REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

MARUBENI PHILIPPINES CORPORATION, Petitioner,	**C.T.A. CASE NO. 7223**
	Members:
- versus -	**ACOSTA,** *Chairperson* **BAUTISTA,** and **CASANOVA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** DEC 15 2009 13:45pm

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DECISION

CASANOVA, *J.*:

This case is a claim for refund or issuance of a tax credit certificate in the amount of P11,139,650.19 allegedly representing petitioner's unutilized excess input value-added tax (VAT) on purchases of capital goods and domestic purchases of goods and services directly attributable and/or allocable to its zero-rated sales for the four quarters of taxable year 2003.

Petitioner is a domestic corporation organized and existing under the laws of the Republic of the Philippines, with principal office located at the 9th Floor, L.V. Locsin Building, Ayala Avenue corner Makati Avenue, Makati City. It is primarily engaged in the business of buying, selling, distributing, goods, commodities, wares and merchandise of every kind and description, and to enter into all kinds of contracts for the export, import, purchase, acquisition, sale at wholesale and other disposition for its own account as the principal or in representative capacity as manufacturer's representative, merchandise broker, indentor, commission merchant, factors or agents, upon consignment of all kinds of goods, wares, merchandise or products whether natural or artificial. As such, it is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer in accordance with Section 236 of the National Internal Revenue Code of 1997 (the "Tax Code"), with Taxpayer Identification No. 004-519-222-000 and BIR Certificate of Registration bearing RDO Control No. 8RC0000015925.[1]

Respondent is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of said office including, among others, the power to decide, approve and grant refunds or tax credits of erroneously or excessively paid taxes.[2]

For the period beginning the first quarter to the fourth quarter of 2003, petitioner filed with the BIR, its original Quarterly VAT Returns (BIR Form No. 2550Q), and amended Quarterly VAT Returns within the period provided under the Tax Code, as follows[3]:

[1] Pars. 1.1, 1.3 and 1.4, Admitted Facts, JSFI, Division Docket, pp. 83-84

Period	Original Return	Exhibit	Amended Return	Exhibit
1st Quarter	April 23,2003	B / B-1	October 17, 2003 (1st)	C
			April 14, 2005 (2nd)	D
			October 10, 2005 (3rd)	U
2nd Quarter	July 25,2003	E / E-1	October 17, 2003 (1st)	F
			April 14, 2005 (2nd)	G / G-1
			October 10, 2005 (3rd)	V
3rd Quarter	October 27,2003	H / H-1	April 14, 2005 (1st)	I / I-1
			October 10, 2005 (2nd)	W
4th Quarter	January 26,2004	J / J-1	April 14, 2005 (1st)	K / K-1
			October 10, 2005 (2nd)	X

In its amended Quarterly VAT Returns for the four quarters of 2003, petitioner reflected VAT zero-rated sales in the amount of P166,957,052.16, taxable sales in the amount of P13,419,573.81 with the corresponding output VAT of P1,341,957.39 and excess input VAT of P11,167,802.09, broken down as follows:

Period	Zero-Rated Sales	Taxable Sales	Output VAT	Input VAT	Excess Input VAT
1st Quarter	P 30,757,850.52	P 11,251,123.63	P 1,125,112.36	P 2,749,892.90	P 1,624,780.54
2nd Quarter	30,135,727.65	531,105.42	53,110.55	2,487,476.72	2,434,366.17
3rd Quarter	37,609,307.49	477,469.09	47,746.91	3,073,509.10	3,025,762.19
4th Quarter	68,454,166.50	1,159,875.67	115,987.57	4,198,880.76	4,082,893.19
Total	**P166,957,052.16**	**P13,419,573.81**	**P1,341,957.39**	**P12,509,759.48**	**P11,167,802.09**

On April 20, 2005, petitioner filed a letter with the BIR requesting for the refund or issuance of a tax credit certificate in the amount of P11,139,650.19 out of the total excess input VAT of P11,167,802.09 reported in its VAT return for the four quarters of 2003[4]. The claimed amount of P11,139,650.19 allegedly represents unutilized excess input VAT attributable to petitioner's zero-rated sales and capital goods purchased for the four quarters of 2003.

Due to respondent's inaction on its claim, petitioner filed the instant Petition for Review before this Court on April 21, 2005.

Respondent, in his Answer to the Petition for Review, interposed the following Special and Affirmative Defenses:

> 4. Petitioner's alleged claim for issuance of tax credit certificate is still subject to administrative routinary investigation/examination by the respondent's Bureau;
>
> 5. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable;
>
> 6. Petitioner's claim for refund or issuance of tax credit certificate in the amount of P11,139,650.19, as alleged unutilized input VAT paid on its domestic purchases of goods and services for the period January 1, 2003 to December 31, 2003 were not fully substantiated/documented;
>
> 7. In an action for refund/credit, the burden of proof is on the petitioner to establish its right to refund and failure to adduce sufficient proof is fatal to the claim for tax refund/credit;
>
> 8. Petitioner's sales of goods and services to various alleged clients do not qualify as zero-rate VAT;
>
> 9. 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;
>
> 10. Claims for refund are construed strictly against the claimant for the same partake 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).***

To buttress its claim, petitioner presented documentary and testimonial evidence. Respondent, on the other hand, was declared to have waived his right to present evidence.[5] With the admission of petitioner's Memorandum, sans respondent's Memorandum, the case was submitted for decision on December 24, 2008.

The issues[6] posed for this Court's resolution are as follows:

1. Whether or not petitioner generated zero-rated sales for the period beginning the 1st quarter to the 4th quarter of 2003 in the total amount of P139,257,052.16.

2. Whether or not petitioner's zero-rated sales of goods to non-resident entities for the period beginning the 1st quarter to the 4th quarter of 2003 were paid for in acceptable foreign currency inwardly remitted and duly accounted for in accordance with the regulations of the Bangko Sentral ng Pilipinas.

3. Whether or not petitioner generated zero-rated sales of goods to entities that are registered with the Philippine Economic Zone Authority ("PEZA") for the period beginning the 1st quarter to the 4th quarter of 2003.

4. Whether or not the amount of P11,139,650.19 representing unutilized/excess input VAT paid by petitioner for the period beginning the 1st quarter to the 4th quarter of 2003 is attributable to its zero-rated sales and purchases of capital goods.

5. Whether or not the amount of P11,139,650.19 representing unutilized/excess input VAT paid by petitioner for the period beginning the 1st quarter to the 4th quarter of 2003 which is attributable to its zero-rated sales and purchases of capital goods was not utilized or applied against its output VAT liabilities for the subsequent taxable quarters.

6. Whether or not petitioner's claim for refund of alleged unutilized input VAT for the 1st quarter to the 4th quarter of 2003 is substantiated by documentary evidence.

7. Whether or not petitioner is entitled to the refund or issuance of a tax credit certificate in the amount of P11,139,650.19 representing unutilized/excess input VAT paid by petitioner for the period beginning the 1st quarter to the 4th quarter of 2003.

All of the above issues may be simplified into: Whether or not petitioner is entitled to the refund or issuance of a tax credit certificate in the amount of P11,139,650.19 representing unutilized/excess input VAT beginning the first quarter to the fourth quarter of taxable year 2003.

Petitioner anchors its claim on Section 110 in relation to Sections 112(A) and (B) of the Tax Code, which are all quoted below for easy reference:

> "**SEC. 110.** ***Tax Credits.***—
>
> **(B) Excess Output or Input Tax.**—If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to the purchases of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.
>
> "**SEC. 112.** ***Refunds or Tax Credits of Input Tax.*** —
>
> "**(A)** ***Zero-rated or Effectively Zero-rated Sales.*** — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108 B(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral

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 attributable 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.

The subject claim of P11,139,650.19 allegedly consists of input VAT attributable to zero-rated sales and input VAT attributable to capital goods purchased.

We shall rule first on petitioner's claimed input VAT attributable to zero-rated sales.

Section 112(A) of the Tax Code, as aforequoted, allows the refund or tax credit of unutilized excess input VAT attributable to zero-rated or effectively zero-rated sales subject to the taxpayer's compliance with the following requisites:

1. there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input taxes are attributable to zero-rated or effectively zero-rated sales;
4. that the input taxes were not applied against any output VAT liability; and
5. that the claim for refund was filed within the two-year prescriptive period

Anent the first requisite, the Court-commissioned Independent CPA, Mr. Ernesto T. Diaz of R.S. Bernaldo & Associates, noted that the amount of P166,957,052.16 treated by petitioner as zero-rated sales comprised of the following:[7]

Nature of Sales	Amount
Export Sales to Marubeni Tokyo - zero-rated	P101,939,439.49
Zero-rated sales/commissions	
a. Residents - PEZA entities	
Sale of goods	P 757,314.54
Collected Commissions	1,768,224.40
Subtotal	P 2,525,538.94
b. Non-residents	
Sale of goods	P 23,016,805.76
Collected Commissions	39,475,267.97
Subtotal	P 62,492,073.73
Total	**P166,957,052.16**

The ICPA stated that petitioner's export sales to Marubeni Corporation-Tokyo amounting to P101,939,439.49 arose from petitioner's sale of rubber protectors to its parent company, Marubeni-Tokyo, a non-resident foreign corporation. Petitioner maintains that since these export sales were paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas, the same are subject to zero percent (0%) VAT pursuant to Section 106(A)(2)(a)(1) of the Tax Code, which states:

SEC.106. ***Value-Added Tax on Sale of Goods or Properties.-***

"(A) Rate and Base of Tax.- x x x

x x x x x 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)."

Based on the foregoing provisions of Section 106(A)(2)(a)(1) of the Tax Code, in relation to Section 113(A) of the same Code and Section 4.108-1 of Revenue Regulations No. 7-95, any person claiming VAT zero-rated direct export sales must present at least three (3) types of documents, to wit: **a)** the sales invoice as proof of sale of goods; **b)** the export declaration ***and*** bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and **c)** bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services. In other words, only export sales supported by these documents shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the Tax Code.

Further, the sales invoices supporting the export sales must be registered with the BIR and contain all the required information under the law and regulations, such as the imprinted word "zero-rated" and the taxpayer's TIN-VAT number.

While petitioner satisfactorily met the first requirement as it presented sales invoices[8] duly stamped with the phrase "zero-rated sales", however, petitioner failed to comply with the equally significant second and third requisites.

Without the bills of lading or airway bills, the export declarations[9] submitted by petitioner are insufficient to prove that there was actual shipment of petitioner's goods from the Philippines to Tokyo, Japan.

Regarding the third requisite, the ICPA noted in its Final Report dated February 19, 2007[10] that the foreign currency proceeds of petitioner's export sales to Marubeni Tokyo for the year 2003 were partially offset against the petitioner's payables to Marubeni Tokyo through the Mutual Account Ledger and partially inwardly remitted and accounted for in accordance with the rules and regulations of the BSP. In support thereof, petitioner submitted bank credit advices, bank statements and mutual account ledgers for the same period.[11] However, the Court finds the preceeding documents insufficient.

In Revenue Memorandum Circular (RMC) No. 42-2003 dated July 15, 2003 entitled "*Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and*

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[8] Included in Exhibits "JJJ-1" to "JJJ-20", "KKK-1" to "KKK-24", "LLL-1" to "LLL-26"& "MMM-1" to "MMM-28"
[9] Included in Exhibits "JJJ-1" to "JJJ-20", "KKK-1" to "KKK-24", "LLL-1" to "LLL-26"& "MMM-1" to "MMM-28"

Duty Drawback Center, Department of Finance (OSS) by Direct Exporters, the documents required in an offsetting arrangement were enumerated, thus:

> Q-8: With the full liberalization of the BSP rules on foreign exchange and trade transactions (CB Circular No. 1389 dated April 13, 1993 enunciated in RMC No. 57-97), the BIR requirement for full documentation of proofs of inward remittances of export proceeds should no longer be enforced. Accordingly, what should be the acceptable documentary requirements in the processing of claims for TCC/refund, specifically on offsetting arrangements?
>
> A-8: In the case of offsetting arrangements, the following documents should be required:
>
> a. Import documents which created liability accounts in favor of the foreign parent or affiliated company;
> b. Other contracts with the foreign or affiliated company that brought about the liabilities which were offset against receivables from export sales;
> c. Evidence of proceeds of loans, in case the claimant has received loans or advances from the foreign company;
> d. Documents or correspondence regarding offsetting arrangements;
> e. Confirmation of the offsetting arrangements by the heads of the business organizations involved;
> f. Documents to prove actual export of goods;
> g. Documents to prove that the sales are zero-rated sales.

Petitioner should have submitted documents establishing the existence of its foreign currency payables to Marubeni Tokyo such as those specified under letters "a" to "c" of RMC No. 42-2003, namely: a) import documents which created liability accounts in favor of the foreign parent or affiliated company; b) other contracts with the foreign or affiliated company that brought about the liabilities which were offset against receivables from export sales; and c) evidence of proceeds of loans, in case the claimant has received loans or advances from the foreign company. Likewise, petitioner should have submitted documents or correspondence regarding the offsetting arrangements and confirmation of the offsetting arrangements by the heads of both petitioner and Marubeni Tokyo.

Without clear and convincing proof showing how much of petitioner's export sales were offset against its payables to Marubeni Tokyo and how much thereof were inwardly remitted and accounted for in accordance with the BSP rules and regulations, petitioner's reported export sales of P101,939,439.49 shall be denied VAT zero rating.

Likewise, petitioner's sales of goods to non-resident entities in the amount of P23,016,805.76 shall be denied VAT zero-rating as no evidence was adduced by petitioner to prove that the same can be classified as zero-rated sales.

As to the VAT zero-rating of its collected commissions from non-residents in the amount of P39,475,267.97, petitioner relies on Section 108(B)(2) of the Tax Code, which provides as follows:

> **"SEC. 108.** ***Value-added Tax on Sale of Services and Use or Lease of Properties.-***
>
> xxx xxx xxx
>
> **"(B)** ***Transactions Subject to Zero Percent (0%) Rate.-*** The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> "(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;

"(2) **Services other than those mentioned in the preceding paragraph, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);**(emphasis supplied)

To substantiate the commissions it earned and collected from non-residents, petitioner submitted invoices,[12] credit remittances, bank statements and related document vouchers[13]. However, these sales of services were not duly supported by VAT official receipts in violation of Section 113(A) in relation to Section 108(C) of the Tax Code. Further, no evidence was presented to prove the fact that the non-resident clients to whom petitioner renders services are clients doing business outside the Philippines.

In the case of ***Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,***[14] the Supreme Court held that another essential condition for qualification to VAT zero-rating under Section 108(B)(2) [then Section 102(b)(2)] is that the recipient of such services is doing business outside the Philippines. We quote hereunder the pertinent portion of the said decision:

"The Tax Code not only requires that the services be other than "processing, manufacturing or repacking of goods" and that payment for such services be in acceptable foreign currency accounted for in accordance with BSP rules. Another essential condition for qualification to zero-rating under Section 102(b)(2) is that the **recipient of such services is doing business outside the Philippines.** While this requirement is not expressly stated in the second paragraph of Section 102 (b), this is clearly provided in the first paragraph of Section 102(b) where the listed services must be **"for other persons doing**

[12] Exhibits "SSS-1" to "SSS-421"
[13] Exhibits "TTT-1" to "TTT-319"

> **business outside the Philippines".** The phrase "for other persons doing business outside the Philippines" not only refers to the services enumerated in the first paragraph of Section 102(b), but also pertains to the general term "services" appearing in the second paragraph of Section 102(b). In short, services other than processing, manufacturing, or repacking of goods must likewise be performed for persons doing business outside the Philippines.
>
> This can only be the logical interpretation of Section 102(b)(2). If the provider and recipient of the "other services" are both doing business in the Philippines, the payment of the foreign currency is irrelevant. Otherwise, those subject to the regular VAT under Section 102(a) can avoid the VAT by simply stipulating payment in foreign currency inwardly remitted by the recipient of services. To interpret Section 102(b)(2) to apply to a payer-recipient of services doing business in the Philippines is to make the payment of the regular VAT under Section 102(a) dependent on the generosity of the taxpayer. The provider of services can choose to pay the regular VAT or avoid it by stipulating payment in foreign currency inwardly remitted by the payer-recipient. Such interpretation removes Section 102(a) as a tax measure in the Tax Code, an interpretation this Court cannot sanction. A tax is a mandatory exaction, not a voluntary contribution."

In the present case, the documents submitted by the petitioner merely established the existence of its sales of services. Petitioner failed to substantiate the receipt of the foreign currency proceeds thereof with proper VAT official receipts and that its clients are non-resident foreign entities doing business outside the Philippines. Considering so, petitioner's reported collected commissions from non-residents in the amount of P39,475,267.97 cannot qualify for VAT zero-rating.

With respect to petitioner's reported sales of goods and commissions collected from residents – PEZA entities in the respective amounts of

P757,314.54 and P1,768,224.40 totalling to P2,525,538.94, Section 106(A)(2)(a)(5) of the Tax Code, states:

> **SEC. 106.** ***Value-added Tax on Sale of Goods or Properties.*** **-**
>
> (A) xxx xxx xxx
>
> (1) xxx xxx xxx
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> "(a) *Export Sales.* — The term '*export sales*' means:
>
> xxx xxx xxx
>
> "(5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws.

Sales by a VAT taxpayer from the Customs Territory to a PEZA entity are considered export sales under Executive Order (E.O.) No. 226, otherwise known as the Omnibus Investments Code of 1987, the relevant portions of which read as follows:

> "**ARTICLE 23**. "Export Sales" shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer or the net selling price of export product sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same: Provided, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates of similar commercial documents: Provided, further, That without actual exportation the following shall be considered "constructively exported" for purposes of this provision: (1) sales to bonded manufacturing warehouses of

> "**ARTICLE 77. Tax Treatment of Merchandise in the Zone.** — (1) Except as otherwise provided in this Code, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the provisions of law to the contrary notwithstanding.
>
> (2) **Merchandise purchased by a registered zone enterprise from the customs territory and subsequently brought into the zone, shall be considered as export sales and the exported thereof shall be entitled to the benefits allowed by law for such transaction.** (emphasis supplied)

Clearly, from the foregoing provisions of Section 106(A)(2)(a)(5) in relation to Articles 23 and 77(2) of the Omnibus Investments Code, indirect exports made by a VAT taxpayer to a PEZA registered entity are legally entitled to the zero percent (0%) VAT.

Likewise, the sale of services by a VAT taxpayer to a PEZA registered entity is effectively subject to zero percent (0%) VAT under Section 108(B)(3) of the Tax Code, which states:

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

"(3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate**; (emphasis supplied)

The VAT zero-rating of sales of goods or services made by a VAT taxpayer to a PEZA entity was further clarified in Revenue Memorandum Circular (RMC) No. 74-99, the pertinent provisions of which read as follows:

"SECTION 3. Tax Treatment of Sales Made By A VAT Registered Supplier from the Customs Territory, To A PEZA Registered Enterprise.-

xxx xxx xxx

3. In the final analysis, any sale of goods, property or services made by a VAT registered supplier from the Customs Territory to any registered enterprise operating in the ecozone, regardless of the class or type of the latter's PEZA registration, is actually qualified and thus legally entitled to the zero percent (0%) VAT. Accordingly, **all sales of goods or property to such enterprise made by a VAT registered supplier from the Customs Territory shall be treated subject to 0% VAT, pursuant to Sec. 106(A)(2)(a)(5) , NIRC , in relation to Art. 77(2) of the Omnibus Investments Code, while all sales of services to the said enterprises, made by VAT registered supplies from the Customs Territory, shall be treated effectively subject to 0% VAT, pursuant to Section 108(B)(3), NIRC, in relation to the provisions of R.A. 7916 and the "Cross Border Doctrine" of the VAT system.**

"This Circular shall serve as a sufficient basis to entitle such supplier of goods, property or services to the benefit of the zero percent (0%) VAT for sales made to the aforementioned ECOZONE enterprises and shall serve as sufficient compliance to the requirement for prior approval of zero-rating imposed by Revenue Regulation No. 7-95 effective as of the date of issuance of this Circular. (emphasis supplied)

Petitioner's sales of goods to PEZA-registered entities in the amount of P757,314.54 which is duly covered by VAT invoices[15] and PEZA Certifications[16] qualifies for VAT zero-rating. The same holds true with petitioner's commission income in the amount of P1,768,224.40. However, upon scrutiny of the Summary of Zero-Rated Sales and Commissions other than Export Sales[17] and petitioner's supporting documents, the Court finds that the amount of P687,626.92[18] representing commission income not supported by official receipts and the amount of P10,806.66[19] representing discrepancy in petitioner's commission income as reflected on the official receipts and sales invoices issued by petitioner to PEZA entities *vis-à-vis* the amounts indicated in petitioner's schedule of commission income shall be denied VAT zero-rating.

Thus, petitioner's total substantiated zero-rated sales amounts only to P1,827,105.36, as computed below:

Declared zero-rated sales			**P166,957,052.16**
Less:	Disallowed zero-rated sales:		
	Export Sales to Marubeni Tokyo	**P101,939,439.49**	
	Zero-Rated Sales to PEZA entities		
	Commissions not supported by Official Receipts	P 687,626.92	
	Discrepancies in commission income as reflected in the ORs/sales invoices *vis-à-vis* the commission income shown per petitioner's schedule	10,806.66	
		P 698,433.58	
	Zero-Rated Sales to Non-residents		
	Sales of goods	P 23,016,805.76	
	Collected Commissions	39,475,267.97	

[15] Exhibits "PPP-1" to "PPP-38", "QQQ-1" to "QQQ-42" & "RRR-1" to "RRR-40"
[16] Exhibits "UUU-24" to "UUU-29"
[17] Exhibit "RR-4", Independent CPA Report Volume I, Annex I, pages 73-76

		P 62,492,073.73	**165,129,946.80**
Substantiated zero-rated sales			**P 1,827,105.36**

We proceed to the determination of the amount of unutilized input VAT attributable thereto.

Petitioner's total input VAT based on its amended Quarterly VAT Returns filed for the taxable year 2003 amounted to P12,509,759.49[20], which upon deduction therefrom the amount of P28,153.07 representing petitioner's input VAT attributable to domestic sales, there still remained input VAT credits in the amount of P12,481,606.42. Based on the Final Report of the Independent CPA[21], petitioner's input VAT credits in the amount of P12,481,606.42 comprised of the following:

Input VAT Pertaining to	**Input VAT**
1. Purchases of goods that were	
a. subsequently exported	P 10,045,631.80
b. sold to zero-rated entities (PEZA entities)	64,022.25
2. Purchases of ordinary expenses (common)	2,301,998.98
3. Purchases of capital goods	69,954.55
Total	**P12,481,607.58**
Less: Output VAT	**1,341,957.38**
Total input VAT claimed for refund in the petition	**P11,139,650.20**

Considering that petitioner failed to prove that it had zero rated export sales and zero-rated sales/commissions to non-residents for the four quarters of 2003, petitioner's claimed input taxes which are directly attributable

[20] There is a P1.16 discrepancy between the amount of input VAT per VAT returns (P12,509,759.49)

thereto in the amount of P10,045,631.80[22], though substantiated with VAT invoices and official receipts, cannot be granted.

Based on his review and validation of petitioner's P12,509,760.65 input VAT claim, the Court-commissioned ICPA found P660,250.14[23] as exceptions of which P14,309.42 pertains to petitioner's zero-rated sales of goods to PEZA entities while the remaining amount of P645,940.72 refers to input VAT incurred by petitioner on common ordinary expenses, detailed as follows[24]:

Nature of Exception		Input VAT Attributable to		Total Input VAT
		Sales to PEZA	**Ordinary Expenses**	
a.	Purchases not supported by document vouchers, suppliers' official receipts and/or sales invoices	P 13,472.98	P 497,836.02	P 511,309.00
b.	Purchases of services not supported by suppliers' official receipts	-	33,937.21	33,937.21
c.	Purchases of goods not supported by suppliers' sales invoices	836.44	19,871.59	20,708.03
d.	Purchases supported by photocopy of official receipts or invoices only	-	14,981.20	14,981.20
e.	Purchases of services recorded in 2003 but the supporting official receipts were dated 2004	-	8,593.77	8,593.77
f.	Overstatement in the recorded and claimed input VAT	-	53,329.72	53,329.72
g.	Suppliers official receipts/official receipts not in the name of Marubeni	-	9,209.82	9,209.82
h.	Suppliers' TIN not indicated in their official receipts and/or sales invoices	-	7,941.44	7,941.44
i.	Suppliers' BIR permit to print not indicated in their official receipts and/or sales invoices	-	239.95	239.95
	Total	**P 14,309.42**	**P 645,940.72**	**P 660,250.14**

The claimed input VAT directly attributable to zero-rated sales of goods to PEZA entities amounting to P64,022.25 should be reduced by P14,309.42.

[22] Exhibits "BBB-1" to "BBB-1686", "CCC-1" to "CCC-1565", "DDD-1" to "DDD-1868" & "EEE-1" to "EEE-2"

Thus, only the remaining amount of **P49,712.83** represents petitioner's valid input VAT directly attributable to zero-rated sales of goods to PEZA entities.

We now delve on the input VAT incurred by petitioner on common ordinary expenses amounting to P2,301,998.98. Upon verification thereof, the Court finds that aside from the disallowances of P645,940.72 recommended by the ICPA, the claimed amount of P175,656.46 should likewise be disallowed for failure to meet the substantiation requirements under Sections 110(A) and 113(A) of the Tax Code, as implemented by Sections 4.104-1, 4.104-5 & 4.108-1 of Revenue Regulations No.7-95:

FINDINGS[25]	**DISALLOWANCES**
Input VAT on purchase of services not supported by official receipts	P 127,773.78
Input VAT on purchase of goods not supported by invoice	581.90
Input VAT on rental payments supported by OR dated outside the year covered by the claim	44,334.54
Input VAT on purchase of goods/services supported by VAT invoice/ORs issued not in the petitioner's name/payor is not indicated	2,936.26
Input VAT on purchase of goods without supporting documents	29.98
Total	**P 175,656.46**

Only that portion of the P1,480,401.80 (P2,301,998.98 less P645,940.72 less P175,656.46) valid input VAT on common ordinary expenses which is allocable to petitioner's substantiated zero-rated sales will be considered for refund. The rate to be applied is based on the total amount of sales and is computed as follows:

Zero-Rated Sales		
Substantiated Zero-Rated Sales	P 1,827,105.36	
Unsubstantiated Zero-Rated Sales	165,129,946.80	P166,957,052.16
Taxable Sales		13,419,573.81
Total Sales		**P180,376,625.97**

Substantiated Zero-Rated Sales		P 1,827,105.36
Divided by Total Sales		÷ P180,376,625.97
Rate of Substantiated Zero-Rated Sales		**1.012939%**

Therefore, only the input VAT of P14,995.57 from ordinary expenses can be attributed to petitioner's substantiated zero-rated sales, as computed below:

Input VAT Claim on common ordinary expenses	P 2,301,998.98
Less: Disallowances	
Per Independent CPA	645,940.72
Per this Court's verification	175,656.46
Validly supported input VAT	P 1,480,401.80
Multiplied by rate of substantiated zero-rated sales	1.012939%
Valid Input VAT on common ordinary expenses attributable to substantiated zero-rated sales	**P 14,995.57**

What is now left to be determined is whether or not petitioner is entitled to the amount of P69,954.55 representing unutilized excess input VAT on purchases of capital goods.

Section 112(B) of the Tax Code, quoted earlier, allows the refund/tax credit of unutilized input VAT paid on capital goods purchased. Relative to the said provision is Section 4.106-1 of Revenue Regulations No. 7-95 which defines "capital goods or properties" as follows:

> "*Capital goods or properties'* refer to goods or properties with estimated useful life greater than one year and which are treated as depreciable assets under Section 29(f), used directly or indirectly in the production or sale of taxable goods or services."

Thus, in order that the items purchased can be classified as capital goods or properties, petitioner must show 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 34F of the NIRC of 1997]; and (3) they are used directly or indirectly in the production or sale of taxable goods or services.

Evidence forwarded to this Court, such as VAT sales invoices/official receipts[26], Journal Vouchers or Transfer Posting Lists[27], Schedule of Furniture and Fixtures[28]/Depreciation Lapsing Schedule for Furniture and Fixtures[29], Schedule of Machinery and Equipment[30]/Depreciation Lapsing Schedule for Machinery and Equipment[31] and Audited Financial Statements[32], proved that the claimed input VAT of P69,954.55 relates to petitioner's purchases of laptops and Microsoft license which (1) have estimated useful life of more than one year; (2) used indirectly in its business, and (3) were capitalized and subjected to depreciation. Therefore, the amount of P69,954.55 represents petitioner's valid input tax claim on capital goods purchased for the year 2003.

To recapitulate, only the substantiated input VAT claim of P134,662.95 which is attributable to petitioner's substantiated zero-rated sales and capital goods purchased for taxable year 2003 is refundable, as computed below:

Input VAT claim pertaining to	**Amount of Input VAT**
1. Purchases of goods that were	
a. subsequently exported	P -
b. sold to zero-rated entities (PEZA)	49,712.83
2. Purchases of ordinary expenses (common)	14,995.57

[26] Exhibits "UU-1", "UU-2", "VV-1", "VV-2", "WW-1", "WW-2", "XX-1" & "XX-2"
[27] Exhibits "UU", "VV", "WW" & "XX"
[28] Exhibit "RR-4", Independent CPA Report, Annex B.1, pages 41-43
[29] Exhibits "YY", "YY-1", "YY-2" & "YY-3"
[30] Exhibit "RR-4", Independent CPA Report, Annex B.2, pages 44-45

3. Purchases of capital goods		69,954.55
Valid Input VAT attributable to capital goods purchased and substantiated zero-rated sales	**P**	**134,662.95**

Inasmuch as petitioner's input tax credits directly attributable to its domestic sales in the amount of P28,153.07 and input tax credits directly attributable to its declared zero-rated export sales in the amount of P10,045,631.80 are sufficient to cover its output VAT liability of P1,341,957.38, no amount of the substantiated input VAT claim of P134,662.95 shall be applied against any output VAT.

As to whether or not the subject claim was carried-over/applied in the succeeding quarters, petitioner's Quarterly VAT Return for the first quarter of 2004 reflected the amount of P17,583,463.92 as "Input Tax Carried Over from Previous Quarter"[33], however, the same pertains to the excess input tax for the fourth quarter of 2002 in the amount of P17,555,310.89 plus the input VAT from taxable domestic sales of P28,153.07 which was deducted from the subject claim. Moreover, it was established that said input VAT was not carried-over in the succeeding quarter(s) as shown in petitioner's amended Quarterly VAT Returns for the four taxable quarters of 2004[34] and 2005[35] and the Original Quarterly VAT Returns for the First[36] and Second[37] Quarters of 2006.

Finally, as to the timeliness of the filing of the instant claim, it has been held that the two-year prescriptive period for the filing of VAT refund claims is

[33] Exhibit "Y"
[34] Exhibits "Y', "Z", "AA" & "BB"
[35] Exhibits "FF", "HH", "JJ" & "LL"

reckoned from the date of filing of the corresponding Quarterly VAT Returns.[38] The earliest quarter covered by the instant Petition is the first quarter of 2003 for which petitioner originally filed its Quarterly VAT Return on April 23, 2003[39]. Counting from this date, both the administrative claim filed on April 20, 2005[40] and the Petition for Review filed on April 21, 2005 fall within the two-prescriptive period.

WHEREFORE, the instant **PETITION FOR REVIEW** is **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED to REFUND** or in the alternative**, ISSUE a TAX CREDIT CERTIFICATE** in the amount of **ONE HUNDRED THIRTY FOUR THOUSAND SIX HUNDRED SIXTY TWO AND 95/100 PESOS (P134,662.95)** in favor of petitioner, representing unutilized excess input taxes attributable to zero-rated sales for the four taxable quarters of 2003.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(with Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

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[38] Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue, G.R. Nos. 141104 & 148763, June 7, 2007

CERTIFICATION

Pursuant to Article VIII, Section 13 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's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

MARUBENI PHILIPPINES CORPORATION,
Petitioner,

~ *versus* ~

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 7223

Members:

ACOSTA, *Chairperson,*
BAUTISTA, *and,*
CASANOVA, *JJ.*

Promulgated:
DEC 1 5 2009; 3:45pm

x - x

DISSENTING OPINION

With all due respect to the majority, I dissent from their opinion.

I vote to dismiss the petition for review for the reason that it was prematurely filed before the Court in accordance with Section 112(A) in relation to Section 112(D) of the 1997 National Internal Revenue Code (NIRC).

In the majority's opinion, the Court, granted the petition for review which seeks the refund or issuance of a tax credit certificate in the amount of P11, 139,650.19, allegedly representing petitioner's unutilized excess input value added tax (VAT) on purchases of capital goods and domestic purchases of goods and services directly attributable and/or allocable to its zero-rated sales for the four quarters of taxable year 2003, but only in the amount of P134,662.95. The Court did not take into consideration the date of filing of petitioner's administrative claim for refund which is April 20, 2005, as well as, its date of filing before this Court, which is April 21, 2005.

Sections 112(A) and (D) of the 1997 NIRC provide the basis and procedure for refunds or tax credits of input tax attributable to zero-rated sales, to wit:

> **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 of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.
>
> XXX XXX XXX
>
> (D) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of compete documents in support of the application filed in accordance with Subsections (A) and (B) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, **the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals**. (Emphasis Ours).

Applying the foregoing to the case at bar, petitioner, after filing its administrative claim on April 20, 2005, has to await one hundred twenty (120) days for the respondent to act on it before filing its judicial claim for refund or tax credit before this Court, since only then is petitioner allowed within thirty (30) days to file its judicial claim. Apparently in this case, the petitioner swiftly filed its judicial claim the next day after submitting its administrative claim or on April 21, 2005. Said filing is a violation of the doctrine of exhaustion of administrative remedies.

It is already well settled that non-exhaustion of administrative remedies is not jurisdictional. It only renders the action premature, *i.e.*, the claimed cause of action is not ripe for judicial determination and for that reason a party has no cause of action to ventilate in court.[1] The premature invocation of court's intervention is fatal to one's cause of action. Accordingly, absent any finding of waiver or *estoppel,* the case is susceptible of dismissal for lack of cause of action.[2]

I vote to deny the petitioner's claim for refund on the basis of petitioner's violation of the doctrine of exhaustion of administrative remedies by failing to properly apply Section 112(A) in relation to Section 112(D) of the 1997 NIRC.

ERNESTO D. ACOSTA
Presiding Justice

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[1] *Carale vs. Abarintos,* GR No. 120704, March 3, 2009.
[2] *Paat vs. Court of Appeals,* G.R. No. 111107, January 10, 1997; 266 SCRA 167, pp. 175-177.

Annex A

MARUBENI PHILIPPINES CORPORATION
vs. COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 7223
ADDITIONAL INPUT VAT DISALLOWANCES
PER THE COURT'S VERIFICATION

1.) Input VAT on purchase of services not supported by official receipts

Month	Exhibit No.	Supplier	Input Vat
April	BBB-357 to BBB-362	Globe Telecom	203.30
April	BBB-363 to BBB-369	Globe Telecom	54.30
April	BBB-370 to BBB-378	Globe Telecom	230.21
April	BBB-370 to BBB-378	Globe Telecom	230.21
April	BBB-379 to BBB-384	Globe Telecom	24.20
April	BBB-385 to BBB-390	Globe Telecom	209.88
April	BBB-391 to BBB-397	Globe Telecom	65.23
April	BBB-12 to BBB-18	PLDT	443.47
April	BBB-19 to BBB-23	PLDT	174.26
April	BBB-24 to BBB-30	PLDT	207.06
April	BBB-31 to BBB-35	PLDT	3,200.00
April	BBB-36 to BBB-40	PLDT	186.50
April	BBB-41 to BBB-45	PLDT	326.74
April	BBB-46 to BBB-50	PLDT	172.79
April	BBB-51 to BBB-57	PLDT	170.98
April	BBB-51 to BBB-57	PLDT	228.13
April	BBB-58 to BBB-63	PLDT	162.15
April	BBB-58 to BBB-63	PLDT	162.15
April	BBB-64 to BBB-86	PLDT	3,584.37
April	BBB-87 to BBB-91	PLDT	146.39
April	BBB92- to BBB-98	PLDT	310.36
April	BBB-99 to BBB-106	PLDT	404.12
April	BBB-107 to BBB-114	PLDT	255.36
April	BBB-115 to BBB-122	PLDT	208.82
April	BBB-123 to BBB-129	PLDT	204.68
April	BBB-123 to BBB-129	PLDT	136.41
April	BBB-130 to BBB-143	PLDT	235.12
April	BBB-130 to BBB-143	PLDT	160.14
April	BBB-130 to BBB-143	PLDT	234.93
April	BBB-153 to BBB-158	Smart Communications Inc.	132.41
April	BBB-159 to BBB-167	Smart Communications Inc.	169.19
April	BBB-159 to BBB-167	Smart Communications Inc.	50.91
April	BBB-168 to BBB-170	Sugi Management Corp	287.00
May	BBB-634 to BBB-640	Globe Telecom	137.19
May	BBB-641 to BBB-647	Globe Telecom	55.93
May	BBB-648 to BBB-668	Globe Telecom	308.94
May	BBB-648 to BBB-668	Globe Telecom	72.78
May	BBB-669 to BBB-675	Globe Telecom	127.77
May	BBB-676 to BBB-681	Globe Telecom	72.60
May	BBB-682 to BBB-689	Globe Telecom	231.82
May	BBB-690 to BBB-697	Globe Telecom	324.44
May	BBB-690 to BBB-697	Globe Telecom	83.85
May	BBB-698 to BBB-706	Globe Telecom	205.33
May	BBB-707 to BBB-715	Globe Telecom	90.22
May	BBB-716 to BBB-722	Globe Telecom	45.28
May	BBB-723 to BBB-729	Globe Telecom	253.59
May	BBB-826 to BBB-830	PLDT	166.55

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Month	Exhibit No.	Supplier	Input Vat
May	BBB-831 to BBB-836	PLDT	83.36
May	BBB-837 to BBB-843	PLDT	435.69
May	BBB-844 to BBB-849	PLDT	263.29
May	BBB-850 to BBB-855	PLDT	3,200.00
May	BBB-856 to BBB-864	PLDT	153.34
May	BBB-865 to BBB-869	PLDT	166.26
May	BBB-870 to BBB-877	PLDT	171.14
May	BBB-878 to BBB-884	PLDT	189.77
May	BBB-885 to BBB-893	PLDT	157.95
May	BBB-894 to BBB-899	PLDT	137.23
May	BBB-900 to BBB-904	PLDT	294.86
May	BBB-905 to BBB-910	PLDT	394.75
May	BBB-911 to BBB-915	PLDT	179.99
May	BBB-916 to BBB-920	PLDT	229.47
May	BBB-921 to BBB-927	PLDT	379.89
May	BBB-928 to BBB-931	PLDT	135.39
May	BBB-932 to BBB-936	PLDT	144.90
May	BBB-935 to BBB-941	PLDT	326.74
May	BBB-942 to BBB-946	PLDT	3,200.00
May	BBB-947 to BBB-951	PLDT	183.61
May	BBB-952 to BBB-958	PLDT	315.01
May	BBB-959 to BBB-963	PLDT	239.88
May	BBB-964 to BBB-972	PLDT	189.06
May	BBB-964 to BBB-972	PLDT	254.58
May	BBB-964 to BBB-972	PLDT	187.42
May	BBB-1036 to BBB-1039	Skycable Central CATV, Inc.	736.90
June	BBB-1167 to BBB-1184	C.P.K.	96.95
June	BBB-1198 to BBB-1202	Fuji Xerox Philippines	2,834.15
June	BBB-1234 to BBB-1240	Globe Telecom	35.32
June	BBB-1241 to BBB-1254	Globe Telecom	167.51
June	BBB-1241 to BBB-1254	Globe Telecom	230.58
June	BBB-1241 to BBB-1254	Globe Telecom	74.51
June	BBB-1255 to BBB-1260	Globe Telecom	12.10
June	BBB-1261 to BBB-1267	Globe Telecom	83.74
June	BBB-1268 to BBB-1274	Globe Telecom	221.37
June	BBB-1275 to BBB-1281	Globe Telecom	127.26
June	BBB-1282 to BBB-1287	Globe Telecom	72.60
June	BBB-1288 to BBB-1294	Globe Telecom	284.00
June	BBB-1295 to BBB-1302	Globe Telecom	1,573.04
June	BBB-1167 to BBB-1184	Makati Shangri-la Manila	127.27
June	BBB-1385 to BBB-1389	PLDT	66.92
June	BBB-1390 to BBB-1394	PLDT	331.96
June	BBB-1395 to BBB-1417	PLDT	3,578.55
June	BBB-1418 to BBB-1423	PLDT	198.93
June	BBB-1424 to BBB-1428	PLDT	168.85
June	BBB-1429 to BBB-1433	PLDT	137.81
June	BBB-1434 to BBB-1439	PLDT	66.27
June	BBB-1440 to BBB-1444	PLDT	183.98

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Month	Exhibit No.	Supplier	Input Vat
June	BBB-1445 to BBB-1449	PLDT	199.73
June	BBB-1450 to BBB-1454	PLDT	349.64
June	BBB-1455 to BBB-1460	PLDT	361.20
June	BBB-1461 to BBB-1465	PLDT	199.08
June	BBB-1466 to BBB-1470	PLDT	219.70
June	BBB-1471 to BBB-1479	PLDT	499.12
June	BBB-1480 to BBB-1485	PLDT	472.97
June	BBB-1486 to BBB-1490	PLDT	176.57
June	BBB-1491 to BBB-1513	PLDT	3,492.51
June	BBB-1523 to BBB-1527	PLDT	3,200.00
June	BBB-1528 to BBB-1532	PLDT	326.74
June	BBB-1533 to BBB-1536	PLDT	158.57
June	BBB-1537 to BBB-1541	PLDT	222.73
June	BBB-1542 to BBB-1548	PLDT	152.68
June	BBB-1542 to BBB-1548	PLDT	251.76
June	BBB-1549 to BBB-1556	PLDT	144.81
June	BBB-1609 to BBB-1614	Smart Communications Inc.	20.50
June	BBB-1615 to BBB-1626	Smart Communications Inc.	350.16
June	BBB-1167 to BBB-1184	The Peninsula Manila	60.00
July	CCC-150 to CCC-154	Globe Telecom	121.00
July	CCC-155 to CCC-159	Globe Telecom	72.66
July	CCC-160 to CCC-164	Globe Telecom	306.84
July	CCC-165 to CCC-168	Globe Telecom	12.10
July	CCC-169 to CCC-173	Globe Telecom	263.98
July	CCC-174 to CCC-180	Globe Telecom	622.57
July	CCC-181 to CCC-185	Globe Telecom	535.36
July	CCC-186 to CCC-190	Globe Telecom	44.66
July	CCC-191 to CCC-195	Globe Telecom	175.27
July	CCC-196 to CCC-201	Globe Telecom	175.97
July	CCC-202 to CCC-206	Globe Telecom	236.58
July	CCC-207 to CCC-211	Globe Telecom	69.78
July	CCC-212 to CCC-216	Globe Telecom	84.57
July	CCC-217 to CCC-220	Globe Telecom	12.10
July	CCC-221 to CCC-229	Globe Telecom	1,222.18
July	CCC-230 to CCC-233	Globe Telecom	145.16
July	CCC-234 to CCC-261	Globe Telecom	546.15
July	CCC-262 to CCC-265	Globe Telecom	72.60
July	CCC-266 to CCC-269	Globe Telecom	234.57
July	CCC-412 to CCC-416	PLDT	359.07
July	CCC-417 to CCC-422	PLDT	606.50
July	CCC-423 to CCC-426	PLDT	190.64
July	CCC-425 to CCC-430	PLDT	148.42
July	CCC-431 to CCC-434	PLDT	162.03
July	CCC-435 to CCC-440	PLDT	3,200.00
July	CCC-441 to CCC-444	PLDT	142.42
July	CCC-445 to CCC-448	PLDT	326.74
July	CCC-449 to CCC-452	PLDT	218.55
July	CCC-453 to CCC-457	PLDT	329.48

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MARUBENI PHILIPPINES CORPORATION
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CTA CASE NO. 7223
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1.) Input VAT on purchase of services not supported by official receipts

Month	Exhibit No.	Supplier	Input Vat
July	CCC-458 to CCC-462	PLDT	64.97
July	CCC-463 to CCC-468	PLDT	247.09
July	CCC-469 to CCC-473	PLDT	256.69
July	CCC-474 to CCC-477	PLDT	233.44
July	CCC-504 to CCC-510	Smart Communication & Post	326.12
August	CCC-625 to CCC-629	Globe Telecom	211.79
August	CCC-630 to CCC-634	Globe Telecom	197.54
August	CCC-635 to CCC-639	Globe Telecom	113.73
August	CCC-640 to CCC-644	Globe Telecom	143.64
August	CCC-645 to CCC-649	Globe Telecom	30.25
August	CCC-650 to CCC-659	Globe Telecom	197.26
August	CCC-650 to CCC-659	Globe Telecom	1,288.24
August	CCC-650 to CCC-659	Globe Telecom	128.23
August	CCC-650 to CCC-659	Globe Telecom	331.91
August	CCC-650 to CCC-659	Globe Telecom	180.82
August	CCC-660 to CCC-665	Globe Telecom	121.00
August	CCC-666 to CCC-670	Globe Telecom	238.84
August	CCC-671 to CCC-675	Globe Telecom	72.60
August	CCC-676 to CCC-680	Globe Telecom	121.00
August	CCC-681 to CCC-685	Globe Telecom	12.10
August	CCC-686 to CCC-690	Globe Telecom	52.88
August	CCC-691 to CCC-695	Globe Telecom	107.11
August	CCC-696 to CCC-700	Globe Telecom	104.06
August	CCC-706 to CCC-710	Globe Telecom	62.78
August	CCC-711 to CCC-716	Grappa's	373.18
August	CCC-797 to CCC-800	PLDT	244.12
August	CCC-801 to CCC-804	PLDT	287.01
August	CCC-803 to CCC-808	PLDT	349.12
August	CCC-809 to CCC-812	PLDT	299.95
August	CCC-813 to CCC-817	PLDT	186.63
August	CCC-818 to CCC-822	PLDT	117.22
August	CCC-818 to CCC-822	PLDT	117.22
August	CCC-818 to CCC-822	PLDT	117.22
August	CCC-823 to CCC-826	PLDT	222.51
August	CCC-827 to CCC-830	PLDT	437.05
August	CCC-831 to CCC-834	PLDT	239.14
August	CCC-835 to CCC-838	PLDT	151.75
August	CCC-839 to CCC-842	PLDT	166.86
August	CCC-843 to CCC-848	PLDT	289.38
August	CCC-849 to CCC-852	PLDT	294.19
August	CCC-853 to CCC-861	PLDT	644.96
August	CCC-862 to CCC-865	PLDT	132.73
August	CCC-866 to CCC-870	PLDT	3,200.00
August	CCC-871 to CCC-875	PLDT	182.96
August	CCC-871 to CCC-875	PLDT	143.11
August	CCC-876 to CCC-898	PLDT	3,564.44
August	CCC-899 to CCC-922	PLDT	3,492.51
August	CCC-923 to CCC-927	PLDT	326.74

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CTA CASE NO. 7223
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1.) Input VAT on purchase of services not supported by official receipts

Month	Exhibit No.	Supplier	Input Vat
August	CCC-928 to CCC-931	PLDT	165.57
August	CCC-1033 to CCC-1037	Smart Communications Inc.	776.71
August	CCC-1038 to CCC-1044	Smart Communications Inc.	380.57
August	CCC-1045 to CCC-1047	Smart Communications Inc.	218.18
September	CCC-1125 to CCC-1128	Bravo Grande Corp Grappa's Restorante	112.56
September	CCC-1247 to CCC-1251	Globe Telecom	300.16
September	CCC-1252 to CCC-1256	Globe Telecom	12.10
September	CCC-1262 to CCC-1266	Globe Telecom	171.84
September	CCC-1373 to CCC-1375	PLDT	207.95
September	CCC-1376 to CCC-1380	PLDT	203.09
September	CCC-1381 to CCC-1383	PLDT	155.85
September	CCC-1381 to CCC-1383	PLDT	155.85
September	CCC-1381 to CCC-1383	PLDT	155.85
September	CCC-1384 to CCC-1386	PLDT	230.56
September	CCC-1387 to CCC-1389	PLDT	308.08
September	CCC-1390 to CCC-1393	PLDT	272.32
September	CCC-1394 to CCC-1397	PLDT	140.39
September	CCC-1394 to CCC-1397	PLDT	309.39
September	CCC-1398 to CCC-1402	PLDT	66.39
September	CCC-1403 to CCC-1407	PLDT	143.11
September	CCC-1408 to CCC-1411	PLDT	320.75
September	CCC-1412 to CCC-1433	PLDT	3,590.19
September	CCC-1434 to CCC-1437	PLDT	326.74
September	CCC-1438 to CCC-1440	PLDT	166.83
September	CCC-1446 to CCC-1452	Philippine Fuji Xerox Corporation	1,397.60
September	CCC-1497 to CCC-1501	Smart Communications Inc.	392.70
September	CCC-1502 to CCC-1508	Smart Communications Inc.	130.82
September	CCC-1502 to CCC-1508	Smart Communications Inc.	44.18
September	CCC-1502 to CCC-1508	Smart Communications Inc.	173.58
October	DDD-357 to DDD-361	PLDT	287.39
October	DDD-362 to DDD-366	PLDT	191.12
October	DDD-367 to DDD-371	PLDT	47.61
October	DDD-372 to DDD-376	PLDT	135.08
October	DDD-377 to DDD-382	PLDT	165.11
October	DDD-383 to DDD-386	PLDT	163.81
October	DDD-387 to DDD-393	PLDT	528.49
October	DDD-394 to DDD-397	PLDT	253.12
October	DDD-398 to DDD-401	PLDT	146.30
October	DDD-402 to DDD-405	PLDT	293.77
October	DDD-406 to DDD-409	PLDT	299.72
October	DDD-410 to DDD-414	PLDT	334.18
October	DDD-415 to DDD-418	PLDT	142.33
October	DDD-419 to DDD-423	PLDT	147.45
October	DDD-424 to DDD-428	PLDT	169.07
October	DDD-429 to DDD-433	PLDT	3,200.00
October	DDD-434 to DDD-437	PLDT	169.22
October	DDD-438 to DDD-442	PLDT	178.20
October	DDD-443 to DDD-446	PLDT	234.80

Annex A

MARUBENI PHILIPPINES CORPORATION
vs. COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 7223
ADDITIONAL INPUT VAT DISALLOWANCES
PER THE COURT'S VERIFICATION

1.) Input VAT on purchase of services not supported by official receipts

Month	Exhibit No.	Supplier	Input Vat
October	DDD-447 to DDD-450	PLDT	142.33
October	DDD-451 to DDD-475	PLDT	3,638.70
October	DDD-476 to DDD-479	PLDT	326.74
October	DDD-480 to DDD-484	PLDT	213.02
October	DDD-485 to DDD-489	PLDT	143.11
October	DDD-485 to DDD-489	PLDT	143.11
October	DDD-485 to DDD-489	PLDT	143.11
October	DDD-490 to DDD-493	PLDT	226.46
October	DDD-494 to DDD-497	PLDT	185.89
October	DDD-498 to DDD-502	PLDT	246.64
October	DDD-503 to DDD-510	PLDT	725.87
October	DDD-511 to DDD-516	PLDT	3,200.00
October	DDD-517 to DDD-521	PLDT	136.64
October	DDD-581 to DDD-583	Smart Communications Inc.	263.64
October	DDD-584 to DDD-590	Smart Communications Inc.	385.04
November	DDD-979 to DDD-985	PLDT	230.40
November	DDD-979 to DDD-985	PLDT	247.71
November	DDD-979 to DDD-985	PLDT	148.36
November	DDD-986 to DDD-990	PLDT	528.29
November	DDD-991 to DDD-995	PLDT	280.14
November	DDD-986 to DDD-1000	PLDT	202.51
November	DDD-1001 to DDD-1005	PLDT	262.02
November	DDD-1006 to DDD-1009	PLDT	325.19
November	DDD-1010 to DDD-1013	PLDT	252.18
November	DDD-1014 to DDD-1018	PLDT	375.81
November	DDD-1019 to DDD-1022	PLDT	146.09
November	DDD-1023 to DDD-1026	PLDT	231.28
November	DDD-1027 to DDD-1030	PLDT	326.74
November	DDD-1031 to DDD-1034	PLDT	138.59
November	DDD-1034 to DDD-1040	PLDT	174.87
November	DDD-1041 to DDD-1045	PLDT	150.42
November	DDD-1046 to DDD-1068	PLDT	3,638.77
November	DDD-1069 to DDD-1072	PLDT	169.23
November	DDD-1073 to DDD-1078	PLDT	3,200.00
November	DDD-1079 to DDD-1082	PLDT	80.40
November	DDD-1083 to DDD-1087	PLDT	110.57
November	DDD-1083 to DDD-1087	PLDT	110.58
November	DDD-1083 to DDD-1087	PLDT	110.58
November	DDD-1088 to DDD-1094	PLDT	584.79
November	DDD-1095 to DDD-1098	PLDT	231.93
November	DDD-1099 to DDD-1102	PLDT	278.69
November	DDD-1170 to DDD-1176	Smart Communications Inc.	435.62
December	DDD-1389 to DDD-1392	Globe Telecom	121.00
December	DDD-1393 to DDD-1396	Globe Telecom	199.08
December	DDD-1397 to DDD-1400	Globe Telecom	72.60
December	DDD-1636 to DDD-1639	PLDT	138.07
December	DDD-1640 to DDD-1644	PLDT	223.35
December	DDD-1645 to DDD-1651	PLDT	3,200.00

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1.) Input VAT on purchase of services not supported by official receipts

Month	Exhibit No.	Supplier	Input Vat
December	DDD-1652 to DDD-1656	PLDT	168.59
December	DDD-1657 to DDD-1661	PLDT	145.57
December	DDD-1662 to DDD-1666	PLDT	326.74
December	DDD-1667 to DDD-1672	PLDT	412.66
December	DDD-1803 to DDD-1808	Smart Communications Inc.	464.66
December	DDD-1848 to DDD-1849	USA & Co.	1,000.00
Total			**127,773.78**

2.) Input VAT on purchase of goods not supported by invoice

Month	Exhibit No.	Supplier	Input Vat
April	BBB-207 to BBB-209	The Landmark Corporation	352.18
May	BBB-1056 to BBB-1058	SM Fairview	33.41
June	BBB-1365 to BBB-1372	Landmark	7.46
June	BBB-1365 to BBB-1372	Landmark	18.08
June	BBB-1365 to BBB-1372	National Bookstore	4.37
June	BBB-1373 to BBB-1375	National Bookstore	78.61
November	DDD-947 to DDD-950	National Bookstore	30.52
November	DDD-951 to DDD-954	National Bookstore	19.09
November	DDD-941 to DDD-946	National Bookstore	38.18
Total			**581.90**

3.) Input VAT on rental payments supported by OR dated outside the year covered by the claim

Month	Exhibit No.	Supplier	Input Vat
April	EEE-1	Johnson Capital Holdings Corporation	7,389.09
May	EEE-1	Johnson Capital Holdings Corporation	7,389.09
June	EEE-1	Johnson Capital Holdings Corporation	7,389.09
July	EEE-1	Johnson Capital Holdings Corporation	7,389.09
August	EEE-1	Johnson Capital Holdings Corporation	7,389.09
September	EEE-1	Johnson Capital Holdings Corporation	7,389.09
Total			**44,334.54**

4.) Input VAT on purchase of goods/services supported by VAT invoice/ORs issued not in the Petitic
Payor is not indicated

Month	Exhibit No.	Supplier	Input Vat
April	BBB-432 to BBB-450	Manila Golf & Country Club, Inc.	266.30
May	BBB-764 to BBB-794	Manila Golf & Country Club, Inc.	401.18
May	BBB-1066 to BBB-1068	The Tea Republic	20.70
June	BBB-1101 to BBB-1103	American Chilis & Bar Restaurant	94.22
June	BBB-1357 to BBB-1359	Manila Mandarin Hotel, Inc.	303.13
June	BBB-1645 to BBB-1647	Tachibana In	270.00
June	BBB-1666 to BBB-1668	Tian-tian Hot Pot & Restaurant Co.	353.00

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MARUBENI PHILIPPINES CORPORATION
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ADDITIONAL INPUT VAT DISALLOWANCES
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1.) Input VAT on purchase of services not supported by official receipts

Month	Exhibit No.	Supplier	Input Vat
July	CCC-1 to CCC-31	3R Imaging	7.10
July	CCC-1 to CCC-31	3R Imaging	7.00
July	CCC-349 to CCC-362	Manila Golf & Country Club, Inc.	19.59
August	CCC-545 to CCC-548	3R Imaging	50.20
August	CCC-750 to CCC-752	Kameraworld Inc.	40.00
August	CCC-753 to CCC-756	Kaya Restaurant	253.39
September	CCC-1534 to CCC-1537	Tsukiji Restaurant	181.82
October	DDD-642 to DDD-644	The Peninsula Manila	124.92
October	DDD-645 to DDD-648	Tian-tian Hot Pot & Restaurant Co.	301.16
November	DDD-964 to DDD-967	Pancake Connection, Inc.	132.50
November	DDD-1128 to DDD-1131	Red Ribbon Bakeshop	41.59
December	DDD-1491 to DDD-1494	La Dulcinea Restaurant, Inc.	68.46
Total			**2,936.26**

5.) Input VAT on purchase of goods without supporting documents

Month	Exhibit No.	Supplier	Input Vat
August		Homeworld	29.98
Total			**29.98**