REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SAN ROQUE POWER CORPORATION,
Petitioner,

CTA CASE NO. 8675

-versus-

Members:

BAUTISTA, Chairperson;
FABON-VICTORINO, and
RINGPIS-LIBAN, ***JJ.***

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

AUG 20 2015
1:36 p.m.

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DECISION

RINGPIS-LIBAN, J.

This is a Petition for Review[1] filed on July 24, 2013, to seek judicial relief from the Commissioner of Internal Revenue's (CIR) inaction on petitioner San Roque Power Corporation's (San Roque) administrative claim for refund or application for the issuance of a tax credit certificate (TCC) which San Roque filed with the Bureau of Internal Revenue (BIR) on February 28, 2013.

STATEMENT OF THE CASE

The relevant antecedents are as follows:

Petitioner is a corporation duly organized and existing under the laws of the Philippines, with principal office at Barangay San Roque, San Manuel, Pangasinan.[2]

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[1] Docket (CTA Case No. 8675), pp. 6-17, with Annexes.
[2] Joint Stipulation of Facts and Issues, Docket, pp.738-740.

Petitioner is one of the generation companies under Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 whose sales of generated power is value added tax zero-rated.[3]

Petitioner is a duly registered Value-Added Tax ("VAT") taxpayer with Tax Identification No. 005-017-501.[4]

Petitioner is likewise classified as a large taxpayer and under the jurisdiction of the Large Taxpayers Service of the Bureau of Internal Revenue ("BIR").[5]

Respondent is the duly appointed Commissioner of the BIR empowered to perform the duties of her office, including, among others, to decide disputed assessments, taxes, fees or other charges under the law, as well as administrative claims for refund, with office address at the 4/F, BIR National Office Building, BIR Road, Diliman, Quezon City.[6]

Petitioner filed with the BIR its quarterly VAT returns for the period covering April 1, 2011 to March 31, 2012.

QUARTERLY RETURN	DATE FILED
April 1, 2011 to June 30, 2011	July 15, 2011
July 1, 2011 to September 30, 2011	October 18, 2011
October 1, 2011 to December 31, 2011	January 25, 2012
January 1, 2012 to March 31, 2012	April 24, 2012

On February 28, 2012, petitioner filed with the BIR-Revenue District Office ("RDO") No. 121 its Application for Refund/Tax Credit Certificate for the unutilized input VAT for the fiscal year/period April 1, 2011 to March 31, 2012.[7]

On March 18, 2013, San Roque submitted additional documents to support its claim for tax refund or credit of its unutilized input taxes.[8]

Respondent failed to act on San Roque's claim for tax refund/tax credit within the allowable period. Hence, petitioner filed the instant petition on July 24, 2013.

The Summons was issued on August 7, 2013.[9]

[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] Ibid.
[7] Exhibit "P-18".
[8] Petitioner's Memorandum, Docket, p. 1312.
[9] Docket, p. 256.

On August 30, 2013, respondent filed by registered mail a Motion to Admit Answer with attached Answer.[10]

On September 3, 2015, respondent filed a Manifestation stating that on August 30, 2013, respondent filed her Answer and Motion to Admit Answer.[11]

In the Answer,[12] respondent interposed as its Special and Affirmative Defenses, that the Court does not have jurisdiction over petitioner's claim for tax refund; that the burden of proof to establish entitlement to a tax refund rests upon petitioner, and its failure to discharge such burden is fatal to its claim; and that the claims of tax exemption must be justified by the clearest grant of law.

On September 23, 2013, petitioner filed a Manifestation with Motion for Time to File Reply.[13]

On October 11, 2013, the Court issued a Resolution granting the Motion to Admit Answer and the Motion for Time to File Reply.[14]

On November 6, 2013, petitioner filed its Reply.[15]

On April 3, 2014, the parties filed their Joint Stipulation of Facts and Issues.[16] On April 23, 2014, the Court issued the Pre-Trial Order.[17]

Trial thereafter ensued.

Petitioner presented Ms. Laline Estayo, an accountant of San Roque, and Ms. Ma. Milagros F. Padernal – the Court-commissioned Independent Certified Public Accountant, as its witnesses and the documentary evidence marked as Exhibits "P-1" to "P-42".

During the hearing on September 18, 2014,[18] the respondent's counsel manifested that she had no witness to present since there was still no report of BIR investigation. Thereafter, as prayed for by the parties, the parties were granted thirty (30) days or until October 18, 2014 within which to file their respective memoranda.

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[10] Docket, p. 279.
[11] Ibid. p. 258.
[12] Ibid. pp. 285-295.
[13] Ibid. p. 300.
[14] Ibid. p. 306.
[15] Ibid. p. 310.
[16] Ibid. p. 738.
[17] Ibid. p. 871.
[18] Docket, Minutes of the hearing, p. 1248.

On October 17, 2014, respondent filed her Memorandum.[19] On October 20, 2014, San Roque filed its Memorandum.[20]

This case was deemed submitted for decision in a Resolution[21] dated November 4, 2014.

ISSUES

As stipulated by the parties, the following are the issues[22] for this Court's consideration:

1. Whether or not this Court has jurisdiction over the present case; and
2. Whether or not petitioner is entitled to a refund or tax credit in the total amount of Thirty-Five Million Seven Hundred Fifty-Three Thousand Seven Hundred Seventy-Nine pesos and Four Centavos (P35,753,779.04);
   a. Whether or not the amount of P35,753,779.04 represents the excess and unutilized creditable input taxes paid by petitioner for the period April 1, 2011 to March 31, 2012 which is directly attributable to its VAT zero-rated sales to the National Power Corporation (NAPOCOR);
   b. Whether or not the excess unutilized creditable input taxes for the period April 1, 2011 to March 31, 2012 is duly supported by pertinent documents, such as VAT compliant invoices and official receipts;
   c. Whether or not petitioner's excess and unutilized creditable input taxes paid by petitioner for the period April 1, 2011 to March 31, 2012 in the total amount of P35,753,779.04 remains unutilized.

The issues raised boil down to the sole issue of whether or not petitioner is entitled to its claim for refund or issuance of TCC on its alleged unutilized input tax attributable to zero-rated sales to NAPOCOR the amount of P35,753,779.04, incurred during the fiscal period April 1, 2011 to March 31, 2012.

PETITIONER'S ARGUMENTS

San Roque claims that the Court has jurisdiction over the instant case since the same was filed within the prescriptive period; that it is entitled to a tax refund or credit in the total amount of Thirty-Five Million Seven Hundred Fifty Three Thousand Seven Hundred Seventy-Nine Pesos and Four Centavos

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[19] Docket, pp. 1252-1263.
[20] Ibid. pp. 1308-1344.
[21] Ibid. p. 1348.
[22] Ibid. p. 739, Joint Stipulation of Facts and Issues.

(P35,753,779.04); that the amount of P35,753,779.04 represents the unutilized input taxes paid by San Roque for the fiscal period April 1, 2011 to March 31, 2012 which is attributable to its VAT zero-rated sales to Napocor; that the unutilized input taxes is supported by VAT compliant invoices and official receipts; and that San Roque's unutilized input taxes paid by it for the fiscal period April 1, 2011 to March 31, 2012 in the total amount of P35,753,779.04 remains unutilized.

RESPONDENT'S ARGUMENTS

Respondent argues that San Roque failed to show that its purchases of non-capital goods and services were made in the course of its trade and business; that San Roque failed to show that the said purchases were properly supported by VAT invoices and/or official receipts and other documents; that San Roque failed to prove that the input taxes 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; and that there is no proof of compliance with the prescribed checklist of requirements to be submitted involving a claim for VAT refund pursuant to Revenue Memorandum Order (RMO) No. 53-98;

RULING OF THE COURT

Timeliness of the Petition

Section 112 of the NIRC of 1997, as amended provides:

"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 sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106 (A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *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.

(B) xxx xxx xxx

(C) *Period within which refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes **within one hundred twenty (120) days from the date of submission of complete documents** in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure of 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."** *(Emphasis supplied)*

The instant case involves a claim for refund for the period from April 1, 2011 to March 31, 2012. The close of the taxable quarter and the last day for filing the administrative claim are illustrated below:

PERIOD COVERED	CLOSE OF THE TAXABLE PERIOD	LAST DAY OF THE TWO-YEAR PERIOD
April to June 2011	June 30, 2011	June 30, 2013
July to September 2011	September 30, 2011	September 30, 2013
October to December 2011	December 31, 2011	December 31, 2013
January to March 2012	March 31, 2012	March 31, 2014

Records show that San Roque filed its administrative claim with the BIR on February 28, 2012[23] and filed its supporting documents on March 18, 2013.[24] Hence, San Roque's administrative claim for refund or TCC was seasonably filed with the respondent.

In the case of *Commissioner of Internal Revenue vs. San Roque Power Corporation, Taganito Mining Corporation vs. Commissioner of Internal Revenue, Philex Mining Corporation vs. Commissioner of Internal Revenue*[25], the Supreme Court

[23] Exhibit "P-18".
[24] Exhibit "P-23".
[25] G.R. No. 187485, February 12, 2013. Citation omitted.

clarified the rule with regard to the application of prescriptive periods under Section 112(A) and (C). Thus:

> "This law is clear, plain, and unequivocal. Following the well-settled *verba legis* doctrine, this law should be applied exactly as worded since it is clear, plain, and unequivocal. As this law states, the taxpayer may, if he wishes, appeal the decision of the Commissioner to the CTA within 30 days from receipt of the Commissioner's decision, or if the Commissioner does not act on the taxpayer's claim within the 120-day period, the taxpayer may appeal to the CTA within 30 days from the expiration of the 120-day period."

In the instant case, from the date of submission of the supporting documents on March 18, 2013, respondent has a period of one hundred twenty (120) days or up to July 17, 2013 within which to act on the petitioner's claim. After the lapse thereof, San Roque has thirty (30) days or up to August 16, 2013 within which to file a judicial claim before this Court.

Petitioner filed before this Court its Petition for Review on July 24, 2013, also within the period required by the rules. Hence, both the administrative and judicial claims were filed on time.

The Court shall now proceed on the merits of San Roque's claim for refund or TCC on its alleged unutilized input tax for the fiscal period from April 1, 2011 to March 31, 2012.

In a long line of cases[26], the Supreme delineated the requirements that must be satisfied by a taxpayer-claimant, the petitioner in the instant case, in order that its claim for a refund or issuance of a tax credit certificate (TCC) of unutilized input VAT attributable to zero-rated sales may be allowed or granted, to wit:

1. The taxpayer must be VAT-registered;
2. The taxpayer must be engaged in zero-rated or effectively zero-rated sales;
3. The input taxes were incurred or paid;
4. The input tax due or paid must be attributable to such sales;
5. The input taxes have not been applied against any output taxes; and
6. The claim must be filed within the two-year prescriptive period.

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

Evidence forwarded to this Court shows that petitioner satisfactorily complied with the first and sixth requisites.

Whether San Roque's sales are subject to VAT at zero percent

Anent the second requisite, San Roque duly established that it is a power generation company under Republic Act (R.A.) No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001". Its BIR Certificate of Registration[27] shows that it is engaged in the generation, collection and distribution of electricity. Likewise, petitioner is registered with the BOI as a "New Operator of Hydroelectric Power Generating Plant" pursuant to the Omnibus Investments Code of 1987.[28]

Furthermore, San Roque's 345-megawatt hydroelectric power generation facility at Brgy. San Roque, San Miguel Pangasinan has been certified by the Energy Regulation Commission (ERC) that it has complied with the requirements set forth by the latter for its new generation facility, as evidenced by the Certificate of Compliance (COC) with COC No. 09-08-GN 1-0064.[29]

On October 11, 1997, San Roque entered into a Power Purchase Agreement (PPA)[30] with the National Power Corporation (NPC) to operate and maintain the San Roque hydroelectric facilities on a build-operate-transfer (BOT) basis. By virtue of the PPA, petitioner generated zero-rated sales of electricity through hydropower to NPC as evidenced by the journal vouchers[31], and VAT zero-rated invoices[32] and official receipts (OR)[33] issued by petitioner to the latter. Such receipts from the sale of electricity, qualify for VAT zero-rating under Section 108(B)(7) of the NIRC of 1997, as amended by R.A. No. 9337, as implemented by Section 4.108-5(b)(7) of Revenue Regulations (RR) No. 16-2005 to wit:

> "SEC. 108 . *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
>
> xxx xxx xxx
>
> (B) ***Transactions Subject to Zero Percent (0%) Rate*** - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
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> xxx xxx xxx

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[27] Exhibit "P-9", Docket, Vol. 2, p. 963.
[28] Exhibit "P-5", Docket, Vol. 2, pp. 952-955.
[29] Exhibit "P-7", Docket, Vol. 2, pp. 959-962
[30] Exhibit "P-8", Docket, vol. 2, pp. 964-1068
[31] Exhibits "P-24-2-1" to "P-24-2-8"
[32] Exhibits "P-24-1-1" to "P-24-1-38"
[33] Exhibits "P-24-3-1" to "P-24-3-37"

(7) **Sale of power or fuel generated through renewable sources of energy such as,** but not limited to, biomass, solar, wind, **hydropower**, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels."

"SEC. 4.108-5. *Zero-rated Sale of Services.—*

(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." *(Emphasis supplied)*

Corollary thereto is the provision of Section 4.108-3(f) of RR No. 16-2005, as amended by RR 4-2007, which states:

"SECT. 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 twelve percent (12%) on their gross receipts starting Feb. 1, 2006; 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**.

'G*eneration companies'* refer 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." *(Emphasis supplied)*

In its Quarterly VAT Returns for the four quarters of FY 2012, San Roque declared zero-rated sales/receipts in the total amount of ₱7,486,945,900.74, broken down as follows:

Period	Amount	Exhibit
1st Quarter (04/01/11 to 06/30/11)	₱ 1,689,737,658.39	P-10 *(Docket, Vol.2, p.1069)*
2nd Quarter (07/01/11 to 9/30/11)	1,767,668,674.32	P-12 *(Docket, Vol.2, p.1090)*
3rd Quarter (10/01/11 to 12/31/11)	2,225,320,491.31	P-14 *(Docket, Vol.2, p.1106)*
4th Quarter (01/01/12 to 03/31/12)	1,804,219,076.72	P-16 *(Docket, Vol.2, p.1124)*
Total	**₱ 7,486,945,900.74**	

Correspondingly, the zero-rated VAT ORs submitted by petitioner for the same period reflected a total amount of ₱7,486,945,900.74, as detailed below:

Date	US Dollar	Japanese Yen	Philippine Peso	Exhibit
4/27/2011			₱ 32,672,897.20	P-24-3-1
5/26/2011			34,773,614.82	P-24-3-2
6/24/2011			33,782,710.28	P-24-3-3
4/27/2011		484,215,000.00	259,732,926.00	P-24-3-4
5/26/2011		484,215,000.00	255,471,834.00	P-24-3-5
6/24/2011		484,275,000.00	256,633,950.00	P-24-3-6
4/27/2011	6,598,214.45		285,913,828.55	P-24-3-7
5/26/2011	6,473,158.95		279,633,993.48	P-24-3-8
6/24/2011	5,772,121.18		251,121,904.06	P-24-3-9
7/27/2011			33,782,710.28	P-24-3-10
8/25/2011			33,782,710.28	P-24-3-11
9/23/2011			33,782,710.28	P-24-3-12
7/27/2011		484,215,000.00	261,524,521.50	P-24-3-13
8/25/2011		484,215,000.00	261,815,050.50	P-24-3-14
9/26/2011		484,215,000.00	266,608,779.00	P-24-3-15
7/27/2011	5,797,245.63		251,727,999.75	P-24-3-16
8/25/2011	6,536,386.64		277,273,521.27	P-24-3-17
9/23/2011	8,168,238.33		347,370,671.46	P-24-3-18

10/27/2011			33,782,710.28	P-24-3-19
11/28/2011			33,849,299.07	P-24-3-20
11/28/2011			53,700.63	P-24-3-21
12/28/2011			33,849,299.07	P-24-3-22
10/28/2011		484,215,000.00	277,600,459.50	P-24-3-23
12/7/2011		484,215,000.00	275,566,756.50	P-24-3-24
12/28/2011		484,215,000.00	274,017,268.50	P-24-3-25
10/27/2011	11,315,444.66		496,103,040.23	P-24-3-26
12/12/2011	10,662,565.30		460,270,956.31	P-24-3-27
12/28/2011	7,765,080.48		340,227,001.23	P-24-3-28
1/25/2012			33,849,299.07	P-24-3-29
2/24/2012			33,849,299.07	P-24-3-30
3/28/2012			33,849,299.07	P-24-3-31
1/25/2012		484,215,000.00	270,676,185.00	P-24-3-32
2/24/2012		484,215,000.00	269,175,118.50	P-24-3-33
3/28/2012		484,215,000.00	259,055,025.00	P-24-3-34
1/25/2012	6,906,602.48		300,375,048.46	P-24-3-35
2/24/2012	6,888,177.90		296,770,256.64	P-24-3-36
3/28/2012	7,178,263.98		306,619,545.91	P-24-3-37
Total			**₱7,486,945,900.74**	

From the foregoing, the amount declared in San Roque's quarterly VAT returns are duly substantiated by zero-rated VAT ORs. Hence, the total amount of ₱7,486,945,900.74 qualifies as zero-rated sales.

Whether San Roque incurred input VAT during the subject fiscal period and whether the input tax due was attributable to the zero-rated sales

Based on its Quarterly VAT returns for FY 2012, San Roque's input VAT for the subject period amounts to ₱36,093,484.03, detailed as follows:

Particulars	**Apr-June 2011 Exhibit P-10**	**July-Sept 2011 Exhibit P-12**	**Oct-Dec 2011 Exhibit P-14**	**Jan-Mar 2012 Exhibit P-16**	**Total**
Input tax Deferred on Capital Goods Exceeding ₱1M from Previous Quarter *(Line 20B)*	₱ 5,179,453.30	₱ 4,799,666.43	₱ 4,400,816.04	₱ 5,307,985.71	₱ 5,179,453.30
Add: Input tax on Purchases of Capital Goods exceeding ₱1M *(Line 21D)*	298,928.57	255,209.38	1,575,658.31	1,375,547.69	3,505,343.95
Total	₱ 5,478,381.87	₱ 5,054,875.81	₱ 5,976,474.35	₱ 6,683,533.40	₱ 8,684,797.25
Less: Input tax on Purchases of Capital Goods exceeding ₱1M deferred for the succeeding period *(Line 23A)*	4,799,666.43	4,400,816.04	5,307,985.71	6,109,395.12	6,109,395.12
Amortization of Input tax on Purchases of Capital Goods exceeding P1M	**₱ 678,715.44**	**654,059.77**	**668,488.64**	**574,138.28**	**₱ 2,575,402.13**
Add: Input taxes on Current Purchases				(188,950.94)	

Purchase of Capital Goods not exceeding ₱1M *(Line 21B)*	94,774.29	83,978.57	-	42,667.97	221,420.83
Domestic Purchases of Goods Other than Capital Goods *(Line 21F)*	1,233,521.45	983,816.73	1,242,436.45	2,036,504.24	5,496,278.87
Importation of Goods Other than Capital Goods *(Line 21H)*	25,810.44	-	831,842.00	-	857,652.44
Domestic Purchase of Services *(Line 21J)*	11,420,176.86	3,412,512.19	3,850,253.17	3,961,978.11	22,644,920.33
Services Rendered by Non-residents *(Line 21L)*	1,208,760.81	429,633.91	2,616,530.29	42,884.42	4,297,809.43
Total input tax on current purchases	**13,983,043.85**	**4,909,941.40**	**8,541,061.91**	**6,084,034.74**	**33,518,081.90**
Total input tax for the period	**₱14,661,759.29**	**₱5,564,001.17**	**₱9,209,550.55**	**₱6,658,173.02**	**₱36,093,484.03**

In support of its input VAT, San Roque presented various VAT invoices[34], VAT ORs[35], Bank ORs/Bureau of Customs ORs (BCOR)[36], Import Entry Internal Revenue Declarations (IEIRD)[37] and BIR Forms No. 1600 (manual and EFPS)[38].

The Court-commissioned ICPA, Ms. Ma. Milagros F. Padernal of Uy Singson Abella & Co., examined the documents presented by San Roque and noted erroneous items pertaining to input VAT on Capital Goods Exceeding ₱1 million-amortization, Purchases of Goods other than Capital Goods, and Purchases of Services, totaling ₱56,661.06, which shall be disallowed for the reasons stated below:

Reason for Disallowance	Period	Total	Exhibit/Reference
Capital Goods Exceeding P1 million - amortization			
Not Supported	4th Qtr	₱ 610.38	P-42
Purchases of Goods Other Than Capital Goods			
Supported by original VAT invoices in the Petitioner's name not dated or issued within the taxable year	1st Qtr	6,727.48	P-28-338 to P-28-340
	4th Qtr	14,464.18	P-28-1650
		21,191.66	
Supported by original VAT invoices in the Petitioner's name with no BIR Permit to print	3rd Qtr	2,028.11	P-29-1 to P-29-2
	4th Qtr	950.78	P-29-3 to P-29-4
		2,978.89	
Supported by original VAT invoices not in the Petitioner's name	3rd Qtr	8,942.33	P-30-1
	4th Qtr	6,467.32	P-30-2
		15,409.65	
Not supported	4th Qtr	15,559.77	P-32
Total		55,139.97	
Purchases of Services			
Supported by original VAT ORs in the Petitioner's name marked as "Not a Valid Source of Input Tax"	3rd Qtr	910.71	P-34-1
Grand Total		**₱ 56,661.06**	

[34] Exhibits "P-26-1" to "P-26-7", "P-27-1" to "P-27-27", "P-27-29" to "P-27-31", "P-27-34" to "P-27-35", "P-27-38" to "P-27-39", "P-28-1" to "P-28-1650", "P-29-1" to "P-29-4", "P-30-1" to "P-30-2" and "P-31-1" to "P-31-2", "P-36-1-1" to "P-36-1-14"
[35] Exhibits "P-27-28", "P-27-32" to "P-27-33", "P-27-36" to "P-27-37", "P-33-1" to "P-33-1649" and "P-34-1"
[36] Exhibits "P-35-1-1" to "P-35-1-8"
[37] Exhibits "27-32-1", "P-27-33-1", "P-27-36-1", "P-27-37-1", "P-35-2-1" to "P-35-2-8"
[38] Exhibits "P-36-2-1" to "P-36-2-8" and "P-36-3-1" to "P-36-3-8".

Further review of the ICPA's report and San Roque's supporting documents reveals that in addition to the disallowance of ₱56,661.06, input VAT in the amount of ₱1,875,784.68, should also be disallowed from San Roque's claim for the supporting invoices and ORs failed to meet the substantiation requirements under Sections 110(A), 113(A) and (B), and 237 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4. 110-8 and 4. 113-1 of RR No. 16-05, as amended. Below is the breakdown of the additional input VAT disallowances of ₱1,875,784.68:

Findings	Amount	Exhibit
1 ***Input VAT on purchases of goods supported by documents other than VAT invoices***		
Tyco Integrated Systems Phils. Inc.	₱ 4,236.23	P-27-28
SM ACA Shell Forbes	342.32	P-28-5
SM ACA Shell Forbes	228.62	P-28-21
SM ACA Shell Forbes	374.37	P-28-46
SM ACA Shell Forbes	355.83	P-28-47
Wellcross Freeport Inc.	14,529.96	P-28-48
SM ACA Shell Forbes	199.52	P-28-71
SM ACA Shell Forbes	358.27	P-28-75
SM ACA Shell Forbes	277.05	P-28-93
SM ACA Shell Forbes	409.78	P-28-94
SM ACA Shell Forbes	424.94	P-28-116
SM ACA Shell Forbes	375.55	P-28-139
SM ACA Shell Forbes	369.76	P-28-165
SM ACA Shell Forbes	260.78	P-28-165
SM ACA Shell Forbes	385.92	P-28-198
SM ACA Shell Forbes	240.98	P-28-199
SM ACA Shell Forbes	194.00	P-28-215
SM ACA Shell Forbes	124.71	P-28-232
SM ACA Shell Forbes	152.10	P-28-253
SM ACA Shell Forbes	275.22	P-28-260
SM ACA Shell Forbes	256.32	P-28-271
Proline Sports Center	1,660.71	P-28-295
SM ACA Shell Forbes	398.60	P-28-296
SM ACA Shell Forbes	331.67	P-28-311
SM ACA Shell Forbes	299.90	P-28-317
SM ACA Shell Forbes	216.02	P-28-323
SM ACA Shell Forbes	335.44	P-28-324
SM ACA Shell Forbes	240.13	P-28-362
SM ACA Shell Forbes	272.30	P-28-363
SM ACA Shell Forbes	232.21	P-28-416
SM ACA Shell Forbes	346.01	P-28-437
SM ACA Shell Forbes	349.22	P-28-498
SM ACA Shell Forbes	292.52	P-28-527
SM ACA Shell Forbes	342.00	P-28-698
SM ACA Shell Forbes	334.25	P-28-719
SM ACA Shell Forbes	314.59	P-28-726
SM ACA Shell Forbes	296.91	P-28-737

Subtotal	**30,634.71**	
2 ***Input VAT on purchases of goods or services supported by VAT invoices or ORs wherein the input VAT amounts were not separately shown***		
Mercury Drug Corporation	1,571.36	P-28-365
Mercury Drug Corporation	1,792.47	P-28-366
SM ACA Shell Forbes	357.06	P-28-426
MySolutions, Inc.	4,510.80	P-28-509
Kia Traders Autocenter, Inc.	1,592.68	P-28-856
GNS Tire & Service Center, Inc.	522.21	P-28-865
Mercury Drug Corporation	3,585.91	P-28-903
Exclusively His Men's Clothing	3,085.71	P-28-1098
Coem Sales & Supplies Inc	944.89	P-28-1105
Eastern Communications	7,161.03	P-33-65
Plumas Transport Corporation	3,481.56	P-33-367
Rasa Surveying & Realty	15,000.00	P-33-1073
Subtotal	**43,605.68**	
3 ***Input VAT on purchase of goods supported by invoice with serial no. outside the authority to print granted to petitioner***		
Sporteum Philippines, Inc.	**15,804.14**	P-28-652
4 ***Input VAT on purchases of services supported by documents other than VAT ORs***		
Travel Managers International Inc	11,908.20	P-28-1122
Travel Managers International Inc	13,588.08	P-28-1145
Travel Managers International Inc	6,364.18	P-28-1167
Travel Managers International Inc	1,041.86	P-28-1168
Travel Managers International Inc	11,389.86	P-28-1242
Kia Traders Autocenter, Inc.	763.93	P-28-609
Subtotal	**45,056.11**	
5 ***Input VAT on purchases of services supported by NON-VAT OR or ORs with supplier's TIN but without the word "VAT"***		
Plumas Transport Corporation	4,966.09	P-33-1025
Phil. Long Distance Tel. Co.	112.37	P-33-33
Phil. Long Distance Tel. Co.	1,913.41	P-33-34
Phil. Long Distance Tel. Co.	16,920.00	P-33-35
Phil. Long Distance Tel. Co.	1,919.99	P-33-36
Phil. Long Distance Tel. Co.	112.37	P-33-37
Phil. Long Distance Tel. Co.	112.37	P-33-38
Phil. Long Distance Tel. Co.	4,855.94	P-33-39
Phil. Long Distance Tel. Co.	168.66	P-33-40
Phil. Long Distance Tel. Co.	177.69	P-33-41
Phil. Long Distance Tel. Co.	112.37	P-33-42
Phil. Long Distance Tel. Co.	3,712.41	P-33-43
Phil. Long Distance Tel. Co.	279.49	P-33-44
Phil. Long Distance Tel. Co.	160.71	P-33-45
Phil. Long Distance Tel. Co.	119.88	P-33-46

Phil. Long Distance Tel. Co.	160.71	P-33-47
Phil. Long Distance Tel. Co.	160.71	P-33-48
Phil. Long Distance Tel. Co.	160.71	P-33-49
Phil. Long Distance Tel. Co.	160.71	P-33-50
Phil. Long Distance Tel. Co.	160.71	P-33-51
Phil. Long Distance Tel. Co.	160.71	P-33-52
Phil. Long Distance Tel. Co.	160.71	P-33-53
Phil. Long Distance Tel. Co.	160.71	P-33-54
Phil. Long Distance Tel. Co.	130.37	P-33-55
Phil. Long Distance Tel. Co.	112.37	P-33-147
Phil. Long Distance Tel. Co.	5,285.13	P-33-148
Phil. Long Distance Tel. Co.	112.37	P-33-149
Phil. Long Distance Tel. Co.	16,920.00	P-33-150
Phil. Long Distance Tel. Co.	1,913.41	P-33-151
Phil. Long Distance Tel. Co.	112.37	P-33-152
Phil. Long Distance Tel. Co.	1,920.00	P-33-153
Phil. Long Distance Tel. Co.	5,726.05	P-33-156
Phil. Long Distance Tel. Co.	165.35	P-33-157
Phil. Long Distance Tel. Co.	181.17	P-33-158
Phil. Long Distance Tel. Co.	112.37	P-33-159
Phil. Long Distance Tel. Co.	3,712.40	P-33-160
Phil. Long Distance Tel. Co.	262.33	P-33-161
Phil. Long Distance Tel. Co.	160.71	P-33-162
Phil. Long Distance Tel. Co.	119.88	P-33-163
Phil. Long Distance Tel. Co.	160.71	P-33-164
Phil. Long Distance Tel. Co.	160.71	P-33-165
Phil. Long Distance Tel. Co.	160.71	P-33-166
Phil. Long Distance Tel. Co.	160.71	P-33-167
Phil. Long Distance Tel. Co.	160.71	P-33-168
Phil. Long Distance Tel. Co.	160.71	P-33-169
Phil. Long Distance Tel. Co.	160.71	P-33-170
Phil. Long Distance Tel. Co.	160.71	P-33-171
Phil. Long Distance Tel. Co.	130.37	P-33-172
Phil. Long Distance Tel. Co.	3,558.95	P-33-262
Phil. Long Distance Tel. Co.	4,635.33	P-33-263
Phil. Long Distance Tel. Co.	1,913.41	P-33-264
Phil. Long Distance Tel. Co.	112.37	P-33-265
Phil. Long Distance Tel. Co.	16,921.32	P-33-266
Phil. Long Distance Tel. Co.	112.37	P-33-267
Phil. Long Distance Tel. Co.	457.26	P-33-268
Phil. Long Distance Tel. Co.	1,920.00	P-33-269
Phil. Long Distance Tel. Co.	2,722.41	P-33-270
Phil. Long Distance Tel. Co.	164.82	P-33-271
Phil. Long Distance Tel. Co.	159.34	P-33-272
Phil. Long Distance Tel. Co.	112.37	P-33-273
Phil. Long Distance Tel. Co.	3,712.40	P-33-274
Phil. Long Distance Tel. Co.	358.12	P-33-275
Phil. Long Distance Tel. Co.	160.71	P-33-276
Phil. Long Distance Tel. Co.	119.88	P-33-277
Phil. Long Distance Tel. Co.	160.71	P-33-278

Phil. Long Distance Tel. Co.	161.43	P-33-279
Phil. Long Distance Tel. Co.	160.71	P-33-280
Phil. Long Distance Tel. Co.	160.71	P-33-281
Phil. Long Distance Tel. Co.	160.71	P-33-282
Phil. Long Distance Tel. Co.	160.71	P-33-283
Phil. Long Distance Tel. Co.	160.71	P-33-284
Phil. Long Distance Tel. Co.	160.71	P-33-285
Phil. Long Distance Tel. Co.	130.37	P-33-286
Phil. Long Distance Tel. Co.	2,724.74	P-33-405
Phil. Long Distance Tel. Co.	163.18	P-33-406
Phil. Long Distance Tel. Co.	165.38	P-33-407
Phil. Long Distance Tel. Co.	112.37	P-33-408
Phil. Long Distance Tel. Co.	3,712.40	P-33-409
Phil. Long Distance Tel. Co.	341.05	P-33-410
Phil. Long Distance Tel. Co.	160.71	P-33-411
Phil. Long Distance Tel. Co.	119.88	P-33-412
Phil. Long Distance Tel. Co.	160.71	P-33-413
Phil. Long Distance Tel. Co.	160.71	P-33-414
Phil. Long Distance Tel. Co.	160.71	P-33-415
Phil. Long Distance Tel. Co.	160.71	P-33-416
Phil. Long Distance Tel. Co.	160.71	P-33-417
Phil. Long Distance Tel. Co.	160.71	P-33-418
Phil. Long Distance Tel. Co.	160.71	P-33-419
Phil. Long Distance Tel. Co.	160.71	P-33-420
Phil. Long Distance Tel. Co.	130.37	P-33-421
RAJ Ce Construction	1,912.93	P-33-460
Phil. Long Distance Tel. Co.	112.37	P-33-462
Phil. Long Distance Tel. Co.	1,913.41	P-33-463
Phil. Long Distance Tel. Co.	16,920.33	P-33-464
Phil. Long Distance Tel. Co.	1,920.00	P-33-465
Phil. Long Distance Tel. Co.	112.37	P-33-466
Phil. Long Distance Tel. Co.	112.37	P-33-467
Phil. Long Distance Tel. Co.	4,163.52	P-33-468
Phil. Long Distance Tel. Co.	6,469.60	P-33-492
Phil. Long Distance Tel. Co.	7,440.40	P-33-493
Phil. Long Distance Tel. Co.	2,771.79	P-33-524
Phil. Long Distance Tel. Co.	170.70	P-33-525
Phil. Long Distance Tel. Co.	190.40	P-33-526
Phil. Long Distance Tel. Co.	3,712.41	P-33-527
Phil. Long Distance Tel. Co.	162.97	P-33-528
Phil. Long Distance Tel. Co.	160.71	P-33-529
Phil. Long Distance Tel. Co.	119.88	P-33-530
Phil. Long Distance Tel. Co.	160.71	P-33-531
Phil. Long Distance Tel. Co.	160.71	P-33-532
Phil. Long Distance Tel. Co.	160.71	P-33-533
Phil. Long Distance Tel. Co.	160.71	P-33-534
Phil. Long Distance Tel. Co.	160.71	P-33-535
Phil. Long Distance Tel. Co.	160.71	P-33-536
Phil. Long Distance Tel. Co.	160.71	P-33-537
Phil. Long Distance Tel. Co.	160.71	P-33-538

Phil. Long Distance Tel. Co.	130.37	P-33-539
Phil. Long Distance Tel. Co.	112.37	P-33-540
Phil. Long Distance Tel. Co.	112.37	P-33-541
Phil. Long Distance Tel. Co.	1,913.41	P-33-542
Phil. Long Distance Tel. Co.	16,920.00	P-33-543
Phil. Long Distance Tel. Co.	1,924.50	P-33-544
Phil. Long Distance Tel. Co.	112.37	P-33-545
Phil. Long Distance Tel. Co.	112.37	P-33-546
Phil. Long Distance Tel. Co.	1,573.57	P-33-547
Phil. Long Distance Tel. Co.	2,746.63	P-33-656
Phil. Long Distance Tel. Co.	171.85	P-33-657
Phil. Long Distance Tel. Co.	199.70	P-33-658
Phil. Long Distance Tel. Co.	3,712.41	P-33-659
Phil. Long Distance Tel. Co.	162.97	P-33-660
Phil. Long Distance Tel. Co.	160.71	P-33-661
Phil. Long Distance Tel. Co.	119.88	P-33-662
Phil. Long Distance Tel. Co.	160.71	P-33-663
Phil. Long Distance Tel. Co.	160.71	P-33-664
Phil. Long Distance Tel. Co.	160.71	P-33-665
Phil. Long Distance Tel. Co.	160.71	P-33-666
Phil. Long Distance Tel. Co.	160.71	P-33-667
Phil. Long Distance Tel. Co.	160.71	P-33-668
Phil. Long Distance Tel. Co.	160.71	P-33-669
Phil. Long Distance Tel. Co.	160.71	P-33-670
Phil. Long Distance Tel. Co.	130.37	P-33-671
Phil. Long Distance Tel. Co.	112.37	P-33-672
Phil. Long Distance Tel. Co.	6,449.73	P-33-760
Phil. Long Distance Tel. Co.	6,646.84	P-33-762
Phil. Long Distance Tel. Co.	7,668.89	P-33-763
Phil. Long Distance Tel. Co.	6,646.40	P-33-764
Phil. Long Distance Tel. Co.	7,782.55	P-33-765
Phil. Long Distance Tel. Co.	112.37	P-33-775
Phil. Long Distance Tel. Co.	1,913.41	P-33-776
Phil. Long Distance Tel. Co.	16,920.00	P-33-777
Phil. Long Distance Tel. Co.	1,920.00	P-33-778
Phil. Long Distance Tel. Co.	112.37	P-33-779
Phil. Long Distance Tel. Co.	112.37	P-33-780
Phil. Long Distance Tel. Co.	3,755.63	P-33-781
Phil. Long Distance Tel. Co.	3,712.41	P-33-808
Phil. Long Distance Tel. Co.	181.13	P-33-809
Phil. Long Distance Tel. Co.	160.71	P-33-810
Phil. Long Distance Tel. Co.	119.88	P-33-811
Phil. Long Distance Tel. Co.	160.71	P-33-812
Phil. Long Distance Tel. Co.	160.71	P-33-813
Phil. Long Distance Tel. Co.	160.71	P-33-814
Phil. Long Distance Tel. Co.	160.71	P-33-815
Phil. Long Distance Tel. Co.	160.71	P-33-816
Phil. Long Distance Tel. Co.	160.71	P-33-817
Phil. Long Distance Tel. Co.	160.71	P-33-818
Phil. Long Distance Tel. Co.	160.71	P-33-819

Phil. Long Distance Tel. Co.	130.37	P-33-820
Phil. Long Distance Tel. Co.	112.37	P-33-821
Phil. Long Distance Tel. Co.	2,772.49	P-33-822
Phil. Long Distance Tel. Co.	297.77	P-33-958
Phil. Long Distance Tel. Co.	112.37	P-33-959
Phil. Long Distance Tel. Co.	112.37	P-33-960
Phil. Long Distance Tel. Co.	9,163.84	P-33-961
Phil. Long Distance Tel. Co.	1,913.41	P-33-962
Phil. Long Distance Tel. Co.	1,920.00	P-33-963
Phil. Long Distance Tel. Co.	16,920.33	P-33-964
Phil. Long Distance Tel. Co.	2,889.80	P-33-965
Phil. Long Distance Tel. Co.	172.40	P-33-966
Phil. Long Distance Tel. Co.	192.05	P-33-967
Phil. Long Distance Tel. Co.	3,712.41	P-33-968
Phil. Long Distance Tel. Co.	400.54	P-33-969
Phil. Long Distance Tel. Co.	160.71	P-33-970
Phil. Long Distance Tel. Co.	119.88	P-33-971
Phil. Long Distance Tel. Co.	160.71	P-33-972
Phil. Long Distance Tel. Co.	160.71	P-33-973
Phil. Long Distance Tel. Co.	160.71	P-33-974
Phil. Long Distance Tel. Co.	160.71	P-33-975
Phil. Long Distance Tel. Co.	160.71	P-33-976
Phil. Long Distance Tel. Co.	160.71	P-33-977
Phil. Long Distance Tel. Co.	160.71	P-33-978
Phil. Long Distance Tel. Co.	160.71	P-33-979
Phil. Long Distance Tel. Co.	130.37	P-33-980
Phil. Long Distance Tel. Co.	112.37	P-33-981
Phil. Long Distance Tel. Co.	2,930.10	P-33-1093
Phil. Long Distance Tel. Co.	170.75	P-33-1094
Phil. Long Distance Tel. Co.	189.86	P-33-1095
Phil. Long Distance Tel. Co.	3,712.41	P-33-1096
Phil. Long Distance Tel. Co.	180.08	P-33-1097
Phil. Long Distance Tel. Co.	160.71	P-33-1098
Phil. Long Distance Tel. Co.	119.88	P-33-1099
Phil. Long Distance Tel. Co.	160.71	P-33-1100
Phil. Long Distance Tel. Co.	160.71	P-33-1101
Phil. Long Distance Tel. Co.	160.71	P-33-1102
Phil. Long Distance Tel. Co.	160.71	P-33-1103
Phil. Long Distance Tel. Co.	160.71	P-33-1104
Phil. Long Distance Tel. Co.	160.71	P-33-1105
Phil. Long Distance Tel. Co.	160.71	P-33-1106
Phil. Long Distance Tel. Co.	160.71	P-33-1107
Phil. Long Distance Tel. Co.	130.37	P-33-1108
Phil. Long Distance Tel. Co.	112.37	P-33-1109
Phil. Long Distance Tel. Co.	7,633.87	P-33-1173
Phil. Long Distance Tel. Co.	6,637.82	P-33-1174
Phil. Long Distance Tel. Co.	112.37	P-33-1175
Phil. Long Distance Tel. Co.	1,913.41	P-33-1176
Phil. Long Distance Tel. Co.	16,920.00	P-33-1177
Phil. Long Distance Tel. Co.	1,920.00	P-33-1178

Phil. Long Distance Tel. Co.	112.37	P-33-1179
Phil. Long Distance Tel. Co.	112.37	P-33-1180
Phil. Long Distance Tel. Co.	1,524.08	P-33-1181
EKC Construction & Aggregates	25,397.07	P-33-1323
Phil. Long Distance Tel. Co.	7,633.87	P-33-1613
Phil. Long Distance Tel. Co.	6,637.82	P-33-1614
Phil. Long Distance Tel. Co.	7,631.57	P-33-1620
Phil. Long Distance Tel. Co.	6,635.83	P-33-1621
Eastern Communications	6,922.15	P-33-1630
Java Hotel	1,232.14	P-33-1631
Subtotal	**420,231.94**	
6 ***Input VAT on purchases of goods supported by invoices dated outside the period of claim***		
Pasamonte Gasoline Station	145.93	P-28-4
Pasamonte Gasoline Station	152.58	P-28-90
Subtotal	**298.51**	
7 ***Input VAT on services rendered by non-resident supported by BIR Form 1600 dated outside the period of claim***		
Kokusai Commerce Co Ltd & AMEC	**1,126,939.67**	P-36-2-1 & P-36-3-1
8 ***Overclaimed input tax on purchases previously classified as goods other than capital goods in the third quarter of FY 2012 and subsequently reclassified as capital goods subject to amortization in the fourth quarter of FY 2012***		
Septem, Inc.	7,232.14	P-31-1
Eastern Copperfields Trading, Inc.	175,928.57	P-31-2
Accent Micro Technologies, Inc.	10,053.21	P-31-3
Subtotal	**193,213.92**	
Grand Total	**₱ 1,875,784.68**	

Therefore, out of San Roque's reported input VAT for FY 2012 in the amount of ₱36,093,484.03, only the amount of ₱34,161,038.29 represents San Roque's valid input VAT, computed as follows:

Total Input VAT per Returns		₱ 36,093,484.03
Less: Disallowances		
Per ICPA's findings	₱ 56,661.06	
Per this Court's findings	1,875,784.68	1,932,445.74
Valid Input VAT		**₱ 34,161,038.29**

However, a portion of the ₱34,161,038.29 valid input VAT shall be applied against San Roque's reported output VAT liability for FY 2012 in the amount of ₱339,705.19. Hence, only the remaining input VAT of

₱33,821,333.10, as computed below, is attributable to the entire valid zero-rated receipts of ₱7,486,945,900.74:

Valid Input VAT	₱ 34,161,038.29
Less: Output VAT	339,705.19
Valid Excess Input VAT	**₱ 33,821,333.10**

Although the claimed excess input VAT was carried-over by petitioner in its Quarterly VAT Returns[39] from the first quarter of FY 2013 to the fourth quarter of FY 2013, the same remained unutilized until it was fully deducted in its Quarterly VAT Return for the fourth quarter of FY 2013 as "VAT Refund/TCC Claimed"[40] from the total available input tax of ₱73,799,536.74[41]. Thus, the claimed input tax for the taxable FY 2012 could not have been carried-over to the succeeding first quarter of FY 2014.

Tax refunds partake the nature of tax exemptions and are thus construed *strictissimi juris* against the person or entity claiming the exemption.[42] The burden in claiming tax refund rests upon the taxpayer. In this case, petitioner was able to prove its entitlement to the claim for refund or issuance of tax credit certificate for its unutilized creditable input VAT attributable to its zero-rated sales for the fiscal year covering April 1, 2011 to March 31, 2012, but in the reduced amount of **₱33,821,333.10**.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** in favor of petitioner the amount of **₱33,821,333.10** representing its unutilized input VAT for the fiscal period from April 1, 2011 to March 31, 2012.

SO ORDERED.

Ma. Belen S L

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

[39] Exhibits "P-37-1" to "P-37-4"; "P-19" to "P-22"
[40] Exhibit "P-37-4(1/2)" and "P-22", Line 23D
[41] Exhibit "P-37-4(1/2)", line 22
[42] *Far East Bank and Trust Company as Trustee of Various Retirement Present: Funds, vs. Commissioner of Internal Revenue and the Court of Tax Appeals, G.R. No.138919, May 2, 2006, citing Commissioner of Internal Revenue v. S.C. Johnson & Son, Inc., 368 Phil. 388, 411 (1999).*

ATTESTATION

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

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, is it 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