Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION
****

UNISYS PHILIPPINES LIMITED-PHILIPPINE BRANCH,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE No. 8355

Members:

CASTAÑEDA, JR., *Chairperson*,
CASANOVA, and
COTANGCO-MANALASTAS, JJ.

Promulgated:

MAR 28 2014 4:30 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

This Petition for Review filed by Unisys Philippines Limited-Philippine Branch seeks the refund or issuance of tax credit certificate in the aggregate amount of Eight Million Six Hundred Thousand Eight Hundred Ninety-Two Pesos and 14/100 (₱8,600,892.14), allegedly representing erroneous payments of value-added tax (VAT) for the first three (3) quarters of calendar year (CY) 2010.

THE FACTS

Petitioner Unisys Philippines Limited-Philippine Branch is a branch office of Unisys Philippines Limited (formerly Unisys Australia Limited), which is a corporation organized and registered under the laws of Michigan, U.S.A. It is licensed to transact business in the Philippines by the Philippine Securities and Exchange Commission. It holds office at Level 9, One Cyberpod, Eton Centris Station, EDSA cor. Quezon Avenue, Quezon City.[1] Petitioner is also a VAT-registered taxpayer as evidenced by its Certificate of Registration No. OCN8RC0000019521.[2]

[1] Par. 1, Petition for Review, docket, p. 1; Exhibit "A", docket, p. 275.
[2] Exhibit "B", docket, p. 276.

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), with authority, among others, to decide, approve and grant claims for refund or tax credit of internal revenue taxes. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner entered into several agreements with different government agencies, to wit: (1) Contract for MIS Computerization Project Implementation Phase[3] with the Philippine Ports Authority (PPA) on August 26, 2002; (2) Systems Integration Services Agreement[4] with the Bureau of Customs (BOC) on December 29, 2004; and (3) Master Agreement for Products and Services[5] with the Armed Forces of the Philippines (AFP) on July 24, 2007.

Petitioner filed its Quarterly VAT Returns for first, second, and third quarters of taxable year 2010 on April 26, 2010, July 26, 2010, and October 22, 2010, respectively.[6] It amended all the aforesaid returns on February 7, 2011.[7]

Petitioner filed its Letter[8] and Application for Tax Credits/Refunds[9] for an alleged overpayment of VAT on May 17, 2011.

Due to the inaction of respondent on petitioner's administrative claim for refund,[10] the latter filed the instant Petition for Review on October 17, 2011.

On November 28, 2011, respondent filed a Motion to Dismiss[11] on the ground that petitioner's right to appeal from failure of the former to act on the latter's administrative claim had already prescribed. After considering petitioner's Opposition/Comment (To Respondent's Motion to Dismiss)[12], the Court denied the said motion on February 14, 2012; and declared that the administrative claim of petitioner and the instant Petition for Review were filed within the two-year prescriptive period.[13]

Respondent then filed her Answer[14] on March 30, 2012, interposing the following special and affirmative defenses: *gr*

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[3] Exhibit "F", docket, pp. 294-335.
[4] Exhibit "M", docket, pp. 369-391.
[5] Exhibit "E", docket, pp. 284-293.
[6] Exhibits "G" to "G-4", "H" to "H-4", and "I" to "I-4", docket, pp. 336 to 350.
[7] Exhibits "J" to "J-2", "K" to "K-2", and "L" to "L-2", docket, pp. 351 to 368.
[8] Exhibits "C" and "C-1", docket, p. 277.
[9] Exhibits "D", "D-1", and "D-2", docket, p. 282.
[10] Par. I(3), Joint Stipulation of Facts and Issues (JSFI), docket, p. 139.
[11] Docket, pp. 69-74.
[12] Docket, pp. 78-83.
[13] Resolution, docket, pp. 85-91.
[14] Docket, pp. 97-100.

"7. Respondent reproduces and repleads all the foregoing allegations insofar as they are relevant to her defenses which are discussed hereunder and incorporates them herein by way of reference and, in addition thereto, most respectfully avers THAT:

8. Petitioner's alleged claim for issuance of tax credit certificate is still subject to administrative routinary investigation/examination by the respondent's Bureau;

9. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable.

10. Petitioner's claim for refund or issuance of tax credit certificate in the amount of 8,600,892.14, representing alleged erroneous VAT payments for the first three (3) quarters of CY 2010, were not fully substantiated by proper documents, such sales invoices, official receipts and others pursuant to Revenue Regulations No. 7-95 in relation to Section 113 and 237 of the 1997 Tax Code.

11. In an action for refund/credit, the burden of proof is on the petitioner to establish its right to claimed refund and failure to adduce sufficient proof is fatal to the claim for tax refund/credit.

12. It is incumbent upon the latter to show that it has complied with the provisions under Section 204 (c) in relation to Section 229 of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund.

13. Claims for refund are construed strictly against herein petitioner since the same partakes the nature of exemption from taxation (***Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95***) and as such, they are looked upon with disfavor ***(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211)***."

Petitioner filed its Pre-Trial Brief[15] on May 7, 2012; while respondent submitted her Pre-Trial Brief[16] through registered mail on May 7, 2012, which was received by the Court on May 15, 2012.

The parties submitted their Joint Stipulation of Facts and Issues[17] to this Court on July 9, 2012. Subsequently, the Pre-Trial Order[18] was issued on July 19, 2012.

[15] Docket, pp. 105-112.
[16] Docket, pp. 116-118.
[17] Docket, pp. 138-140.
[18] Docket, pp. 142-146.

On September 3, 2012, the Court commissioned Ms. Annalyn B. Artuz as the Independent Certified Public Accountant (CPA) for this case.

During trial, petitioner presented Jennifer G. Glinoga, Annalyn B. Artuz, and Veronica Joy R. Catajoy as its witnesses; while respondent's counsel manifested during the hearing on May 27, 2013 that he has no witness to present. Thus, respondent was given thirty (30) days from May 27, 2013 within which to submit her Memorandum and petitioner was granted twenty (20) days from receipt of notice to file its Memorandum.[19]

On May 29, 2013, petitioner urgently moved for partial reconsideration of the Resolution dated May 7, 2013, which admitted its documentary evidence except Exhibits "E", "M-1", "O-1", "O-2", "III" and "JJJ", with motion for leave to admit additional evidence.[20] The Court partially granted the same on July 19, 2013, admitting Exhibit "E" and including the purposes of Exhibits "O-1" and "O-2" as part of the purposes of Exhibit "O".[21] The Court likewise allowed petitioner to present additional evidence.

On August 14, 2013, the Court granted petitioner's oral offer of evidence, admitting Exhibit "MM"; and respondent's counsel manifested anew that he would no longer present evidence and would be submitting this case for decision based on the pleadings.[22]

The case was submitted for decision on November 7, 2013, considering petitioner's Memorandum[23] filed on September 13, 2013 and the Report[24] dated November 6, 2013 of this Court's Records Division stating that respondent failed to file a Memorandum.[25]

THE ISSUES

The parties presented the following issues[26] to be resolved by this Court:

> "1. Whether or not Petitioner erroneously computed VAT liability for the first three (3) quarters of CY 2010.
>
> 2. Whether or not Petitioner overpaid its VAT liabilities for the first three (3) quarters of CY 2010. *gr*

[19] Resolution dated May 27, 2013, docket, p. 519.
[20] Docket, pp. 521-527.
[21] Resolution, docket, pp. 542-544.
[22] Resolution, docket, p. 547.
[23] Docket, pp. 548-571.
[24] Docket, p. 572.
[25] Resolution, docket, p. 573.
[26] Par. II, JSFI, docket, p. 139.

3. Whether or not Petitioner is entitled to a tax refund and/or tax credit certificate amounting to Pesos: **Eight Million Six Hundred Thousand Eight Hundred Ninety-Two and 14/100 (₱8,600,892.14)** representing the erroneous VAT payments for the first three (3) quarters of CY 2010.

4. Whether or not Petitioner satisfied all the documentary and evidentiary (requirements) for an administrative claim for refund and/or issuance of a tax credit certificate."

THE COURT'S RULING

As to the timeliness of the filing of the instant Petition for Review, this Court has already ruled in the Resolution[27] dated February 14, 2012 that the administrative claim of petitioner filed on May 17, 2011 and the Petition for Review filed before this Court on October 17, 2011 were filed within the two-year prescriptive period.

The Court will now determine whether petitioner is entitled to the claimed tax refund.

Petitioner filed its original Quarterly VAT Returns for the first three quarters of CY 2010 disclosing the following information:

	Exhibit "G" 1st qtr	**Exhibit "H" 2nd qtr**	**Exhibit "I" 3rd qtr**	**TOTAL**
Vatable Sales/Receipt	₱ 181,330,631.26	₱ 46,490,907.10	₱ 74,220,788.26	₱ 02,042,326.62
Sale to Government				-
Zero-Rated Sales/Receipts	582,374.87	287,126.56	933,795.90	1,803,297.33
Total Sales	**₱181,913,006.13**	**₱46,778,033.66**	**₱75,154,584.16**	**₱303,845,623.95**
Output Tax Due				
Vatable Sales/Receipt	21,759,676.27	5,578,910.05	8,906,496.57	36,245,082.89
Sale to Government				-
Total Output Tax	**₱ 21,759,676.27**	**₱ 5,578,910.05**	**₱ 8,906,496.57**	**₱ 36,245,082.89**
Input Tax Carried Over	807,754.40			807,754.40
Input Tax on:				
Domestic Purchases of Goods Other than Capital Goods	273,872.37	12,645.47	121,242.78	407,760.62
Importation of Goods Other than Capital Goods	220,946.00	305,417.00	130,820.00	657,183.00
Domestic Purchases of Service	3,245,074.40	1,689,228.20	2,348,099.44	7,282,402.04
Services Rendered by Non-Residents			1,010,796.08	1,010,796.08
Total Input Tax for the Period	**₱ 3,739,892.77**	**₱ 2,007,290.67**	**₱ 2,600,162.22**	**₱ 8,347,345.66**
Total Available Input VAT	**4,547,647.17**	**2,007,290.67**	**2,600,162.22**	**9,155,100.06**

[27] Docket, pp. 85 to 91.

Net VAT Payable	**₱17,212,029.10**	**₱ 3,571,619.38**	**₱ 6,306,334.35**	**₱27,089,982.83**
Tax Credits/Payments				
Monthly VAT Payments - Previous 2 months	2,908,108.11	1,919,863.73	791,338.92	5,619,310.76
Creditable VAT Withheld	6,743,232.42	32,829.62	2,714,993.33	9,491,055.37
Advance Payments made				-
Total Tax Credits	9,651,340.53	1,952,693.35	3,506,332.25	15,110,366.13
Tax Still Payable (Overpayment)	**₱ 7,560,688.57**	**₱ 1,618,926.03**	**₱ 2,800,002.10**	**₱11,979,616.70**

Subsequently, petitioner amended its Quarterly VAT Returns for the first three quarters of CY 2010, which reflected a total overpayment of ₱8,600,892.13, the details of which are herein presented:

	Exhibit "J" 1st qtr 2010	**Exhibit "K" 2nd qtr 2010**	**Exhibit "L" 3rd qtr 2010**	**TOTAL**
Vatable Sales/Receipt - Private	₱ 58,997,060.54	₱ 10,314,660.46	₱ 11,835,692.89	₱ 81,147,413.89
Sale to Government	122,333,570.72	36,176,246.64	62,385,095.38	220,894,912.74
Zero-Rated Sales/Receipts	582,374.87	287,126.56	933,795.90	1,803,297.33
Total Sales	**₱181,913,006.13**	**₱46,778,033.66**	**₱75,154,584.17**	**₱303,845,623.96**
Output Tax Due				
Vatable Sales/Receipt	7,079,647.26	1,237,759.26	1,420,283.15	9,737,689.67
Sale to Government	14,680,028.49	4,341,149.60	7,486,211.45	26,507,389.54
Total Output Tax	**₱ 21,759,675.75**	**₱ 5,578,908.86**	**₱ 8,906,494.60**	**₱ 36,245,079.21**
Input Tax:				
Domestic Purchases of Goods Other than Capital Goods	273,872.37	12,645.47	121,242.78	407,760.62
Importation of Goods Other than Capital Goods	220,946.00	305,417.00	130,820.00	657,183.00
Domestic Purchases of Service	3,245,074.40	1,689,228.20	2,348,099.44	7,282,402.04
Services Rendered by Non-Residents			1,010,796.08	1,010,796.08
Total Input Tax for the Current Period	**₱ 3,739,892.77**	**₱ 2,007,290.67**	**₱ 3,610,958.30**	**₱ 9,358,141.74**
Input Tax on Sale to Government closed to expense	6,048,332.21	979,979.53	1,369,535.03	8,397,846.77
Total Available Input VAT	**₱ 9,788,224.98**	**₱ 2,987,270.20**	**₱ 4,980,493.33**	**₱ 17,755,988.51**
Net VAT Payable	**₱ 11,971,450.77**	**₱ 2,591,638.66**	**₱ 3,926,001.27**	**₱ 18,489,090.70**
Less: Tax Credits/Payments				
Monthly VAT Payments - Previous 2 months	2,908,108.11	1,919,863.73	791,338.92	5,619,310.76
VAT Withheld on Sales to Government	6,743,232.42	32,829.62	2,714,993.33	9,491,055.37
Advance Payments made	7,560,688.57	1,618,926.03	2,800,002.10	11,979,616.70
Total Tax Credits	17,212,029.10	3,571,619.38	6,306,334.35	27,089,982.83
Total Amount Payable (Overpayment)	**₱ (5,240,578.33)**	**₱ (979,980.72)**	**₱(2,380,333.08)**	**₱(8,600,892.13)**

Petitioner claims that the VAT overpayment of ₱8,600,892.13 constitutes erroneously paid tax which can be claimed as tax refund/credit under Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, which provides:

"SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid."

For the first three quarters of CY 2010, petitioner generated gross sales in the aggregate amount of ₱303,845,623.96, broken down as follows:

Period (2010)	Private Sales	Sales to Government Entities	Zero-Rated Sales	Total
Q1	₱ 58,997,060.54	₱ 122,333,570.72	₱ 582,374.87	₱ 181,913,006.13
Q2	10,314,660.46	36,176,246.64	287,126.56	46,778,033.66
Q3	11,835,692.89	62,385,095.38	933,795.90	75,154,584.17
Total	**₱81,147,413.89**	**₱220,894,912.74**	**₱1,803,297.33**	**₱303,845,623.96**

Petitioner derived its gross sales to government of ₱220,894,912.74 from its various service agreements with the following government agencies:

1. System Integration Services Agreement[28] with the Bureau of Customs for the BOC ASYCUDA World (e-Customs) Project, an on-going modernization project of the BOC;
2. Agreement with the Philippine Ports Authority[29] for the PPA MIS Computerization Project Implementation Phase; and
3. Master Agreement for Product and Services[30] with the Armed Forces of the Philippines.

[28] Exhibit "M".
[29] Exhibit "F".
[30] Exhibit "E".

Petitioner offered in evidence various official receipts[31] issued to the BOC, the PPA, and the AFP for the services it rendered, which substantiate the amount of revenues received from the various government agencies. The aforesaid revenues were reported in the corresponding Quarterly VAT Returns of petitioner.

The revenues derived by petitioner from BOC, PPA, and AFP were subjected to the corresponding five percent (5%) final VAT and an aggregate amount of ₱9,491,055.37 was withheld by the said government agencies pursuant to Section 114(C) of the NIRC of 1997, as amended, which states:

> "SEC. 114. *Return and Payment of Value-added Tax.* -
>
> xxx xxx xxx
>
> (C) *Withholding of Creditable Value-Added Tax.* - The Government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods from sellers and services rendered by contractors which are subject to the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold the value-added tax due at the rate of five percent (5%) of the gross payment thereof: *Provided*, That the payment for lease or use of properties or property rights to non-resident owners shall be subject to ten percent (10%) withholding tax at the time of payment. For purposes of this Section, the payor or person in control of the payment shall be considered as the withholding agent."

In computing its output VAT liability, petitioner credited the actual amount of its input VAT accumulated for the period instead of the seven percent (7%) standard input VAT which is prescribed for payments received from the government, *i.e.*, BOC, PPA and AFP, even though its actual accumulated input VAT attributable to its government sales was lower than the 7% standard input VAT. Thus, petitioner filed its original Quarterly VAT Returns for the first three quarters of CY 2010 and paid the corresponding tax of ₱17,598,927.46, broken down as follows:

Period (2010)	Total Amount of Output VAT	5% Creditable Withholding VAT	Amount of VAT paid upon filing of VAT Returns
Q1	₱ 17,212,029.10	₱ 6,743,232.42	₱ 10,468,796.68
Q2	3,571,619.38	32,829.62	3,538,789.76
Q3	6,306,334.35	2,714,993.33	3,591,341.02
Total	**₱27,089,982.83**	**₱9,491,055.37**	**₱17,598,927.46**

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[31] Exhibits "NN-1" to "NN-17", "NN-79", "PP-1" to "PP-10", and "QQ-1" to "QQ-8"; Annex 1, Exhibit "MM".

Subsequently, petitioner discovered that it erroneously computed its VAT liabilities, as shown above, which resulted in overpayment in the total amount of ₱8,600,892.14. The erroneously paid VAT is presented below by comparing the original and the amended Quarterly VAT Returns:

Particulars	**Original VAT Returns (using Actual Input)**	**Amended VAT Return (using Standard Input)**	**Difference**
Output VAT			
Private Sales *(Line 15B of VAT Returns)*	₱ 36,245,082.89	₱ 9,737,689.67	₱ 26,507,393.22
Sales to Government *(Line 16B of VAT Returns)*		26,507,389.54	(26,507,389.54)
Total Output VAT	**₱36,245,082.89**	**₱ 36,245,079.21**	**₱ 3.68**
Input VAT			
Actual Input VAT:			
Carried Over from Previous Period	807,754.40		807,754.40
For 1st to 3rd quarter of CY 2010 *(Annex A Table 2 of this Court's Findings)*			
Private Sales	8,347,345.66	2,224,184.71	6,123,160.95
Sales to Government		7,064,797.12	(7,064,797.12)
Zero-Rated Sales		69,159.91	(69,159.91)
Excess of Standard over Actual Input VAT on Sales to Government		8,397,846.77	(8,397,846.77)
Total Allowable Input VAT	**9,155,100.06**	**17,755,988.51**	**(8,600,888.45)**
Net VAT Payable	**₱27,089,982.83**	**₱ 18,489,090.70**	**₱ 8,600,892.13**
Less: VAT Payments			
Actual Payments *(Table 2 and 23 of Exhibit MM)*	17,598,927.46	17,598,927.46	-
Creditable VAT Withheld *(Line 26B of VAT Returns)*	9,491,055.37		9,491,055.37
VAT Withheld on Sales to Government *(Line 26D of VAT Returns)*		9,491,055.37	(9,491,055.37)
Total VAT Payments	**27,089,982.83**	**27,089,982.83**	**-**
VAT Overpayment	**-**	**₱(8,600,892.13)**	**₱ 8,600,892.13**

Based on the above comparison, the total allowable input VAT reported in the amended VAT Returns is significantly higher than the amount claimed as deductions against output VAT in the originally filed VAT Returns. It must be noted that the net amount of VAT overpayment is due to the net effect of the following:

1. The use of Actual Input VAT as deduction against output VAT in computing for the Net VAT Payable in the originally filed VAT Returns instead of the 7% Standard Input VAT. Thus, the amount of overpayment is significantly attributable to the excess (difference) of Standard Input VAT over Actual Input VAT which amounted to ₱8,397,846.77;

2. A lower amount of the total Actual Input VAT reported in the originally filed VAT Return for the third quarter of CY 2010 due to the non-reporting of the input VAT on services rendered by non-resident service provider which amounted to ₱1,010,796.08.[32] The lower amount of Actual Input VAT increased the Net VAT Payable in the originally filed VAT Returns; and *ge*

[32] Line 21L of Exhibit "L".

3. The exclusion in the amended VAT Returns of the input VAT carry-over from previous period in the amount of ₱807,754.40[33] for the first quarter of CY 2010.

However, in order to be entitled to the claimed refund or tax credit certificate, petitioner must be able to establish that it indeed incurred and have enough input tax credits and VAT payments.

Based on records, petitioner's VAT payments consisted of the following:

1. Actual VAT payments upon filing of the original VAT Returns which amounted to ₱17,598,927.46, as detailed below:

Actual VAT Payments CY 2010	Exhibit No.	Amount
First Quarter		
January	UU	-
February	VV-1	₱ 2,908,108.11
March	G-3	7,560,688.57
Sub-total		***10,468,796.68***
Second Quarter		
April	WW-1	1,919,863.73
May	XX	-
June	H-3	1,618,926.03
Sub-total		***3,538,789.76***
Third Quarter		
July	YY-1	59,267.67
August	ZZ-1	732,071.25
September	I-3	2,800,002.10
Sub-total		***3,591,341.02***
TOTAL		**₱17,598,927.46**

2. Five percent VAT withheld by BOC and PPA in the amount of ₱9,491,055.37 for the first to third quarters of CY 2010 and duly substantiated by Certificates of Final Withholding Tax Withheld at Source, as presented below:

Payor's Name	Exhibit No.	Income Payments	VAT Withheld
Bureau of Customs	TTT-1	₱ 2,875,151.50	₱ 143,757.57
Bureau of Customs	TTT-2	2,593,357.14	129,667.86
Philippine Ports Authority	TTT-3	3,291,711.22	164,585.56
Philippine Ports Authority	TTT-4	17,467,700.46	873,385.02
Philippine Ports Authority	TTT-5	4,095,530.19	204,776.50
Philippine Ports Authority	TTT-6	319,337.06	*15,966.85*
Philippine Ports Authority	TTT-7	26,190,058.04	1,309,502.90
Philippine Ports Authority	TTT-8	26,190,058.04	1,309,502.90
Philippine Ports Authority	TTT-9	22,052,961.37	1,102,648.07
Philippine Ports Authority	TTT-10	22,052,961.37	1,102,648.07

[33] Line 20A of Exhibits "G" and "J".

Philippine Ports Authority	TTT-11	7,735,822.33	386,791.12
Sub-total			***6,743,232.42***
Bureau of Customs	TTT-12	656,592.30	32,829.62
Sub-total			***32,829.62***
Philippine Ports Authority	TTT-13	4,095,530.19	204,776.51
Philippine Ports Authority	TTT-14	24,009,458.65	1,200,473.43
Philippine Ports Authority	TTT-15	26,190,058.04	1,309,502.90
Philippine Ports Authority	TTT-16	4,809.86	240.49
Sub-total			***2,714,993.33***
TOTAL			**₱9,491,055.37**

On the other hand, petitioner reported a total of ₱9,358,141.74 input VAT incurred for the first, second, and third quarters of CY 2010. In support thereto, petitioner submitted various suppliers' invoices, official receipts, Bureau of Customs Import Entries and Internal Revenue Declarations (IEIRDs), and BOC official receipts.[34]

Upon verification of the said documents, the Court-commissioned Independent CPA, Ms. Annalyn B. Artuz of Constantino Guadalquiver and Co., summarized her findings as follows:

	Particulars	**Annex Reference**	**Amount of Purchases**	**Amount of Input VAT**
1.	Domestic Purchase of goods and services supported by VAT invoices and VAT ORs	4-1Q-a	₱ 13,861,205.81	₱ 1,661,250.77
		4-2Q-a	6,294,868.20	755,384.14
		4-3Q-a	8,798,295.82	1,055,798.15
	sub-total		***28,954,369.83***	***3,472,433.06***
2.	Domestic purchases of services supported by VAT ORs issued to the Petitioner's name but without or with wrong TIN and/or address	4-1Q-b	1,097,048.12	131,645.71
		4-2Q-b	287,321.11	34,478.41
		4-3Q-b	1,227,596.69	147,281.66
	sub-total		***2,611,965.92***	***313,405.78***
3.	Domestic purchases of goods supported by VAT invoices issued to the Petitioner's name but without or with wrong TIN and/or address	4-1Q-c	217,600.70	26,112.09
		4-2Q-c	17,857.14	2,142.86
		4-3Q-c	30,700.00	3,683.99
	sub-total		***266,157.84***	***31,938.94***
4.	Domestic purchases of services supported by documents other that VAT ORs (e.g. invoices)	4-1Q-d	268,740.40	32,248.85
		4-3Q-d	159,390.12	19,126.82
	sub-total		***428,130.52***	***51,375.67***
5.	Domestic purchases of services supported by VAT ORs not dated within the VAT taxable quarter but dated within the taxable year	4-1Q-e	8,483,981.54	1,018,079.94
		4-2Q-d	6,568,736.90	788,248.35
		4-3Q-e	5,429,538.64	651,544.25
	sub-total		***20,482,257.08***	***2,457,872.54***
6.	Domestic purchases of goods supported by VAT invoices not dated within the VAT taxable quarter but dated within the taxable year	4-3Q-f	34,241.07	4,108.93
	sub-total		***34,241.07***	***4,108.93***
7.	Domestic purchases of services supported by tape receipts without address and TIN	4-2Q-e	22,321.43	2,678.57
		4-3Q-g	13,392.86	1,607.14

[34] Exhibits "RR-1" to "RR-210", "SS-1" to "SS-171", and "TT-1" to "TT-216". *Jr*

sub-total			***35,714.29***	***4,285.71***
8.	Domestic purchases of goods and services supported by photocopies of invoices and ORs	4-3Q-h	377,865.84	45,343.90
sub-total			***377,865.84***	***45,343.90***
9.	Domestic purchases of services supported by documents other that VAT ORs with printed notation "NOT VALID SOURCE OF INPUT TAX"	4-1Q-f	682,169.49	79,456.64
		4-2Q-f	501,480.34	55,162.43
		4-3Q-i	505,317.74	56,561.12
sub-total			***1,688,967.57***	***191,180.19***
10.	Domestic purchases of services supported by NON-VAT ORs	4-2Q-g	86,205.74	10,344.69
		4-3Q-j	11,450.18	1,374.02
sub-total			***97,655.92***	***11,718.71***
11.	Domestic purchases of services claimed twice	4-3Q-k	37,539.73	4,504.77
sub-total			***37,539.73***	***4,504.77***
12.	Importation of goods supported by IERDs and/or BOC ORs	4-1Q-g	1,430,587.68	171,671.00
		4-2Q-h	458,245.16	54,988.00
		4-3Q-l	1,046,750.48	125,608.00
sub-total			***2,935,583.32***	***352,267.00***
13.	Importation of goods supported by photocopies of IERDs and/or BOC ORs	4-1Q-h	410,621.16	49,275.00
		4-2Q-i	2,086,920.46	250,429.00
sub-total			***2,497,541.62***	***299,704.00***
14.	Importation of goods supported by documents other than IERDs or BOC ORs (e.g. assessment notice)	4-3Q-m	43,440.43	5,212.00
sub-total			***43,440.43***	***5,212.00***
15.	Purchase of services from non-resident service provider supported by BIR Form 1600	4-3Q-n	8,423,300.67	1,010,796.08
sub-total			***8,423,300.67***	***1,010,796.08***
16.	Domestic purchases of goods/services supported by VAT invoices/VAT ORs with countersigned changes in the Company's name and/or TIN and/or address	4-1Q-i	439,429.88	52,735.15
		4-2Q-j	107,387.50	12,886.49
		4-3Q-o	122,785.27	14,734.21
sub-total			***669,602.65***	***80,355.85***
17.	Domestic purchases of goods/services supported by VAT invoices or VAT ORs stamped "CERTIFIED TRUE COPY"	4-1Q-j	2,646,465.54	317,576.05
		4-2Q-k	337,898.06	40,547.73
		4-3Q-p	3,863,944.59	463,673.26
sub-total			***6,848,308.19***	***821,797.04***
18.	Domestic purchases of capital goods exceeding ₱1 million supported by VAT Invoice (amortization only)	4-1Q-k	1,665,346.43	9,992.08
		4-2Q-l		9,992.08
		4-3Q-q		9,992.08
sub-total			***1,665,346.43***	***29,976.24***
19.	Difference*		0.40	169,865.33
sub-total			***0.40***	***169,865.33***
TOTAL			**₱78,097,989.32**	**₱9,358,141.74**

**The difference of ₱169,865.33 in item 19 above pertains to the deferred Input VAT on purchase of capital goods exceeding P1 million (aggregate acquisition cost excluding VAT) in a month as indicated in item 18 of the above table. In accordance with Section 4.110-3 of Revenue Regulations No. 16-2005, the amount of Input VAT for such purchases of capital goods should be amortized for five (5) years which is the estimated useful life of the computer equipment. The amount of allowable Input VAT should be equal to amortization of Input VAT for the period 1st to 3rd quarters of CY 2010 covering all periods from January 1 to September 30, 2010.* Je

The difference is accounted for as follows:

Input VAT on purchase of capital goods exceeding ₱1 million	*₱ 199,841.57*
Useful life of capital goods	*60 months*
Monthly amortization of Input VAT	*₱ 3,330.69*
Multiply by 9 months (January 1 to September 30, 2010)	*9 months*
Amortization if Input VAT claimable for 1st to 3rd quarter of CY 2010	*₱ 29,976.24*
Input VAT reported and claimed in the VAT Returns	*199,841.57*
Difference - item 19	***₱ 169,865.33***

Based on the foregoing, the amount of ₱2,785,663.33 shall not be considered as valid unutilized input VAT for petitioner's failure to meet the substantiation requirements under Sections 110(A) and 113(A) of the NIRC of 1997, as amended, and as implemented by Sections 4.110-1, 4.110-3, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-2005, to wit:

	Particulars	Annex Reference	Amount of Purchases	Amount of Input VAT
1.	Domestic purchases of services supported by VAT ORs issued to the Petitioner's name but without or with wrong TIN and/or address	4-1Q-b	₱ 1,097,048.12	₱ 131,645.71
		4-2Q-b	287,321.11	34,478.41
		4-3Q-b	1,227,596.69	147,281.66
	sub-total		***2,611,965.92***	***313,405.78***
2.	Domestic purchases of goods supported by VAT invoices issued to the Petitioner's name but without or with wrong TIN and/or address	4-1Q-c	217,600.70	26,112.09
		4-2Q-c	17,857.14	2,142.86
		4-3Q-c	30,700.00	3,683.99
	sub-total		***266,157.84***	***31,938.94***
3.	Domestic purchases of services supported by documents other that VAT ORs (e.g. invoices)	4-1Q-d	268,740.40	32,248.85
		4-3Q-d	159,390.12	19,126.82
	sub-total		***428,130.52***	***51,375.67***
4.	Domestic purchases of services supported by VAT ORs not dated within the VAT taxable quarter but dated within the taxable year	4-3Q-e	5,429,538.64	651,544.25
	sub-total		***5,429,538.64***	***651,544.25***
5.	Domestic purchases of services supported by tape receipts without address and TIN	4-2Q-e	22,321.43	2,678.57
		4-3Q-g	13,392.86	1,607.14
	sub-total		***35,714.29***	***4,285.71***
6.	Domestic purchases of goods and services supported by photocopies of invoices and ORs	4-3Q-h	377,865.84	45,343.90
	sub-total		***377,865.84***	***45,343.90***
7.	Domestic purchases of services supported by documents other that VAT ORs with printed notation "NOT VALID SOURCE OF INPUT TAX"	4-1Q-f	682,169.49	79,456.64
		4-2Q-f	501,480.34	55,162.43
		4-3Q-i	505,317.74	56,561.12
	sub-total		***1,688,967.57***	***191,180.19***
8.	Domestic purchases of services supported by NON-VAT ORs	4-2Q-g	86,205.74	10,344.69
		4-3Q-j	11,450.18	1,374.02
	sub-total		***97,655.92***	***11,718.71***
9.	Domestic purchases of services claimed twice	4-3Q-k	37,539.73	4,504.77
	sub-total		***37,539.73***	***4,504.77***
10.	Importation of goods supported by photocopies of IERDs	4-1Q-h	410,621.16	49,275.00

	and/or BOC ORs	4-2Q-i	2,086,920.46	250,429.00
sub-total			***2,497,541.62***	***299,704.00***
11.	Purchase of services from non-resident service provider supported by BIR Form 1600	4-3Q-n	8,423,300.67	1,010,796.08
sub-total			***8,423,300.67***	***1,010,796.08***
12.	Unamortized Input VAT		0.40	169,865.33
sub-total			***0.40***	***169,865.33***
TOTAL			**₱21,894,378.96**	**₱2,785,663.33**

The foregoing may be broken down per quarter as follows:

Period	**Disallowed Input VAT**
1st Quarter	₱ 488,603.62
2nd Quarter	355,235.96
3rd Quarter	1,941,823.75
Total	**₱2,785,663.33**

Upon further examination of the records, the Court finds that an additional input VAT of ₱1,689,390.48 shall also not be considered as valid unutilized input VAT for reasons stated hereunder:

Findings	**Exhibit No.**	**Amount of Input VAT** *1st Quarter*	***2nd Quarter***	***3rd Quarter***	**TOTAL**
1. ***Domestic purchases of goods supported by VAT invoices which are dated outside the period of claim***					
Advance Paper Corporation	RR-1	₱ 2,541.86			₱ 2,541.86
Accent Micro Technologies, Inc.	RR-2	910.71			910.71
Innovend Corporation	RR-4	1,155.28			1,155.28
Innovend Corporation	RR-67	6,813.30			6,813.30
Innovend Corporation	RR-68	8,552.68			8,552.68
sub-total		***19,973.83***	-	-	***19,973.83***
2. ***Domestic purchase of goods supported by VAT invoice wherein the input VAT is not separately indicated***					
Wellcome Printing Services	TT-119			4,108.93	4,108.93
sub-total		-	-	***4,108.93***	***4,108.93***
3. ***Domestic purchases of services supported by VAT ORs wherein the input VAT are not separately indicated***					
DHL Express (Philippines) Corp.	RR-85	67.20			67.20
DHL Express (Philippines) Corp.	RR-86	33.60			33.60
Group 4 Systems, Inc.	RR-87	37,250.59			37,250.59
Sycip Salazar Hernandez & Gatmaitan	RR-88	8,400.00			8,400.00
GROW, Inc.	RR-89	80,368.65			80,368.65
GROW, Inc.	RR-90	21,667.91			21,667.91
GROW, Inc.	RR-91	40,881.69			40,881.69
IT Managers, Inc.	RR-92	8,449.01			8,449.01
IT Managers, Inc.	RR-93	10,016.40			10,016.40
IT Managers, Inc.	RR-94	6,510.53			6,510.53
Systems Generators Phils. Inc.	RR-95	26,601.55			26,601.55
Systems Generators Phils. Inc.	RR-96	26,431.34			26,431.34
Systems Generators Phils. Inc.	RR-97	15,356.26			15,356.26
AYC Consultants Inc.	RR-98	27,645.06			27,645.06
DHL Exel Supply Chain Phils., Inc.	RR-101	7,798.77			7,798.77
DHL Exel Supply Chain Phils., Inc.	RR-102	7,506.27			7,506.27
DHL Express (Philippines) Corp.	RR-103	569.09			569.09

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DHL Express (Philippines) Corp.	RR-104	67.20			67.20
DHL Express (Philippines) Corp.	RR-105	728.96			728.96
DHL Express (Philippines) Corp.	RR-106	67.20			67.20
DHL Express (Philippines) Corp.	RR-107	33.60			33.60
DHL Global Forwarding	RR-109	1,579.15			1,579.15
ISS Facility Services	RR-111	5,962.34			5,962.34
ISS Facility Services	RR-112	5,962.34			5,962.34
Locator International Telecom & Traders Corp.	RR-113	1,100.30			1,100.30
Locator International Telecom & Traders Corp.	RR-114	1,100.30			1,100.30
MaxiBuild Inc.	RR-116	97,648.80			97,648.80
GROW, Inc.	RR-117	108,322.32			108,322.32
GROW, Inc.	RR-118	23,963.09			23,963.09
GROW, Inc.	RR-119	53,744.97			53,744.97
GROW, Inc.	RR-120	79,900.61			79,900.61
IT Managers, Inc.	RR-121	6,510.53			6,510.53
IT Managers, Inc.	RR-122	10,758.58			10,758.58
IT Managers, Inc.	RR-123	3,503.09			3,503.09
IT Managers, Inc.	RR-124	12,082.22			12,082.22
Systems Generators Phils. Inc.	RR-125	31,269.82			31,269.82
Systems Generators Phils. Inc.	RR-126	23,338.11			23,338.11
Systems Generators Phils. Inc.	RR-127	16,555.50			16,555.50
Systems Generators Phils. Inc.	RR-128	34,766.23			34,766.23
GROW, Inc.	SS-64		124,879.78		124,879.78
GROW, Inc.	SS-65		54,792.76		54,792.76
IT Managers, Inc.	SS-66		8,449.01		8,449.01
Systems Generators Phils. Inc.	SS-68		27,139.69		27,139.69
Crown Worldwide Movers, Inc.	SS-70		3,954.00		3,954.00
DHL Exel Supply Chain Phils., Inc.	SS-71		7,787.04		7,787.04
DHL Express (Philippines) Corp.	SS-72		110.42		110.42
DHL Express (Philippines) Corp.	SS-73		805.81		805.81
DHL Express (Philippines) Corp.	SS-74		1,891.79		1,891.79
DHL Express (Philippines) Corp.	SS-75		326.18		326.18
Eton Properties Philippines Inc.	SS-76		95,536.94		95,536.94
Locator International Telecom & Traders Corp.	SS-77		1,100.30		1,100.30
Superclean Services Corporation	SS-78		4,067.92		4,067.92
Sycip Salazar Hernandez & Gatmaitan	SS-79		8,609.52		8,609.52
GROW, Inc.	SS-80		105,372.40		105,372.40
GROW, Inc.	SS-81		40,691.57		40,691.57
GROW, Inc.	SS-82		54,823.98		54,823.98
GROW, Inc.	SS-83		59,162.25		59,162.25
IT Managers, Inc.	SS-84		11,536.75		11,536.75
IT Managers, Inc.	SS-85		9,728.39		9,728.39
IT Managers, Inc.	SS-86		3,503.09		3,503.09
IT Managers, Inc.	SS-87		12,818.91		12,818.91
Systems Generators Phils. Inc.	SS-88		18,125.76		18,125.76
Systems Generators Phils. Inc.	SS-89		23,561.66		23,561.66
Systems Generators Phils. Inc.	SS-90		31,290.19		31,290.19
Systems Generators Phils. Inc.	SS-91		22,270.28		22,270.28
sub-total		***844,519.18***	***732,336.39***	**-**	***1,576,855.57***
4. Domestic purchases of services supported by VAT Exempt ORs					
DHL Global Forwarding	RR-108	2,396.22			2,396.22
IT Managers, Inc.	SS-67		13,394.93		13,394.93
sub-total		***2,396.22***	***13,394.93***	**-**	***15,791.15***
5. Over-claimed input VAT on importation of goods supported by IEIRD and/or BOC OR					
Unisys WDC	TT-185			1,922.00	1,922.00
sub-total		**-**	**-**	***1,922.00***	***1,922.00***
6. Importation of goods supported by IEIRDs and/or BOC ORs which are dated outside the period of claim					

Unisys Corporation	RR-170	1,489.00			1,489.00
Unisys Corporation	RR-171	1,202.00			1,202.00
Unisys Corporation	RR-172	826.00			826.00
Unisys Corporation	RR-173	2,757.00			2,757.00
Unisys Corporation	RR-174	1,502.00			1,502.00
Unisys WDC	RR-175	26,784.00			26,784.00
Unisys Corporation	RR-176	687.00			687.00
Unisys WDC	RR-177	1,037.00			1,037.00
Unisys WDC	RR-178	24,499.00			24,499.00
Unisys WDC	RR-182	5,521.00			5,521.00
Unisys Corporation	RR-183	3,905.00			3,905.00
Unisys Australia Pty Ltd	RR-185	530.00			530.00
sub-total		***70,739.00***	-	-	***70,739.00***
TOTAL		**₱937,628.23**	**₱745,731.32**	**₱6,030.93**	**₱1,689,390.48**

Thus, only the amount of ₱4,883,087.93, as computed below, represents petitioner's substantiated Actual Input VAT that may be credited against petitioner's output VAT for the first three quarters of CY 2010:

	1st Qtr	2nd Qtr	3rd Qtr	Total
Input VAT per Returns	₱ 3,739,892.77	₱2,007,290.67	₱ 3,610,958.30	₱ 9,358,141.74
Less: Disallowances				
Per ICPA Report	488,603.62	355,235.96	1,941,823.75	2,785,663.33
Per this Courts Findings	937,628.23	745,731.32	6,030.93	1,689,390.48
Substantiated Actual Input VAT	**₱2,313,660.92**	**₱906,323.39**	**₱1,663,103.62**	**₱4,883,087.93**

Records likewise show that the excess of Standard Input VAT over Actual Input VAT in the amount of ₱8,397,846.77 was reported as part of the "Non-Operating and Taxable Other Income"[35] and reported as reconciling item as shown in Line 121 of Section E of the Annual Income Tax Return (ITR). The amount was subjected to an income tax rate of thirty percent (30%) in petitioner's Annual ITR for the year ended December 31, 2010 as follows:

Excess of Standard over Actual Input VAT per amended VAT Returns	
1st to 3rd quarters *(Exhibits "J"," K" and "L")*	₱ 8,397,846.77
4th quarter *(Exhibit "MMM")*	(787,432.30)
Net Excess of Standard Over Actual Input VAT[36]	**₱7,610,414.47**

Considering the above findings, petitioner was able to substantiate erroneous VAT payments in the amount of ₱4,125,838.32 only, detailed as follows:

Output VAT	
Sales to Non-Government *(Line 15B of VAT Returns)*	₱ 9,737,689.67
Sales to Government *(Line 16B of VAT Returns)*	26,507,389.54
Total Output VAT	**₱36,245,079.21**

[35] Line 20, Exhibit "O".
[36] Reflected as Income from deficiency input tax on sale to government (Line 121 of Section E of the Annual ITR-Reconciliation of Net Income Per Books Against Taxable Income), Exhibit "O".

Input VAT	
Substantiated Actual Input VAT:	₱ 4,883,087.93
Input Tax on Sale to Government closed to expense	8,397,846.77
Total Available Input VAT	**₱13,280,934.70**
Net VAT Payable	**₱22,964,144.51**
Less: VAT Payments	
Actual Payments	17,598,927.46
VAT Withheld on Sales to Government	9,491,055.37
Total VAT Payments	**27,089,982.83**
VAT Overpayment	**₱(4,125,838.32)**

Moreover, based on its Quarterly VAT Returns from the fourth quarter of CY 2010 to the second quarter of CY 2012,[37] petitioner was able to prove that it did not carry over the ₱8,600,892.14 which is the subject matter of the claim. The said amount was not presented as "Input Tax Carried Over from Previous Period" and not claimed or utilized as deduction from output VAT in the subsequently filed returns for the fourth quarter of CY 2010 to the second quarter of CY 2012.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱4,125,838.32** representing erroneous VAT payments for the first three quarters of CY 2010.

SO ORDERED.

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

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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[37] Exhibits "MMM", "NNN", "OOO", "PPP", "QQQ", "RRR", and "SSS".

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

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

UNISYS PHILIPPINES LIMITED - PHILIPPINE BRANCH
CTA CASE NO. 8355

ANNEX "A"

TABLE 1. COMPUTATION OF STANDARD INPUT VAT (7%)

	Sale to Government	Standard Input VAT (7%)	5% Final VAT Withheld
1st Qtr	₱ 122,333,570.72	₱ 8,563,349.95	₱ 6,743,232.42
2nd Qtr	36,176,246.64	2,532,337.26	32,829.62
3rd Qtr	62,385,095.38	4,366,956.68	2,714,993.33
Total	**₱ 220,894,912.74**	**₱ 15,462,643.89**	**₱ 9,491,055.37**

TABLE 2. ALLOCATION OF ACTUAL INPUT VAT TO TOTAL SALES

	Sales to Non-Government *(a)*	Sales to Government *(b)*	Zero-Rated Sales *(c)*	Total Sales *(d)=(a)+(b)+(c)*
1st Qtr	₱ 58,997,060.54	₱ 122,333,570.72	₱ 582,374.87	₱ 181,913,006.13
2nd Qtr	10,314,660.46	36,176,246.64	287,126.56	46,778,033.66
3rd Qtr	11,835,692.89	62,385,095.38	933,795.90	75,154,584.17
Total	**₱ 81,147,413.89**	**₱ 220,894,912.74**	**₱ 1,803,297.33**	**₱ 303,845,623.96**
	Total Input VAT *(e)*	**Actual Input VAT attributable to Sales to Non-Government** *(f)=(a)/(d)x(e)*	**Actual Input VAT attributable to Sales to Government** *(g)=(b)/(d)x(e)*	**Actual Input VAT attributable to Zero-Rated Sales** *(h)=(c)/(d)x(e)*
1st Qtr	₱ 3,739,892.77	₱ 1,212,902.17	₱ 2,515,017.74	₱ 11,972.86
2nd Qtr	2,007,290.67	442,612.06	1,552,357.73	12,320.88
3rd Qtr	3,610,958.30	568,670.48	2,997,421.65	44,866.17
Total	**₱ 9,358,141.74**	**₱ 2,224,184.71**	**₱ 7,064,797.12**	**₱ 69,159.91**

TABLE 3. COMPUTATION OF EXCESS STANDARD OVER ACTUAL INPUT VAT ON SALES TO GOVERNMENT

	Standard Input VAT (7%)	Actual Input VAT attributable to Sales to Government	Excess of Standard over Actual Input VAT on Sales to Government
1st Qtr	₱ 8,563,349.95	₱ 2,515,017.74	₱ 6,048,332.22
2nd Qtr	2,532,337.26	1,552,357.73	979,979.53
3rd Qtr	4,366,956.68	2,997,421.65	1,369,535.02
Total	**₱ 15,462,643.89**	**₱ 7,064,797.12**	**₱ 8,397,846.77**