quarters;
11. Schedule of purchases and importations for first to fourth quarters;
12. Schedule of sales for first to fourth quarters;
13. Summary of actual input VAT attributable to sale of power;
14. Zero-rated sales invoices issued to NIA;
15. Zero-rated official receipts issued to NIA;
16. VAT sales invoices issued to NIA;
17. VAT official receipts issued to NIA;
18. Withholding VAT returns for first to fourth quarters;
19. Copy of BIR Authority to print official receipts/sales invoices and use of computerized accounting system;
20. Official receipts/sales invoices issued by local supplier of goods and services;
21. Import entry internal revenue declarations and/or official receipts issued by the Bureau of Customs;
22. Soft copy of the detailed schedule of input VAT on local purchases of goods and services and importations."

Further, in a separate letter[20] filed with the BIR on November 18, 2011, petitioner stated that it was submitting a copy of the certification issued by the Department of Finance that petitioner has not filed a similar claim for refund covering the year 2010. Petitioner likewise informed the BIR that its books of accounts and accounting records were already available for the BIR's audit and verification.

Since the records do not show that a written notice was sent by the BIR informing petitioner that the submitted documents are incomplete nor requiring petitioner to submit additional documents, the 120-day period is reckoned from November 18, 2011, the date when petitioner submitted additional supporting document. This is in accordance with Revenue Memorandum Circular No. 029-09 which states that:

"III. *Period within which Refund a Tax Credit of Input Taxes shall be Made.*

[20] Exhibit "P-2", CTA Docket, p. 478.

> Section 112(C) of the Tax Code of 1997, as amended by Republic Act No. 9337, provides among others, that in proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate (TCC) for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents.** For the purpose of defining "proper cases" in the said provision, the taxpayer/claimant must have complied with the following conditions/requirements upon audit/verification of his/its claim:
>
> a. **Submission of complete documents** necessary to determine and/or ascertain the correctness of the return and the amount to be refunded;
> b. That all books of accounts and accounting records pertaining to the claim are immediately available to the concerned Revenue Office (RO) for audit/verification;
> c. Any discrepancies/findings upon audit/verification shall be reconciled/explained in writing by the taxpayer/claimant within five (5) days from receipt of the notification from the RO; *and*
> d. The taxpayer/claimant has signified his concurrence to the outcome of the audit/verification, which shall be evidenced by an Agreement Form.
>
> **In cases where taxpayer failed to comply with the above conditions/requirements**, i.e., *failure to present accounting books and records for audit/verification, additional documents to explain discrepancies/findings are not submitted, taxpayer refuses or incurs delay in the submission of the Agreement Form*, **the running of the 120-day period shall stop from the date of notification to the taxpayer**. Likewise, the running of the 120-day period shall be suspended in case a question of law arises during the conduct of audit/verification and/or review of the claim for tax refund/credit, and the issue is referred to the Legal Division or the Legal Service, as the case may be, for resolution and issuance of legal opinion, which should be rendered within thirty (30) working days from receipt of the request. (*Emphases added*)"

Thus, pursuant to Section 112(C) of the 1997 NIRC, as amended, petitioner timely filed its appeal by way of a Petition for Review on March 27, 2012, as the same was filed within the 30-day period after the 120-day period ended on March 17, 2012.

<u>Existence of zero-rated sales</u>

The issue of whether or not petitioner's sale of electricity to NIA is zero-rated for VAT purposes is not one of first impression as this

Court had already ruled in the affirmative in previous cases[21] involving the same parties and issues but different taxable years. As in the previous cases, the governing law is Section 108(B)(7) of the 1997 NIRC, as amended by Republic Act (R.A.) No. 9337, and implemented by Section 4.108-5(b)(7) of Revenue Regulations (RR) No. 16-2005, which are all quoted herein below for easy reference:

> "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:
>
> xxx xxx xxx
>
> (7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels."
>
> "**SEC. 4.108-5. *Zero-Rated Sale of Services.-***
>
> xxx xxx xxx
>
> "(b) *Transaction Subject to Zero Percent (0%) VAT Rate.-* The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) VAT rate:
>
> xxx xxx xxx
>
> "(7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels. *Provided, however,* That zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power."

Corollary to the above provisions, Section 4.108-3(f) of RR No. 16-2005 states:

---

[21] CE Casecnan Water and Energy Company, Inc. vs. Commissioner of Internal Revenue, CTA Case Nos. 8041 and 8111, September 11, 2012; CE Casecnan Water and Energy Company, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 8245, May 10, 2013.

"**SEC. 4.108-3.** ***Definition and Specific Rates on Selected Services.-***

xxx xxx xxx

(f) Sale of electricity by generation, transmission, and distribution companies shall be subject to 10% *[now 12%]* VAT on their gross receipts: *Provided,* That sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels shall be subject to 0% VAT.

"*Generation companies"* refers to persons or entities authorized by the Energy Regulatory Commission (ERC) to operate facilities used in the generation of electricity. For this purpose, generation of electricity refers to the production of electricity by a generation company or a co-generation facility pursuant to the provisions of the R.A. No. 9136 (EPIRA). They shall include all Independent Power Producers (IPPs) and NPC/Power Sector Assets and Liabilities Management Corporation (PSALM)-owned generation facilities."

In this case, petitioner operates a multipurpose irrigation and power plant project, as is stated in its Amended Articles of Incorporation.[22] Its business is duly accredited and certified as a Private Sector Generation Facility[23] and the same is compliant as a Hydroelectric Generation Facility.[24] Thus, petitioner, being a generation company, is entitled for VAT zero-rating on its sale of generated energy from renewable sources. Clearly, from the foregoing, the sale of power generated through renewable sources of energy is subject to zero percent (0%) VAT.

For the four taxable quarters of 2010, petitioner derived receipts from sales of power generation services to NIA in the amount of ₱2,299,849,402.56, as declared in petitioner's Quarterly VAT Returns for the same period and evidenced by sales invoices and official receipts[25] which were summarized in its Schedule of Revenues[26] and Amended Summary List of Sales,[27] as follows:

OM

---

[22] Exhibit "A", CTA Docket, p. 342.
[23] Exhibit "B".
[24] Exhibit "C".
[25] Exhibits "BB-1" to "BB-4".
[26] Exhibits "AA-1" to "AA-4".
[27] Exhibits "Z-1" to "Z-4".

Exhibit	Quarterly VAT Returns Year 2010	Zero-Rated Sales/Receipts
G[28] / Y-1	1st Quarter	₱ 416,955,000.00
H[29] / Y-2	2nd Quarter	414,019,636.80
I[30] / Y-3	3rd Quarter	410,683,996.80
J[31] / Y-4	4th Quarter	1,058,190,768.96
Total		**₱2,299,849,402.56**

REFERENCE	ZERO-RATED OR NUMBER	OR DATE	OR SALES AMOUNT (USD)	OR SALES AMOUNT CONVERTED TO PESOS[32]
1ST QUARTER				
Exhibit BB-1, Pages 1 - 2	0598	02-Feb-10	$3,032,400.00	₱ 140,551,740.00
Exhibit BB-1, Pages 3 - 4	0599	25-Feb-10	3,032,400.00	138,883,920.00
Exhibit BB-1, Pages 5 - 6	0600	26-Mar-10	3,032,400.00	137,519,340.00
Subtotal - 1st Quarter			***$9,097,200.00***	***₱ 416,955,000.00***
2ND QUARTER				
Exhibit BB-2, Pages 1 - 2	0601	26-Apr-10	$3,032,400.00	₱ 133,728,840.00
Exhibit BB-2, Pages 3 - 4	0602	25-May-10	3,032,400.00	140,400,120.00
Exhibit BB-2, Pages 5 - 6	0603	25-Jun-10	3,032,400.00	139,890,676.80
Subtotal – 2nd Quarter			***$9,097,200.00***	***₱ 414,019,636.80***
3RD QUARTER				
Exhibit BB-3, Pages 1 - 2	0604	27-Jul-10	$3,032,400.00	₱ 140,139,333.60
Exhibit BB-3, Pages 3 - 4	0605	25-Aug-10	3,032,400.00	137,573,923.20
Exhibit BB-3, Pages 5 - 6	0606	27-Sep-10	3,032,400.00	132,970,740.00
Subtotal – 3rd Quarter			***$9,097,200.00***	***₱ 410,683,996.80***
4TH QUARTER				
Exhibit BB-4, Pages 1 - 2	0607	26-Oct-10	$3,032,400.00	₱ 130,544,820.00
Exhibit BB-4, Pages 4 - 5	0609	27-Oct-10	3,409,709.25	146,787,983.21
Exhibit BB-4, Pages 6 - 7	0610	26-Nov-10	3,032,400.00	132,970,740.00
Exhibit BB-4, Pages 8 - 9	0611	26-Nov-10	3,200,582.88	140,345,559.29

om

[28] CTA Docket, pp. 457-458.
[29] CTA Docket, pp. 459-460.
[30] CTA Docket, pp. 461-462.
[31] CTA Docket, pp. 463-464.
[32] Exhibits "AA-1" to "AA-4", Schedule of Revenues.

Exhibit BB-4, Pages 10 - 11	0612	28-Dec-10	3,032,400.00	132,819,120.00
Exhibit BB-4, Pages 12 - 13	0613	28-Dec-10	8,555,309.28	374,722,546.46
Subtotal – 4th Quarter			***$ 24,262,801.41***	***₱ 1,058,190,768.96***
Total zero-rated sales per zero-rated VAT ORs			**$51,554,401.41**	**₱2,299,849,402.56**

The aforestated receipts/collections from petitioner's sales of electricity generated through a renewable source of energy, particularly, hydropower, qualify for VAT zero-rating, as was discussed above.

<u>Input VAT paid or incurred which are attributable to zero-rated sales</u>

Having resolved that petitioner had VAT zero-rated sales for the four taxable quarters of 2010 in the amount of ₱2,299,849,402.56, the Court shall now determine the amount of unutilized excess input VAT attributable thereto.

For the four quarters of 2010, petitioner reported a total amount of ₱35,755,632.06 input VAT arising from its amortization of input VAT on capital goods exceeding ₱1 million, domestic and importation of non-capital goods, domestic purchase of services, services rendered by non-residents, detailed as follows:

Year 2010	**1st Quarter**	**2nd Quarter**
Exhibit	**G / Y-1**	**H / Y-2**
Input Tax Deferred on Capital Goods Exceeding ₱1Million from Previous Quarter	₱ 782,405.53	₱ 1,153,340.07
Add: Input Tax on Capital Goods exceeding ₱1Million Purchased this quarter	452,083.16	138,196.93
Total Unamortized Input Tax on Capital Goods exceeding ₱1Million	1,234,488.69	1,291,537.00
Less: Input Tax on Purchases of Capital Goods exceeding ₱1Million deferred for the succeeding period	1,153,340.07	1,185,288.93
Amortization of Input Tax on Capital Goods exceeding ₱1Million	₱ 81,148.62	₱ 106,248.07
Add: Input Tax on		
Domestic Purchases of Goods Other than Capital Goods	996,457.39	422,930.02
Importation of Goods other than Capital Goods	133,862.73	69,321.00
Domestic Purchase of Services	7,122,037.34	8,034,364.90
Services rendered by non-residents	227,922.15	14,928.48
Total Input VAT	**₱ 8,561,428.23**	**₱ 8,647,792.47**

ѻ

	3rd Quarter	4th Quarter	Total
Exhibit	I / Y-3	J / Y-4	
Input Tax Deferred on Capital Goods Exceeding ₱1Million from Previous Quarter	₱ 1,185,288.93	₱ 1,311,563.78	₱ 782,405.53
Add: Input Tax on Capital Goods exceeding ₱1Million Purchased this quarter	255,076.63	348,471.99	1,193,828.71
Total Unamortized Input Tax on Capital Goods exceeding ₱1Million	1,440,365.56	1,660,035.77	1,976,234.24
Less: Input Tax on Purchases of Capital Goods exceeding ₱1Million deferred for the succeeding period	1,311,563.78	1,513,220.32	1,513,220.32
Amortization of Input Tax on Capital Goods exceeding ₱1Million	₱ 128,801.78	₱ 146,815.45	₱ 463,013.92
Add: Input Tax on			
Domestic Purchases of Goods Other than Capital Goods	472,648.44	692,091.65	2,584,127.50
Importation of Goods other than Capital Goods	487,071.00	142,786.00	833,040.73
Domestic Purchase of Services	10,405,771.27	6,070,425.77	31,632,599.28
Services rendered by non-residents	-	-	242,850.63
Total Input VAT	**₱ 11,494,292.49**	**₱ 7,052,118.88**	**₱35,755,632.06**

Out of the reported input VAT of ₱35,755,632.06, petitioner is claiming refund in the amount of ₱16,000,888.15,[33] computed as follows:

Year 2010	Input Tax	Ratio of Zero-rated Sales over Total Sales	Input Vat attributable to zero-rated sales
1st Quarter	₱ 8,561,428.23	36.63%	₱ 3,136,173.30
2nd Quarter	8,647,792.47	41.33%	3,573,741.67
3rd Quarter	11,494,292.49	41.31%	4,748,771.63
4th Quarter	7,052,118.88	65.28%	4,603,801.50
Total	**₱ 35,755,632.06**		**₱ 16,062,488.10**
Less: Input VAT applied to Miscellaneous Sales			(61,599.93)
Less: rounding-off difference			(0.02)
Total Input VAT claimed for refund/TCC			**₱ 16,000,888.15**

Petitioner submitted various suppliers' sales invoices,[34] official receipts,[35] Bureau of Customs (BOC) Import Entries and Internal

[33] Exhibit "U", A26, CTA Docket, p. 492.

[34] Exhibits "SS-1Q" to "SS-4Q", "UU-1Q" to "UU-4Q", "WW-1Q" to "WW-4Q", "CCC-1Q" to "CCC-4Q", "DDD-1Q" to "DDD-4Q", "EEE-1Q" to "EEE-2Q", "FFF-3Q" to "FFF-4Q", "GGG-1Q" to "GGG-2Q", "HHH-1Q", "HHH-3Q", "III-1Q", "JJJ-1Q", "JJJ-2Q", "JJJ-4Q", "KKK-1Q", "KKK-3Q", "KKK-4Q", "UUU-3Q", "UUU-4Q", "VVV-1Q", "VVV-2Q", "WWW-1Q", "YYY-2Q" and "ZZZ-3Q".

Revenue Declarations (IEIRDs), BOC official receipts,[36] BIR Form No. 1600 with BIR EFPS filing acknowledgement and payment confirmation receipts,[37] Single Administrative Documents, Statement of Settlement of Duties and Taxes, Certifications from Authorized Agent Bank,[38] cash or collector's receipt,[39] tape receipt,[40] and other documents[41] in support of the ₱35,755,632.06 input taxes reflected in its Quarterly VAT Returns for the four quarters of 2010. Upon verification of the aforesaid documents, the Court-commissioned independent CPA, Mr. Protacio T. Tacandong, of Reyes Tacandong & Co., found that out of petitioner's reported input VAT of ₱35,755,632.06, only the amount of ₱35,162,953.78 is properly substantiated, detailed as follows:[42]

		Exhibit "V"	Amount	Total
1.	Input VAT on domestic purchases of goods supported by original TIN VAT Invoices with BIR registration, dated within the period January to December 2010, issued in the name of the Company	*Annex E-1Q, Pages 10 to 30*	₱ 979,381.54	
		Annex E-2Q, Pages 31 to 44	408,753.36	
		Annex E-3Q, Pages 45 to 59	454,006.69	
		Annex E-4Q, Pages 60 to 79	674,850.79	₱2,516,992.38
2.	Input VAT on domestic purchases of services supported by original TIN VAT Official Receipts (ORs) with BIR registration, dated within the period January to December 2010, issued in the name of the Company	*Annex F-1Q, Pages 80 to 99*	6,987,185.04	
		Annex F-2Q, Pages 100 to 128	7,989,195.24	
		Annex F-3Q, Pages 129 to 158	10,297,676.37	
		Annex F-4Q, Pages 159 to 189	5,973,991.52	31,248,048.17
3.	Input VAT on domestic purchases of goods amounting	*Annex G-1Q, Page 190*	144.65	

[35] Exhibits "TT-1Q" to "TT-4Q", "VV-1Q" to "VV-4Q", "LLL-1Q" to "LLL-4Q", "MMM-1Q" to "MMM-4Q", "NNN-2Q" to "NNN-4Q", "OOO-1Q", "OOO-3Q", "OOO-4Q", "PPP-2Q" to "PPP-4Q", "QQQ-1Q", "RRR-1Q" to "RRR-4Q", "SSS-1Q" to "SSS-4Q", "CCCC-1Q", "CCCC-3Q", "CCCC-4Q", "DDDD-1Q", "DDDD-3Q", "EEEE-1Q", "FFFF-1Q" to "FFFF-4Q", "HHHH-4Q", "IIII-1Q" to "IIII-4Q", "JJJJ-1Q" and "LLLL-2Q".
[36] Exhibits "XX-1Q" to "XX-4Q", "ZZ-1Q", "NNNN-1Q", "NNNN-3Q", "NNNN-4Q" and "PPPP-2Q".
[37] Exhibits "AAA-1Q" to "AAA-2Q".
[38] Exhibits "YY-2Q" to "YY-4Q", "OOOO-3Q" and "OOOO-4Q".
[39] Exhibits "BBB-2Q" to "BBB-4Q".
[40] Exhibits "XXX-1Q" to "XXX-4Q", "AAAA-1Q" to "AAAA-4Q", "GGGG-1Q" to "GGGG-4Q" and "KKKK- 1Q" to "KKKK-4Q".
[41] Exhibits "TTT-1Q" to "TTT-4Q", "BBBB-1Q" to "BBBB-4Q", "MMMM-3Q" and "MMMM-4Q".
[42] Exhibit "V", pp. 10-12.

		Exhibit "V"	Amount	Total
	to less than ₱1,000 supported by original TIN VAT Invoices with BIR registration, dated within the period January to December 2010, issued in the name of the Company	*Annex G-2Q, Page 191*	48.22	
		Annex G-3Q, Page 192	183.27	
		Annex G-4Q, Page 193	101.95	478.09
4.	Input VAT on domestic purchases of services amounting to less than ₱1,000 supported by original TIN VAT ORs with BIR registration, dated within the period January to December 2010, issued in the name of the Company	*Annex H-1Q, Pages 194 to 195*	493.05	
		Annex H-2Q, Pages 196 to 197	520.12	
		Annex H-3Q, Pages 198 to 199	355.05	
		Annex H-4Q, Page 200	133.17	1,501.39
5.	Input VAT on purchase of capital goods exceeding ₱1 million supported by original TIN VAT Invoices with BIR registration issued in the name of the Company duly amortized	*Annex I-1Q, Page 201*	67,916.49	
		Annex I-2Q, Pages 202 to 203	93,015.94	
		Annex I-3Q, Pages 204 to 205	115,569.65	
		Annex I-4Q, Pages 206 to 207	133,583.31	410,085.39
6.	Input VAT on importation of goods supported by original Import Entry Internal Revenue Declarations (IEIRDs) with machine validation and/or original Bureau of Customs (BOC) ORs and/or original Bank ORs dated within the period January to December 2010	*Annex J-1Q, Page 208*	16,485.50	
		Annex J-2Q, Page 209	5,885.00	
		Annex J-3Q, Page 210	177,195.00	
		Annex J-4Q, Page 211	12,354.00	211,919.50
7.	Input VAT on importation of goods supported by Single Administrative Documents (SADs), Statement of Settlement of Duties and Taxes (SSDTs) and Certifications from Authorized Agent Bank (AAB). Printing of SADs and SSDTs from VASP verified.	*Annex K-2Q, Page 212*	57,783.00	
		Annex K-3Q, Page 213	257,351.00	
		Annex K-4Q, Page 214	111,517.00	426,651.00
8.	Input VAT on importation of goods supported by original BOC ORs dated July to September 2010 but claimed as input VAT within the period January to March 2010	*Annex L-1Q, Page 215*	101,043.02	101,043.02
9.	Input VAT on services rendered by non-residents supported by e-filed BIR Form No. 1600 and payment confirmation from the BIR	*Annex M-1Q, Page 216*	227,922.15	
		Annex M-2Q, Page 217	14,928.48	242,850.63
10.	Input VAT on domestic purchase of services supported by TIN	*Annex N-2Q, Page 218*	2,625.00	

om

		Exhibit "V"	Amount	Total
	VAT Cash or Collector's Receipt with BIR registration, dated within the period January to December 2010, issued in the name of the Company and containing all the required information	*Annex N-4Q, Page 219*	759.21	3,384.21
Total Input VAT Properly Substantiated			**₱35,162,953.78**	**₱35,162,953.78**

As regards the remaining input VAT in the amounts of ₱52,928.52 and ₱539,748.28 (in the sum on ₱592,678.80), the ICPA noted the following findings[43]:

"We also noted that there are amortizations of input VAT claimed by the Company on purchase of capital goods which we did not include in the Total Input VAT Properly Substantiated in the tables above. These amounted to ₱52,928.52 as shown below:

Nature		Exhibit "V"	Amount	Total
1.	Input VAT on purchase of capital goods supported by TIN # Invoice with notarized certification from supplier that VAT paid by the Company was already remitted to the BIR	*Annex O-1Q, Page 220*	₱13,232.13	
		Annex O-2Q, Page 221	13,232.13	
		Annex O-3Q, Page 222	13,232.13	
		Annex O-4Q, Page 223	13,232.13	52,928.52
Total			**₱52,928.52**	**₱52,928.52**

Based on our review, the said amortizations of input VAT pertain to one (1) transaction only, which was supported with a TIN invoice with BIR Authority to Print (ATP) dated February 8, 1996 on the face of the invoice. We noted that the Company obtained a notarized certification (Exhibits CCC-1Q to CCC-4Q) from the related supplier that the VAT paid by the Company was remitted by the supplier to the BIR.

Other Exceptions:

Nature		Exhibit "V"	Amount	Total
1.	Input VAT on domestic purchase of goods supported by a TIN VAT invoice with name of the Company written/stamped/altered without countersignature or with countersignature but without letter from supplier	*Annex P-1Q, Pages 224 to 225*	₱ 1,259.60	
		Annex P-2Q, Page 226	497.93	
		Annex P-3Q, Page 227	185.95	
		Annex P-4Q, Pages 228 to 229	1,835.92	3,779.40
2.	Input VAT on domestic purchase of goods supported	*Annex Q-1Q, Page 230*	337.61	

---
[43] Exhibit "V", pp. 12-20.

	Nature	Exhibit "V"	Amount	Total
	by a TIN VAT invoice but the name of the Company was misspelled	*Annex Q-2Q, Page 231*	318.71	656.32
3.	Input VAT on domestic purchase of goods supported by a TIN VAT Invoice issued in the name of the Company but without the Company's TIN and/or address	*Annex R-3Q, Page 232*	376.42	
		Annex R-4Q, Page 233	376.42	752.84
4.	Input VAT on domestic purchase of goods supported by a TIN VAT Invoice issued in the name of the Company but with the Company's TIN and/or address stamped/ added/altered without countersignature or with countersignature but without letter from supplier	*Annex S-1Q, Page 234*	1,655.52	
		Annex S-2Q, Page 235	214.29	1,869.81
5.	Input VAT on domestic purchase of goods supported by a TIN VAT Invoice issued in the name of the Company but with misstatement in the Company's TIN and/or address	*Annex T-1Q, Page 236*	1,152.38	
		Annex T-3Q, Page 237	2,071.41	3,223.79
6.	Input VAT on domestic purchase of goods supported by a TIN VAT invoice with alteration in date without countersignature or with countersignature but without letter from supplier	*Annex U-1Q, Page 238*	49.29	49.29
7.	Input VAT on domestic purchase of goods supported by a TIN VAT invoice with alteration in the amount of VAT separately indicated without countersignature or with countersignature but without letter from supplier	*Annex V-1Q, Page 239*	1,001.79	
		Annex V-2Q, Page 240	160.71	
		Annex V-4Q Page 241	179.46	1,341.96
8.	Input VAT on domestic purchase of goods supported by a TIN VAT invoice issued in the name of the Company where VAT was not separately indicated	*Annex W-1Q, Page 242*	23.57	
		Annex W-3Q, Page 243	10.23	
		Annex W-4Q, Page 244	139.28	173.08
9.	Input VAT on domestic purchase of services supported by a TIN VAT OR with the name of the Company written/stamped/altered without countersignature or with countersignature but without letter from supplier	*Annex X-1Q, Pages 245 to 246*	1,384.66	
		Annex X-2Q, Pages 247 to 248	1,154.11	
		Annex X-3Q, Page 249	641.95	
		Annex X-4Q, Page 250	177.97	3,358.69
10.	Input VAT on domestic purchase of services supported by a TIN VAT OR but the name of the Company was	*Annex Y-1Q, Page 251*	75.00	
		Annex Y-2Q, Page 252	140.36	

om

	Nature	Exhibit "V"	Amount	Total
	misspelled	*Annex Y-3Q, Page 253*	114.26	
		Annex Y-4Q, Page 254	909.70	1,239.32
11.	Input VAT on domestic purchase of services supported by a TIN VAT OR issued in the name of the Company but without the Company's TIN and/or address	*Annex Z-2Q, Page 255*	1,058.21	
		Annex Z-3Q, Page 256	120.00	
		Annex Z-4Q, Page 257	2,943.29	4,121.50
12.	Input VAT on domestic purchase of goods supported by a TIN VAT OR issued in the name of the Company but with the Company's TIN and/or address stamped/ added/altered without countersignature or with countersignature but without letter from supplier	*Annex AA-1Q, Page 258*	789.11	
		Annex AA-3Q, Page 259	612.75	
		Annex AA-4Q, Page 260	1,417.50	2,819.36
13.	Input VAT on domestic purchase of services supported by a TIN VAT OR issued in the name of the Company but with misstatement in the Company's TIN and/or address	*Annex BB-2Q, Page 261*	430.73	
		AnnexBB-3Q, Page 262	321.64	
		Annex BB-4Q, Page 263	149.57	901.94
14.	Input VAT on domestic purchase of services supported by a TIN VAT OR with alteration in date without countersignature or with countersignature but without letter from supplier	*Annex CC-1Q, Page 264*	28.71	28.71
15.	Input VAT on domestic purchase of services supported by a TIN VAT OR with alteration in the amount of VAT separately indicated without countersignature or with countersignature but without letter from supplier	*Annex DD-1Q, Page 265*	782.67	
		Annex DD-2Q, Page 266	193.29	
		Annex DD-3Q, Page 267	180.00	
		Annex DD-4Q, Page 268	117.43	1,273.39
16.	Input VAT on domestic purchase of services supported by a TIN VAT OR issued in the name of the Company where VAT was not separately indicated	*Annex EE-1Q, Page 269*	123.22	
		Annex EE-2Q, Page 270	36.96	
		Annex EE-3Q, Page 271	50.57	
		Annex EE-4Q, Pages 272 to 273	1,059.76	1,270.51
17.	Input VAT on domestic purchase of goods supported by documents other than a TIN VAT invoice	*Annex FF-1Q, Page 274*	552.82	
		Annex FF-2Q, Pages 275 to 278	4,868.17	
		Annex FF-3Q, Pages 279 to 281	9,148.28	

om

	Nature	Exhibit "V"	Amount	Total
		Annex FF-4Q, Pages 282 to 284	4,199.49	18,768.76
18.	Input VAT on domestic purchase of goods supported only by a photocopy of the TIN VAT invoice	*Annex GG-3Q, Page 285*	1,167.86	
		Annex GG-4Q, Page 286	128.57	1,296.43
19.	Input VAT on domestic purchase of goods supported by TIN VAT invoice in the name of Cal / Cal Energy	*Annex HH-1Q, Page 287*	14.20	
		Annex HH-2Q, Page 288	28.40	42.60
20.	Input VAT on domestic purchases of goods supported by TIN Non VAT invoice	*Annex II-1Q, Page 289*	621.43	621.43
21.	Input VAT on domestic purchases of goods supported by tape receipt with the name of the Company written/stamped/altered without countersignature or with countersignature but without letter from supplier	*Annex JJ-1Q, Pages 290 to 302*	7,233.19	
		Annex JJ-2Q, Pages 303 to 315	4,556.49	
		Annex JJ-3Q, Pages 316 to 333	3,582.22	
		Annex JJ-4Q, Pages 334 to 346	7,381.43	22,753.33
22.	Input VAT on domestic purchase of goods supported by a TIN VAT invoice that is not BIR-registered	*Annex KK-2Q, Page 347*	85.71	85.71
23.	Input VAT on domestic purchase of goods supported by a TIN VAT invoice but without invoice date	*Annex LL-3Q, Page 348*	1,538.04	1,538.04
24.	Input VAT on domestic purchase of goods supported by tape receipt with TIN # only; TIN-V; TIN-V/NV; TIN VAT/NV; or no TIN tape receipt	*Annex MM-1Q, Pages 349 to 350*	3,011.92	
		Annex MM-2Q, Pages 351 to 352	3,018.71	
		Annex MM-3Q, Page 353	272.65	
		Annex MM-4Q, Pages 354 to 355	1,509.09	7,812.37
25.	Input VAT on domestic purchases of services supported by documents other than a TIN VAT OR	*Annex NN-1Q, Pages 356 to 357*	706.54	
		Annex NN-2Q, Pages 358 to 359	746.69	
		Annex NN-3Q, Page 360	71.16	
		Annex NN-4Q, Pages 361 to 362	4,437.60	5,961.99
26.	Input VAT on domestic purchases of services	*Annex OO-1Q, Page 363*	42.86	

om

	Nature	Exhibit "V"	Amount	Total
	supported only by a photocopy of the TIN VAT OR	*Annex OO-3Q, Page 364*	204.42	
		Annex OO-4Q, Page 365	91.02	338.30
27.	Input VAT on domestic purchase of services supported by a TIN VAT OR not issued in the name of the Company or without the name of the Company	*Annex PP-1Q, Page 366*	120.24	
		Annex PP-3Q, Page 367	25.17	145.41
28.	Input VAT on domestic purchases of services supported by a TIN VAT OR in the name of Cal / Cal Energy	*Annex QQ-1Q, Page 368*	24,895.67	24,895.67
29.	Input VAT on domestic purchases of services supported by an official receipt with TIN # only; or a TIN Non VAT OR	*Annex RR-1Q, Pages 369 to 372*	100,811.28	
		Annex RR-2Q, Pages 373 to 374	24,330.42	
		Annex RR-3Q, Pages 375 to 377	98,092.52	
		Annex RR-4Q, Page 378	74,525.95	297,760.17
30.	Input VAT on domestic purchase of services supported by tape receipt without the Company's name or the Company's name is written/stamped/altered without countersignature or with countersignature but without letter from supplier	*Annex SS-1Q, Pages 379 to 392*	2,814.44	
		Annex SS-2Q, Pages 393 to 410	2,958.69	
		Annex SS-3Q, Pages 411 to 424	3,221.31	
		Annex SS-4Q, Pages 425 to 436	2,253.28	11,247.72
31.	Input VAT on domestic purchase of services supported by a TIN VAT OR that is not BIR-registered	*Annex TT-4Q, Page 437*	212.68	212.68
32.	Input VAT on domestic purchases of services supported with TIN VAT OR but without OR date	*Annex UU-1Q, Page 438*	66.59	
		Annex UU-2Q, Page 439	91.24	
		Annex UU-3Q, Page 440	75.85	
		Annex UU-4Q, Page 441	104.19	337.87
33.	Input VAT on domestic purchases of services supported by a TIN VAT OR but not dated within the VAT taxable year (i.e., dated 2009 and 2011)	*Annex VV-1Q, Page 442*	111.54	111.54
34.	Input VAT on domestic purchases of services supported by tape receipts with	*Annex WW-1Q, Pages 443 to 444*	312.26	

om

	Nature	Exhibit "V"	Amount	Total
	TIN # only; TIN-V; TIN-VAT/NV	*Annex WW-2Q, Pages 445 to 447*	423.81	
		Annex WW-3Q, Pages 448 to 449	722.68	
		Annex WW-4Q, Pages 450 to 452	403.38	1,862.13
35.	Input VAT on domestic purchase of services supported by a VAT OR printed with "not allowed for claiming Input VAT" (or similar wordings)	*Annex XX-2Q, Page 453*	366.00	366.00
36.	Input VAT on domestic purchase of services supported by a TIN VAT document stamped with "Official Receipt"	*Annex YY-3Q, Page 454*	126.96	
		Annex YY-4Q, Page 455	98.89	225.85
37.	Input VAT on importation of goods supported by photocopies of BOC ORs only	*Annex ZZ-1Q, Page 456*	1,492.00	
		Annex ZZ-3Q, Page 457	3,697.00	
		Annex ZZ-4Q, Page 458	2,166.00	7,355.00
38.	Input VAT on importation of goods supported by photocopies of SADs and/or photocopies of IEIRDs, and Certifications from Authorized Agent Bank (AAB)	*Annex AAA-3Q, Page 459*	48,828.00	
		Annex AAA-4Q, Page 460	16,440.00	65,268.00
39.	Input VAT on importation of goods supported by original BOC OR not in the name of the Company	*Annex BBB-2Q, Page 461*	1,508.00	1,508.00
40.	Overclaimed portion of Input VAT arising from erroneous computation of Input VAT on domestic purchases of goods (e.g., arithmetical error, rounding differences)	*Annex CCC-1Q, Pages 462 to 465*	19.04	
		Annex CCC-2Q, Pages 466 to 469	0.78	
		Annex CCC-3Q, Pages 470 to 474	6.62	
		Annex CCC-4Q, Pages 475 to 480	6.49	32.93
41.	Overclaimed portion of Input VAT arising from erroneous computation of Input VAT on domestic purchases of services (e.g., arithmetical error, rounding differences)	*Annex DDD-1Q, Pages 481 to 484*	152.95	
		Annex DDD-2Q, Pages 485 to 491	4,805.55	
		Annex DDD-3Q,	12.52	

om

	Nature	Exhibit "V"	Amount	Total
		Pages 492 to 494		
		Annex DDD-4Q, Pages 495 to 497	3.06	4,974.08
42.	Overclaimed portion of Input VAT arising from discrepancy in the amount of VAT per supporting original copy of IEIRD and/or BOC OR and/or SAD and/or SSDT and the amount claimed by the Company	*Annex EEE-1Q, Page 498*	0.21	
		Annex EEE-4Q, Page 499	309.00	309.21
43.	Overclaimed portion of Input VAT arising from foreign exchange (forex) rate used in foreign currency denominated purchases of services	*Annex FFF-1Q, Pages 500 to 501*	197.49	
		Annex FFF-2Q, Pages 502 to 503	3,396.16	
		Annex FFF-3Q, Pages 504 to 507	2,459.41	
		Annex FFF-4Q, Pages 508 to 509	0.59	6,053.65
44.	Input VAT on domestic purchases of goods and services where supporting documents were not available for verification	*Annex GGG-1Q, Page 510*	938.03	
		Annex GGG-2Q, Pages 511 to 512	2,270.86	
		Annex GGG-3Q, Pages 513 to 514	787.33	
		Annex GGG-4Q, Pages 515 to 516	8,020.28	12,016.50
45.	Input VAT on importation of goods where supporting documents were not available for verification	*Annex HHH-1Q, Page 517*	14,842.00	
		Annex HHH-2Q, Page 518	4,145.00	18,987.00
Total			**₱ 539,748.28**	**₱ 539,748.28**

Upon review and scrutiny, the Court finds the above findings of the ICPA in order. The input taxes of ₱592,678.80 should be disallowed because either the supporting invoices or official receipts did not meet the substantiation requirements under Sections 110(A), 113, 237 and 238 of the 1997 NIRC, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of RR No. 16-2005, as amended, or it cannot be ascertained whether the alteration in the supporting invoice or official receipt was made by the authorized representative of the petitioner's supplier.

It is to be noted that there is a minor discrepancy of ₱1.48 between the ₱35,755,630.58 input VAT verified by the ICPA and the ₱35,755,632.06 input VAT declared by petitioner in its 2010 Quarterly VAT Returns due to rounding-off differences.[44]

Therefore, out of petitioner's claimed input VAT for taxable year 2010 in the amount of ₱35,755,632.06, only the amount of ₱35,162,953.78 as summarized by the ICPA in his report dated August 21, 2012,[45] represents petitioner's valid input VAT, broken down as follows:

Quarter	Total Input VAT
1st Quarter	₱ 8,380,571.44
2nd Quarter	8,572,754.36
3rd Quarter	11,302,337.03
4th Quarter	6,907,290.95
Total	**₱35,162,953.78**

Input VAT payments which are not directly attributable to petitioner's zero-rated sales.

Since petitioner had VATable sales to government and private entities for the year 2010, the substantiated input VAT of ₱35,162,953.78 is not entirely attributable to petitioner's zero-rated sales. Allocating, therefore, the substantiated input VAT of ₱35,162,953.78 among petitioner's zero-rated sales, VATable sales to government and VATable sales to private entities would result in the following input VAT attributable to VATable sales to private entities in the amount of ₱5,102.66, input VAT attributable to VATable sales to government in the amount of ₱19,366,475.43 and input VAT attributable to zero-rated sales in the amount of ₱15,791,375.69, as shown below:

---

[44] Exhibit "V", p. 22 and Annex III.
[45] Exhibit "V", pp. 10-12.

Year 2010	Input VAT Attributable to 12% VATable Sales to Private	Input VAT Attributable to 12% VATable Sales to Government	Input VAT Attributable to Zero-Rated Sales	Total
1st Quarter	₱ 1,891.96	₱ 5,308,756.60	₱ 3,069,922.88	₱ 8,380,571.44
2nd Quarter	-	5,030,022.55	3,542,731.81	8,572,754.36
3rd Quarter	3,092.76	6,629,777.45	4,669,466.83	11,302,337.03
4th Quarter	117.95	2,397,918.83	4,509,254.17	6,907,290.95
Total	**₱ 5,102.66**	**₱ 19,366,475.43**	**₱ 15,791,375.69**	**₱ 35,162,953.78**
Allocation was based on the percentage of each type of sales to total sales as shown below:				
Year 2010	**12% VATable Sales to Private**	**12% VATable Sales to Government**	**Zero-Rated Sales**	**Total**
1st Quarter (*Exh. G/ Y-1*)	₱ 256,964.29	721,031,991.21	416,955,000.00	₱1,138,243,955.50
% to Total Sales	0.0225755%	63.3459978%	36.6314267%	100.00%
2nd Quarter (*Exh. H/Y-2*)	₱ -	587,831,149.18	414,019,636.80	₱1,001,850,785.98
% to Total Sales	0.0000000%	58.6745209%	41.3254791%	100.00%
3rd Quarter (*Exh. I/Y-3)*	₱ 272,010.77	583,095,158.61	410,683,996.80	₱ 994,051,166.18
% to Total Sales	0.0273639%	58.6584653%	41.3141708%	100.00%
4th Quarter (*Exh. J/Y-4)*	₱ 27,678.57	562,721,788.28	1,058,190,768.96	₱1,620,940,235.81
% to Total Sales	0.0017076%	34.7157641%	65.2825283%	100.00%

Output VAT liability of petitioner against which its input VAT should be applied

After deducting the input tax of ₱5,102.66 which is attributable to petitioner's VATable sales to private entities from its output VAT liability of ₱66,798.43,[46] petitioner still has a net amount of output VAT payable for 2010 in the amount of ₱61,695.77, computed as follows:

Output VAT Due	₱ 66,798.43
Less: Input VAT	5,102.66
Net Output VAT Payable	**₱ 61,695.77**

on

[46] Sum of ₱30,835.71 (Exhibit G/Y-1), ₱32,641.29 (Exhibit I/Y-3) and ₱3,321.43 (Exhibit J/Y-4).

Thus, by deducting the net amount of output VAT payable of ₱61,695.77 from petitioner's total input VAT attributable to zero-rated sales of ₱15,791,375.69, a refundable amount of ₱15,729,679.92 is in order:

Input VAT Attributable to Zero-Rated Sales	₱ 15,791,375.69
Less: Net Output VAT Payable	61,695.77
Net Amount Refundable	**₱ 15,729,679.92**

Input VAT was not applied against any output VAT liability in the succeeding quarters

Although the claimed input VAT was carried-over by petitioner in its succeeding amended Quarterly VAT Returns for the year 2011,[47] the same remained unutilized until it was deducted as **"Any VAT Refund/TCC Claimed"**[48] in its Quarterly VAT Return for the fourth quarter of 2011. Thus, the excess input VAT of ₱17,829,989.25[49] as of the end of the fourth quarter of 2011 which was carried-over to the succeeding first quarter of 2012[50] no longer included the subject claim.

In fine, petitioner has sufficiently proven its entitlement to a refund or issuance of a tax credit certificate in the amount of ₱15,729,679.92 representing its unutilized input VAT incurred for the four quarters of taxable year 2010 which are attributable to its zero-rated sales of generated power to NIA.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of ₱15,729,679.92, representing its unutilized input VAT incurred for the four quarters of taxable year 2010 which are attributable to its zero-rated sales of generated power to NIA.

[47] Exhibits "K", "L", "M" & "N", CTA Docket, pp. 465-472; and Exhibits "PP-1" to "PP-4".
[48] Exhibit "N", line 23D, CTA Docket, p. 471 and Exhibit "PP-4", line 23D.
[49] Exhibit "N", line 29, CTA Docket, pp. 471-472.
[50] Exhibit "RR", line 20A.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

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

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice