Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

TAGANITO MINING CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8680

Members:
CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *JJ*

Promulgated:

SEP 14 2017 4:30 p.m.

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AMENDED DECISION

CASANOVA, *J.*:

This Court resolves the following:

1. Respondent's Motion for Partial Reconsideration (Re: Amended Decision promulgated 24 April 2017) filed on May 5, 2017, with petitioner's Comment To Respondent's Motion for Partial Reconsideration filed on May 22, 2017; and

2. Petitioner's Motion for Partial Reconsideration (of the 24 April 2017 Amended Decision) filed on May 10, 2017, with respondent's Motion to Admit Attached Opposition (Re: Motion for Partial Reconsideration) filed on June 14, 2017.

Both parties pray for reconsideration of the Amended Decision dated April 24, 2017, the dispositive portion of which reads:

> "**WHEREFORE,** in view thereof, respondent's Motion for Partial Reconsideration (Re: Decision promulgated 28 March 2016) is **DENIED** while petitioner's Motion for Partial Reconsideration is **PARTIALLY GRANTED**. Accordingly, the

dispositive portion of the Decision dated March 28, 2016 is **AMENDED**, as follows:

> '**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the increased amount of **FIFTEEN MILLION NINE HUNDRED NINETY SEVEN THOUSAND THREE HUNDRED EIGHTY FOUR AND 46/100 (₱15,997,384.46)**, representing the sum of its excess input VAT amortization on capital goods purchases exceeding P1Million attributable to its zero-rated sales for the years 2011 and 2012.'
>
> **SO ORDERED.**"

The Court shall first resolve respondent's Motion to Admit Attached Opposition filed on May 14, 2015.

In the said Motion, respondent's counsel, Clarissa J. Virtudes-Babaran, claims that she received petitioner's Motion for Partial Reconsideration on May 31, 2017. However, due to inadvertence, respondent's opposition was not filed on its due date. Thus, she prays that the attached Opposition (Re: Motion for Partial Reconsideration) be admitted, in the interest of substantial justice.

In the interest of substantial justice, respondent's Motion to Admit Attached Opposition is hereby **GRANTED**. Accordingly, the attached Opposition (Re: Motion for Partial Reconsideration) is hereby **ADMITTED** as part of the records.

We shall now discuss the arguments raised by the parties in their respective Motions.

In his Motion, respondent raised the following grounds for the resolution of the Court:

> **"I**
>
> **THE HONORABLE COURT ERRED IN PARTIALLY GRANTING PETITIONER'S CLAIM FOR**

REFUND IN THE AMOUNT OF P15,997,384.46 REPRESENTING THE ALLEGED EXCESS INPUT TAX FOR THE YEARS 2011 AND 2012.

II

THE HONORABLE COURT ERRED WHEN IT GRANTED PETITIONER'S MOTION TO REOPEN TRIAL FOR PRESENTATION OF ADDITIONAL EVIDENCE."

In support of the foregoing issues, respondent claims that the Court erred in granting refund to petitioner on the ground that the court-commissioned Independent Certified Public Accountant (ICPA) merely relied on the Judicial Affidavit of Ms. Lennie Terre, Vice President for Finance of petitioner, in coming up with the conclusion that the input VAT from purchases of domestic capital goods and importations are directly attributable to zero-rated sales of petitioner. Thus, the existence of zero-rated sales is just based on mere allegations of the ICPA.

Respondent also contends that petitioner failed to show that its purchases of non-capital goods and services were made in the course of its trade and business; that it failed to show that the said purchases were properly supported by VAT invoices and/or official receipts and other documents in accordance with Sections 110 (A)(2) and 113 of the Tax Code, as amended, and in pursuance to Section 4.104-5(a) & (b) of Revenue Regulations No. 7-95 (Re: Substantiation of Claims for Input Tax Credit); and that it also failed to prove that the input taxes of P22,011,311.91 allegedly paid on its purchases of goods and services, 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/s.

He further claims that the Court should not have granted petitioner's Motion for New Trial since the documents presented were not newly discovered evidence, nor were inadvertently omitted due to fraud, accident, mistake or excusable negligence which merit the re-opening of the case.

Petitioner counters that the Court correctly ruled that petitioner is entitled to the refund of its excess input tax for the years 2011 and 2012; that petitioner substantiated its claim by submitting VAT registered invoices and/or official receipts issued to it by suppliers of goods and services, and by official receipts issued by the Bureau of Customs; and, that, the Court has the discretion to decide in the interest of justice whether petitioner should be allowed to present additional evidence.

On the other hand, in its Motion for Partial Reconsideration, petitioner raised the following issues for the consideration of the Court:

1. Inapplicability of the Coral Bay; and,

2. Matters raised in the Motion for Reconsideration which were not considered in the Amended Decision:

    a. Double deduction of output VAT;
    b. Allocation of directly attributable input taxes; and,
    c. Failure to exact full payment does not disqualify the sale as zero-rated sale.

In support of its Motion, petitioner mainly avers that the ruling in *Coral Bay Nickel Corp. vs. Commissioner of Internal Revenue*[1] (Coral Bay Case) should not be applied on its excess VAT input taxes in the amount of ₱1,125,380.81 since the ruling therein revolves around the Cross Boarder Doctrine as specifically applied to PEZA registered entities, and not to zero-rated BOI-registered entities like petitioner.

Petitioner further submits that the introduction of Exhibit "P-32.5" (bank debit advice in Philippine Pesos which corresponds to the additional payment for IERD No. 107658476) completes the supporting documents showing full payment of the BOC assessment for VAT and other charges for IERD No. 107658476. Thus, the Court should allow the additional amount of ₱1,639,224.00 for the years 2011 and 2012.

Petitioner also points out that Ms. Lennie A. Terrre identified Exhibits "P-32.6" and "P-32.7" in her supplemental testimony which corresponds to bank debit memos showing additional payments for IERD No. 114789647. Thus, the Court should allow the additional amount of ₱2,860,178.25 since the said documents provide the bases for the allowance of corresponding amortized portions of the input VAT for the years 2011 and 2012 for the supported transactions.

It also contends that its evidence clearly shows that the input taxes being claimed for refund consist of excess input taxes which are undiminished by any VAT output tax, except as to the findings made by the ICPA as to the amount of ₱559,786.39. Thus, petitioner's input VAT being claimed for refund is an amount that is already net of any output VAT and further deduction of petitioner's output VAT effectively causes the said output VAT to be deducted twice from petitioner's creditable input tax.

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[1] CTA EB No. 403 (CTA Case No. 7022), May 29, 2009.

Petitioner also argues that petitioner submitted all documents supporting Exhibits "P-16-A" to "P-16-C", which speak of the nature of the purchases made by petitioner. Thus, it would be fair for the Court to make pro-rating of petitioner's input taxes to its zero-rated sales, as well as to its VAT sales, which are incidental to its zero-rated business.

It, likewise, reiterates that the reduced payment for the goods exported, such as in the case of the sale made to DH Kingstone, does not warrant the disallowance of the entire transaction as a zero-rated transaction.

Respondent's Motion for Partial Reconsideration

We deny respondent's Motion.

As regard to respondent's claim that the existence of zero-rated sales is just based on mere allegations of the ICPA, the same deserves scant consideration by the Court.

As can be seen in the assailed Amended Decision, the Court disregarded the disputed finding of the ICPA and, instead, arrived at its own determination of which amount is attributable to zero-rated sales, to wit:

> "However, other than its mere allegation that the subject input VAT are all directly attributable to its zero-rated sales, petitioner did not present documentary evidence in order for this Court to ascertain that no part of the claimed input VAT can be attributed to its reported VA Table and exempt sales in 2011 and 2012. Thus, the input VAT of ₱9,295,167.30 and ₱10,123,097.32 in 2011 and 2012, respectively, shall be proportionately allocated among its reported zero-rated, VATable and exempt sales in 2011 and 2012 in the aggregate amount of ₱2,888,696,985.55 and ₱3,261,427,312.19, respectively."

Anent the other issues raised by respondent, records show that they are mere rehash, in fact, almost quoted in verbatim, of the arguments raised by the latter in his Comment/Opposition (Re: Motion for Partial Reconsideration and/or New Trial)[2] filed on May 6, 2016, which have been amply considered and passed upon in the assailed Amended Decision. Thus, to discuss them anew is superfluity.

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[2] Division Docket (Vol. II), pp. 797-815.

In view thereof, We deny respondent's Motion.

Petitioner's Motion for Partial Reconsideration

We find petitioner's Motion partly meritorious.

With regard to the alleged inapplicability of the Coral Bay Case to its excess VAT input taxes in the amount of ₱1,125,380.81, the applicability thereof has been justified and exhaustively discussed by the Court in the Assailed Amended Decision in this wise:

> "In Section 3 of Revenue Memorandum Order No. 9-00 29 (RMO No. 9-00) dated February 2, 2000, the Bureau of Internal Revenue enumerated the requirements for the zero-rating of sales by a VAT taxpayer to a BOI registered exporter, thus:
>
> > "SECTION 3. Sales of goods, properties or services made by a VAT registered supplier to a BOI registered exporter shall be accorded automatic zero-rating, i.e., without necessity of applying for and securing approval of the application for zero-rating as provided in Revenue Regulations No. 7-95, subject to the following conditions:
> >
> > (1) The supplier must be VAT-registered;
> >
> > (2) The BOI-registered buyer must likewise be VAT-registered;
> >
> > (3) The buyer must be a BOI-registered manufacturer/producer whose products are 100% exported. For this purpose, a Certification to this effect must be issued by the Board of Investments (BOI) and which certification shall be good for one year unless subsequently re-issued by the BOI;
> >
> > (4) The BOI-registered buyer shall furnish each of its suppliers with a copy of the aforementioned BOI Certification which shall serve as authority for the supplier to avail of

> the benefits of zero-rating for its sales to said BOI-registered buyers; and
>
> (5) The VAT-registered supplier shall issue for each sale to BOI-registered manufacturer/exporters a duly registered VAT invoice with the words 'zero-rated' stamped thereon in compliance with Sec. 4.108-1(5) of Revenue Regulations No. 7-95. The supplier must likewise indicate in the VAT-invoice the name and BOI-registry number of the buyer."

In the present case, petitioner was able to present two Certifications issued by the BOI dated January 21, 2011 and January 20, 2012, respectively, both attesting to the fact that petitioner is a BOI registered entity; and, that the latter 'exported 100% of its total sales volume/value' in the calendar years 2008 and 2009. The said Certifications, likewise, state that the same are valid only for the periods of January 1 to December 31, 2011 and January 1 to December 31, 2012.

Following Section 3 (4) of RMO No. 9-00, the subject BOI Certifications shall serve as authority for the local suppliers of petitioner 'to avail of the benefits of zero-rating' on their sales to petitioner covering the years 2011 and 2012. Thus, no output tax should, therefore, be shifted by the local suppliers to petitioner."

But in this case, petitioner's supplier shifted the output tax to petitioner. Thus, petitioner may seek reimbursement of the input VAT paid from its seller (who shifted the output VAT), and not from the government, following the ruling of the CTA Court En Banc in *Coral Bay Nickel Corp. vs. Commissioner of Internal Revenue,* to wit:

> '**To allow petitioner a refund or issuance of tax credit certificate of input VAT on its domestic purchases of goods and services, where there is no right to demand it against the government, since its purchases are zero-rated, would unduly enrich petitioner at the expense of the government**. Under the law, no one shall unjustly enriched himself at the expense of another. 'Niguno non deue enriquecerse tortizamente condano de otr' *(Ong Yong, et al. vs. David S. Tiu, et al., 375 SCRA 640)*. Said ruling is equally true in the field of taxation, particularly in cases involving claims for refunds.

> **In instances when petitioner paid input VAT, notwithstanding that under the law it is subject to VAT at zero percent rate, petitioner's recourse is not against the government, but against the seller who shifted to it the output VAT.** *Revenue Memorandum Circular No. 42-03* is clearly instructive on this matter:
>
> > 'In the meantime, the claim for input tax credit by the exporter-buyer should be denied without prejudice to the claimant's right to seek reimbursement of the VAT paid, if any, from its supplier.'
>
> Pursuant to *Revenue Memorandum Circular No. 42-03*, petitioner's recourse for those purchases of goods and services where it paid VAT is not a claim for refund against the government, or the issuance of a tax credit certificate; but to seek reimbursement of the input VAT paid from its suppliers of goods and services.'
>
> The afore-quoted ruling was affirmed in the case of *Coral Bay Nickel Corp. vs. Commissioner of Internal Revenue*, where the Supreme Court ruled that the proper party to seek the tax refund or credit should be the suppliers not the petitioner (Coral Bay)." (Citations omitted)"

As regards the other issues raised by petitioner, the Court will resolve them jointly for being interrelated.

A. <u>Double Deduction of Output VAT</u>

Petitioner avers that its evidence clearly shows that the input taxes being claimed for refund consist of excess input taxes which are undiminished by any VAT output tax, except as to the findings made by ICPA with respect to the amount of ₱559,786.39. Accordingly, the input VAT being claimed for refund is an amount that is already net of any output VAT and a further deduction of its output VAT effectively causes the said output VAT to be deducted twice from its creditable input tax.

Petitioner's analysis of the Court's computation is mistaken.

It is to be noted that petitioner presented several supporting documents for the **total amount of input VAT** (from local purchases and importations), **as declared in the Quarterly VAT Returns** in 2011 and 2012. And, it is from this total amount of input VAT, as declared in the returns, where the Court found disallowances.

Otherwise stated, the Court's examination of documents submitted by petitioner comprise the total input VAT declared in the Quarterly VAT Returns, without any deduction yet for the output tax.

The amount of input VAT found to be allowable for refund, after deducting the disallowances, is not yet applied to the output tax. Thus, there is still a need to deduct the output tax from input VAT. Even the ICPA made the same manner of computation as shown in Tables V and VI of her Report[3] and Supplemental Report[4], respectively.

Thus, contrary to the claim of respondent, there was no double deduction of output tax committed by the Court.

B. <u>Allocation of Directly Attributable Input Taxes</u>

Petitioner avers that it would be an injustice to say that petitioner did not offer any documentary evidence to support its claim that the subject input taxes are all directly attributable to its zero-rated sales.

Petitioner points out that it submitted all supporting documents in support of Exhibits P-16-A to P-16-C which documents clearly speak of the nature of the purchases made by the petitioner. Thus, the testimonies of petitioner's witnesses fully corroborate what the said documents already indicate, i.e., that the goods purchased are equipment used in the hauling of mined ores.[5]

Petitioner's argument must fail.

Exhibits "P-16-A" to "P-16-C" pertain to documents supporting its zero-rated sales for the years 2008, 2010, and 2011. As already ruled in the original Decision, the documents for 2008 and 2010 have no bearing in the present case as it pertains to the amortized portion of the input taxes from purchases of capital goods attributable to 2011 and 2012 zero-rated sales.

[3] Docket (Vol I), p. 161.
[4] Docket (Vol. II), p. 878.
[5] Pars. 22- 23, Petitioner's Motion for Partial Reconsideration (of the 24 April 2017 Amended Decision), p. 10.

The above-mentioned exhibits are zero-rated sales documents. Mere presence of zero-rated sales documents does not automatically prove that the corresponding purchases are 100% attributed to zero-rated transactions, especially in this case where petitioner also declared VATable and VAT Exempt sales in its Quarterly VAT Returns for the years 2011 and 2012.

Verily, mere allegation that all purchases are attributable to its zero-rated sales cannot be given credence. The ICPA did not even have first-hand determination as to which purchases were, indeed, attributable to petitioner's zero-rated sales. In fact, she merely relied on Ms. Lennie Terre's certification on the matter.

C. <u>Disallowed Zero-Rated Sales due to Failure to Exact Full Payment</u>

Anent petitioner's claim that a reduction in the payment for the goods exported due to charges made against such payment, such as in the case of the sale made to DH Kingstone, does not warrant the disallowance of the entire transaction as a zero-rated transaction, the same was already resolved in the assailed Amended Decision in this wise:

> "Section 106(A)(2)(a)(1) of the 1997 National Internal Revenue Code, as amended, and implemented by Sec. 4.106-5(a)(1) of Revenue Regulations No. 16-05[6], expressly provides that the sale and actual shipment of goods from the Philippines to a foreign country is 'paid for' in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP). The term 'paid for' connotes 'collection'. Thus, there is a necessity to go through the supporting Bank Credit Advice/Inward Remittance Certificates of the alleged export sales to ascertain foreign currency remittances from foreign customers.
>
> Further, contrary to petitioner's argument, the Court did not disallow the 'entire transaction' with DH Kingstone as a zero-rated sale. The amount disallowed in DH Kingstone transaction was only to the extent which was not properly substantiated with inward remittances.
>
> Nevertheless, even granting that insufficient inward remittances from the DH Kingstone transaction 'can already constitute full payment', petitioner should still provide

[6] Consolidated Value-Added Tax Regulations of 2005.

> evidence that could convince the Court that the unpaid balance pertains to alleged charges made against such payment, or that the same was already waived, or that efforts made to collect the same was indeed unfruitful.
>
> As such, the disallowed zero-rated sales from the exportation to DH Kingstone in 2011 amounting to ₱14,611,333.48 ($336,899.55) must be sustained. The above rationale also served as the basis for the disallowance of zero-rated sales in 2012 amounting to ₱16,738,230.28 ($396,628.73), as discussed earlier."

D. <u>Matters Raised in the Motion for Reconsideration which were Not Considered in the Amended Decision</u>

Petitioner avers that in the Court's March 28, 2016 Decision, it disallowed the amount of ₱819,612.00 corresponding to the amortized portion of the input tax in the year 2011 and, another ₱819,612.00 corresponding to the amortized portion of the input tax in the year 2012 because the amount paid by petitioner, per bank debit advice[7] (included in the ICPA report), does not correspond to the amount in the IEIRD No. 107658476.[8]

Similarly, the Court also disallowed the amount of ₱449,825.25 corresponding to the amortized portion of the input tax in the year 2011 and ₱771,129.00 corresponding to the amortized portion of the input tax in the year 2012 due to insufficient supporting documents to show payment for the transactions covered by IEIRD No. 114789647[9] of the ICPA Report.

Thus, following the favorable resolution of this Court on its Motion for Reconsideration and/or New Trial of the March 28, 2016 Decision, petitioner presented the supplemental testimony of Ms. Lennie A. Terre where she identified Exhibit "P-32.5"[10], the bank debit advice in Philippine pesos, which corresponds to the additional payment for IEIRD No. 107658476. The introduction of Exhibit "P-32.5" allegedly completes the supporting documents to show full payment of the BOC assessment for VAT and other fees and charges for IEIRD No. 10768476. Thus, on the basis of which, the Court should allow the additional amount of ₱1,639,224.00 for the years 2011 and 2012.

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[7] Exhibit P-17-G-3.
[8] Exhibit P-17-G to G-1.
[9] Exhibits P-17-J to J-3 and P-17-J-5 to J-6.
[10] Docket (Vol. II), p. 849.

Further, petitioner states that Ms. Lennie A. Terre identified Exhibits "P-32.6" and "P-32.7"[11] which corresponds to bank debit memos showing the additional payments for IEIRD No. 114789647[12]. Unfortunately, said documents were allegedly not considered in the assailed Amended Decision.

We find the foregoing arguments partly meritorious.

To recall, the following input VAT from importations were disallowed by the Court in its March 28, 2016 Decision:

Exhibit No.	Supplier	Date / Period Claimed	Amount of Input VAT (in PhP)	Duplicated Exhibit	Date / Period Claimed	Amortized Input VAT Claim in 2011 (in PhP)	Amortized Input VAT Claim in 2012 (in PhP)
Importations wherein the total amount of customs, import processing fees and VAT indicated in the Import Entry & Internal Revenue Declaration (IERD) does not tally with that reflected in the supporting bank credit advice and/or bank passbook, hence shall be considered as without valid proof of input VAT payment as required under Section 4.110-8(a)(1) of RR No. 16-05							
P-17-G to P-17-G-4	Volvo Truck Corp.	06/03/10	₱4,098,060.00			₱819,612.00	₱819,612.00
P-17-J to P-17-J-3, P-17-J-5 to P-17-J-6	Volvo Truck Corp.	06/30/11	3,084,516.00			449,825.25	771,129.00
		Subtotal	**₱7,182,576.00**			**₱1,269,437.25**	**₱1,590,741.00**

However, an examination of the bank debit advice[13] supporting the 06/03/2010 importation shows an amount of only ₱3,997,577.00, whereas the amount of input VAT per IEIRD No. 10768476 was ₱4,098,060.00.

Further, We note the following Summary of Payments on the second page of said IEIRD:

CUD	₱ 991,748.00
VAT	4,098,060.00
IPF	1,000.00
	₱ 5,090,808.00
Less: deposit	1,093,531.00
TOTAL	₱ 3,997,277.00
Bank charges	300.00
	₱ 3,997,577.00

The Court observed that, as to the ₱1,093,531.00 deposit, no proof of payment/remittance was presented by petitioner. Thus, they can only consider the remittance to the extent of ₱3,997,277.00 as meritorious. But

[11] Docket (Vol. II), pp. 850-851.
[12] Q&A No. 5, Judicial Affidavit (New Trial) of Lennie A. Terre, Exhibit P-32, Docket (Vol. II), p. 837.
[13] Exhibit P-32.5, Docket (Vol. II), p. 849.

since the whole remittance apparently pertains to CUD, VAT and IPF charges, only the amount of ₱3,004,529.00 shall be considered as petitioner's input VAT payment, as follows:

Final Duties and Taxes		₱ 3,997,277.00
Less:	CUD	991,748.00
	IPF	1,000.00
Considered VAT Payment		**₱3,004,529.00**

Hence, as for importation per IEIRD No. 10768476, only ₱3,004,529.00 must be allowed as input VAT from importations, where the corresponding amortization of said input VAT would amount to ₱600,905.80 for each year in 2011 and 2012.

As for the 06/30/2011 importation with supporting IEIRD No. 114789647, petitioner submitted a bank debit advice and Account Statement List from Security Bank[14] proving actual remittance of ₱2,698,590.00 and ₱1,133,356.00 (net of ₱300.00 representing bank charge), respectively, totaling ₱3,831,946.00. This amount matches the total BOC charges under IEIRD No. 114789647, which includes VAT amounting to ₱3,084,516.00.

Hence, as for importation per IEIRD No. 114789647, ₱3,084,516.00 must be allowed as input VAT from importations, where the corresponding 2011 and 2012 amortizations of ₱449,825.25 and ₱771,129.00, respectively, are eligible for input VAT refund.

Supplier	Date	Input VAT	Less: Disallowance	Input VAT Allowed	Monthly Amort.	2011	2012
2008							
Marubeni Corporation	3/1/2008	₱2,264,799.44	₱ -	₱2,264,799.44	₱47,183.32	₱566,199.84	₱566,199.84
Volvo Truck Corporation	6/1/2008	6,529,643.40	4,577,952.00	1,951,691.00	40,660.23	487,922.76	487,922.76
Marubeni Corporation	9/1/2008	10,757,012.00	806,980.00	9,950,032.00	207,292.33	2,487,508.00	2,487,508.00
Volvo Truck Corporation	9/1/2008	6,772,398.00	-	6,772,398.00	141,091.63	1,693,099.56	1,693,099.56
Volvo Truck Corporation	12/1/2008	2,916,035.00	-	2,916,035.00	60,750.73	729,008.76	729,008.76
Volvo Truck Corporation	12/1/2008	3,696,783.00	-	3,696,783.00	77,016.31	924,195.72	924,195.72
			Subtotal	***₱27,551,738.44***		***₱6,887,934.64***	***₱6,887,934.64***
2010							
Volvo Truck Corporation	6/3/2010	₱4,098,060.00	₱880,283.77	***₱ 3,004,529.00***	₱ 50,075.48	***₱ 600,905.80***	***₱ 600,905.80***
2011							

[14] Exhibits P-32.6 to 32.7, Docket (Vol. II), pp. 850-851.

Volvo Truck Corporation	4/19/2011	₱12,021,962.00	-	₱ 12,021,962.00	₱250,457.54	₱ 2,254,117.86	₱ 3,005,490.48
Volvo do Brasi Veiculos Ltda.	5/10/2011	918,689.00	-	918,689.00	19,139.35	153,114.80	229,672.20
Volvo Truck Corporation	6/30/2011	3,084,516.00	-	3,084,516.00	64,260.75	449,825.25	771,129.00
			Subtotal	***₱16,025,167.00***		***₱2,857,057.91***	***₱ 4,006,291.68***
			Total	**₱46,581,434.84**		**₱10,345,898.35**	**₱11,495,132.12**

The following, thus, now comprise the amortized input VAT from importations in the amount of ₱10,345,898.35 and ₱11,495,132.12 in 2011 and 2012, respectively, representing petitioner's valid input VAT.[15] A table below is provided for ease of reference:

	Allocation Factor		**Allocated Input VAT**	
	2011	**2012**	**2011**	**2012**
Vatable Sales	0.0534475%	0.3855726%	₱ 5,529.62	₱ 44,322.10
Zero Rated Sales	96.1370534%	95.8178856%	9,946,241.82	11,014,392.54
Exempt Sales	3.8094992%	3.7965417%	394,126.91	436,417.48
Total	**100.00%**	**100.00%**	**₱10,345,898.35**	**₱11,495,132.12**

The above determined amounts be shall be proportionately allocated among its reported zero-rated, VATable and exempt sales in 2011 and 2012, as laid down in the Amended Decision[16], with the new amounts allocated to zero-rated sales of ₱9,946,241.82 and ₱11,014,392.54 in 2011 and 2012, respectively.

Since petitioner did not submit VAT invoices/receipts proving the existence of its reported input VAT from Domestic Purchases of Goods not Exceeding ₱1Million, Purchases of Goods (other than Capital Goods), Importation of Goods (other than Capital Goods) and Domestic Purchases of Services for the first to fourth quarters of 2011 and 2012, its output VAT liability for respective periods in the amounts of ₱185,272.24 and ₱1,509,020.55 shall be offset against the input VAT amortization allocated to its VATable and zero-rated sales, as shown below:

	2011	**2012**
Output VAT Due	₱ 185,272.24	₱ 1,509,020.55
Less: Input VAT Amortization Allocated to VATable Sales	5,529.62	44,322.10
Net Output VAT Payable	₱ 179,742.62	₱ 1,464,698.45
Less: Input VAT Amortization Allocated to Zero-Rated Sales	9,946,241.82	11,014,392.54

[15] Valid input VAT amortization from importations as laid down in the Amended Decision pp.12-13 plus the allowable amortized input VAT amortization based on newly submitted evidence.
[16] Page 13 of the Amended Decision.

Excess Input VAT Amortization Allocated to Zero-Rated Sales	**₱9,766,499.20**	**₱9,549,694.09**

Consequently, only the input VAT of ₱8,926,352.16 and ₱9,277,052.47 are attributable to the valid zero-rated sales of ₱2,538,211,995.90[17] and ₱3,035,811,767.16[18] in 2011 and 2012, respectively, as computed below:

	2011	2012
Excess Input VAT Amortization Allocated to Total Declared Zero-Rated Sales	₱ 9,766,499.20	₱ 9,549,694.09
Multiply by:		
Valid Zero-Rated Sales	₱2,538,211,995.90	₱3,035,811,767.16
Divided by: Total Zero-Rated Sales Per Return	₱2,777,108,162.18	₱3,125,030,692.01
Ratio of valid 0-rated sales to total 0-rated sales	91.3976643%	97.1450224%
Excess input VAT for refund	**₱ 8,926,352.16**	**₱ 9,277,052.47**

In sum, petitioner proved that it is entitled to a refund or issuance of tax credit certificate in the modified amount of ₱18,203,404.63, representing the sum of its excess input VAT amortization on capital goods purchases exceeding P1Million attributable to its zero-rated sales for the years 2011 and 2012 in the amounts ₱8,926,352.16 and ₱9,277,052.47, respectively.

WHEREFORE, in view thereof, respondent's Motion for Partial Reconsideration (Re: Amended Decision promulgated 24 April 2017) is **DENIED,** while petitioner's Motion for Partial Reconsideration (of the 24 April 2017 Amended Decision) is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of the Amended Decision promulgated on April 24, 2017 is **AMENDED**, as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the increased amount of **EIGHTEEN MILLION TWO HUNDRED THREE THOUSAND FOUR HUNDRED FOUR AND 63/100 (₱18,203,404.63)**, representing the sum of its excess input VAT amortization on capital goods purchases exceeding P1Million attributable to its zero-rated sales for the years 2011 and 2012 in the amounts ₱8,926,352.16 and ₱9,277,052.47, respectively."

[17] Decision, p. 20, Docket (Vol. I), p. 440.
[18] Amended Decision, p. 7.

SO ORDERED."

CAESAR A. CASANOVA
Associate Justice

I CONCUR:

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

ATTESTATION

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

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 Amended 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