Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

CBK POWER COMPANY LIMITED,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case Nos. 8043 & 8116
(CTA EB No. 759)

Members:
CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

OCT 28 2016

4:30 p.m.

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DECISION

CASANOVA, *J.*:

Submitted for decision are the consolidated Petitions for Review docketed as CTA Case Nos. 8043[1] and 8116[2], pursuant to Resolutions dated June 26, 2013[3] and December 18, 2013[4] of the Court of Tax Appeals, *En Banc* (CTA *En Banc*) in CTA EB Case No. 759, which were later on affirmed by the Supreme Court Second Division in its Notice of Resolution[5] dated March 26, 2014 in G.R. No. 210529.

The consolidated Petitions pray for the issuance of tax credit certificate in the aggregate amount ₱61,503,335.47, broken down as follows: (1) ₱14,078,028.68[6] and (2) ₱47,425,306.79[7], allegedly representing unutilized input taxes attributable to zero-rated sales for

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[1] Petition for Review, CTA Case No. 8043, Docket (Vol. I), p. 1-14.
[2] Petition for Review, CTA Case No. 8116, Docket, pp. 1-17.
[3] CTA En Banc Rollo, pp. 203-208.
[4] CTA En Banc Rollo, pp. 227-229.
[5] CTA Case No. 8043, Docket (Vol. VI), pp. 2867-2868.
[6] Petition for Review, CTA Case No. 8043, Docket (Vol. I), p. 11.
[7] Petition for Review, CTA Case No. 8116, Docket (Vo. I), p. 14.

the periods January 1, 2008 to March 31, 2008 and April 1, 2008 to December 31, 2008, respectively.

Petitioner CBK Power Company Limited (CBK) is a partnership duly organized and existing under and by virtue of the laws of the Philippines with principal office at the NPC Compound, Kalayaan, Laguan. It is registered as a VAT entity with TIN/VAT No. 205-760-474-000.[8]

Respondent Commissioner of Internal Revenue (CIR) is the duly appointed Commissioner of Internal Revenue vested with authority to act as such, including *inter alia*, the power to decide, approve and grant refunds or tax credit of erroneously or illegally collected internal revenue taxes as provided by law, with office address at the BIR National Office Building, BIR Road, Diliman, Quezon City. [9]

On November 27, 2009, CBK filed with the BIR Revenue District Office (RDO) No. 55 of Laguna, an administrative claim for the issuance of TCC in the amount of ₱14,078,028.68, allegedly representing its unutilized input taxes on its local purchases and/or importation of goods and services, capital goods and payments for services rendered by non-residents, which were all attributable to its zero-rated sales for the period January 1, 2008 to March 31, 2008, pursuant to Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.[10]

Another administrative claim for the issuance of TCC in the amount of ₱47,425,306.79 was filed by CBK on June 25, 2010, allegedly representing its unutilized input taxes on its local purchases and/or importation of goods other than capital goods, local purchases of services, payments for services rendered by non-residents, local purchases of capital goods not exceeding ₱1 Million including unutilized amortized input taxes on capital goods exceeding ₱1 Million, which were all attributable to its zero-rated sales for the period April 1, 2008 to December 31, 2008.

Due to CIR's inaction, CBK filed separately two (2) Petitions for Review[11] on March 29, 2010 (docketed as CTA Case No. 8043) and June 28, 2010 (docketed as CTA Case No. 8116). CTA Case No. 8043 was

[8] Pars. 3 and 5, page 2 of the CTA En Banc's Decision dated December 20, 2012, En Banc Rollo, p. 148.
[9] Par. 4, page 2 of the CTA En Banc's Decision dated December 20, 2012, En Banc Rollo, p. 148.
[10] Par. 6, Facts Admitted, Joint Stipulation of Facts and Issues (JSFI), CTA Case No, 8043, Docket (Vol. I), p. 137.
[11] See Footnote Nos. 1 and 2.

raffled to the CTA Special Second Division while CTA Case No. 8116 was raffled to the CTA Special First Division.

CTA Case No. 8116

On August 3, 2010, within the extension period granted by the Court[12], CIR filed his Answer[13], to wit:

"SPECIAL AND AFFIRMATIVE DEFENSES

xxx xxx xxx

8. Petitioner filed its administrative application for refund on June 25, 2010. Then it filed the instant petition on June 28, 2010. Only 1 working had passed from the filing of the administrative application to the filing of the petition for review. The judicial claim has obviously been filed prematurely. Under Section 112 (D) of the NIRC of 1997, respondent has 120 days within which to process applications for refund of unutilized input tax, then petitioner has 30 days to appeal the full or partial denial of the claim or the inaction of respondent, to wit:

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

xxx

(D) 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 Subsections (A) and (B) 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

[12] Order dated July 20, 2010, CTA Case No. 8116, Docket, p. 95.
[13] CTA Case No. 8116, Docket (Vol I), pp. 96-103.

> the one hundred twenty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals."
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> Clearly, petitioner was not given enough to evaluate the evidence presented with respondent. It is impossible for administrative proceedings to be commenced as the case has yet to be assigned to a Revenue Officer when the judicial application was filed. It seems the filing of the administrative claim was just a mere formality in the filing of the judicial claim. Such arrogance must not be tolerated.
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> 9. Furthermore, in an action for refund the burden of proof is on the taxpayer to establish its right to refund and failure to sustain the burden is fatal to the claim for refund/credit. This is so because exemptions from taxation are highly disfavored in law and he who claims exemption must be able to justify his claim by the clearest grant of organic or statutory law. An exemption from the common burden cannot be permitted to exist upon vague implications **(Asiatic Petroleum Co. vs Llanes, 49 Phil. 466 cited in Collector of Internal Revenue v Manila Jockey Club, Inc., 98 Phil. 670)**."

On August 5, 2010, the Court issued a Notice of Pre-Trial Conference[14] setting the hearing of the same on September 3, 2010 at 1:30 p.m. and requiring the parties to file their respective pre-trial brief.

On August 16, 2010, CBK filed a Motion for Consolidation and Postponement of Pre-trial Conference[15]. In an Order[16] dated August 17, 2010, the Court granted the postponement of Pre-Trial Conference and set the hearing of CBK's Motion for Consolidation on August 24, 2010.

On September 7, 2010, the CTA Special First Division issued a Resolution[17] consolidating the two cases before the Special Second Division where the case bearing the lower case number was raffled, subject to the conformity of the latter Court. Thus, the Pre-Trial Conference previously set on September 3, 2010 was cancelled.

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[14] CTA Case No. 8116, Docket, p. 105.
[15] CTA Case No. 8116, Docket, pp. 106-111.
[16] CTA Case No. 8116, Docket, p. 112.
[17] CTA Case No. 8116, Docket, pp. 116-117.

On September 14, 2010, the CTA Special Second Division issued a Resolution[18] expressing no objection to the said consolidation and set the initial presentation of evidence on October 18, 2010.

On October 8, 2010, the parties filed their Joint Stipulation of Facts and Issues[19], which was approved by the CTA Special Second Division in a Resolution[20] dated October 12, 2010. In the same Resolution, the Court terminated the Pre-Trial and ordered both parties to proceed with the trial on the merits.

On December 20, 2010, CIR filed a Motion to Dismiss[21], with CBK's Comment On/Opposition to Respondent's Motion to Dismiss[22] filed on January 24, 2011, seeking the dismissal of CTA Case No. 8116 on the ground of lack of jurisdiction, pursuant to the ruling in the case of *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*[23] *(Aichi case).* On March 3, 2011, the CTA Special Second Division issued a Resolution[24] granting CIR's Motion, thus, CTA Case No. 8116 was thereby dismissed for lack of jurisdiction due to premature filing. In the same Resolution, the Court set the hearing on CBK's Motion for the Adoption of Procedures on the Presentation of Voluminous Documents and the initial presentation of evidence for CTA Case No. 8043 on April 11, 2011.

Aggrieved, CBK filed a Motion for Reconsideration[25] on March 16, 2011, with CIR's Comment[26] filed on March 21, 2011. However, the same was denied in a Resolution[27] dated April 11, 2011.

On May 6, 2011, within the extension period granted[28], CBK appealed the Resolution dated March 3, 2011 of the CTA Special Second Division dismissing CTA Case No. 8116; and the Resolution dated April 11, 2011, denying its Motion for Reconsideration, by filing with the CTA Court *En Banc* a Petition for Review[29], docketed as CTA EB No. 759.a

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[18] CTA Case No. 8043, Docket (Vol. I), p. 121-122
[19] CTA Case No. 8043, Docket (Vol. I), pp. 135-141.
[20] CTA Case No. 8043, Docket (Vol. I), p. 142.
[21] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 758-763.
[22] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 767-784.
[23] G.R. No. 184823, October 6, 2010.
[24] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 786-793.
[25] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 794-814.
[26] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 815-821.
[27] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 827-830.
[28] Court En Banc's Minute Resolutions dated April 18, 2011 and April 20, 2011, En Banc Rollo, pp. 19 and 28.
[29] En Banc Rollo, pp. 29-57.

On September 12, 2011, the CTA Court *En Banc* issued a Resolution[30] ordering CIR to file his comment on the subject Petition. CIR complied with the said order on October 5, 2011, by filing his Motion to Admit Attached Comment[31].

In a Resolution[32] dated October 24, 2011, the CTA Court *En Banc* gave due course to the CBK's Petition and required the parties to submit their memoranda.

As directed by the Court, CIR filed a Manifestation[33] on November 11, 2011, stating therein that he is adopting the arguments in his Comment filed on October 5, 2011 as his Memorandum, while Petitioner's Memorandum[34] was filed on December 1, 2011. Thus, the case was submitted[35] for decision on January 11, 2012.

On December 20, 2012, the CTA Court *En Banc* promulgated a Decision[36] dismissing CBK's Petition. The dispositive portion thereof states:

> "**WHEREFORE**, the instant Petition for Review is hereby **DISMISSED** for lack of merit. Accordingly, the Assailed Resolutions dated March 3, 2011 and April 11, 2011 in CTA Case No. 8116 entitled *'CBK Power Company Limited vs. Commissioner of Internal Revenue'*, are hereby **AFFIRMED *in toto*.**
>
> **SO ORDERED"**

Thus, CBK filed a Motion for Reconsideration[37] on February 5, 2013, which was granted by the CTA Court *En Banc* in a Resolution[38] dated June 26, 2013, following the ruling of the Supreme Court in the consolidated cases of *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue, and Philex Mining Corporation v. Commissioner of Internal Revenue*[39] *(San Roque Case).* In the same Resolution, the cases docketed as CTA Case Nos. 8043 and 8116 were remanded to the

[30] En Banc Rollo, pp. 73-74.
[31] En Banc Rollo, pp. 75-86.
[32] En Banc Rollo, pp. 88-89.
[33] En Banc Rollo, pp. 90-92.
[34] En Banc Rollo, pp. 94-120.
[35] Resolution dated January 11, 2012, En Banc Rollo, pp. 144-145.
[36] En Banc Rollo, pp. 147-155.
[37] En Banc Rollo, pp. 168-183.
[38] En Banc Rollo, pp. 203-208.
[39] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

Special Second Division for further proceedings. The *fallo* of the said Resolution reads:

> "**WHEREFORE**, the Motion for Reconsideration filed by petitioner is hereby **GRANTED**. The assailed Decision promulgated on December 20, 2012 is hereby **REVERSED** and **SET ASIDE**. The cases docketed as CTA Case Nos. 8043 and 8116 is (sic) **REMANDED** to the Second Division of the Court for further proceedings.
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> **SO ORDERED**."

On July 23, 2013, CIR filed a Motion for Reconsideration (Re: Resolution Promulgated 26 June 2013)[40], which was denied by the CTA Court *En Banc* in a Resolution[41] dated December 18, 2013.

On February 20, 2014, CIR filed his Petition for Review on *Certiorari*[42] with the Supreme Court (SC) docketed as G.R. No. 210529. However, the same was denied by the Second Division of the Supreme Court per Notice of Resolution[43] dated March 26, 2014, to wit:

> "**G.R. 210529 (Commissioner of Internal Revenue vs. CBK Power Company Limited).**- Considering the allegations, issues and arguments adduced in the petition for review on certiorari assailing the Resolutions dated 26 June 2013 and 18 December 2013 of the Court of Tax Appeals, En Banc in CTA EB Case No. 759 (CTA Case Nos. 8043 and 8116), the Court resolves to **DENY** the petition for failure to sufficiently show any reversible error in the assailed resolutions to warrant the exercise of this Court's discretionary appellate jurisdiction. x x x"

Meanwhile, in a Resolution[44] dated March 14, 2014, the CTA Special Second Division ordered the parties in CTA Case No. 8116 to proceed with the presentation of their respective evidence and held in abeyance the issues and matters submitted in CTA Case No. 8043. Accordingly, the consolidated cases shall be resolved concurrently upon the completion of the proceedings in CTA Case No. 8116.

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[40] En Banc Rollo, pp. 209-221.
[41] En Banc Rollo, pp. 227-229.
[42] CTA Case Nos. 8043-8116, Docket (Vol. IV), pp. 1923-1949.
[43] CTA Case Nos. 8043, Docket (Vol. VI), pp. 2867-2868.
[44] CTA Case Nos. 8043-8116, Docket (Vol. IV), pp. 2141-2147.

On June 3, 2014, CIR filed a Motion for Reconsideration[45] praying for the Supreme Court to set aside its Resolution dated March 26, 2014; and, to issue a new decision granting his Petition.

On July 18, 2014, the SC Second Division issued a Notice of Resolution[46] denying with finality CIR's Motion for Reconsideration of the Resolution dated March 26, 2014, thus:

> "**G.R. No. 210529 (*Commissioner of Internal Revenue vs. CBK Power Company Limited*).**- Acting on the Office of the Solicitor General's motion for reconsideration of the Resolution dated 26 March 2014 which denied the petition for review on certiorari, the Court resolves to **DENY** the motion with **FINALITY**, no substantial argument having been adduced to warrant the reconsideration sought.
>
> No further pleadings or motions shall be entertained in this case. Let entry of final judgment be made in due course."

On August 6, 2014, CBK commenced with the presentation of its evidence in CTA Case No. 8116.[47] On the other hand, respondent opted not to present evidence in this case.[48]

On September 17, 2014, the SC Second Division's Resolution dated March 26, 2014 became final and executory.[49]

CTA Case No. 8043

Meanwhile, on May 31, 2010, within the extension period granted by the Court[50], CIR filed his Answer[51] in CTA Case No. 8043, interposing the following Special and Affirmative Defenses: c

[45] CTA Case No. 8043, Docket (Vol. VI), pp. 3235-3256.
[46] CTA Case No. 8043, Docket (Vol. VII), p. 3716.
[47] Minutes of the Hearing dated August 6, 2014, CTA Case No. 8043, Docket (Vol. VII), p. 3680.
[48] Minutes of the Hearing dated November 10, 2014, CTA Case No. 8043, Docket (Vol. VIII), p. 3794.
[49] Entry of Judgment dated January 29, 2015, CTA Case No. 8043, Docket (Vol. VIII), p. 4279.
[50] Order dated May 25, 2010, CTA Case No. 8043, Docket (Vol. I), p. 74.
[51] CTA Case No. 8043, Docket (Vol. I), pp. 75-81.

"SPECIAL AND AFFIRMATIVE DEFENSES

4. Petitioner is not entitled to refund or tax credit in the amount of P14,078,028.68 representing alleged unutilized input tax because it failed to submit all necessary and relevant documents pertaining to the above-mentioned amount with respondent in the administrative claim for refund or tax credit.

5. In an administrative claim for refund or tax credit of input taxes attributable to zero-rated sales, a VAT registered person must submit complete documents to support its application for refund pursuant to Section 112 (D) of the Tax Code of 1997. Otherwise, there will be no sufficient compliance with the filing of an administrative claim for refund, which is a condition sine qua non prior to the filing of judicial claim.

6. To support its claim, it is imperative for petitioner to prove and present the following, viz:

    a. The registration requirements of a value-added taxpayer in compliance with Section 6(a) and (b) of Revenue Regulations No. 6-97 in relation to Section 4.107-a (a) of Revenue Regulations No. 7-95, and Section 236 of the National Internal Revenue Code of 1997 (NIRC of 1997);

    b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT in compliance with the provisions of Section 113 and 114 of the NIRC of 1997;

    c. Proof of compliance with the prescribed checklist of requirements to be submitted involving claim for VAT refund pursuant to Revenue Memorandum Order No. 53-98. It is worthy of emphasis that Section 112 (D) of the NIRC of 1997 requires the submission of complete documents in support of the application filed with the Bureau of Internal Revenue before the 120-day audit period shall apply, and before the taxpayer could avail of judicial remedies as provided for in the law. Hence, petitioner's failure to submit proof of compliance with the above-stated requirements warrants immediate dismissal of the petition for review.

d. That the input taxes of P14,078,028.68 allegedly paid by petitioner on its domestic purchases of non-capital goods and services, services rendered by non-residents and importation of non-capital goods for the period January 1, 2008 to March 31, 2008 were attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over in the succeeding taxable quarter or quarters;

e. That petitioner's administrative claim for tax credit or refund of the unutilized input tax (VAT) was filed within two (2) year after the close of the taxable quarter when the sales were made in accordance with Sections 112 (A) and (D) of the NIRC of 1997;

f. The judicial claim was filed within the period prescribed in Section 112 (D) of the NIRC of 1997;

h. That petitioner's domestic purchases of goods and services were made in the course of its trade or business, properly supported by VAT invoices and/or official receipts and other documents, such as subsidiary purchase journal, showing that it actually paid VAT in accordance with Sections 110 (A) (2) and 113 of the NIRC of 1997, and in pursuance to Section 4.104-5 (a) and (b) of Revenue Regulations No. 7-95 (RE: Substantiation of Claims for Input Tax Credit);

i. The requirements as enumerated under Section 4.104-2 of Revenue Regulations 7-95 (Re: Persons who can avail of the Input Tax Credits).

7. In Ang Tibay vs. Court of Industrial Relations GR No. L-46496, the Highest Court stated the primary rights which must be respected even in an administrative proceeding:

1) **The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof.** In the language of Chief Hughes, in *Morgan v. U.S.*, 304 U.S. 1, 58 S. Ct. 773, 999, 82 Law. ed. 1129. 'the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play.
2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must *consider* the evidence presented. (Chief Justice Hughes in Morgan v. U.S. 298 U.S. 468, 56 S. Ct. 906, 80 law. ed. 1288.) In the language of this court in *Edwards vs. McCoy*, 22 Phil., 598, 'the right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.'
3) 'While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support it is a nullity, a place when directly attached.' (Edwards vs. McCoy, *supra.*) This principle emanates from the more fundamental is contrary to the vesting of unlimited power anywhere. Law is both a grant and a limitation upon power.
4) **Not only must there be some evidence to support a finding or conclusion** (City of Manila vs. Agustin, G.R. No. 45844, promulgated November 29, 1937, XXXVI O. G. 1335**), but the evidence must be 'substantial.'** (Washington, Virginia and Maryland Coach Co. v. national labor Relations Board, 301 U.S. 142, 147, 57 S. Ct. 648, 650, 81 Law. ed. 965.) It means such relevant evidence as a reasonable mind accept as adequate to support a conclusion.' (Appalachian Electric Power v. National Labor Relations Board, 4 Cir., 93 F. 2d 985, 989; National Labor Relations Board v. Thompson Products, 6 Cir., 97 F. 2d 13, 15; Ballston-Stillwater Knitting Co. v. National Labor Relations Board, 2 Cir., 98 F. 2d 758, 760.) . . . The statute provides that 'the rules of evidence prevailing in courts of law and equity shall not be

controlling.' The obvious purpose of this and similar provisions is to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceedings would not invalidate the administrative order. (Interstate Commerce Commission v. Baird, 194 U.S. 25, 44, 24 S. Ct. 563, 568, 48 Law. ed. 860; Interstate Commerce Commission v. Louisville and Nashville R. Co., 227 U.S. 88, 93, 33 S. Ct. 185, 187, 57 Law. ed. 431; United States v. Abilene and Southern Ry. Co. S. Ct. 220, 225, 74 Law. ed. 624.) But this assurance of a desirable flexibility in administrative procedure does not go far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence. (Consolidated Edison Co. v. National Labor Relations Board, 59 S. Ct. 206, 83 Law. ed. No. 4, Adv. Op., p. 131.)"

5) **The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected**. (Interstate Commerce Commission vs. L. & N. R. Co., 227 U.S. 88, 33 S. Ct. 185, 57 Law. ed. 431.) **Only by confining the administrative tribunal to the evidence disclosed to the parties, can the latter be protected in their right to know and meet the case against them.** It should not, however, detract from their duty actively to see that the law is enforced, and for that purpose, to use the authorized legal methods of securing evidence and informing itself of facts material and relevant to the controversy. Boards of inquiry may be appointed for the purpose on investigating and determining the facts in any given case, but their report and decision are only advisory. (Section 9, Commonwealth Act No. 103.) The Court of Industrial Relations may refer any industrial or agricultural dispute or any matter under its consideration or advisement to a local board of inquiry, a provincial fiscal. a justice of the peace or any public official in any part of the Philippines for investigation, report and recommendation, and may delegate to such board or public official such powers and functions as the said Court of Industrial Relations may deem

necessary, but such delegation shall not affect the exercise of the Court itself of any of its powers. (Section 10, *ibid.*)

6) The Court of Industrial Relations or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. It may be that the volume of work is such that it is literally Relations personally to decide all controversies coming before them. In the United States the difficulty is solved with the enactment of statutory authority authorizing examiners or other subordinates to render final decision, with the right to appeal to board or commission, but in our case there is no such statutory authority.

7) The Court of Industrial Relations should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decision rendered. The performance of this duty is inseparable from the authority conferred upon it. (Emphasis supplied)

Petitioner is mandated to present evidence to support its administrative and such evidence will be used as basis for the decision of the quasi-judicial body. If there is lack of evidence, then the decision will probably be contrary to petitioner. Only the evidence presented will be reviewed by the quasi-judicial body. An administrative claim is meant to expedite the proceedings where all the relevant evidence is presented. Petitioner, however, instead chose not to submit any evidence to support its claim.

8. Furthermore, in an action for refund the burden of proof is on the taxpayer to establish its right to refund and failure to sustain the burden is fatal to the claim for refund/credit. This is so because exemptions from taxation are highly disfavored in law and he who claims exemption must be able to justify his claim by the clearest grant of organic or statutory law. An exemption from the common burden cannot be permitted to exists upon vague implications (**Asiatic Petroleum Co. vs. llanes, 49 Phil. 466 cited in Collector of Internal Revenue v. Manila Jockey Club, Inc., 98 Phil. 670**)."

On June 1, 2010, the Court issued a Notice of Pre-Trial Conference[52] setting the pre-trial conference on July 8, 2010 at 1:30 p.m. and requiring the parties to file their respective pre-trial brief. In compliance therewith, CBK filed its Pre-Trial Brief[53] on June 17, 2010, while CIR's Pre-Trial Brief[54] was filed on July 1, 2010.

On November 23, 2010, CBK filed a Motion for the Adoption of Procedures on the Presentation of Voluminous Documents Pursuant to Rules 12 and 13 of the Revised Rules of the Court of Tax Appeals.[55] In a Resolution[56] dated March 3, 2011, the Court set the hearing on the said Motion and the initial presentation of evidence for CBK on April 11, 2011.

After presentation of its testimonial and documentary evidence, CBK filed its Formal Offer of Evidence—First Part[57] and Formal Offer of Evidence—Second Part[58] on July 13, 2011 and December 1, 2011, respectively.

In a Resolution[59] dated January 6, 2012, the Court resolved the foregoing documentary evidence submitted by CBK and set the initial presentation of the evidence for CIR on February 8, 2012.

In the hearing[60] held on February 8, 2012, CIR's counsel manifested that he is not ready for the CIR's initial presentation of evidence. On the other hand, CBK's counsel requested to file a Supplemental Motion for Reconsideration on CBK's denied exhibits, which the Court granted. By such reasons, the initial presentation of evidence for CIR was held in abeyance.

On March 8, 2012, CBK filed a Supplemental Motion for Partial Reconsideration[61], praying for the Court to admit the denied exhibits in a Resolution dated January 6, 2012; and to allow CBK to recall the Court Commissioned Independent Certified Public Accountant, Ms. Myra Celeste O. Dabalos, to identify and testify on the re-marked exhibits. The recall of the said witness was granted by the Court in a Resolution[62]

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[52] CTA Case No. 8043, Docket (Vol. I), p. 82.
[53] CTA Case No. 8043, Docket (Vol. I), pp. 83-101.
[54] CTA Case No. 8043, Docket (Vol. I), pp. 102-106.
[55] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 742-746.
[56] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 786-793.
[57] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 927-959.
[58] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 1211-1242.
[59] CTA Case Nos. 8043 and 8116, Docket (Vol. II), pp. 1268-1272.
[60] Minutes of the Hearing dated February 8, 2012, CTA Case Nos. 8043 and 8116, Docket (Vol. II), p. 1287.
[61] CTA Case Nos. 8043 and 8116, Docket (Vol. III), pp. 1290-1300.
[62] CTA Case Nos. 8043 and 8116, Docket (Vol. III), pp. 1303-1304.

dated April 11, 2012. On June 11, 2012, CBK filed a Supplemental Formal Offer of Evidence.[63]

After an evaluation of CBK's arguments in its Motion for Reconsideration and Supplemental Motion for Partial Reconsideration, and the filing of its Supplemental Formal Offer of Evidence, the Court partially granted[64] the said Motions and admitted most of the exhibits therein, except for Exhibits "BB-3-0006", "BB-6-0009", "BB-70009", "BB-120006" and "BB-120007" for CBK's failure to submit the same to the Court.

On July 9, 2012, CBK formally rested its case.[65]

In the hearing[66] held on January 21, 2013, CIR's counsel manifested that he will no longer present any evidence and that he is submitting the instant case for decision. The Court gave parties a period of thirty days to file their Memoranda.

On March 22, 2013, CTA Case No. 8043 was submitted[67] for decision, taking into consideration the Memorandum for the Petitioner[68] filed on March 13, 2013, sans CIR's Memorandum per Records Verification[69] dated March 14, 2013.

However, in a Resolution[70] promulgated on March 14, 2014, the CTA Special Second Division held in abeyance the resolution of the issues and matters raised in CTA Case No. 8043, in view of the recent developments in CTA EB No. 759, to wit:

> "Notwithstanding the fact that CTA Case No. 8043 has been submitted for Decision and that this Honorable Court is in the process of promulgating its ruling on the same, prudence dictates that in view of the recent developments in CTA EB No. 759, the resolution of the former case be held in abeyance while the proceedings in CTA Case No. 8116 is continued in the CTA Second Division. The consolidated

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[63] CTA Case Nos. 8043 and 8116, Docket (Vol. III), pp. 1569-1594.
[64] Resolution dated July 9, 2012, CTA Case Nos. 8043 and 8116, Docket (Vol. IV), pp. 1835-1839.
[65] Ibid.
[66] Minutes of the Hearing dated January 21, 2013, CTA Case Nos. 8043 and 8116, Docket (Vol. IV), pp. 1886.
[67] Resolution dated March 22, 2013, CTA Case Nos. 8043 and 8116, Docket (Vol. IV), p. 1918.
[68] CTA Case Nos. 8043 and 8116, Docket (Vol. IV), pp. 1893-1916.
[69] CTA Case Nos. 8043 and 8116, Docket (Vol. IV), p. 1892.
[70] CTA Case Nos. 8043 and 8116, Docket (Vol. IV), pp. 2141-2147.

> cases shall be decided upon the conclusion of the proceedings in CTA Case No. 8116."

On May 12, 2014, CBK commenced with the presentation of its evidence for CTA Case No. 8116[71], in compliance with the Resolution[72] dated March 14, 2014.

On December 9, 2014, CBK filed its Formal Offer of Evidence[73] offering Exhibits "P-1" to "P-110", inclusive of submarkings.

In a Resolution[74] dated March 2, 2015, the Court partially admitted the documentary evidence offered by CBK.

Thus, CBK filed a Manifestation and Motion for Partial Reconsideration[75] on March 23, 2015, seeking partial reconsideration of the Court's Resolution promulgated on March 2, 2015, which denied CBK's voluminous exhibits; and requesting that it be allowed to present the ICPA before a Commissioner's Hearing to clearly stamp the exhibit numbers and to correct the markings of the denied exhibits. It further requested that it be allowed to recall the ICPA to identify and testify on the denied exhibits.

In a Resolution[76] promulgated on June 22, 2015, the Court denied CBK's motion to recall the ICPA to identify and testify in open court. It, however, allowed CBK to present the ICPA before the Commissioner's Hearing on July 27, 2015.

In the Resolution[77] dated September 15, 2015, the Court admitted most of the exhibits, except the following: Exhibits "P-100-D-010248", "P-100-D-010642", "P-100-D-010584", "P-100-D-010585", "P-100-D-020069" to "P-100-D-020071", "P-100-D-020146", "P-100-D-020147", "P-100-D-020285", "P-100-D-020286", "P-100-D-060352 to P-100-D-060356", "P-100-D-070387", "P-100-D-070389", "P-100-D-090495", "P-100-D-090496", "P-100-D-090497", "P-100-D-090498", "P-100-D-090617", "P-100-D-090618", "P-100-D-100474", "P-100-D-100475", "P-100-D-120085 to P-100-D-120088", "P-100-D-120113", "P-100-D-

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[71] Minutes of the Hearing dated May 12, 2014, CTA Case Nos. 8043 and 8116, Docket (Vol. VI), p. 2866.
[72] See footnote no. 43.
[73] CTA Case No. 8043, Docket (Vol. VIII), pp. 3795-3884.
[74] CTA Case No. 8043, Docket (Vol. VIII), pp. 4240-4252.
[75] CTA Case No. 8043, Docket (Vol. VIII), pp. 4255-4274.
[76] CTA Case No. 8043, Docket (Vol. VIII), pp. 4286-4287.
[77] CTA Case No. 8043, Docket, Vol. VIII, pp. 4315-4319.

120114", "P-100-D-120252 to P-100-D-120254", "P-100-G-1", "P-100-G-35", "P-100-G-36", "P-100-G-41", "P-100-G-43", and "P-100-G-111". The Court also ordered the parties therein to submit their respective memoranda.

On November 9, 2015, the consolidated cases were submitted[78] for decision, taking into consideration the Memorandum for the Petitioner[79] filed on October 8, 2015, sans CIR's Memorandum per Records Verification[80] dated November 3, 2015.

Hence, this Decision.

The parties submitted[81] the following issues for this Court's resolution:

1. Whether or not CBK's alleged sale of services to the National Power Corporation (NPC) for the period January 1, 2008 to March 31, 2008 and April 1, 2008 to December 31, 2008, qualify as zero rated sales;

2. Whether or not CBK's alleged unutilized input taxes of P14,078,028.68 on its local purchases and/or importation of goods and services for the period January 1, 2008 to March 31, 2008, were all attributable to CBK's alleged zero-rated sales for the period January 1, 2008 to March 31, 2008, and CBK's alleged unutilized input taxes of P47,425,306.79, representing unutilized input taxes on its local purchases and importations of goods other than capital goods, local purchases of services, payments for services rendered by non-residents, local purchases of capital goods not exceeding P1 Million including unutilized amortized input taxes on capital goods exceeding P1 Million, for the period April 1, 2008 to December 31, 2008, were all attributable to alleged zero-rated sales for the period April 1, 2008 to December 31, 2008, pursuant to Section 112(A) of the Tax Code of 1997, as amended;

3. Whether or not CBK has duly substantiated its claim for the issuance of tax credit certificates for P14,078,028.68 for its alleged unutilized input taxes on its local purchases and/or importation of goods and services, capital goods and

[78] Resolution dated November 9, 2015, CTA Case No. 8043, Id., p. 4347.
[79] CTA Case No. 8043, CTA Case No. 8043, Docket (Vol. VIII), pp. 4320-4345.
[80] CTA Case No. 8043, CTA Case No. 8043, Docket (Vol. VIII), p. 4347.
[81] JSFI, CTA Case No. 8043, Docket (Vol. I), pp. 138-141.

payments for services rendered by non-residents, which were all allegedly attributable to CBK's zero-rated sales for the period January 1, 2008 to March 31, 2008, and for P47,425,306.79, representing alleged unutilized input taxes on its local purchases and importations of goods other than capital goods, local purchases of services, payments for services rendered by non-residents, local purchases of capital goods not exceeding P1 Million including unutilized amortized input taxes on capital goods exceeding P1 Million, for the period April 1, 2008 to December 31, 2008, which were all allegedly attributable to zero-rated sales for the period April 1, 2008 to December 31, 2008, respectively, pursuant to Section 112(A) of the Tax Code of 1997, as amended;

4. Whether or not CBK's alleged unutilized input taxes of P14,078,028.68 on its local purchases and/or importation of goods and services, capital goods and payments for services rendered by non-residents for the period January 1, 2008 to March 31, 2008, which were all attributable to CBK's alleged zero-rated sales for the period January 1, 2008 to March 31, 2008, and CBK's alleged unutilized input taxes of P47,425,306.79, representing unutilized input taxes on its local purchases and importations of goods other than capital goods, local purchases of services, payments for services rendered by non-residents, local purchases of capital goods not exceeding P1 Million including unutilized amortized input taxes on capital goods exceeding P1 Million, for the period April 1, 2008 to December 31, 2008, all attributable to alleged zero-rated sales for the period April 1, 2008 to December 31, 2008, pursuant to Section 112(A) of the Tax Code of 1997, as amended, have not been applied and/or utilized against any output tax;

5. Whether or not CBK had timely and duly filed its administrative and judicial claims for the issuance of tax credit certificates for P14,078,028.68 for its alleged unutilized input taxes on its local purchases and/or importation of goods and services, capital goods and payments for services rendered by non-residents for the period January 1, 2008 to March 31, 2008, which were all attributable to CBK's alleged zero-rated sales for the period January 1, 2008 to March 31, 2008, and for P47,425,306.79, representing unutilized input taxes on its local purchases and importations of goods other than capital goods, local purchases of services, payments for services rendered by non-residents, local purchases of capital goods not

exceeding P1 Million including unutilized amortized input taxes on capital goods exceeding P1 Million, for the period April 1, 2008 to December 31, 2008, all allegedly attributable to zero-rated sales for the period April 1, 2008 to December 31, 2008, pursuant to Section 112(A) of the Tax Code of 1997, as amended; and

6. Whether or not CBK is entitled to the issuance of tax credit certificates amounting to P14,078,028.68 for its alleged unutilized input taxes on its local purchases and/or importation of goods and services, capital goods and payments for services rendered by non-residents for the period January 1, 2008 to March 31, 2008, which were all attributable to CBK's alleged zero-rated sales for the period January 1, 2008 to March 31, 2008, and amounting to P47,425,306.79, representing alleged unutilized input taxes on its local purchases and importations of goods other than capital goods, local purchases of services, payments for services rendered by non-residents, local purchases of capital goods not exceeding P1 Million including unutilized amortized input taxes on capital goods exceeding P1 Million, for the period April 1, 2008 to December 31, 2008, all allegedly attributable to zero-rated sales for the period April 1, 2008 to December 31, 2008, pursuant to Section 112(A) of the Tax Code of 1997, as amended.

In sum, the sole issue for the resolution of this Court is whether CBK is entitled to its claim for issuance of TCC in the aggregate amount of ₱61,503,335.47, allegedly representing unutilized input taxes attributable to zero-rated sales for the periods January 1, 2008 to March 31, 2008 and April 1, 2008 to December 31, 2008.

CBK filed two (2) administrative claims[82] for the issuance of TCC of its unutilized input taxes in the amounts of ₱14,078,028.68 and ₱47,425,306.79, allegedly all attributable to zero-rated sales for the respective periods of January 1, 2008 to March 31, 2008 and April 1, 2008 to December 31, 2008 or in the aggregate of ₱61,503,335.47, as shown below:

Input Taxes on	**1st Quarter 2008[83]**	**2nd to 4th Qtrs 2008[84]**	**Total**
Purchases of capital	₱ 109,402.56	₱ 17,556.00	₱ 126,958.56

[82] Exhibits "P-1" and "P-2".
[83] Petition for Review, Annex "E", p. 7, CTA Case No. 8043, Docket (Vol. I), p. 55.
[84] Exhibit "P-1".

goods not exceeding ₱1 Million			
Domestic purchases of goods other than capital goods	4,420,247.85	12,135,966.77	16,556,214.62
Importations of goods other than capital goods	867,749.00	2,972,290.00	3,840,039.00
Purchases of services	7,936,828.44	30,335,291.26	38,272,119.70
Services rendered by non-residents	254,763.95	450,799.25	705,563.20
Amortized input taxes on capital goods exceeding ₱1 Million from prior period purchases	489,036.88	1,463,183.85	1,952,220.73
Amortized input taxes on capital goods exceeding ₱1 Million from 2nd quarter of 2008 purchases	-	50,219.66	50,219.66
Total	**₱14,078,028.68**	**₱47,425,306.79**	**₱61,503,335.47**

Sections 112(A) and (C) of the NIRC of 1997, as amended, allow the refund or tax credit of unutilized input taxes attributable to zero-rated or effectively zero-rated sales, as follows:

> "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 Subsections (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."

Pursuant to the above-quoted provisions and, as laid down by the Supreme Court in a number of cases[85], a taxpayer engaged in zero-rated or effectively zero-rated transactions may claim a refund/TCC for input taxes attributable to such sales upon compliance with the following requisites:

(1) the claimant must be a VAT-registered person;
(2) there must be zero-rated or effectively zero-rated sales;
(3) input taxes were incurred or paid;
(4) such input taxes are attributable to zero-rated or effectively zero-rated sales;
(5) said input taxes were not applied against any output VAT liability; and
(6) the administrative and judicial claims for refund were seasonably filed.

[85] Luzon Hydro Corporation vs. Commissioner of Internal Revenue, G.R. No. 188260, November 13, 2013; Southern Phil. Power Corp. vs. CIR, G.R. No. 179632, October 19, 2011; Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue, G.R. No. 172378, January 17, 2011; AT&T Communication Services Phil., Inc. vs. CIR, G.R. No. 182364, August 3, 2010; San Roque Power Corporation vs. CIR, G.R. No. 180345, November 25, 2009; Intel Technology Philippines, Inc. vs. CIR, G.R. No. 166732, April 27, 2007.

CBK complied with the 6th Requisite. Its *administrative and judicial claims were seasonably filed.*

Before delving on the first five (5) requisites, the Court finds it appropriate to determine first CBK's compliance with the last requisite, which is the timeliness of the filing of the instant claim, considering that claims filed beyond the reglementary period will not prosper.

Section 112(A) states that 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 (4) quarters of the taxable year 2008, or from January 1, 2008 to December 31, 2008. Counting two years from the end of each quarter, CBK had until March 31, 2010, June 30, 2010, September 30, 2010 and December 31, 2010, respectively, within which to file its administrative claim for TCC/refund. Guided by these dates, the administrative claims filed by CBK on November 27, 2009[86] (for the first quarter) and on June 25, 2010[87] (for the second to fourth quarters), are well within the two-year prescriptive period.

With regard to the timeliness of the filing of judicial claim, Section 112 (A) and (C) of the NIRC of 1997, as amended, provides that the 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 the CTA within 30 days from receipt of the decision of the CIR. However, 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.

The CTA Court *En Banc*, citing the ruling of the Supreme Court in *Commissioner of Internal Revenue v. San Roque Power Corporation*[88] *(San Roque Case)*, exhaustively explained in its Resolution[89] dated June 26, 2013, that the compliance with the aforementioned 120-30 day period

[86] Petition for Review, Annexes "E" and "F", CTA Case No. 8043, Docket (Vol. I), pp. 49-57.
[87] Exhibits "P-1" and "P-2".
[88] G.R Nos. 187485, 196113, and 197156, February 12, 2013.
[89] See footnote no. 26.

under Section 112 (A) and (C) of the NIRC of 1997, as amended, is mandatory and jurisdictional, save for those VAT refund cases that were prematurely filed (i.e., before the lapse of the 120-day period) with the CTA between December 10, 2003 and October 6, 2010 (when the BIR Ruling No. DA-489-03 was issued).

In this case, upon filing of its administrative claims on November 27, 2009 and June 25, 2010, CBK simultaneously submitted the documents in support thereof. This is evident from the letters filed with the BIR on the said dates.[90] And, since the records do not show that a written notice was sent by the BIR informing CBK that the documents it submitted were incomplete nor requiring it to submit additional documents, the 120-day period started and continued to run from November 27, 2009 and June 25, 2010, the dates when CBK filed its administrative claims together with the supporting documents.

For easy reference, the pertinent dates to CBK's claim for the issuance of TCC are as follows:

CTA Case No.	Period Covered	Date of Filing of Administrative Claim	End of 120 Days for the Commissioner to Decide on the Claim	End of 30 Days from the Expiration of 120 Days	Date of Filing of Judicial Claim
8043	1st Qtr. 2008	11/27/2009	3/27/2010	4/26/2010	3/29/2010
8116	2nd to 4th Qtrs. 2008	6/25/2010	10/23/2010	11/22/2010	6/28/2010

Applying the foregoing jurisprudential pronouncement, it is evident that CBK's judicial claim covering the first quarter of 2008 (CTA Case No. 8043) was timely filed within the 120-30 day period.

Anent the claim for the second to fourth quarters of 2008 (CTA Case No. 8116), the same was filed on June 28, 2010, or only three (3) days after CBK filed its administrative claim with the Commissioner on June 25, 2010. Clearly, CBK failed to comply with the 120-day waiting period, the time expressly given by law to the Commissioner to decide whether to grant or deny CBK's application for the issuance of TCC. Nonetheless, since CBK filed its judicial claim within the window created in *San Roque Case*, its Petition for Review in CTA Case No. 8116 is exempted from the strict application of the 120-day mandatory period. As such, it "can claim the benefit of being shielded from the vice of prematurity."

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[90] Exhibits "P-1" and "P-2".

Based therefrom, CBK timely filed both its administrative and judicial claims.

We shall now discuss the other requisites.

CBK complied with the 1st Requisite; it is a VAT-registered entity.

CBK is registered as a value-added tax (VAT) entity with TIN/VAT No. 205-760-474-000 in accordance with the NIRC of 1997, as amended. It was issued BIR Certificate of Registration OCN 1RC0000050243 dated April 10, 2000 by the BIR Revenue District Office No. 55 (San Pablo City, Laguna), which was updated on May 11, 2005, and as a consequence, it was issued BIR Certificate of Registration OCN 1RC0000195405.[91]

CBK complied with the 2nd Requisite; it has zero-rated sales.

Section 108(B)(7) of the NIRC of 1997, as amended, provides that sale of power generated through renewable sources of energy is among the transactions subject to zero percent (0%) VAT, as follows:

> "(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."

Further, Section 4.108-5(b)(7) of Revenue Regulations (RR) No. 16-05, which implements the foregoing provision, qualifies the applicability of such zero-rating as follows:

[91] Par. 4, Facts Admitted, JSFI, CTA Case No. 8043, Docket (Vol. I), p. 137.

"**(b) Transactions Subject to Zero Percent (0%) VAT Rate.** — The following services performed in the Philippines by a VAT-registered person 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 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." 0

Corollary, Section 4.108-3(f) of the same RR provides:

'**SEC. 4.108-3.** ***Definitions and Specific Rules on Selected Services.*** -

xxx xxx xxx

'(f) Sale of electricity by generation, transmission, and distribution companies shall be subject to 10% 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 energy 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 RA No. 9136 (EPIRA). They shall include all Independent Power Producers (IPPs) and NPC/Power Sector Assets and Liabilities Management Corporation (PSALM)-owned generation facilities."a

Clearly, from the foregoing, to qualify for VAT zero-rating, CBK must prove by sufficient evidence that it is engaged in the sale of power or fuel generated through renewable sources of energy.

CBK is a special purpose entity, the sole purpose of which is to engage in all aspects of *(a)* the design, financing, construction, testing, commissioning, operation, maintenance, management and ownership of Kalayaan II pumped-storage hydroelectric power plant, the new Caliraya Spillway, and other assets located in the Province of Laguna, and *(b)* the rehabilitation, upgrade, expansion, testing, commissioning, operation, maintenance and management of the Caliraya, Botocan and Kalayaan I hydroelectric power plants and their related facilities located in the Province of Laguna, as shown by its SEC Registration and Amended Articles of Partnership.[92]

CBK entered into a Second Accession Undertaking[93] with the National Power Corporation (NPC), Industrias Metalurgicas Pescarmona, S.A. (IMPSA), and CBK Power Corporation on September 20, 2000, wherein it became a party to the Build-Rehabilitate-Operate-Transfer (BROT) Agreement[94] dated November 6, 1998. Under the BROT Agreement and by virtue of the Second Accession Undertaking, it shall cause and be responsible for the rehabilitation, construction, operation and maintenance of the Caliraya, Botocan, and Kalayaan hydroelectric power plants and other civil structures for the purpose of generating electricity for the NPC. In consideration thereof, NPC shall pay CBK Capital Recovery Fees and Operation and Maintenance Fees and other fees in accordance with the BROT Agreement.

In performing its obligations under the BROT Agreement and the Accession Undertaking, CBK entered into an Agreement with IMPSA Construction Corporation designated as Turnkey Contract[95] on August 18, 2000, by virtue of which IMPSA, as Contractor, undertook the design, engineering, procurement, supply of all plant and materials, rehabilitation, construction, commissioning, testing, completion and handover of such power plants, together with the civil structures, access roads and other works as specified in the BROT Agreement.

CBK generates electricity through its Caliraya, Botocan, Kalayaan I and Kalayaan II hydroelectric power plants. The plants generate electricity by drawing water from an upstream reservoir, passing the water through a penstock and in the process utilizing the force of

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[92] Par. 3, Facts Admitted, JSFI, CTA Case No. 8043, Docket (Vol. I), p. 136.
[93] Exhibit "P-4".
[94] Exhibit "P-3".
[95] Exhibit "P-5".

gravity to rotate the turbines. The turbines in turn rotate the generators, thereby generating electricity.[96]

CBK's Caliraya, Botocan, Kalayaan I and Kalayaan II power plants were found by the Energy Regulatory Commission (ERC) to be compliant with the pertinent rules and regulations, as evidenced by the Certificates of Compliance (COCs)[97] issued by the ERC to CBK.

Examination of the various sales invoices[98] and official receipts[99] issued by CBK to NPC, Comparison of Sales per General Ledger against Sales per VAT Returns and Annual Income Tax Return[100], Comparison of Amounts per Invoices against the CBK's Schedule of Sales[101], Comparison of Sales per General Ledger Against Gross Revenues per Audited Financial Statements[102], Summary of CBK's Collections with Respect to Sales to NPC in 2008[103] showed that for the four quarters of 2008, it had derived revenues from sales of electricity to NPC in the amount of ₱5,682,815,033.23 which was reflected in its Quarterly VAT Returns, as follows:

Exhibit	Taxable Year 2008	Zero-Rated Sales/Receipts
P-100-B-1	1st Quarter	₱ 1,295,785,232.09
P-100-B-2	2nd Quarter	1,385,116,809.05
P-100-B-3	3rd Quarter	1,461,026,179.74
P-100-B-4	4th Quarter	1,540,886,812.35
		₱ 5,682,815,033.23

Such sales of electricity generated through a renewable source of energy, particularly, hydropower, qualify for VAT zero-rating under Section 108(B)(7) of the NIRC of 1997, as amended.

CBK complied with the 3rd Requisite; it incurred or paid input taxes.

To prove that it incurred/paid the excess input VAT totaling to ₱61,503,335.47, CBK submitted various suppliers' invoices, official

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96 Exhibit "P-15", Q&A No. 30, CTA Case No. 8043, Docket (Vol. VI), p. 2892.
97 Exhibits "P-6" to "P-9" and "P-17" to "P-19".
98 Exhibits "P-100-I-1" to "P-100-I-253".
99 Exhibits "P-100-M-1" to "P-100-M-226".
100 Exhibit "P-100-H".
101 Exhibit "P-100-K".
102 Exhibit "P-100-L".
103 Exhibit "P-100-N".

receipts (OR), Bureau of Customs (BOC) Import Entries and Internal Revenue Declarations (IEIRDs), BOC and bank official receipts[104], which were all examined by the Court-commissioned Independent CPA (ICPA), Myra Celeste O. Dabalos.

Upon scrutiny of the ICPA report[105] and the related supporting documents, the Court finds that the input taxes, except that on purchases of capital goods which will be discussed later, in the amount of ₱2,944,028.33 should be disallowed for non-compliance with the substantiation requirements under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-2, 4.110-3, 4.110-8 and 4.113-1 of RR No. 16-2005. Below is the detailed breakdown of the disallowed input VAT of ₱5,650,377.89:

Schedule 1

Exhibit	Description	Input VAT Claimed
P-100-E-8	Input tax on domestic purchase of goods supported by documents other than a VAT invoice	₱ 101,014.67
P-100-E-10	Input tax on domestic purchase of goods supported by a VAT invoice but not an original copy	111,424.72
P-100-E-11	Input tax on domestic purchase of goods supported by a VAT invoice not issued in the name of the partnership	3,900.00
P-100-E-12	Input tax on domestic purchase of goods supported by a VAT Invoice issued in the name of CBK only	15,193.96
P-100-E-13	Input tax on domestic purchase of goods supported by TIN sales invoice, and TIN-V sales invoice	48,416.76
P-100-E-14, P-100-E-14a, P-100-E-14b	Input tax on domestic purchase of goods supported by a VAT invoice issued in the partnership's name but without the partnership's TIN and/or address but also: 1. Supported by VAT OR with TIN and address	404,160.70
P-100-E-15	Input tax on domestic purchase of goods supported by a VAT invoice but not dated within the VAT-taxable year	2,209.52
P-100-E-17	Input tax on domestic purchase of goods supported by a VAT invoice with correction on the invoice amount without counter signature	5,096.73
P-100-E-19	Input tax on domestic purchase of goods supported by VAT REG TIN TEMPORARY CREDIT SALES INVOICE	3,348.20
P-100-E-18	Input tax on domestic purchase of goods supported by a VAT invoice with alterations in the invoice date without counter signature	139.45
P-100-E-20, P-100-E-20a,	Input tax on domestic purchase of services supported by documents other than a VAT OR	808,384.31

[104] Exhibits "P-100-D-010001" to "P-100-D-010679", "P-100-D-020001" to "P-100-D-020476", "P-100-D-030001" to "P-100-D-030508", "P-100-D-040001" to "P-100-D-040393", "P-100-D-050001" to "P-100-D-050366", "P-100-D-060001" to "P-100-D-060672", "P-100-D-070001" to "P-100-D-070464", "P-100-D-080001" to "P-100-D-080477", "P-100-D-090001" to "P-100-D-090780", "P-100-D-100001" to "P-100-D-100521", "P-100-D-110001" to "P-100-D-110464", "P-100-D-120001" to "P-100-D-120656", and "P-100-G-1" to "P-100-G-131".
[105] Exhibit "P-110".

P-100-E-20b		
P-100-E-22	Input tax on domestic purchase of service supported by a VAT OR but not an original copy	108,612.27
P-100-E-23	Input tax on domestic purchases of services supported by a VAT OR not issued in the name of the partnership	3,299.28
P-100-E-24	Input tax on domestic purchase of services supported by a VAT OR issued in the name of CBK only, CBK - NEW SPILLWAY, CBK-NEW SPILLWAY EAST TALAONGAN and CBK- TRAINING CENTER	21,937.95
P-100-E-25	Input tax on domestic purchases of services supported by Non VAT Reg TIN OR with stamped "VAT registered"	103,786.01
P-100-E-26, P-100-E-26a, P-100-E-26b	Input tax on domestic purchase of services supported by TIN OR only, OR only; OR with stamped TIN VAT but also: 1. Supported by VAT INVOICE with statement "This serves as an official receipt" and other supporting documents"; 2. Supported by Statement of Accounts	580,062.02
P-100-E-27	Input tax on domestic purchase of services supported by a tape receipt without the partnership's name and/or TIN	7,457.10
P-100-E-28	Input tax on domestic purchase of services supported by pre-printed TIN-V OR printed after July 31, 1991 but before January 1, 1996	3,750.00
P-100-E-29	Input tax on domestic purchase of services supported with VAT OR but with incomplete OR date	108.58
P-100-E-30, P-100-E-30a, P-100-E-30b	Input tax on domestic purchase of services supported by a VAT OR issued in the partnership's name but without the partnership"s TIN and/or address but also: 1. Supported by VAT invoice with TIN and address or 2. Supported by VAT invoice or any other document without TIN and/or address	2,876,946.89
P-100-E-31	Input tax on domestic purchase of services supported by a VAT OR not dated within the VAT-taxable year	1,272.30
P-100-E-32	Input tax on domestic purchases of services supported by TIN NON VAT OR	4,971.43
P-100-E-33	Input tax on domestic purchases of services supported by a VAT OR but is not BIR-registered	3,600.30
P-100-E-37	Double claiming of input tax on domestic purchase of services	74,029.54
P-100-E-38	Input tax on domestic purchase of services supported by VAT OR. However, the sentence "This is not a source of input tax." is printed in the VAT OR.	9,476.26
P-100-E-39	Input tax on domestic purchases of services supported by a TIN Non VAT Acknowledgement Receipt	38.92
P-100-E-41	Input tax on domestic purchase of goods/services and importation of goods without supporting documents	71,439.42
P-100-E-42	Overclaimed input tax on domestic purchases of goods/services due to erroneous computation (*i.e.*, arithmetical error)	18,823.57
P-100-E-44	Overclaimed portion of input tax arising from forex rate used on foreign currency denominated purchases of goods and services	257,477.03
	Total	**₱ 5,650,377.89**

Also, the Court noted that among the findings of the ICPA were the following:

Item	Exhibit	Description	Input VAT
1	P-100-E-2	Input tax on domestic purchase of goods supported by a VAT invoice with correction on the invoice amount with counter signature	₱ 27,791.80

2	P-100-E-3	Input tax on domestic purchase of goods supported by a VAT invoice with correction on the invoice date with counter signature	133,553.34
3	P-100-E-4	Input tax on domestic purchase of services supported by a VAT OR with corrections in the OR amount with counter signature	140,987.63
4	P-100-E-5	Input tax on domestic purchase of services supported by a VAT OR with corrections in the OR date with counter signature	505,081.99
5	P-100-E-34	Input tax on domestic purchase of services supported by a VAT OR with alterations in the Partnership's name with counter signature	36,553.93
6	P-100-E-16	Input tax on domestic purchase of goods supported by VAT invoice but is not BIR Registered. For Toyota Makati, from which petitioner claimed input tax of P240,214.29, there is permit to use computerized accounting system or components thereof	₱ 256,920.22

Items 1 to 5 – Said findings included input VAT amounting to ₱219,189.05 wherein the countersignature on the corrections made in the supporting VAT invoice/OR is not similar to the signature of the authorized signatory in the VAT invoice/OR or it cannot be ascertained whether the person who countersigned the corrections is duly authorized by the CBK's supplier. Hence, CBK's claim shall be further reduced by ₱219,189.05, broken down as follows:

Schedule 2

Item	Exhibit	Description			Input VAT Claimed
1	P-100-E-2	Input tax on domestic purchase of goods supported by a VAT invoice with correction on the invoice amount with counter signature			₱ 27,791.80
2	P-100-E-3	Input tax on domestic purchase of goods supported by a VAT invoice with correction on the invoice date with counter signature			133,553.34
3	P-100-E-4	Input tax on domestic purchase of services supported by a VAT OR with corrections in the OR amount with counter signature			
		Exhibit P-100-D submarking	*Vendor Name*	*Input VAT Claimed*	
		040333-040334	Tricom Dynamics, Inc.	469.29	
		080182-080183	Worldbest Logistics Phils., Inc.	1,232.62	1,701.91
4	P-100-E-5	Input tax on domestic purchase of services supported by a VAT OR with corrections in the OR date with counter signature			
		Exhibit P-100-D submarking	*Vendor Name*	*Input VAT Claimed*	

		040331-040332	Tantoco Villanueva De Guzman & Llamas	1,200.00	
		090767-090768	First Philippine Skills & Eqpt Testing Corp.	36,192.00	37,392.00
5	P-100-E-34	Input tax on domestic purchase of services supported by a VAT OR with alterations in the Partnership's name with counter signature			
		Exhibit P-100-D submarking	*Vendor Name*	*Input VAT Claimed*	
		090032;090332	Harty Incorporated Philippines	18,750.00	18,750.00
				Total	**₱ 219,189.05**

Item 6 – Said finding included input tax on purchase of vehicle from Toyota Makati, Inc., amounting to ₱240,214.29 supported by VAT invoice wherein no BIR permit was indicated. However, as correctly noted by the ICPA, Toyota Makati, Inc. was granted a permit to use e-Invoicing System (Permit No. 1005-052-00013-001)[106], which took effect on October 16, 2006. Thus, the input tax of ₱240,214.29 shall be allowed, and only that of ₱16,705.93 shall be disallowed.

In addition, input VAT in the amount of ₱1,747,342.00, as detailed below, shall be disallowed for non-compliance with the substantiation requirements under the VAT law and regulations:

Schedule 3

Exhibit	Invoice/OR No.	Supplier	Input VAT
Input tax on purchase of services supported by VAT OR but the VAT was not separately indicated			
P-100-D-010006	021867	COPY QUEST CORPORATION	₱ 8,949.89
P-100-D-010011	476	C. S. BRACAMONTE	961.80
P-100-D-010014	SXL-033402	DIGITAL TEL. PHILS.,INC.	61.89
P-100-D-010018	SXL-033404	DIGITAL TEL. PHILS.,INC.	475.56
P-100-D-010020	SXL-034235	DIGITAL TEL. PHILS., INC.	61.89
P-100-D-010024	SXL-034237	DIGITAL TEL. PHILS., INC.	230.05
P-100-D-010032	0319	EASTERN ALUMINUM GLASS SUPPLY	1,125.00
P-100-D-010036	3015	EXPERTLINE VENTURES CORP.	2,520.00
P-100-D-010038	0941	FIRST ANALYTICAL SERV. & TECH.COOP.	10,627.20
P-100-D-010190	65013	FUJI XEROX PHILIPPINES, INC.	211.92
P-100-D-010191	64496	FUJI XEROX PHILIPPINES, INC.	522.60

[106] Exhibit "P-100-D-040368".

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-010192	66810	FUJI XEROX PHILIPPINES, INC.	36.00
P-100-D-010253	3050	JEFCOR LABORATORIES, INC.	478.80
P-100-D-010287	12434	MICHIGAN ENTERPRISES CORP.	112.50
P-100-D-010289	51302	MICROBASE INCOR PORATED	1,149.64
P-100-D-010305	6043	NU-PRINT PHILIPPINES, INC.	86.00
P-100-D-010305	6043	NU-PRINT PHILIPPINES, INC.	7,500.00
P-100-D-010310	000037906	PHIL. LONG DISTANCE TEL. CO.	135.13
P-100-D-010312	000037907	PHIL. LONG DISTANCE TEL. CO.	368.59
P-100-D-010314	000037908	PHIL. LONG DISTANCE TEL. CO.	358.90
P-100-D-010316	000037909	PHIL. LONG DISTANCE TEL. CO.	294.62
P-100-D-010318	000037910	PHIL. LONG DISTANCE TEL. CO.	508.49
P-100-D-010320	000037911	PHIL. LONG DISTANCE TEL. CO.	137.46
P-100-D-010322	000037912	PHIL. LONG DISTANCE TEL. CO.	122.71
P-100-D-010324	000037913	PHIL. LONG DISTANCE TEL. CO.	393.16
P-100-D-010326	000037914	PHIL. LONG DISTANCE TEL. CO.	376.21
P-100-D-010328	000037915	PHIL. LONG DISTANCE TEL. CO.	2,122.13
P-100-D-010330	000037916	PHIL. LONG DISTANCE TEL. CO.	163.47
P-100-D-010332	000034917	PHIL. LONG DISTANCE TEL. CO.	355.05
P-100-D-010334	000037918	PHIL. LONG DISTANCE TEL. CO.	841.10
P-100-D-010336	000037919	PHIL. LONG DISTANCE TEL. CO.	230.88
P-100-D-010338	000037920	PHIL. LONG DISTANCE TEL. CO.	151.97
P-100-D-010340	000037921	PHIL. LONG DISTANCE TEL. CO.	7,736.23
P-100-D-010342	000039970	PHIL. LONG DISTANCE TEL. CO.	158.33
P-100-D-010344	000039971	PHIL. LONG DISTANCE TEL. CO.	347.28
P-100-D-010346	000039972	PHIL. LONG DISTANCE TEL. CO.	394.29
P-100-D-010348	000039973	PHIL. LONG DISTANCE TEL. CO.	219.23
P-100-D-010350	000039974	PHIL. LONG DISTANCE TEL. CO.	311.72
P-100-D-010352	000039975	PHIL. LONG DISTANCE TEL. CO.	122.71
P-100-D-010354	000039976	PHIL. LONG DISTANCE TEL. CO.	122.71
P-100-D-010356	000039977	PHIL. LONG DISTANCE TEL. CO.	336.12
P-100-D-010358	000039978	PHIL. LONG DISTANCE TEL. CO.	279.91
P-100-D-010360	000039979	PHIL. LONG DISTANCE TEL. CO.	1,624.66
P-100-D-010362	000039980	PHIL. LONG DISTANCE TEL. CO.	215.89
P-100-D-010364	000039981	PHIL. LONG DISTANCE TEL. CO.	325.57
P-100-D-010366	000039982	PHIL. LONG DISTANCE TEL. CO.	722.34
P-100-D-010368	000039983	PHIL. LONG DISTANCE TEL. CO.	197.84
P-100-D-010370	000039984	PHIL. LONG DISTANCE TEL. CO.	142.21
P-100-D-010372	000039985	PHIL. LONG DISTANCE TEL. CO.	8,683.97
P-100-D-010374	0116	R. C.TOLLO SURVEYING SERVICES	9,600.00
P-100-D-010376	0552	RC VENTURES	23,995.35
P-100-D-010407	145002	TOYOTA BATANGAS CITY, INC.	66.00
P-100-D-010407	145002	TOYOTA BATANGAS CITY, INC.	114.00
P-100-D-010407	145002	TOYOTA BATANGAS CITY, INC.	159.00
P-100-D-010411	145242	TOYOTA BATANGAS CITY, INC.	48.00
P-100-D-010411	145242	TOYOTA BATANGAS CITY, INC.	66.00
P-100-D-010414	145243	TOYOTA BATANGAS CITY, INC.	54.00
P-100-D-010414	145243	TOYOTA BATANGAS CITY, INC.	114.00
P-100-D-010419	49167	TRANSMODAL INTERNATIONAL,INC.	631.13
P-100-D-010421	155793	TRICOM DYNAMICS, INC.	158.54
P-100-D-010421	155793	TRICOM DYNAMICS, INC.	889.06
P-100-D-010421	155793	TRICOM DYNAMICS, INC.	355.48

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-010421	155793	TRICOM DYNAMICS, INC.	732.79
P-100-D-010421	155793	TRICOM DYNAMICS, INC.	618.91
P-100-D-010421	155793	TRICOM DYNAMICS, INC.	705.26
P-100-D-010428	09892	TRIGON MGT. & IND.CORPORATION	4,285.71
P-100-D-010432	0220	TWIN V TECH SYSTEMS & SERVICES	13,397.06
P-100-D-010430	0261	TRIMEC ASIA, INC.	5,357.14
P-100-D-010441	0259	WELLCROSS FREIGHT CORP.	1,853.25
P-100-D-010454	165036	AIRFREIGHT 2100, INC.	209.65
P-100-D-010460	158850	AIRFREIGHT 2100, INC.	220.34
P-100-D-010496	0028	JOREYNO HOLDINGS INC.	136,080.00
P-100-D-010500	9827	MANABAT DELGADO AMPER & CO.	19,800.00
P-100-D-010502	9826	MANABAT DELGADO AMPER & CO.	13,200.00
P-100-D-010509	00057	MICRO LYNX SYSTEMS ENTERPRISES	25,445.96
P-100-D-010513	PKPOR000153 967	PHIL. LONG DISTANCE TEL. CO.	1,898.89
P-100-D-010513	PKPOR000153 967	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-010513	PKPOR000153 967	PHIL. LONG DISTANCE TEL. CO.	237.68
P-100-D-010513	PKPOR000153 967	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-010513	PKPOR000153 967	PHIL. LONG DISTANCE TEL. CO.	206.23
P-100-D-010561	PKPOR000144 017	PHIL. LONG DISTANCE TEL. CO.	1,983.99
P-100-D-010561	PKPOR000144 017	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-010561	PKPOR000144 017	PHIL. LONG DISTANCE TEL. CO.	231.28
P-100-D-010561	PKPOR000144 017	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-010561	PKPOR000144 017	PHIL. LONG DISTANCE TEL. CO.	226.98
P-100-D-010590	4001	MFT INTERNATIONAL CORPORATION	5,216.78
P-100-D-010631	5669	EBDI PHILIPPINES, INC.	2,961.23
P-100-D-020002	722	C. S. BRACAMONTE	1,649.47
P-100-D-020006	3014	EXPERTLINE VENTURES CORP.	9,600.00
P-100-D-020075	1718	JNJKONS ENTERPRISE	2,440.18
P-100-D-020080	2956	LEVERAGE INT.(CONSULTANTS),INC.	1,537.50
P-100-D-020082	0079	LINO BON ARTIAGA CUSTOMS BROKERAGE	2,784.92
P-100-D-020106	15500	NEVILLE-CLARKE	13,680.00
P-100-D-020116	000043596	PHIL. LONG DISTANCE TEL. CO.	151.78
P-100-D-020118	000043595	PHIL. LONG DISTANCE TEL. CO.	465.16
P-100-D-020120	000043594	PHIL. LONG DISTANCE TEL. CO.	339.13
P-100-D-020142	2466	TEAM HYDROTEC PHILS. INT'L. INC.	2,544.64

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-020159	10011	TRIGON MGT. & IND.CORPORATION	9,214.29
P-100-D-020165	0425	WATER-LITE ENGINEERING	1,821.43
P-100-D-020167	0148	WIRELESS 1 INTERACTIVE, INC.	2,142.86
P-100-D-020291	9620	MANABAT DELGADO AMPER & CO.	27,720.00
P-100-D-020307	PKPOR000163 851	PHIL. LONG DISTANCE TEL. CO.	2,893.80
P-100-D-020307	PKPOR000163 851	PHIL. LONG DISTANCE TEL. CO.	185.20
P-100-D-020307	PKPOR000163 851	PHIL. LONG DISTANCE TEL. CO.	361.25
P-100-D-020307	PKPOR000163 851	PHIL. LONG DISTANCE TEL. CO.	185.20
P-100-D-020307	PKPOR000163 851	PHIL. LONG DISTANCE TEL. CO.	298.22
P-100-D-030002	SXL-035719	DIGITAL TELS. PHILS., INC.	61.89
P-100-D-030006	SXL-035721	DIGITAL TELS. PHILS., INC.	440.31
P-100-D-030071	44605	PHIL. LONG DISTANCE TEL. CO.	157.09
P-100-D-030073	44606	PHIL. LONG DISTANCE TEL. CO.	296.13
P-100-D-030075	44607	PHIL. LONG DISTANCE TEL. CO.	143.73
P-100-D-030077	44610	PHIL. LONG DISTANCE TEL. CO.	281.96
P-100-D-030079	44939	PHIL. LONG DISTANCE TEL. CO.	198.65
P-100-D-030081	44940	PHIL. LONG DISTANCE TEL. CO.	315.12
P-100-D-030083	44941	PHIL. LONG DISTANCE TEL. CO.	126.96
P-100-D-030085	44942	PHIL. LONG DISTANCE TEL. CO.	122.71
P-100-D-030087	44943	PHIL. LONG DISTANCE TEL. CO.	450.53
P-100-D-030089	44944	PHIL. LONG DISTANCE TEL. CO.	301.20
P-100-D-030091	44945	PHIL. LONG DISTANCE TEL. CO.	3,256.54
P-100-D-030093	44946	PHIL. LONG DISTANCE TEL. CO.	145.21
P-100-D-030095	44947	PHIL. LONG DISTANCE TEL. CO.	275.82
P-100-D-030097	44948	PHIL. LONG DISTANCE TEL. CO.	463.21
P-100-D-030099	44949	PHIL. LONG DISTANCE TEL. CO.	225.66
P-100-D-030101	44950	PHIL. LONG DISTANCE TEL. CO.	145.08
P-100-D-030103	44951	PHIL. LONG DISTANCE TEL. CO.	11,187.20
P-100-D-030105	45473	PHIL. LONG DISTANCE TEL. CO.	193.05
P-100-D-030107	45474	PHIL. LONG DISTANCE TEL. CO.	294.29
P-100-D-030109	45475	PHIL. LONG DISTANCE TEL. CO.	122.71
P-100-D-030111	45476	PHIL. LONG DISTANCE TEL. CO.	122.71
P-100-D-030113	45477	PHIL. LONG DISTANCE TEL. CO.	685.14
P-100-D-030115	45478	PHIL. LONG DISTANCE TEL. CO.	515.91
P-100-D-030117	45479	PHIL. LONG DISTANCE TEL. CO.	2,047.26
P-100-D-030119	45480	PHIL. LONG DISTANCE TEL. CO.	143.45
P-100-D-030121	45481	PHIL. LONG DISTANCE TEL. CO.	359.58
P-100-D-030123	45482	PHIL. LONG DISTANCE TEL. CO.	668.93
P-100-D-030125	45483	PHIL. LONG DISTANCE TEL. CO.	218.17
P-100-D-030127	45484	PHIL. LONG DISTANCE TEL. CO.	140.71
P-100-D-030129	45485	PHIL. LONG DISTANCE TEL. CO.	10,159.87
P-100-D-030131	45672	PHIL. LONG DISTANCE TEL. CO.	1,079.65
P-100-D-030133	0138	REJOICE TYRE GALLERY & AUTO CENTER	160.71
P-100-D-030133	0138	REJOICE TYRE GALLERY & AUTO CENTER	160.72

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-030169	0186	WORLDBEST LOGISTICS PHILS.,INC.	2,212.11
P-100-D-030205	5027563	SYCIP SALAZAR HERNANDEZ & GATMAITAN LAW OFFICES	3,012.31
P-100-D-030209	7462	PERSONAL SECURITY SYSTEMS,INC.	86.75
P-100-D-030211	615	C. S. BRACAMONTE	2,652.03
P-100-D-030215	158849	AIRFREIGHT 2100, INC.	10.52
P-100-D-030215	158849	AIRFREIGHT 2100, INC.	7.36
P-100-D-030215	158849	AIRFREIGHT 2100, INC.	42.12
P-100-D-030215	158849	AIRFREIGHT 2100, INC.	56.16
P-100-D-030215	158849	AIRFREIGHT 2100, INC.	458.90
P-100-D-040005	SXL-036730	DIGITEL TELS. PHILS., INC.	61.89
P-100-D-040009	SXL-036732	DIGITEL TELS. PHILS., INC.	489.60
P-100-D-040132	10189	NU-PRINT PHILIPPINES, INC.	351.00
P-100-D-040132	10189	NU-PRINT PHILIPPINES, INC.	437.00
P-100-D-040139	000047454	PHIL. LONG DISTANCE TEL. CO.	138.40
P-100-D-040141	000047455	PHIL. LONG DISTANCE TEL. CO.	432.52
P-100-D-040143	000047456	PHIL. LONG DISTANCE TEL. CO.	123.81
P-100-D-040145	000047459	PHIL.LONG DISTANCE TEL.CO.	205.70
P-100-D-040147	000048253	PHIL. LONG DISTANCE TEL. CO.	642.84
P-100-D-040149	000048255	PHIL. LONG DISTANCE TEL. CO.	189.50
P-100-D-040150	000048256	PHIL. LONG DISTANCE TEL. CO.	450.06
P-100-D-040152	000048257	PHIL. LONG DISTANCE TEL. CO.	121.06
P-100-D-040154	000048258	PHIL. LONG DISTANCE TEL. CO.	121.06
P-100-D-040156	000048259	PHIL. LONG DISTANCE TEL. CO.	295.26
P-100-D-040158	000048260	PHIL. LONG DISTANCE TEL. CO.	144.79
P-100-D-040160	000048261	PHIL. LONG DISTANCE TEL. CO.	402.50
P-100-D-040162	000048262	PHIL. LONG DISTANCE TEL. CO.	393.07
P-100-D-040164	000048263	PHIL. LONG DISTANCE TEL. CO.	217.29
P-100-D-040166	000048264	PHIL. LONG DISTANCE TEL. CO.	146.16
P-100-D-040191	150359	TOYOTA BATANGAS CITY, INC.	66.00
P-100-D-040191	150359	TOYOTA BATANGAS CITY, INC.	54.00
P-100-D-040233	176574	AIRFREIGHT 2100, INC.	74.90
P-100-D-040233	176574	AIRFREIGHT 2100, INC.	47.84
P-100-D-040236	176573	AIRFREIGHT 2100, INC.	64.36
P-100-D-040309	000184399	PHIL. LONG DISTANCE TEL. CO.	2,042.96
P-100-D-040309	000184399	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-040309	000184399	PHIL. LONG DISTANCE TEL. CO.	212.72
P-100-D-040309	000184399	PHIL. LONG DISTANCE TEL. CO.	164.58
P-100-D-040309	000184399	PHIL. LONG DISTANCE TEL. CO.	207.32
P-100-D-040333	157321	TRICOM DYNAMICS, INC.	469.29
P-100-D-050009	011	CONSULTANTS UNLIMITED RESOURCES INC.	214.29
P-100-D-050010	SXL-037719	DIGITAL TELS. PHILS., INC.	61.89
P-100-D-050014	SXL-037722	DIGITAL TELS. PHILS., INC.	232.41
P-100-D-050092	000050360	PHIL. LONG DISTANCE TEL. CO.	145.23
P-100-D-050094	000050361	PHIL. LONG DISTANCE TEL. CO.	372.16
P-100-D-050096	000050364	PHIL. LONG DISTANCE TEL. CO.	245.41
P-100-D-050215	178632	AIRFREIGHT 2100, INC.	96.49
P-100-D-050215	178632	AIRFREIGHT 2100, INC.	50.40
P-100-D-050235	42789	FUJITSU PHILIPPINES, INC.	45,288.23
P-100-D-050266	190606	PHIL. LONG DISTANCE TEL. CO.	2,175.45

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-050266	190606	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-050266	190606	PHIL. LONG DISTANCE TEL. CO.	261.96
P-100-D-050266	190606	PHIL. LONG DISTANCE TEL. CO.	153.27
P-100-D-050266	190606	PHIL. LONG DISTANCE TEL. CO.	215.51
P-100-D-060006	SXL-038844	DIGITAL TELS. PHILS., INC.	61.89
P-100-D-060010	SXL-038846	DIGITAL TELS. PHILS., INC.	210.47
P-100-D-060016	0529	FIRSTLY & FOREMOST RESORT CORP.	1,322.84
P-100-D-060085	000053099	PHIL. LONG DISTANCE TEL. CO.	133.63
P-100-D-060087	000053100	PHIL. LONG DISTANCE TEL. CO.	315.93
P-100-D-060091	000053098	PHIL. LONG DISTANCE TEL. CO.	1,490.44
P-100-D-060093	000053086	PHIL. LONG DISTANCE TEL. CO.	252.99
P-100-D-060095	000053085	PHIL. LONG DISTANCE TEL. CO.	231.24
P-100-D-060097	000053087	PHIL. LONG DISTANCE TEL. CO.	149.63
P-100-D-060099	000053088	PHIL. LONG DISTANCE TEL. CO.	149.63
P-100-D-060101	000053089	PHIL. LONG DISTANCE TEL. CO.	384.90
P-100-D-060103	000053090	PHIL. LONG DISTANCE TEL. CO.	387.44
P-100-D-060105	000053091	PHIL. LONG DISTANCE TEL. CO.	822.76
P-100-D-060107	000053092	PHIL. LONG DISTANCE TEL. CO.	166.46
P-100-D-060109	000053093	PHIL. LONG DISTANCE TEL. CO.	445.61
P-100-D-060113	000053095	PHIL. LONG DISTANCE TEL. CO.	289.15
P-100-D-060115	000053096	PHIL. LONG DISTANCE TEL. CO.	166.46
P-100-D-060117	000053097	PHIL. LONG DISTANCE TEL. CO.	9,842.65
P-100-D-060152	15323	RAMP INSURANCE SERVICES	22,459.67
P-100-D-060199	14414	UNITED VALIANT GROUP SECURITY SERVICES,INC.	3,750.00
P-100-D-060199	14415	UNITED VALIANT GROUP SECURITY SERVICES,INC.	3,750.00
P-100-D-060199	14416	UNITED VALIANT GROUP SECURITY SERVICES,INC.	3,750.00
P-100-D-060418	187224	BAYAN TELECOMMUNICATIONS INC.	3,744.00
P-100-D-060089	000053101	PHIL. LONG DISTANCE TEL. CO.	190.30
P-100-D-060550	723	C. S. BRACAMONTE	1,638.83
P-100-D-060558	42641	FUJITSU PHILIPPINES, INC.	6,000.00
P-100-D-060596	0223	WELLCROSS FREIGHT CORPORATION	1,828.50
P-100-D-060626	PKPOR000173 222	PHIL. LONG DISTANCE TEL. CO.	2,056.18
P-100-D-060626	PKPOR000173 222	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-060626	PKPOR000173 222	PHIL. LONG DISTANCE TEL. CO.	286.50
P-100-D-060626	PKPOR000173 222	PHIL. LONG DISTANCE TEL. CO.	167.86
P-100-D-060626	PKPOR000173 222	PHIL. LONG DISTANCE TEL. CO.	207.32
P-100-D-070009	SXL-039985	DIGITAL TELS. PHILS., INC.	61.89
P-100-D-070013	SXL-039987	DIGITAL TELS. PHILS., INC.	108.90
P-100-D-070052	21083	GENCARS-SAN PABLO,INC.	380.46
P-100-D-070052	21083	GENCARS-SAN PABLO,INC.	12.00
P-100-D-070153	000056211	PHIL. LONG DISTANCE TEL. CO.	152.19
P-100-D-070155	000056212	PHIL. LONG DISTANCE TEL. CO.	433.36

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-070157	000056213	PHIL. LONG DISTANCE TEL. CO.	3,146.68
P-100-D-070159	000056214	PHIL. LONG DISTANCE TEL. CO.	393.08
P-100-D-070161	000056215	PHIL. LONG DISTANCE TEL. CO.	222.36
P-100-D-070163	000056216	PHIL. LONG DISTANCE TEL. CO.	122.73
P-100-D-070165	000056217	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-070167	000056218	PHIL. LONG DISTANCE TEL. CO.	345.75
P-100-D-070169	000056219	PHIL. LONG DISTANCE TEL. CO.	300.34
P-100-D-070171	000056220	PHIL. LONG DISTANCE TEL. CO.	1,269.30
P-100-D-070173	000056221	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-070175	000056222	PHIL. LONG DISTANCE TEL. CO.	261.80
P-100-D-070177	000056223	PHIL. LONG DISTANCE TEL. CO.	637.05
P-100-D-070179	000056224	PHIL. LONG DISTANCE TEL. CO.	263.89
P-100-D-070181	000056225	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-070183	000056226	PHIL. LONG DISTANCE TEL. CO.	7,369.68
P-100-D-070185	000056227	PHIL. LONG DISTANCE TEL. CO.	209.89
P-100-D-070187	000056207	PHIL. LONG DISTANCE TEL. CO.	910.69
P-100-D-070191	9503	PROQUEST PUBLISHING INC.	321.43
P-100-D-070232	0725	TRAININGWORKS CORPORATION	2,352.00
P-100-D-070329	000208074	PHIL. LONG DISTANCE TEL. CO.	1,980.66
P-100-D-070329	000208074	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-070329	000208074	PHIL. LONG DISTANCE TEL. CO.	186.96
P-100-D-070329	000208074	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-070329	000208074	PHIL. LONG DISTANCE TEL. CO.	201.86
P-100-D-070363	416636	UNIVERSAL HOLIDAYS, INC.	774.00
P-100-D-070365	419092	UNIVERSAL HOLIDAYS, INC.	95.68
P-100-D-070367	419093	UNIVERSAL HOLIDAYS, INC.	95.68
P-100-D-080005	SXL-1-000041340	DIGITAL TELS. PHILS., INC.	61.89
P-100-D-080009	SXL-1-000041342	DIGITAL TELS. PHILS., INC.	108.90
P-100-D-080023	0555	FIRSTLY & FOREMOST RESORT CORP.	2,343.01
P-100-D-080100	0833	PEME CONSULTANCY, INC.	6,428.57
P-100-D-080102	PCXOR000058885	PHIL. LONG DISTANCE TEL. CO.	133.63
P-100-D-080104	PCXOR000058886	PHIL. LONG DISTANCE TEL. CO.	380.78
P-100-D-080106	PCXOR000058887	PHIL. LONG DISTANCE TEL. CO.	144.40
P-100-D-080108	PCXOR000058888	PHIL. LONG DISTANCE TEL. CO.	221.48
P-100-D-080110	PCXOR000059562	PHIL. LONG DISTANCE TEL. CO.	213.86
P-100-D-080112	PCXOR000059561	PHIL. LONG DISTANCE TEL. CO.	310.02
P-100-D-080114	PCXOR000059560	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-080116	PCXOR000059559	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-080118	PCXOR000059558	PHIL. LONG DISTANCE TEL. CO.	153.63
P-100-D-080120	PCXOR000059557	PHIL. LONG DISTANCE TEL. CO.	359.56

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-080122	PCXOR000059 556	PHIL. LONG DISTANCE TEL. CO.	190.11
P-100-D-080124	PCXOR000059 555	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-080126	PCXOR000059 554	PHIL. LONG DISTANCE TEL. CO.	125.72
P-100-D-080128	PCXOR000059 553	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-080130	PCXOR000059 552	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-080132	PCXOR000059 551	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-080134	PCXOR000059 550	PHIL. LONG DISTANCE TEL. CO.	13,234.12
P-100-D-080136	PCXOR000059 595	PHIL. LONG DISTANCE TEL. CO.	910.69
P-100-D-080138	0172	REJOICE TYRE GALLERY & AUTO CENTER	64.29
P-100-D-080138	0172	REJOICE TYRE GALLERY & AUTO CENTER	192.86
P-100-D-080188	6108	EBDI PHILIPPINES, INC.	1,624.76
P-100-D-080234	PKPOR000214 305	PHIL. LONG DISTANCE TEL. CO.	1,985.24
P-100-D-080234	PKPOR000214 305	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-080234	PKPOR000214 305	PHIL. LONG DISTANCE TEL. CO.	197.58
P-100-D-080234	PKPOR000214 305	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-080234	PKPOR000214 305	PHIL. LONG DISTANCE TEL. CO.	212.23
P-100-D-080255	413654	UNIVERSAL HOLIDAYS, INC.	70.96
P-100-D-080417	10615	SANVIL INDUSTRIAL SUPPLY	17,239.29
P-100-D-090005	SXL-1-000042358	DIGITAL TELS. PHILS., INC.	33.94
P-100-D-090009	SXL-1-000042360	DIGITAL TELS. PHILS., INC.	59.72
P-100-D-090052	60952	PHIL. LONG DISTANCE TEL. CO.	133.63
P-100-D-090054	60953	PHIL. LONG DISTANCE TEL. CO.	537.14
P-100-D-090056	60954	PHIL. LONG DISTANCE TEL. CO.	328.37
P-100-D-090058	60955	PHIL. LONG DISTANCE TEL. CO.	214.29
P-100-D-090060	0177	REJOICE TYRE GALLERY & AUTO CENTER	160.72
P-100-D-090065	0397	SYNERQUEST MGT. CONSULTANCY SERVICES	2,160.00
P-100-D-090145	PKPOR000198 127	PHIL. LONG DISTANCE TEL. CO.	2,017.39
P-100-D-090145	PKPOR000198 127	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-090145	PKPOR000198 127	PHIL. LONG DISTANCE TEL. CO.	183.27
P-100-D-090145	PKPOR000198 127	PHIL. LONG DISTANCE TEL. CO.	226.98
P-100-D-090145	PKPOR000198	PHIL. LONG DISTANCE TEL. CO.	151.08

Exhibit	Invoice/OR No.	Supplier	Input VAT
	127		
P-100-D-090161	413656	UNIVERSAL HOLIDAYS, INC.	95.68
P-100-D-090478	3177	HIGH GRIP AUTO CENTER	16.07
P-100-D-090478	3177	HIGH GRIP AUTO CENTER	16.08
P-100-D-090478	3177	HIGH GRIP AUTO CENTER	32.14
P-100-D-090478	3177	HIGH GRIP AUTO CENTER	321.43
P-100-D-090489	0190	REJOICE TYRE GALLERY & AUTO CENTER	96.43
P-100-D-090509	413655	UNIVERSAL HOLIDAYS	90.86
P-100-D-090525	7764	NU-PRINT PHILIPPINES, INC.	311.00
P-100-D-090527	PCXOR000053 997	PHIL. LONG DISTANCE TEL. CO.	2,704.16
P-100-D-090529	PCXOR000053 998	PHIL. LONG DISTANCE TEL. CO.	2,401.09
P-100-D-090531	PCXOR000053 999	PHIL. LONG DISTANCE TEL. CO.	184.64
P-100-D-090533	PCXOR000054 000	PHIL. LONG DISTANCE TEL. CO.	239.94
P-100-D-090535	PCXOR000054 001	PHIL. LONG DISTANCE TEL. CO.	123.27
P-100-D-090537	PCXOR000054 002	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-090539	PCXOR000054 003	PHIL. LONG DISTANCE TEL. CO.	442.20
P-100-D-090541	PCXOR000054 004	PHIL. LONG DISTANCE TEL. CO.	315.09
P-100-D-090543	PCXOR000054 005	PHIL. LONG DISTANCE TEL. CO.	1,430.60
P-100-D-090545	PCXOR000054 006	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-090547	PCXOR000054 007	PHIL. LONG DISTANCE TEL. CO.	533.77
P-100-D-090549	PCXOR000054 008	PHIL. LONG DISTANCE TEL. CO.	695.58
P-100-D-090551	PCXOR000054 009	PHIL. LONG DISTANCE TEL. CO.	276.95
P-100-D-090553	PCXOR000054 010	PHIL. LONG DISTANCE TEL. CO.	141.27
P-100-D-090555	PCXOR000054 011	PHIL. LONG DISTANCE TEL. CO.	9,460.84
P-100-D-090557	PCXOR000053 972	PHIL. LONG DISTANCE TEL. CO.	910.69
P-100-D-090559	0556	RC VENTURES	5,525.68
P-100-D-090601	28909	ACESTAR INT. SERVICES CORP.	668.88
P-100-D-090603	83401	8R FLANDERS CFS, INC.	4,235.34
P-100-D-090605	3140	DSV AIR & SEA INC.	1,459.08
P-100-D-090607	130704	KUEHNE + NAGEL, INC.	112.32
P-100-D-090609	74315	OCEAN-LINK CONTAINER TERMINALS CENTER, INC.	1,115.12
P-100-D-100004	43179	BEST TRAVEL	102.22
P-100-D-100022	SXL-1-0003901	DIGITAL TELS. PHILS., INC.	61.89
P-100-D-100026	SXL-1-0003903	DIGITAL TELS. PHILS., INC.	108.90
P-100-D-100055	21751	GENCARS- SAN PABLO, INC.	176.03
P-100-D-100141	000064737	PHIL. LONG DISTANCE TEL. CO.	121.63

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-100143	000064738	PHIL. LONG DISTANCE TEL. CO.	197.27
P-100-D-100145	000064739	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100147	000064740	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100149	000064741	PHIL. LONG DISTANCE TEL. CO.	311.17
P-100-D-100151	000064742	PHIL. LONG DISTANCE TEL. CO.	315.93
P-100-D-100153	000064743	PHIL. LONG DISTANCE TEL. CO.	613.36
P-100-D-100155	000064744	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-100157	000064745	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100159	000064746	PHIL. LONG DISTANCE TEL. CO.	463.77
P-100-D-100161	000064747	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100163	000064748	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-100165	000064749	PHIL. LONG DISTANCE TEL. CO.	8,337.61
P-100-D-100167	000064733	PHIL. LONG DISTANCE TEL. CO.	910.69
P-100-D-100169	000064734	PHIL. LONG DISTANCE TEL. CO.	910.69
P-100-D-100171	000064966	PHIL. LONG DISTANCE TEL. CO.	356.85
P-100-D-100173	000064967	PHIL. LONG DISTANCE TEL. CO.	389.60
P-100-D-100175	000064968	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100177	000064969	PHIL. LONG DISTANCE TEL. CO.	219.41
P-100-D-100179	000064970	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100181	000064971	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100183	000064972	PHIL. LONG DISTANCE TEL. CO.	406.04
P-100-D-100185	000064973	PHIL. LONG DISTANCE TEL. CO.	357.56
P-100-D-100187	000064974	PHIL. LONG DISTANCE TEL. CO.	946.48
P-100-D-100189	000064975	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-100191	000064976	PHIL. LONG DISTANCE TEL. CO.	122.72
P-100-D-100193	000064977	PHIL. LONG DISTANCE TEL. CO.	402.02
P-100-D-100195	000064978	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-100197	000064979	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-100199	000064980	PHIL. LONG DISTANCE TEL. CO.	12,473.32
P-100-D-100201	000064981	PHIL. LONG DISTANCE TEL. CO.	182.64
P-100-D-100203	0059	QCONSULT INC.	1,920.00
P-100-D-100238	165774	TOYOTA BATANGAS CITY, INC.	2,808.00
P-100-D-100258	0922	WELLCROSS FREIGHT CORPORATION	1,681.80
P-100-D-100260	0923	WELLCROSS FREIGHT CORPORATION	2,484.28
P-100-D-100270	0350	WORLDBEST LOGISTICS PHILS.,INC.	1,889.18
P-100-D-100272	1223351	AIRFREIGHT 2100, INC.	98.15
P-100-D-100272	1223351	AIRFREIGHT 2100, INC.	98.15
P-100-D-100275	1223377	AIRFREIGHT 2100, INC.	75.83
P-100-D-100275	1223377	AIRFREIGHT 2100, INC.	75.83
P-100-D-100291	2279	DATA ACCESS ENTERPRISES	6,750.00
P-100-D-100339	PKPOR000235 113	PHIL. LONG DISTANCE TEL. CO.	2,301.32
P-100-D-100339	PKPOR000235 113	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-100339	PKPOR000235 113	PHIL. LONG DISTANCE TEL. CO.	155.45
P-100-D-100339	PKPOR000235 113	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-100339	PKPOR000235 113	PHIL. LONG DISTANCE TEL. CO.	202.41

Exhibit	Invoice/OR No.	Supplier	Input VAT
P-100-D-110013	0573	FIRSTLY & FOREMOST RESORT CORP.	2,599.44
P-100-D-110080	9076	NU-PRINT PHILIPPINES, INC.	750.00
P-100-D-110080	9076	NU-PRINT PHILIPPINES, INC.	621.00
P-100-D-110083	1081	PEME CONSULTANCY, INC.	13,200.00
P-100-D-110085	67083	PHIL. LONG DISTANCE TEL. CO.	133.63
P-100-D-110087	67084	PHIL. LONG DISTANCE TEL. CO.	536.20
P-100-D-110089	67085	PHIL. LONG DISTANCE TEL. CO.	415.10
P-100-D-110091	67086	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-110093	67087	PHIL. LONG DISTANCE TEL. CO.	254.41
P-100-D-110095	67088	PHIL. LONG DISTANCE TEL. CO.	123.13
P-100-D-110097	67089	PHIL. LONG DISTANCE TEL. CO.	423.36
P-100-D-110099	67090	PHIL. LONG DISTANCE TEL. CO.	200.27
P-100-D-110101	67091	PHIL. LONG DISTANCE TEL. CO.	920.75
P-100-D-110103	67092	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-110105	67093	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-110107	67094	PHIL. LONG DISTANCE TEL. CO.	416.01
P-100-D-110109	67095	PHIL. LONG DISTANCE TEL. CO.	121.63
P-100-D-110111	67096	PHIL. LONG DISTANCE TEL. CO.	139.63
P-100-D-110113	67097	PHIL. LONG DISTANCE TEL. CO.	11,289.11
P-100-D-110115	67098	PHIL.LONG DISTANCE TEL.CO.	203.62
P-100-D-110117	67031	PHIL. LONG DISTANCE TEL. CO.	910.69
P-100-D-110153	167311	TOYOTA BATANGAS CITY, INC.	114.00
P-100-D-110156	168128	TOYOTA BATANGAS CITY, INC.	267.00
P-100-D-110233	242573	PHIL. LONG DISTANCE TEL. CO.	1,996.36
P-100-D-110233	242573	PHIL. LONG DISTANCE TEL. CO.	171.67
P-100-D-110233	242573	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-110233	242573	PHIL. LONG DISTANCE TEL. CO.	151.08
P-100-D-110233	242573	PHIL. LONG DISTANCE TEL. CO.	166.92
P-100-D-110284	055332	VIKING CARS, INCORPORATED	771.43
P-100-D-110428	10594	SANVIL INDUSTRIAL SUPPLY	11,850.00
P-100-D-120015	2408	DATA ACCESS ENTERPRISES	19,832.14
P-100-D-120488	184277	AIRFREIGHT 2100, INC.	285.37
P-100-D-120517	224507	PHILIPPINE LONG DISTANCE TELEPHONE	1,995.72
P-100-D-120517	224507	PHILIPPINE LONG DISTANCE TELEPHONE	151.08
P-100-D-120517	224507	PHILIPPINE LONG DISTANCE TELEPHONE	153.67
P-100-D-120517	224507	PHILIPPINE LONG DISTANCE TELEPHONE	151.08
P-100-D-120517	224507	PHILIPPINE LONG DISTANCE TELEPHONE	212.23
P-100-D-120552	SXL-000042875	DIGITAL TELS. PHILS., INC.	61.89
P-100-D-120556	SXL-000042877	DIGITAL TELS. PHILS., INC.	108.90
P-100-D-120607	0189	REJOICE TYRE GALLERY & AUTO CENTER	1,028.58
P-100-D-120650	21352	LAGOS DEL SOL RESORT	1,110.00
P-100-D-120652	21351	LAGOS DEL SOL RESORT	1,159.20
		Subtotal	**₱ 823,199.62**

Exhibit	Invoice/OR No.	Supplier	Input VAT
Input tax on purchase of goods supported by VAT invoice but the VAT was not separately indicated			
P-100-D-030344	0103	TELEFLORA FUNFLOWERS SERVICE PHILIPPINES, INC.	₱ 482.12
P-100-D-030345	0104	TELEFLORA FUNFLOWERS SERVICE PHILIPPINES, INC.	428.57
P-100-D-090372	91332	OFFICE BASICS CORPORATION	1,602.00
		Subtotal	**₱ 2,512.69**
Input tax on purchase of services without supporting OR			
	0986	R.V.GORDOVEZ CONST.& SUPPLIES	₱ 6,832.29
	8313	NU-PRINT PHILIPPINES, INC.	2,366.00
	959	MOLINA GENERAL BUILDERS	18,998.37
	0541	ROLPSON TRADING AND CONSTRUCTION	44,055.00
	0541	ROLPSON TRADING AND CONSTRUCTION	52,875.43
	0541	ROLPSON TRADING AND CONSTRUCTION	20,927.53
	3191	HIGH GRIP AUTO CENTER	16.07
		Subtotal	**₱ 146,070.69**
Input tax on importation without supporting OR			
	0182126	BUREAU OF CUSTOMS	₱ 775,559.00
		Subtotal	**₱ 775,559.00**
		Total	**₱1,747,342.00**

Moreover, CBK failed to properly substantiate the amortized input taxes on capital goods exceeding ₱1 Million amounting to ₱1,914,266.48. As such, the following shall be disallowed from the subject claim.

Schedule 4

Exhibit	Supplier	Amortized Input VAT in 2008		
		Q1	Q2 to Q4	Total
P-100-J-2	Input tax on domestic purchase of capital goods supported by undated VAT invoice issued in the petitioner's name but supported by VAT OR dated within the taxable quarter	₱ 11,303.58	₱ 33,910.74	₱ 45,214.32
P-100-J-3	Input tax on domestic purchase of capital goods supported by a VAT invoice issued in the petitioner's name but without the petitioner's TIN and/or address; supported by VAT OR with TIN and address Less: Amount not claimed per	25,846.53	113,571.72 (36,032.13)	103,386.12

Exhibit	Supplier	Amortized Input VAT in 2008		
		Q1	Q2 to Q4	Total
	Exh. P-100-D-040361			
P-100-J-4	Input Tax on domestic purchase of capital goods supported by a VAT invoice issued in the petitioner's name but without the petitioner's TIN and/or address; supported by VAT OR without TIN and/or address	71,050.92	212,474.94	283,525.86
P-100-J-5	Input tax on domestic purchases of services pertaining to capital goods supported by a VAT OR issued in the petitioner's name but without the petitioner's TIN and/or address but supported by VAT invoice with TIN and address	33,483.25	100,449.75	133,933 .00
P-100-J-6	Input tax on domestic purchases of services pertaining to capital goods supported by a VAT OR issued in the petitioner's name but without the petitioner's TIN and/or address but supported by VAT invoice or any other document	204,197.10	611,118.17	815,315.27
P-100-J-7	Input tax on domestic purchase of capital goods supported by a non-VAT OR	612.03	1,836.09	2,448.12
P-100-J-8	Input tax on domestic purchase of services pertaining to capital goods supported by documents other than a VAT OR	62,243.22	186,729.66	248,972.88
P-100-J-9	Input tax on domestic purchases of capital goods supported by a VAT invoice but not an original copy	8,647.92	25,943.76	34,591.68
P-100-J10	Input tax on domestic purchase of capital goods and services pertaining to capital goods with missing supporting VAT ORs and VAT invoices	61,719.81	185,159.42	246,879.23
		₱ 479,104.36	**₱1,435,162.12**	**₱1,914,266.48**

Proceeding therefrom, out of CBK's input VAT claim of ₱61,503,335.47, only that portion of ₱51,955,454.12, as computed below, is duly substantiated:

Excess Input VAT Claim	₱ 61,503,335.47
Less: Disallowances	
Per ICPA's findings	
Schedule 1 of this report	₱ 5,650,377.89
Schedule 2 of this report	219,189.05
Schedule 4 of this report	1,914,266.48
Included in Exhibit P-100-E-16	16,705.93
Per this Court's further verification (Schedule 3 of this report)	1,747,342.00

Total Disallowances	₱	9,547,881.35
Properly Substantiated Excess Input VAT	**₱**	**51,955,454.12**

CBK complied with the 4th and 5th Requisites; CBK's claimed input taxes were unutilized and attributable to its zero-rated sales.

Considering that CBK's reported sales for the first and second quarters of 2009 were all zero-rated, the substantiated input VAT in the amount of ₱51,955,454.12 is entirely attributable thereto and was not applied against any output tax. Additionally, CBK's reported unutilized input taxes for the first and second to fourth quarters of 2008 were deducted as "VAT Refund / TCC claimed"[107] in the Quarterly VAT Returns filed for the same taxable quarters preventing the carry-over or application of such input taxes in the next taxable quarter/s.

WHEREFORE, premises considered, the Petitions for Review filed on March 29, 2010 and June 28, 2010, are **PARTIALLY GRANTED**. Accordingly, let a Tax Credit Certificate be issued in favor of CBK in the reduced amount of ₱51,955,454.12, representing its unutilized excess input VAT incurred in relation to its zero-rated sales of electricity to the NPC for the first to fourth quarters of 2008.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

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

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

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[107] Exhibits "P-100-B-1-2-e" and "P-100-B-41d".

ATTESTATION

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

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

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.

ROMAN G. DEL ROSARIO
Presiding Justice