REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

SILICON PHILIPPINES, INC., Petitioner,	**C.T.A. E.B. NO. 266 (C.T.A. CASE NO. 6310)**
	Present:
- versus -	**ACOSTA,** *P.J.* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** MAR 2 8 2008 *11:25 p.m.*

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DECISION

UY, J.:

This is a Petition for Review filed before the Court of Tax Appeals *En Banc* on March 1, 2007 under Republic Act No. 1125, as amended by Republic Act No. 9282, seeking a review of the Decision and Resolution dated October 11, 2006 and January 11, 2007, respectively, rendered by the First Division of this Court[1] (Court in Division) in the case of Silicon Philippines, Inc. vs. Commissioner of Internal Revenue in C.T.A. Case No. 6310.

The dispositive portions thereof read as follows:

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[1] Ponencia of Associate Justice Lovell R. Bautista, concurred by Associate Justice Caesar A. Casanova, with Concurring and Dissenting Opinion by Presiding Justice Ernesto D. Acosta.

Decision promulgated on October 11, 2006:

"IN VIEW OF THE FOREGOING, the instant Petition for Review is hereby DENIED for lack of merit.

SO ORDERED."

Resolution promulgated on January 11, 2007:

"WHEREFORE, premises considered, the Motion is hereby DISMISSED for lack of merit.

SO ORDERED."

THE FACTS

The antecedent facts, as found by the Court in Division, are as follows:

Silicon Philippines Inc., previously known as Intel Philippines Manufacturing Inc., is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office at No. 1321 Apolinario Street, Bangkal, Makati City. It is registered as a value-added tax (VAT) taxpayer effective January 30, 1996, as evidenced by Certification of Registration No. 32A-3-002649 and BIR Form No. 1556 – Certification of Registration No. 94-048-02621. Petitioner is likewise registered with the Board of Investments (BOI) as a preferred-pioneer enterprise for the production / manufacture and export of tested and untested integrated circuits, such as large scale integrated circuits and microprocessor.

The Commissioner of Internal Revenue is the appointed government official vested with authority to exercise the functions of his office, including, among others, the power to refund any internal revenue tax erroneously or illegally assessed or collected under the National Internal Revenue Code (NIRC) of 1997, as amended, with office address at the BIR National Office Building, Diliman, Quezon City.

On July 22, 1999, petitioner filed its VAT return for the second quarter of 1999 declaring, among others, zero-rated sales of P1,810,154,723.64, output VAT of P34,799.57 and excess input taxes of P52,809,939.93 for the said quarter.

Convinced that it is entitled to the above-mentioned excess input VAT payments of P52,809,939.93, on August 6, 1999, petitioner filed with the One-Stop-Shop Inter Agency Tax Credit and Duty Drawback Center of the Department of Finance an administrative claim for refund or tax credit per BIR Form No. 2552 and Claimant Information Sheet with No. 35421.

Due to the inaction of the DOF on its claim, on June 29, 2001, petitioner filed a Petition for Review with the Court in Division in order to toll the running of the two-year prescriptive period provided under Section 229 of the NIRC of 1997.

In the Decision dated October 11, 2006 [2], the Court in Division found that petitioner was able to substantiate and prove that its products were actually sold and shipped abroad; that in consideration thereof, it received foreign currency payments, which were inwardly remitted in accordance with the rules and regulations of the BSP; and thus, these export sales may properly fall within the export sales transactions subject to zero percent (0%) VAT referred to under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended. After a close scrutiny of petitioner's sales invoices, however, the

[2] Annex "D", Docket, pp. 74-87.

Court in Division found that these were not duly registered with the BIR as mandated under Section 237 of the NIRC of 1997 and that there was no authority to print or BIR permit number, TIN-VAT number and the imprinted word "zero-rated" reflected on said invoices.

Thus, the Court in Division held that petitioner's reported export sales in the amount of P1,810,154,723.64 for the second quarter of 1999 cannot qualify for zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997; and without zero-rated sales, the Court in Division denied petitioner's claimed input VAT payment pertaining to its purchase of goods and services attributable thereto.

With respect to petitioner's claim for refund on input VAT paid on imported capital equipment, the Court in Division likewise denied the same and said thus:

> "Petitioner avers that the total claim of P52,809,939.93 included input VAT paid on importation of goods / capital equipment in the amount of P29,122,031.00. However, per report of the commissioned CPA, out of the claimed input VAT payment of P29,122,031.00, the amount of P7,125,713.00 was not supported by documents, such as Bureau of Customs (BOC) official receipts or machine validated Import Entry and Internal Revenue Declaration establishing actual payment thereof to the BOC, xxx
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> While petitioner was able to prove actual payment of the remaining input VAT of P21,996,318.00 (P29,122,031.00 less P7,125,713.00) on its importation, it nonetheless failed to submit documents, such as detailed schedule of capital goods purchases, detailed general ledger, and audited financial statements proving that the related importation qualify as capital goods. It must be stressed that under Section 4.106-1(b) of RR 7-95, in order that items purchased can be classified as capital goods or properties, it must be shown that: 1) the goods or properties have economic useful life of more than one year; 2) such goods or properties are treated as depreciable assets under Section 29(f) [now 34(F) of the

NIRC of 1997]; and 3) they are used directly or indirectly in the production or sale of taxable goods or services.

For petitioner's failure to present documents proving that its importation fall within the definition of capital goods under Section 4.106-1(b) of RR 7-95, the claimed input VAT payment of P21,996,318.00 allegedly attributable thereto cannot be granted."

A Concurring and Dissenting Opinion was rendered by the Honorable Presiding Justice Ernesto D. Acosta,[3] Chairperson of the First Division of this Court, stating his position that petitioner should be entitled to the tax refund or tax credit of the amount of its unutilized input VAT attributable to its zero-rated sales considering that:

"... (1) pertinent provisions of the 1997 Tax Code do not require imprinting of the word "zero-rated"; (2) the absence of the term "zero-rated" in the invoice does not affect the admissibility and competency of the same as evidence in support of its refund claim; (3) assuming the propriety of imposing the alleged requirement to imprint the word "zero-rated" in the invoice, the invalidation of the same and the denial of the refund claim are not the legally imposable penalties for failure to meet such alleged requirement; and (4) the other equally valid pieces of evidence presented and formally offered are sufficient proof to justify the grant of the VAT refund claim attributable to its zero-rated transactions.

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The High Tribunal in the recently promulgated case of **Commissioner of Internal Revenue vs. Seagate Technology (Philippines)**, *G.R. No. 153866, February 11, 2005*, pointed out the need to focus only on the legally mandated requirements for claims for VAT refund and explained that, *A VAT-registered status, as well as compliance with the invoicing requirements (Section 113 (A) of the Tax Code), is sufficient for the effective zero-rating of the transactions of a taxpayer. The nature of its business and transactions can easily be perused from, as already clearly indicated in, its VAT registration papers and photocopied documents attached thereto. xxx. Administrative convenience cannot thwart legislative mandate.*"

[3] Ibid, Docket, pp. 88-92.

Petitioner filed through registered mail its Motion for Reconsideration on November 2, 2006[4] seeking a reversal of the Decision of the Court in Division but the same was denied in the subject Resolution promulgated on January 11, 2007.[5]

Hence, this recourse before the Court *En Banc* praying that the assailed Decision and Resolution dated October 11, 2006 and January 11, 2007, respectively, be reversed and set aside, and in lieu thereof, a new one be rendered granting petitioner's claim for refund / issuance of Tax Credit Certificate in the total amount of P52,809,939.93 representing its excess and unutilized input VAT incurred for the second quarter of 1999. These are the grounds relied upon by petitioner in the instant Petition for Review, to wit:

"**GROUNDS**

I.

"THE FIRST DIVISION OF THE HONORABLE COURT OF TAX APPEALS ERRED IN DENYING PETITIONER'S CLAIM FOR REFUND OR ISSUANCE OF TAX CREDIT CERTIFICATE ON THE BASIS OF NON-EXISTENT GROUNDS, THAT IS, ON ALLEGED VIOLATION OF INVOICING REQUIREMENTS.

II.

THE FIRST DIVISION OF THE HONORABLE COURT OF TAX APPEALS ERRED IN INVALIDATING AND DENYING OUTRIGHT THE CLAIM FOR REFUND OF THE PETITIONER, THE SAME BEING NOT AMONG THE PENALTIES PROVIDED FOR UNDER ARTICLE 264 OF THE TAX CODE.

III.

THE FIRST DIVISION OF THE HONORABLE COURT OF TAX APPEALS ERRED IN NOT GRANTING PETITIONER'S

[4] Annex "E", Docket, pp. 93-124.
[5] Annex "F", Docket, pp. 125-133.

Nb

CLAIM FOR REFUND ON ITS IMPORTATION OF CAPITAL GOODS"[6]

THE ISSUES

The issues in this petition, based on the grounds submitted by petitioner, are summarized as follows:

A. Whether or not petitioner violated the invoicing requirement by not reflecting its BIR authority to print, TIN-VAT number and the imprinted word "zero-rated" in its export sales invoices and thus operating to forfeit its entitlement to a tax refund / credit of its unutilized input VAT attributable to its zero-rated sales; and

B. Whether or not petitioner was able to prove, through documentary evidence, that items purchased were properly classified as capital goods or properties in order to support its claim for refund or issuance of tax credit certificate for its input VAT on imported / locally purchased capital equipment.

PETITIONER'S ARGUMENTS

According to petitioner, the Court *a quo* found and confirmed that its export sales properly fall within the export sales transactions subject to zero percent (0%) VAT referred to under Section 106(A)(2)(a)(1) of the NIRC of 1997. And for input VAT attributable to zero-rated export sales to be refunded, what the NIRC of 1997 requires, specifically the aforementioned section, is for the export sales to be zero-rated export. And to be zero-rated, the sale must comply with the following requisites: "xxx sale and actual shipment of goods from the Philippines to a foreign country; xxx and

[6] Docket, p. 17.

paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)". [7]

Petitioner further argues that the provisions under the NIRC of 1997, particularly Sections 113, 237 and 238, do not require the taxpayer to reflect its authority to print in its invoices and failure to print such authority is not penalized by any law or statute such that the invoices which do not contain the BIR authority for petitioner to print its sales invoices are rendered inadmissible in evidence. Further, there is allegedly nothing in the said provision that requires the imprinting of the word "zero-rated" on sales invoices. To quote:

> "**Sec. 113. Invoicing and Accounting Requirements for VAT-Registered Persons.** –
>
> (A) Invoicing Requirements. – A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:
>
> (1) A statement that the seller is a VAT registered person, followed by his taxpayer's identification number; and
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> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax. xxx"
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> "**Sec. 237. Issuance of Receipts or Sales or Commercial Invoices.** – All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That in the case of sales, receipts or transfers in the amount of One Hundred Pesos (P100.00) or more, or regardless of amount, where the

[7] Docket, p. 27.

> sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client; Provided, further, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser."
>
> "**Sec. 238. Printing of Receipts or Sales or Commercial Invoices.** – All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.
>
> All persons who print receipt or sales or commercial invoices shall maintain a logbook/register of taxpayer who availed of their printing services. The logbook/register shall contain the following information:
>
> (1) Names, Taxpayer Identification Numbers of the persons or entities for whom the receipts or sales or commercial invoices are printed; and
>
> (2) Number of booklets, number of sets per booklet, number of copies per set and the serial numbers of the receipts or invoices in each booklet."

Petitioner asserts that what the above provisions require is the issuance of a "duly registered receipt" for sale of goods or services. The only provision where the requirement of reflecting "zero-rated" on the VAT invoice or receipt can get its authority from is Revenue Regulations No. 7-95, the pertinent portion of which provides:

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> "**SECTION 4.108-1. Invoicing Requirements** — All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:
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> 1. the name, TIN and address of seller;
> 2. date of transaction;
> 3. quantity, unit cost and description of merchandise or nature of service;
> 4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
> 5. the word "zero rated" imprinted on the invoice covering zero-rated sales; and
> 6. the invoice value or consideration."

Petitioner emphasizes that the above-quoted provision is merely a regulation designed for the sole and limited objective of implementing a very exact law. As it has been long-established by the Supreme Court, the rule is that administrative rules and regulations cannot expand the letter and spirit of the law they seek to enforce. Such rules and regulations should be confined and limited by the power conferred by the legislature.

With regard the requirement that the TIN-V of the petitioner should be imprinted in the face of the invoice, it states that failure to indicate this information is also not fatal to its claim for refund or tax credit.

Petitioner further submits that imprinting of the TIN-V applies only to domestic or local sales considering that the seller's output tax, which is the input tax on the part of the local purchaser, may be claimed by the latter as a credit against its own output VAT. Since petitioner exports all of its finished products to a non-resident foreign purchaser, the purpose of imprinting its TIN-VAT number becomes irrelevant because the transaction involved are zero-rated export sales and the foreign buyer is not liable for input VAT and thus,, not entitled as well to input VAT refund.

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With respect to the issue regarding the Court in Division's denial of its claim for input taxes arising from importation of capital goods or properties, petitioner maintains that the documents that it has submitted proving the importation of capital goods is enough to show that the goods imported were indeed capital goods. And that it need not present the ledgers, books, among other in proving that the goods imported were capital goods. Further, the law defines capital goods as to include even those goods which are indirectly used in the production or sale of taxable goods or services. Therefore, the input VAT paid by it on capital goods that were indirectly used in the production or sale of taxable goods or services are refundable.

RESPONDENT'S COUNTER-ARGUMENTS

Respondent, in his Comment, stresses that the invoicing requirements as stated in the NIRC of 1997 and more specifically in Revenue Regulations No. 7-95 must be faithfully complied with before any taxpayer's claim for refund or credit can be granted. Moreover, the omission of the word "zero-rated" and its TIN-VAT number on the face of the invoice is a patent violation of Section 4.108-1 of Revenue Regulations No. 7-95 that explicitly requires that these details be imprinted on the invoices covering zero-rated sales.

Respondent's assertion allegedly finds support in Revenue Memorandum Circular No. 42-2003 (Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax [VAT] Credit/Refund), pertinent portion of the said circular provides:

"A-13: xxxx

If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g. failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer."

Furthermore, respondent contends that petitioner's claim for refund or credit of alleged input taxes paid on capital goods was correctly denied by the Court in Division on the ground that it was petitioner's legal duty to present evidence that the items in question were capital goods. He stressed that petitioner merely had to present documents showing that the goods have the characteristics mentioned under Section 4.106-1(b) of Revenue Regulations No. 7-95, but it failed to do so.

THE COURT EN BANC'S RULING

The pertinent provisions of the NIRC of 1997 in the instant petition are as follows: Section 106(A)(2)(a)(1) on VAT on the sale of goods or properties; particularly with respect to export sales; and Section 112 (A) and (B) on Refunds or Tax Credits of Input Tax arising from domestic purchases of taxable goods and services and importation of goods / capital equipment in relation with Zero-rated or Effectively Zero-rated Sales.

These provisions provide:

"**Section 106. Value-added Tax on Sale of Goods or Properties**.

(A) Rate and Base of Tax. -- xxx

x x x x

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) Export Sales.--The term 'export sales' means:

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and 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)."

"**Section 112. Refunds or Tax Credits of Input Tax**.-

(A) Zero-rated or Effectively Zero-rated Sales. - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties 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.

(B) Capital Goods. - A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made."

Based on the afore-quoted provisions, export sales, or sales outside the Philippines, are subject to VAT at zero percent (0%) rate, if made by a VAT-registered person. When applied to the tax base, the zero percent (0%) rate obviously results in zero tax liability chargeable against the purchaser. The seller of such transactions charges no output tax, but it can claim a refund or tax credit certificate for the VAT previously charged by suppliers, provided the following requisites are complied with:

(1) the taxpayer is engaged in sales which are zero-rated or effectively zero-rated;

(2) the taxpayer is VAT-registered;

(3) the claim must be filed within two years after the close of the taxable quarter when such sales were made;

(4) the creditable input tax due or paid must be attributable to such sales, to the extent that such input tax has not been applied against the output tax; and

(5) in case of zero-rated sales under Section 106(A)(2)(a)(1) and (2), Section 106(B), and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with BSP rules and regulations.[8]

The Court in Division, in its assailed Decision, held that petitioner may be entitled to refund or tax credit when it found that the documents submitted "proved that petitioner's products were actually sold and shipped abroad and in consideration thereof, petitioner received foreign currency

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[8] Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 166732, April 27, 2007 (522 SCRA 657).

payments, which were inwardly remitted in accordance with the rules and regulations of the BSP. Thus, it said that these export sales may properly fall within the export sales transactions subject to zero percent (0%) VAT referred to under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, xxx."

However, notwithstanding said finding, petitioner's claim was denied by the Court in Division for its failure to comply with the invoicing requirements as provided under Sections 113, 237 and 238 of the NIRC of 1997, as well as Section 4.108-1 of Revenue Regulations No. 7-95, particularly on registration of sales or commercial invoices or receipts, failure to reflect authority to print or BIR permit number, TIN-V and / or the word "zero-rated" in the face of the invoice or receipt as issued.

In line with the recent decision of the Supreme Court in the case of ***Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue***[9], involving the same parties, the Supreme Court clarified the same issue involved in the instant petition of whether or not the provision of Section 113, in relation to Section 237 of the NIRC of 1997, was violated by reason of petitioner's failure to indicate the BIR Authority to Print on its sales invoices. The Supreme Court said that:

> "It is clear from the foregoing (*pertaining to Sections 113, 237 and 238 of the Tax Code, Section 4.108-1 of RR 7-95 and* Section 19d of RR 2-90) that **while entities engaged in business are required to secure from the BIR an authority to print receipts or invoices and to issue duly registered receipts or invoices, it is not required that the BIR authority to print be reflected or indicated therein.** Only the following items are required to be indicated in the receipts or invoices: (1) a statement that the seller is a VAT-

[9] Ibid.

registered entity followed by its TIN-V; (2) the total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax; (3) date of the transaction; (4) quantity of merchandise; (5) unit cost; (6) description of merchandise or nature of service; (7) the name, business style, if any, and address of the purchaser, customer or client in the case of sales, receipt or transfers in the amount of ₱100.00 or more, or regardless of the amount, where the sale or transfer is made by a person liable to VAT to another person also liable to VAT, or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees; and (8) the TIN of the purchaser where the purchaser is a VAT-registered person.

xxx xxx xxx

In any case, the above cited provisions of law and revenue regulations do not provide that failure to reflect or indicate in the invoices or receipts the BIR authority to print, as well as the TIN-V, would result in the outright invalidation of these invoices or receipts. Neither is it provided therein that such omission or failure would result in the outright denial of a claim for tax credit/refund. Instead, Section 264 of the Tax Code imposes the penalty of fine and imprisonment for, among others, invoices or receipts that do not truly reflect or contain all the required information, xxx

xxx xxx xxx

It bears reiterating that while the pertinent provisions of the Tax Code and the rules and regulations implementing them require entities engaged in business to secure a BIR authority to print invoices or receipts and to issue duly registered invoices or receipts, **it is not specifically required that the BIR authority to print be reflected or indicated therein. Indeed, what is important with respect to the BIR authority to print is that it has been secured or obtained by the taxpayer, and that invoices or receipts are duly registered**." *(Emphasis Ours)*

Applying the foregoing jurisprudential pronouncements, this Court re-examined petitioner's documentary evidence, as submitted before the Court in Division, to determine whether or not the subject sales can qualify as zero-rated sales. And after due verification of the invoices / receipts forming part of the records of the case under review, We found that out of the declared zero-rated sales of petitioner of P1,810,154,723.64, only the amount of P1,014,477,202.26 was fully substantiated. This amount is broken down as follows:

Exh.	Invoice Date	Invoice No.	Amount in USD	Exchange Rate[10]	Amount in PhP
P12-P14	5-Apr-99	4119	110,430.26		
P15-P17	6-Apr-99	4120	411,876.38		
P18-P20	7-Apr-99	4121	165,697.20		
P22-P24	7-Apr-99	4122	[illegible]		
P59-P61	20-Apr-99	[illegible]	3,035,956.00		
P98-P100	[illegible]	4165	6,521.04		
[illegible]-P112	22-Apr-99	4168	611,916.46		
P113-P115	23-Apr-99	4169	2,956.18		
P155-P157	26-Apr-99	4186	165,729.60		
P158-P160	26-Apr-99	4186-a	154,588.89		
P161-P163	27-Apr-99	4187	89,643.84		
P164-P166	27-Apr-99	4189	20,901.77		
P170-P172	28-Apr-99	4192	1,509,407.26		
P173-P175	29-Apr-99	4193	1,212,845.20		
P176-P178	29-Apr-99	4194	1,185.00		
P179-P181	29-Apr-99	4195	13,860.00		
P182-P184	30-Apr-99	4196	671,744.58		
Subtotal – April			*9,907,060.40*	38.458	381,005,728.86
P201-P203	3-May-99	4208	805,453.60		
P206-P208	7-May-99	4212	80,560.52		
P224-P226	9-May-99	4222	450,860.52		
P280-P282	14-May-99	4237	268.00		
P284-P286	15-May-99	4239	453,177.64		
P287-P289	15-May-99	4240	681,165.26		
P326-P328	21-May-99	4256	69,069.21		
P329-P331	21-May-99	4257	9,948,058.12		
P332-P334	21-May-99	4258	1,270,301.87		
P353-P355	24-May-99	4273	9,240.00		
P587-P589	24-May-99	7270	1,557.40		
P357-P359	28-May-99	4275	890,255.28		
P360-P362	28-May-99	4276	359,626.84		
P366-P368	30-May-99	4279-a	134.00		
P369-P371	31-May-99	4280	74,628.86		
Subtotal – May			*15,094,357.12*	37.770	570,113,868.42
P393-P395	2-Jun-99	4284	34,320.76		
P413-P415	10-Jun-99	4292	2,370.00		
P420-P422	6-Jun-99	4297	287,638.16		
P423-P425	6-Jun-99	4298	170,527.61		

[10] Exhibit "P", CTA Case No. 6310.

NO

P426-P428	6-Jun-99	4300	365,395.67		
P452-P454	10-Jun-99	4305	563,607.90		
P473-P475	14-Jun-99	4311	6,934.61		
P477-P479	18-Jun-99	4314	2,823.54		
P520-P522	20-Jun-99	4331	55,546.30		
P523-P525	20-Jun-99	4332	44,906.57		
P526-P528	24-Jun-99	4333	50,634.54		
P529-P531	25-Jun-99	4334	55,548.44		
P532-P534	25-Jun-99	4335	14,951.88		
P535-P537	26-Jun-99	4336	2,328.19		
P538-P540	26-Jun-99	4337	23.80		
P541-P543	26-Jun-99	4338	242.50		
P581-P583	28-Jun-99	4350	18,592.74		
Subtotal – June			*1,676,393.21*	37.794	63,357,604.98
TOTAL			**26,677,810.73**		**1,014,477,202.26**

The rest of petitioner's claimed zero-rated sales in the amount of P795,677,521.38 with invoices without the word "zero-rated"[11] or without supporting airway bills and export documents[12] are hereby disallowed.

Considering that only the sum of P1,014,477,202.26 qualifies as zero-rated sales, it is but proper that only the portion of the claimed input VAT attributable to such qualified zero-rated sales will be considered for refund. The rate to be applied then should be based on the volume of qualified zero-rated sales over petitioner's total declared zero-rated sales, computed as follows:

[11] See Mirant (Navotas II) Corporation (Formerly: Southern Energy Navotas II Power, Inc) vs. Commissioner of Internal Revenue, CTA EB No. 226, September 11, 2007; Southern Philippines Power Corporation vs. Commissioner of Internal Revenue, CTA EB No. 214, July 31, 2007; Panasonic Communications Imaging Corporation of the Philippines, (formerly, MATSUSHITA BUSINESS MACHINE CORPORATION OF THE PHILIPPINES) vs. Commissioner of Internal Revenue, CTA EB No. 239, May 23, 2007; Kepco Philippines Corporation vs. Commissioner of Internal Revenue, CTA EB No. 186, May 17, 2007; Kepco Philippines Corporation vs. Commissioner of Internal Revenue, CTA EB No. 174, May 9, 2007; Applied Food Ingredients Co., Inc. vs. Commissioner of Internal Revenue, CTA EB No. 220, May 7, 2007; Intel Technology Philippines Inc. vs. Commissioner of Internal Revenue, CTA EB No. 181, March 27, 2007; and J.R.A. Philippines Inc. vs. Commissioner of Internal Revenue, CTA EB No. 128, January 15, 2007.

[12] CTA Case Nos. 6368 and 6480, December 15, 2004, cited in the cases of Mirant (Navotas II) Corporation (formerly Southern Energy Navotas II Power, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6418, April 11, 2006 (Entry of Judgment dated September 14, 2006) and Takenaka Corp. Phil. Branch vs. Commissioner of Internal Revenue, CTA Case No. 6752, January 2, 2007 (Entry of Judgment dated February 16, 2007).

Supported zero-rated sales	P 1,014,477,202.26
Divided by total declared zero-rated sales	P 1,810,154,723.64
Rate of supported zero-rated sales	**56.04%**

In a claim for refund or issuance of a tax credit certificate attributable to zero-rated sales, what is to be closely scrutinized is the documentary substantiation of the input VAT paid, as may be proven by other export documents, rather than the supporting documents for the zero-rated export sales[13].

As petitioner has established by sufficient evidence that it is entitled to a refund or issuance of a tax credit certificate, with the existence of qualified zero-rated sales, and in accordance with the requirements of Sections 106 (A)(2)(a)(1) and 112(A) of the NIRC of 1997, it becomes necessary now for the Court *En Banc* to re-evaluate the documentary evidence on record, specifically, petitioner's unutilized input VAT for the second quarter of 1999, to determine whether or not the same has been properly substantiated.

The process of substantiation of input VAT is necessary to ascertain and ensure that what will be refunded to the petitioner are only those taxes that have actually been remitted and paid to the Government, in accordance with the requirements of the law, and also, to determine whether such input VAT has not yet been utilized by the petitioner in the succeeding quarters.

Out of the excess unutilized input VAT being claimed for refund by petitioner amounting to P52,809,939.93, the amount of P23,687,908.93 pertains to input VAT on domestic purchases of goods and services, while

[13] Supra, Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue.

the remaining amount of P29,122,031.00 consists of input VAT on importation of capital goods / equipment.

Anent petitioner's refund claim for input VAT on domestic purchases, the Court commissioned independent CPA (ICPA) verified the voluminous supporting documents submitted by petitioner and the ICPA Report[14] showed that out of the total claimed input VAT on domestic purchases, the amount of P6,404,917.86 should be disallowed for the following reasons:

Missing invoice or official receipt	P 5,976,048.68
Petitioner is not the actual claimant	228,278.61
Incorrect computation of input VAT	200,590.57
TOTAL	**P 6,404,917.86**

Further evaluation, by this Court, of the documents[15] presented reveal that petitioner's claim should again be reduced in the amount of P3,061,110.11, broken down as follows:

Exh.	Supplier	Invoice/OR Date	Invoice/OR Number	Input Tax
1.) Purchase of services with OR dated outside the period of claim				
N-4983	Comfac Corporation	1-Jul-99	18462	P 27,272.73
	Data Center Design Corp.	22-Jul-99	5709/5961	10,553.64
	Data Center Design Corp.	22-Jul-99	5712/5961	8,930.00
	Data Center Design Corp.	22-Jul-99	5706/5961	4,404.55
	Data Center Design Corp.	22-Jul-99	5717/5961	5,329.92
	Data Center Design Corp.	22-Jul-99	5704/5961	4,404.55
	Data Center Design Corp.	22-Jul-99	5707/5961	4,404.55
	Data Center Design Corp.	22-Jul-99	5705/5961	4,404.55
	Data Center Design Corp.	22-Jul-99	5715/5961	5,329.92
	Data Center Design Corp.	22-Jul-99	5713/5961	8,930.00
N-1088	Data Center Design Corp.	22-Jul-99	5714/5961	8,930.00
	Data Center Design Corp.	22-Jul-99	5711/5961	8,930.00
	Data Center Design Corp.	22-Jul-99	5721/5961	5,329.92
	Data Center Design Corp.	22-Jul-99	5719/5961	5,329.92
	Data Center Design Corp.	22-Jul-99	5718/5961	5,329.92
	Data Center Design Corp.	22-Jul-99	5720/5961	5,329.92
	Data Center Design Corp.	22-Jul-99	5708/5961	10,553.64
	Data Center Design Corp.	22-Jul-99	5710/5961	10,553.64
	Data Center Design Corp.	22-Jul-99	5703/5961	5,138.64
	Data Center Design Corp.	22-Jul-99	5702/5961	5,138.64

[14] Exhibit "Q", CTA Case No. 6310.
[15] Exhibits "N-N5033", CTA Case No. 6310.

N-1109	Data Center Design Corp.	9/23/1999	5716/6168	5,329.92
N-1167	Digital Equipment Filipinas Inc.	1-Jul-99	7054	95,407.83
	DMS Engineering & Services	1-Jul-99	12357/6466	1,045.45
	DMS Engineering & Services	1-Jul-99	12356/6466	345.46
N-1233	DMS Engineering & Services	1-Jul-99	12399/6466	13,090.91
	DMS Engineering & Services	1-Jul-99	12396/6466	3,636.36
	DMS Engineering & Services	1-Jul-99	12397/6466	3,381.82
	DMS Engineering & Services	8-Jul-99	12361/6468	581.82
N-1239	DMS Engineering & Services	29-Jul-99	12390/6471	2,072.70
	DMS Engineering & Services	29-Jul-99	12391/6471	26,381.82
N-1284	DMS Engineering & Services	29-Jul-99	12389/6471	22,609.09
	DMS Engineering & Services	1-Jul-99	1070/1154	18,000.00
	DS Steel Factors & Construction	1-Jul-99	1604/1154	625.00
N-1292	DS Steel Factors & Construction	1-Jul-99	1610/1154	450.00
	DS Steel Factors & Construction	1-Jul-99	1613/1154	625.00
	DS Steel Factors & Construction	1-Jul-99	1632/1154	625.00
N-1571	Electro Systems Industries Corp.	29-Jul-99	10109/15936	20,809.09
	Electro Systems Industries Corp.	29-Jul-99	10105/15936	6,000.00
N-1574	Electro Systems Industries Corp.	1-Jul-99	10013/15831	1,072.73
	Electro Systems Industries Corp.	1-Jul-99	9202/15831	1,072.73
N-1640	Flik Industries Inc.	15-Jul-99	1723/1419	4,453.18
	Flik Industries Inc.	15-Jul-99	1721/1419	7,600.00
N-1657	Foodmach Incorporated	1-Jul-99	19243/23286	1,881.82
N-1661	Fortress Consultancy Group,Inc.	15-Jul-99	607/559	4,409.09
N-2412	Globe Telecom Inc.	8-Jul-99	1464106	440,663.80
N-2867	Genetron Engineering Supply & Services Co., Inc.	8-Jul-99	3052	956.37
N-2873	Genetron Engineering Supply & Services Co., Inc.	15-Jul-99	3056	1,718.81
N-2870	Genetron Engineering Supply & Services Co., Inc.	22-Jul-99	3058	1,236.36
N-2897	GRAJM Engineering	1-Jul-99	534	19,263.64
N-2899	GRAJM Engineering	16-Sep-99	535	995.45
	Guard All Electronic Security Systems Inc.	29-Jul-99	7672/5469	1,109.54
	Guard All Electronic Security Systems Inc.	29-Jul-99	7671/5469	2,155.45
N-2915	Guard All Electronic Security Systems Inc.	29-Jul-99	7673/5469	6,165.05
	Guard All Electronic Security Systems Inc.	29-Jul-99	7674/5469	4,965.61
	Guard All Electronic Security Systems Inc.	29-Jul-99	7083/5469	60.50
N-2927	Guard All Electronic Security Systems Inc.	22-Jul-99	7538/5481	12,190.18
N-2929	Guard All Electronic Security Systems Inc.	1-Jul-99	7513/5391	7,090.90
	Guard All Electronic Security Systems Inc.	1-Jul-99	7533/5391	548.19
N-3023	JE Automated Parts Enterprises	8-Jul-99	662	2,110.91
N-3025	JE Automated Parts Enterprises	28-Jul-99	666	1,309.09
N-3027	JE Automated Parts Enterprises	26-Aug-99	670	1,819.00
N-3217	Krome Construction	22-Jul-99	191	2,909.09
N-3321	Liang Chi Industry Co.Ltd.	29-Jul-99	3148	7,000.00
N-3401	MDA Woodcraft Manufacturing	7-Jul-99	4707	12,157.27

N-3432	Metro Engineering & Supply Co.	15-Jul-99	2362/1682	4,545.45
	Metro Engineering & Supply Co.	15-Jul-99	2363/1682	2,767.73
N-3464	NCR Corporation Philippines	15-Jul-99	332602/285107	20,874.96
	NCR Corporation Philippines	15-Jul-99	332601/285107	20,874.96
N-3902	RCF Contractor & Services	15-Jul-99	525/637	1,500.00
	RCF Contractor & Services	15-Jul-99	524/637	2,181.82
N-3905	RCF Contractor & Services	22-Jul-99	527/638	63,154.55
N-3907	RCF Contractor & Services	28-Oct-99	517/645	2,909.09
N-3907	Skyline Food Services	1-Jul-99	3362	242.00
N-3907	Skyline Food Services	1-Jul-99	3363	8,927.27
N-4464	Tricon Technical Services Inc.	15-Jul-99	1985/587	17,131.15
	Tricon Technical Services Inc.	15-Jul-99	1998/587	10,567.41
	Tricon Technical Services Inc.	15-Jul-99	1990/587	12,960.82
N-4469	Tricon Technical Services Inc.	22-Jul-99	1407/590	2,335.97
N-4639	Xybernetiks Software Devt & Control	8/5/1999	0121	6,639.36
N-4672	ASB Realty Corp.	7/1/1999	99-05-11/15155	12,360.66
	ASB Realty Corp.	7/1/1999	99-05-25/15155	15,656.82
N-4708	DS Steel Factors & Construction	7/1/1999	1154	16,200.00
N-4777	Micro-Biological Laboratory, Inc.	7/29/1999	19707	12,272.73
N-4803	Reuters Limited	9/2/1999	22496	11,992.50
N-4925	NCR Corporation Philippines	3/30/1999	285372	13,514.69
	Sub-total			**P 1,182,070.62**

2.) Purchase of goods with invoices dated outside the period of claim

N-686	Bryan Distributors & Services, Inc.	5-Mar-99	13143	P 312.70
N-161	Alta-Meco, Inc.	4-Mar-99	67366	11,053.38
N-719	Camden Industries, Inc.	4-Jan-99	40632	10,778.24
N-803	Comfac Corporation	29-Jul-97	13370	2,004.55
N-802	Comfac Corporation	12-Jan-98	14733	2,004.55
N-807	Comfac Corporation	30-Nov-96	11953	2,810.55
N-808	Comfac Corporation	26-Dec-96	12137	2,129.55
N-829	Consolidated Industrial Gases Inc.	11-Mar-99	112744	4,717.30
N-5024	Consolidated Industrial Gases Inc.	30-Mar-99	67503	70,377.50
N-5023	Consolidated Industrial Gases Inc.	27-Mar-99	67482	69,051.61
N-5025	Consolidated Industrial Gases Inc.	27-Mar-99	67476	2,566.39
N-831	Consolidated Industrial Gases Inc.	30-Mar-99	113420	1,363.64
N-832	Consolidated Industrial Gases Inc.	31-Mar-99	113430	1,090.91
N-833	Consolidated Industrial Gases Inc.	29-Mar-99	113336	4,717.27
N-834	Consolidated Industrial Gases Inc.	31-Mar-99	67595	43,433.50
N-835	Consolidated Industrial Gases Inc.	31-Mar-99	157405	5,645.44
N-862	Consolidated Industrial Gases Inc.	4-Dec-98	158327	1,890.91
N-863	Consolidated Industrial Gases Inc.	28-Nov-98	158034	1,890.91
N-864	Consolidated Industrial Gases Inc.	9-Dec-98	109118	1,418.18
N-865	Consolidated Industrial Gases Inc.	9-Dec-98	109119	1,418.18
N-866	Consolidated Industrial Gases Inc.	1-Dec-98	158087	1,418.18
N-867	Consolidated Industrial Gases Inc.	1-Dec-98	158086	1,418.18
N-868	Consolidated Industrial Gases Inc.	14-Dec-98	109305	1,418.18
N-869	Consolidated Industrial Gases Inc.	17-Dec-98	109394	1,418.18
N-870	Consolidated Industrial Gases Inc.	17-Dec-98	109395	1,418.18
N-871	Consolidated Industrial Gases Inc.	14-Dec-98	109304	1,418.18
N-872	Consolidated Industrial Gases Inc.	21-Dec-98	109510	1,418.18

N-881	Consolidated Industrial Gases Inc.	26-Feb-99	111571	1,418.18
N-882	Consolidated Industrial Gases Inc.	26-Feb-99	111572	1,418.18
N-883	Consolidated Industrial Gases Inc.	12-Mar-99	112796	1,418.18
N-884	Consolidated Industrial Gases Inc.	9-Mar-99	112647	1,890.91
N-885	Consolidated Industrial Gases Inc.	22-Feb-99	111414	1,890.91
N-886	Consolidated Industrial Gases Inc.	19-Feb-99	111318	1,890.91
N-887	Consolidated Industrial Gases Inc.	16-Feb-99	111186	1,890.91
N-888	Consolidated Industrial Gases Inc.	10-Feb-99	110986	1,890.91
N-889	Consolidated Industrial Gases Inc.	6-Mar-99	112579	1,890.91
N-890	Consolidated Industrial Gases Inc.	9-Mar-99	112667	945.45
N-891	Consolidated Industrial Gases Inc.	12-Mar-99	112797	1,418.18
N-892	Consolidated Industrial Gases Inc.	2-Mar-99	111695	1,890.91
N-893	Consolidated Industrial Gases Inc.	13-Feb-99	111119	1,890.91
N-894	Consolidated Industrial Gases Inc.	26-Mar-99	113266	1,890.91
N-895	Consolidated Industrial Gases Inc.	26-Mar-99	113295	945.45
N-897	Consolidated Industrial Gases Inc.	4-Feb-99	110826	1,418.18
N-898	Consolidated Industrial Gases Inc.	4-Feb-99	110825	1,418.18
N-900	Consolidated Industrial Gases Inc.	21-Dec-98	109509	1,418.18
N-903	Consolidated Industrial Gases Inc.	8-Jan-99	109862	1,418.18
N-904	Consolidated Industrial Gases Inc.	8-Jan-99	109861	1,418.18
N-905	Consolidated Industrial Gases Inc.	15-Jan-99	110152	1,418.18
N-906	Consolidated Industrial Gases Inc.	25-Jan-99	110458	1,418.18
N-907	Consolidated Industrial Gases Inc.	25-Jan-99	110459	1,418.18
N-908	Consolidated Industrial Gases Inc.	30-Jan-99	110628	1,890.91
N-909	Consolidated Industrial Gases Inc.	2-Feb-99	110716	1,890.91
N-910	Consolidated Industrial Gases Inc.	22-Jan-99	110353	1,890.91
N-911	Consolidated Industrial Gases Inc.	18-Jan-99	110209	1,890.91
N-912	Consolidated Industrial Gases Inc.	7-Jan-99	109819	1,890.91
N-995	Cornersteel Systems Corporation	29-Mar-99	01498	34,150.35
N-1075	Dakila Trading Corp.	4-Feb-99	24508	10,750.55
N-1157	Dauis Industrial Sales	29-Mar-99	0071	89,272.72
N-1159	Designers World Trade Center	26-Mar-99	995	413.82
N-1319	Easy Call Comm. Phils. Inc.	19-Mar-99	163442	383.64
N-1320	Easy Call Comm. Phils. Inc.	12-Mar-99	163423	767.27
N-1321	Easy Call Comm. Phils. Inc.	19-Mar-99	163443	383.64
N-1322	Easy Call Comm. Phils. Inc.	19-Mar-99	163446	383.64
N-1323	Easy Call Comm. Phils. Inc.	19-Mar-99	163444	383.64
N-1324	Easy Call Comm. Phils. Inc.	19-Mar-99	163445	1,150.91
N-1325	Easy Call Comm. Phils. Inc.	26-Mar-99	157620	3,060.00
N-1326	Easy Call Comm. Phils. Inc.	31-Mar-99	163481	1,102.91
N-1327	Easy Call Comm. Phils. Inc.	31-Mar-99	163478	1,102.91
N-1368	Eco Triangle Technologies Inc.	30-Mar-99	4894	509.09
N-1369	Eco Triangle Technologies Inc.	30-Mar-99	4893	3,340.91
N-1370	Eco Triangle Technologies Inc.	31-Mar-99	4899	463.64
N-1385	Eker Merchandising	26-Mar-99	2075	879.90
N-1386	Eker Merchandising	26-Mar-99	2062	365.60
N-1387	Eker Merchandising	26-Mar-99	2092	100.00
N-1388	Eker Merchandising	26-Mar-99	2080	293.20
N-1389	Eker Merchandising	26-Mar-99	2064	1,009.05
N-1390	Eker Merchandising	26-Mar-99	2081	536.00
N-1391	Eker Merchandising	26-Mar-99	2156	716.60
N-1392	Eker Merchandising	26-Mar-99	2088	408.25
N-1393	Eker Merchandising	26-Mar-99	2154	255.10

N-1394	Eker Merchandising	24-Mar-99	2070	155.85
N-1395	Eker Merchandising	26-Mar-99	2071	455.75
N-1396	Eker Merchandising	26-Mar-99	2084	826.00
N-1397	Eker Merchandising	26-Mar-99	2155	208.58
N-1398	Eker Merchandising	26-Mar-99	2065	394.25
N-1399	Eker Merchandising	26-Mar-99	2083	76.13
N-1400	Eker Merchandising	26-Mar-99	2090	50.00
N-1401	Eker Merchandising	26-Mar-99	2153	240.10
N-1402	Eker Merchandising	26-Mar-99	2085	57.60
N-1403	Eker Merchandising	26-Mar-99	2072	94.95
N-1404	Eker Merchandising	26-Mar-99	2079	273.00
N-1405	Eker Merchandising	26-Mar-99	2063	114.25
N-1406	Eker Merchandising	26-Mar-99	2073	440.65
N-1407	Eker Merchandising	26-Mar-99	2086	52.99
N-1408	Eker Merchandising	26-Mar-99	2089	53.75
N-1409	Eker Merchandising	26-Mar-99	2087	97.00
N-1410	Eker Merchandising	26-Mar-99	2082	456.33
N-1411	Eker Merchandising	26-Mar-99	2078	70.23
N-1412	Eker Merchandising	26-Mar-99	2151	442.00
N-1413	Eker Merchandising	26-Mar-99	2152	598.95
N-1414	Eker Merchandising	26-Mar-99	2076	104.23
N-1415	Eker Merchandising	26-Mar-99	2074	96.10
N-1416	Eker Merchandising	26-Mar-99	2077	1,075.15
N-1417	Eker Merchandising	26-Mar-99	2091	1,105.00
N-1418	Eker Merchandising	30-Mar-99	2099	492.68
N-1419	Eker Merchandising	29-Mar-99	2093	522.00
N-1622	Festo Inc.	31-Mar-99	0068754	132.14
N-1629	Festo Inc.	5-Mar-99	0068531	6,792.50
N-1634	Flik Industries Inc.	10-Feb-99	1660	9,138.86
N-1635	Flik Industries Inc.	19-Mar-99	1678	27,224.46
N-1647	Folgueras Marketing	29-Mar-99	13778	3,201.65
N-1648	Folgueras Marketing	31-Mar-99	13780	27,272.72
N-2864	Gems Minerals Chemicals Inc.	11-Mar-99	0002	6,089.52
N-2879	Ginza Marketing	19-Mar-99	1064	5,784.73
N-2882	Globaltech Automation Inc.	29-Mar-99	028	7,265.81
N-3253	Lawrence Brothers, Co	23-Jan-99	0755	568.18
N-3254	Lawrence Brothers, Co	24-Mar-99	0871	15,909.10
N-3255	Lawrence Brothers, Co	11-Mar-99	0847	2,727.28
N-3315	Liang Chi Industry Co Ltd	29-Dec-98	2948	4,141.45
N-3316	Liang Chi Industry Co Ltd	18-Dec-98	2932	4,142.36
N-3318	Liang Chi Industry Co Ltd	29-Dec-98	2945	4,241.82
N-3463	Michen Industrial Supply	24-Mar-99	5424	182.40
N-3464	Michen Industrial Supply	30-Mar-99	5427	58,348.10
N-3642	Perkin Elmer Instrument (Phils)	4-Mar-99	0272	16,199.54
N-3643	Philab Industry	5-Aug-99	11870	1,062.18
N-3644	Philab Industry	5-Aug-99	11871	2,299.55
N-3645	Philab Industry	5-Aug-99	11876	2,090.91
N-3907	SM Equicom Computers	19-Nov-98	19015	57,579.72
N-4098/4099	SMC Pneumatics (Phils) Inc	3-Dec-98	38441/38442	17,996.27
N-4100	SMC Pneumatics (Phils) Inc.	5-Mar-99	40133	10,099.10
N-4285	Taihon Cehmicals & Services Inc.	29-Mar-99	4611	1,144.54
N-4286	Technitool Engineering	13-Jan-99	5634	1,779.00

N-4287	Technico	30-Mar-99	033	12,272.73
N-4288	Techno Molds Inc.	24-Mar-99	3466	1,100.00
N-4289	Techno Molds Inc.	24-Mar-99	3467	1,320.00
N-4290	Techno Molds Inc.	26-Mar-99	3469	1,950.00
N-4291	Techno Molds Inc.	24-Mar-99	3468	3,600.00
N-4293	Techno Molds Inc.	30-Mar-99	3472	900.00
N-4294	Techno Molds Inc.	30-Mar-99	3471	675.00
N-4384	Tom-Ele KT Electrical Trading	31-Dec-98	1260	6,363.64
N-4417	Tratek Asia Inc.	25-Mar-99	161	17,598.69
N-4559	Versatrade Marketing	2/12/1999	1728	10,288.77
N-4560	Versatrade Marketing	3/30/1999	1821	11,008.78
N-4561.	Versatrade Marketing	3/30/1999	1822	7,183.05
N-4563	Versatrade Marketing	3/17/1999	1800	15,178.73
N-4640	Zorin System	3/29/1999	6015	2,728.01
N-4642	Zorin System	3/5/1999	5974	2,454.61
N-4666	Alert 1, Inc.	3/22/1999	0348	16,064.26
	Sub-total			P **860,821.33**

3.) Purchase of services without supporting OR

N-5014	Genetron Engineering Supply & Services Co., Inc.	6-Apr-99	2717	P 40,477.73
N-5015	Genetron Engineering Supply & Services Co., Inc.	6-Apr-99	2720	10,909.00
N-2906	Inter Tek Testing Services	15-Mar-99	19533	890.00
N-2907	Inter Tek Testing Services	15-May-99	21834	2,799.32
N-2908	Inter Tek Testing Services	15-May-99	21833	120.45
N-2909	Inter Tek Testing Services	29-Apr-99	20942	1,183.64
N-2910	Inter Tek Testing Services	29-Apr-99	20943	1,204.55
N-2911	Inter Tek Testing Services	29-Apr-99	20941	2,168.19
N-2912	Inter Tek Testing Services	30-Apr-99	21084	16,104.55
N-2913	Inter Tek Testing Services	15-May-99	21832	973.36
N-2914	Inter Tek Testing Services	8-Apr-99	20145	973.36
N-2915	Inter Tek Testing Services	9-Jun-99	23120	973.36
N-2916	International Elevator & Equip Inc.	15-Apr-99	14808	1,000.00
N-3029	Jeeps Enterprises	15-Apr-99	139	1,800.00
N-4953	Teradyne Phils. Ltd.	9/8/1998	00049	2,643.22
N-4954	Teradyne Phils. Ltd.	10/12/1998	00064	2,880.89
N-4955	Teradyne Phils. Ltd.	4/12/1999	00534	21,410.34
N-4956	Teradyne Phils. Ltd.	3/26/1999	28388	26,745.62
N-4957	Teradyne Phils. Ltd.	4/26/1999	00540	19,434.18
N-4958	Teradyne Phils. Ltd.	5/3/1999	00546	5,865.30
N-4959	Teradyne Phils. Ltd.	4/15/1999	00539	564,630.53
N-4960	Teradyne Phils. Ltd.	5/24/1999	00563	11,311.74
N-4961	Teradyne Phils. Ltd.	5/24/1999	00568	6,109.02
N-4962	Teradyne Phils. Ltd.	4/26/1999	00541	6,493.77
N-4963	Teradyne Phils. Ltd.	10/12/1998	00062	1,154.61
N-4964	Teradyne Phils. Ltd.	11/17/1998	00090	8,727.01
	Sub-total			P **758,983.74**

4.) Purchase of goods or services without supporting invoices or ORs

Bryan Distributors & Services, Inc.	12-Feb-99	12861	P 43,952.88
Digital Equipment Filipinas Inc.	26-Apr-99	6974	52,099.56
Liang Chi Industry Co Ltd.	20-Mar-99	3304	7,000.00
Metro Engineering & Supply Co.	13-May-99	2351	22,391.10

NM

	Microcontrol Design Technology	2-Mar-99	633	3,600.00
	Microcontrol Design Technology	5-Mar-99	632	34,831.80
	Rubicon Printing Corporation	7-May-99	04478	26,880.00
	Sub-total			**P 190,755.34**
5.) Purchase of services supported with Provisional Receipts (PR) only				
N-3375	Manila Genesis	8-Apr-99	147	P 17,605.26
N-3377	Manila Genesis	14-Apr-99	149	17,605.26
	Sub-total			**P 35,210.52**
6.) Purchase of services supported with Non-VAT OR				
N-4966	Town & Country Agri Reapers, Inc.	5/26/1999	541	P 16,363.64
	Sub-total			**P 16,363.64**
7.) Purchase of goods supported with VAT-exempt invoice				
N-4634	Wise & Company Inc.	4/8/1999	139406	P 13,768.55
	Sub-total			**P 13,768.55**
8.) Input VAT on purchase of services erroneously computed				
N-2908/2910	Guard All Electronic Security Systems Inc.	23-Feb-99	7192	P 3,136.37
	Sub-total			**P 3,136.37**
	TOTAL			**P 3,061,110.11**

Therefore, out of the total claim of P23,687,908.93 pertaining to input VAT on domestic purchases of goods and services, petitioner can only validly claim the amount of P14,221,880.96, computed as follows:

Claimed input VAT on domestic purchases		P 23,687,908.93
Less: Disallowances		
1) Per CPA report	P 6,404,917.86	
2) Per Court's verification	3,061,110.11	9,466,027.97
Validly supported input VAT on domestic purchases		**P 14,221,880.96**

Anent petitioner's refund claim for input VAT on importation of goods/capital equipment in the amount of P29,122,031.00, the documents[16] submitted were thoroughly examined and a total of P21,924,350.00 should be disallowed based on the following reasons:

Exh.	**Date**	**Bank OR No.**	**Input VAT**
1.) Without supporting documents			
Amount of claim			P 29,122,031.00
Less: Input VAT claim with supporting documents			25,096,576.00
Unsupported claim			**P 4,025,455.00**

[16] Exhibits "O-O182", CTA Case No. 6310.

2.) Outside period of claim				
O	4/6/1998	3943521	P	371,471.00
O-5	9/14/1998	4656990		15,375.00
O-14	4/24/1998	3944783		1,078,402.00
O-20	4/3/1998	3943432		1,058,934.00
O-24	2/11/1998	3874782		409,464.00
O-31	3/6/1998	3941487		1,708,520.00
O-36	2/11/1998	3874780		1,436,833.00
O-44	2/11/1998	3874781		143,371.00
O-51	3/18/1998	3942187		367,650.00
O-56	3/17/1998	3942104		1,994,508.00
O-60	4/1/1998	3943216		303,474.00
O-63	3/30/1998	3942974		1,043,006.00
O-67	3/13/1998	3941937		1,995,062.00
O-161	5/14/1998	4291043		4,364,497.00
O-169	3/28/1999	-		341.00
O-173	3/28/1999	-		3,378.00
	Subtotal		P	**16,294,286.00**
3.) IERD[17] not legible				
O-180	4/13/1999	-	P	1,604,609.00
	Subtotal		P	**1,604,609.00**
TOTAL DISALLOWANCES			P	**21,924,350.00**

Consequently, only the amount of P7,197,681.00 was fully substantiated pursuant to the provisions of Section 4.104-5(b) of Revenue Regulations No. 7-95, computed as follows:

Exh.	OR Date	Bank OR No.		Input VAT
O-72	4/8/1999	5009985	P	654,387.00
O-78	4/8/1999	5009986		549.00
O-82	4/8/1999	5009987		3,988.00
O-87	4/8/1999	5009988		891.00
O-93	4/8/1999	5009990		3,291,640.00
O-97	4/8/1999	5009991		3,212,699.00
O-101	4/8/1999	5009989		338.00
O-107	4/20/1999	5010793		12,192.00
O-112	4/20/1999	5010796		3,952.00
O-117	4/20/1999	5010797		678.00
O-122	4/20/1999	5010798		713.00
O-127	4/20/1999	5010792		465.00
O-132	4/20/1999	5010790		4,985.00
O-137	4/20/1999	5010799		773.00
O-141	4/20/1999	5010800		373.00
O-146	4/20/1999	5010801		295.00
O-151	4/20/1999	5010802		248.00
O-156	4/20/1999	5010791		8,515.00
		TOTAL	P	**7,197,681.00**

[17] Import Entry and Revenue Declaration.

In the light of the foregoing discussions, the Court *En Banc* finds legal basis to partially grant the instant petition as petitioner is entitled to claim a refund for its input VAT for the second quarter of 1999 in the reduced amount of P12,003,522.52, computed as follows:

Validly supported input VAT on domestic purchases	P 14,221,880.96
Validly supported input VAT on importations	7,197,681.00
Total valid input VAT claim	P 21,419,561.96
Multiply by rate of supported zero-rated sales	56.04%
Input VAT claim attributed to substantiated zero-rated sales	**P 12,003,522.52**

WHEREFORE, the instant petition is **PARTIALLY GRANTED**. The assailed Decision and Resolution of the Court in Division dated October 11, 2006 and January 11, 2007, respectively, are hereby **REVERSED** and **SET ASIDE**.

Accordingly, respondent is hereby **ORDERED** to **REFUND** or **ISSUE** a **TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **P12,003,522.52** representing unutilized excess input VAT on domestic purchases of goods and services and importation of goods / capital equipment attributable to its zero-rated sales for the second quarter of the taxable year 1999.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

(With Concurring and Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice