REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5892

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

JUN 27 2002

x - x

DECISION

This case involves a claim for refund or issuance of a tax credit certificate in the amount of P375,906,449.23 (originally in the amount of P759,526,025.84) representing erroneously paid output value-added tax (VAT, for brevity) for the period May 1, 1997 to December 31, 1997.

The facts as borne out by the pleadings and records of the case are as follows:

Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines with principal office at the Ramon Cojuangco Building, Makati Avenue, Makati City. It is duly licensed to operate a telecommunications system in the Philippines by virtue of a legislative franchise issued on November 28, 1928 under Act No. 3436, as amended by Commonwealth Act No. 407 and further amended by Republic Act No. 6146 and Republic Act No. 7082. Pursuant to the provisions of Republic Act No. 7716, otherwise known as the "Expanded VAT Law", petitioner became subject to VAT beginning January 1, 1996. It is registered with the Bureau of

207

Internal Revenue as a VAT-registered corporation with Taxpayer Identification Number 047-000-488-793-V/NV (*par. 2, Joint Stipulation of Facts, page 72, CTA records*).

For the period May 1, 1997 to December 31, 1997, petitioner seasonably filed its monthly VAT declarations and quarterly VAT returns reflecting, among others, a total output VAT liability in the amount of P1,504,567,329.20 with a gross output tax payment in the sum of P636,989,538.18 (Exhibits A to H, inclusive of submarkings). Petitioner alleged that the aforementioned 10% output VAT liability in the amount of P1,504,567,329.20 was computed based on its gross billings instead of gross receipts as provided under Section 102(a) of the Tax Code.

Believing that the 10% output tax should have been computed based on its gross receipts (or total amount collected) instead of its gross billings, petitioner filed with the Bureau of Internal Revenue on June 24, 1999 a request for a refund/tax credit of overpaid value-added tax in the amount of P759,526,025.84 for the period May to December 1997 (*par. 16, Joint Stipulation of Facts, page 74, CTA records*), computed as follows:

Month	Billed Output VAT (a)	Collected Output VAT (b)	Input VAT (c)	VAT Due and Payable (d)=(b-c)	Actual Remittance (e)	Overpayment (f)=(d-e)
May	P 90,976,280.86	P 72,781,024.69	P 82,291,014.09	P (9,509,989.40)	P 8,685,266.77	P 18,195,256.17
June	176,027,247.86	156,664,250.60	77,285,721.74	79,378,528.86	98,741,526.12	19,362,997.26
July	147,667,752.25	85,647,296.31	102,923,850.30	(17,276,553.99)	44,743,901.95	62,020,455.94
August	144,073,704.68	40,630,637.76	75,522,456.59	(34,891,818.83)	68,551,248.09	103,443,066.92
September	185,710,344.42	57,211,027.31	91,815,676.41	(34,604,649.10)	93,894,668.01	128,499,317.11
October	167,636,292.72	58,268,916.71	73,884,161.27	(15,615,244.56)	93,752,131.45	109,367,376.01
November	173,004,551.00	59,468,389.99	89,064,950.71	(29,596,560.72)	83,939,600.29	113,536,161.01
December	256,793,542.90	51,692,147.48	112,112,347.40	(60,420,199.92)	144,681,195.50	205,101,395.42
	P 1,341,889,716.69	P582,363,690.85	P704,900,178.51	P(122,536,487.66)	P636,989,538.18	**P759,526,025.84**

208

On June 25, 1999, petitioner instituted the instant petition for review in order to toll the running of the two-year prescriptive period under Section 230 of the Tax Code.

In his answer filed on July 12, 1999, respondent raised the following Special and Affirmative Defenses:

> 9. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by respondent's Bureau;
>
> 10. The amount of P759,526,025.84 being claimed by petitioner as alleged overpayment/erroneous payment of value added tax for the period May to December 1997 was not properly documented;
>
> 11. In an action for refund/credit, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;
>
> 12. It is an elementary rule that claims for tax refund/credit are construed in *strictissimi juris* against the taxpayer as they partake the nature of exemption from tax; and
>
> 13. Petitioner must show that it has complied with the provisions of Sections 204(c) and 229 of the 1997 Tax Code on the prescriptive period for claiming tax refund/credit.

The issues we are tasked to resolve have been stipulated by the parties to be as follows:

> 1. Whether or not petitioner overpaid its value-added tax liabilities for the period from May to December 1997; and
>
> 2. Whether or not petitioner is entitled to a refund of the amount of P375,906,449.23 allegedly representing overpaid value-added tax for the period May to December 1997.

Before we delve on the jointly stipulated issues, we find it important to discuss first the correct tax base of the 10% value added tax in case of sale of services.

Petitioner believes that the 10% output VAT should be computed based on gross receipts actually or constructively received. Petitioner cites as legal anchor the provisions of Section 102(a) of the Tax Code [now Section 108(A) of the 1997 Tax Code).

Section 102(a) of the Tax Code is hereby quoted for easy reference:

> **SEC. 102.** ***Value-added tax on sale of services.*** - (a) *Rate and base of tax.* - There shall be levied, assessed and collected, a value-added tax equivalent to *10% percent of* ***gross receipts*** derived from sale or exchange of services, including the use or lease of properties. (Underlining supplied)

It is clear from the above-quoted proviso that the 10% value-added tax should be levied, assessed and collected on the **gross receipts** derived from sale or exchange of services, including the use or lease of properties. 'Gross receipts' as defined in Section 102(a)(8) of the Tax Code means:

> (8) xxx xxx xxx
>
> The term 'gross receipts' means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments **actually or constructively received** during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax.

It can be observed from the foregoing definition of gross receipts that the value-added tax accrues only upon actual or constructive receipt of the consideration, irrespective of whether the service is performed or yet to be performed. It is only upon actual or constructive receipt of payment that a service taxpayer becomes liable to output VAT. Although the taxable transaction is the past, present or future performance of service, the tax accrues only upon actual or constructive receipt of consideration (*The*

Value Added Tax in the Philippines, by Victor A. Deoferio, Jr. and Victorino C. Mamalateo, First Ed., page 103).

On the other hand, respondent avers that petitioner is already liable to pay output tax on the amounts billed but not yet collected. He reasons that the payments were constructively received at the time petitioner recognized the billings as income in its books of accounts.

We do not agree with the respondent.

The term constructively received was misconstrued by the respondent as tantamount to recognition of billings as income in petitioner's books of accounts.

'Constructive receipt' occurs when the money consideration or its equivalent is placed under the control of the person who rendered the service without substantial restrictions by the payor (Section 2(n) of Revenue Regulations No. 5-87). Examples of constructive receipts are:

- Deposit in banks which are made available to the seller of services without restrictions;
- Issuance by the debtor of a notice to offset any debt or obligation and acceptance thereof by the seller as payment for services rendered; and
- Transfer of the amounts retained by the contractee to the account of the contractor (*The Value Added Tax in the Philippines, by Victor A. Deoferio, Jr. and Victorino C. Mamalateo, First Ed., page 103, ibid.*).

Clearly, there will only be constructive receipt when the consideration is already in the control of the person who rendered the service. Thus, mere recording of billings as

211

income in the books of accounts cannot constitute constructive receipt based on the above definition.

What seems to be confusing in the VAT system is the recognition of output VAT liability among service entities using accrual method of accounting. Like the petitioner, the output tax is recognized at the same time the sale of service is recorded in the books of accounts as income, to wit:

> Q. Ms. Witness, I am showing to you a General Ledger with accounts name Output Tax International, Output Tax National and Output Tax Others previously marked as Exhibits "A-2" to "H-2", is this the same output tax you book in the General Ledgers?
>
> A. Yes, the computation of the output taxes as shown in Exhibits "A-2" to "H-2" is the same as what we book in the General Ledger.
>
> xxx xxx xxx
>
> Q. How did you book these output taxes for the period May to December 1997?
>
> A. Our booking of tax is recognized at the point of the recognition of our revenues. xxx.
>
> xxx xxx xxx
>
> Q. Are your computations for Output Taxes for the period May to December 1997 based on collections?
>
> A. No, they are based on billings or billable transactions, which means transactions are not pushed through the billing sheet.
>
> Q. Why do you say so?
>
> A. Because if we recognize the output taxes, we recognize our revenues even before the billing.
>
> Q. What is your accounting entry for recognizing revenues as well as recognizing of an output tax?
>
> A. We debit receivable, credit revenue and output tax. (TSN, March 20, 2000, pages 6 to 8).

2R

At this point, we would like to emphasize that "tax accounting rules for gross receipts within a taxable period for VAT is different from the accrual method of accounting for income tax purposes. Issuing and/or sending a statement of account to the customer for whom the service was rendered or is still to be performed does not create output tax nor does it give rise to input tax (creditable by the VAT-registered customer) until the consideration is paid." (*The Value Added Tax in the Philippines, by Victor A. Deoferio, Jr. and Victorino C. Mamalateo, First Ed., page 103, ibid.*).

In BIR Ruling No. 085-99 dated June 29, 1999, the then Commissioner Beethoven L. Rualo ruled that reporting of output VAT based on accrual method of accounting is not correct and output tax liability should be recorded on cash basis. Thus,

> "This refers to your letter dated May 5, 1999 stating that your client, William Gothong & Aboitiz, Inc. (WG&A) is a domestic corporation duly registered with the Securities and Exchange Commission and with head offices at Sergio Osmeña Blvd, North Reclamation Area, Cebu City; that WG&A is a domestic shipping company engaged in the transport of cargoes; that as such, it is liable to the 10% output VAT on its gross receipts from the aforementioned services; that WG&A's present treatment of the 10% output VAT in its transport of cargoes is to immediately record, recognize and pay the same at the time when the services are recognized and recorded in the book as income for income tax purposes; that just recently, however, your client has obtained a professional advice that it can pay the 10% output VAT at the time when the payment of the services is actually received from the customers pursuant to the provisions of Section 108 of the Tax Code of 1997; xxx.
>
> Based on the foregoing, you now in effect request for a ruling that your client be allowed to pay its VAT output liability based on gross receipts.
>
> In reply, please be informed that Section 108(A) [then Section102(a)] of the Tax Code of 1997 provides that there shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%) of *gross receipts* derived from the sale or exchange of services, including use of

213

> lease of properties. The phrase "*sale or exchange of services*" includes services performed by domestic common carrier by water relative to their transport of goods or cargoes.
>
> On the other hand, Section 108(A)(8) [then Section 102(a)(8)] of the same Code defines "gross receipts" as "the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax."
>
> Such being the case, WG&A being a domestic corporation engaged in the transport of cargoes is well within the coverage of Section 108(A)(8) of the Tax Code of 1997. Its previous practice of reporting VAT on accrual basis is wrong and will cause confusion. Accordingly, WG&A is required by the Tax Code of 1997 to pay its VAT output liability based on its gross receipts pursuant to the aforecited provision. xxx."

The above pronouncement is on all fours with the case at bar.

Indeed, petitioner erred in using its "gross billings" as basis in the computation and recording of its output VAT.

We shall now proceed to the jointly stipulated issues.

During trial, petitioner, pursuant to CTA Circular 1-95, as amended, engaged the services of the independent auditing firm Joaquin Cunanan & Co. to examine its voluminous documents supporting its claim for refund for the period May 1, 1997 to December 31, 1997. Thus, Ms. Irenea R. Vallestero, an Audit Partner of Joaquin Cunanan & Co., was commissioned by the Court to verify the correctness of petitioner's claim for refund. On August 2, 2000, a report dated July 21, 2000 was submitted to the Court detailing the scope of her examination and the conclusion that out of P759,526,025.84 claimed overpaid output VAT of petitioner, only the sum of

P263,539,006.81 represents a valid claim for refund (Exhibit I, inclusive of submarkings), to wit:

"II. CONCLUSION

Based on the results of our examination of the Company's accounting and related records that support the Company's claim for refund of overpaid VAT, such claim requires adjustments as follows:

- Collections not included in the returns from the subscriber-type of revenues filed with the CTA for VAT refund or tax credit purposes amounting to P146,125,304.49 as summarized on Annex C.

- Collections from other types of services subject to VAT, not included in the revenues, amounting to P76,562,872.22 as summarized on Annex D, page 1.

xxx xxx xxx

- Input VAT relating to purchases of goods and/or services which are supported by toll settlement statements amounting to P127,420,324.30 as summarized on Annex E, page 2.

xxx xxx xxx

- Input VAT amounting to P89,256,523.51 relating to purchases of goods and/or services the invoices or statements of account or official receipts of which are not available as summarized on Annex E, page 2.

- Input VAT relating to purchases of goods and/or services which are supported by invoices and/or statements of accounts and/or official receipts with handwritten or rubberstamped or typewritten VAT identification number amounting to P29,494,739.21 as summarized on Annex E, page 2.

- Input VAT relating to purchases of goods and/or services which are supported by invoices and/or statements of account and/or official receipts not within the period covered in the claim amounting to P10,160,269.31 as summarized on Annex E, page 2.

- Input VAT relating to purchases of goods and/or services which are supported by invoices and/or statements of account and/or official receipts without VAT identification number amounting to P9,153,260.68 as summarized on Annex E, page 2.

2K

- Input VAT relating to purchases of goods and/or services which supported by Company-generated documents only such as purchase order, inter-office memo, accounts payable voucher and journal voucher amounting to P5,025,562.15 as summarized on Annex E, page 2.

- Input VAT relating to purchases of goods or services out of working and petty cash funds which were not inspected as agreed upon with Company officials concerned due to immateriality amounting to P2,491,572.43 as summarized on Annex E, page 2.

- Input VAT relating to purchases of goods and/or services which are covered by non-VAT invoices and/or statements of account and/or official receipts amounting to P296,590.73 as summarized on Annex E, page 2.

After effecting the above exclusions aggregating to P495,987,019.03 as shown in annex A, claim for refund of overpaid value added tax would be P263,539,006.81."

The aforequoted conclusion may be simplified as follows:

Output VAT based on collections (table of refund)		P582,363,690.85
Add: Adjustments		
- Collections not included in the returns		
(*Annexes C and D, Exh. I*)		
a. From subscriber-type of revenues	P146,125,304.49	
b. From other types of services	76,562,872.22	222,688,176.71
Total output VAT based on collections		P805,051,867.56
Less: creditable input VAT		
Input VAT per returns	P704,900,178.51	
Less non-creditable input VAT (*Exh. I-4*)	273,298,842.31	431,601,336.20
Output VAT still payable		P373,450,531.36
Less total payments per VAT returns		636,989,538.18
Overpaid Output VAT		P263,539,006.82

For respondent's part, the memorandum report of Revenue Officer I, Ms. Annabeth B. Gutierrez, was presented to prove that petitioner is entitled to the lesser amount of P206,337,817.74 (*Exhibits 1 and 1-a*). In arriving at such finding, the revenue officer charged petitioner of an additional output tax liability in the amount of P5,934,274.13 on

216

exempt and zero-rated transactions using VAT official receipts. She further recommended that petitioner be held liable for tax increments such as surcharge of P44,784,524.23; interest of P6,406,826.71; and compromise penalty of P75,000.00 for late payment of the underdeclared output tax for the months of May, June and July. The numerical details of the said report is presented below:

OUTPUT TAX		
Total Collection (*Annex O, Exh. I*)		P 267,271,683.26
Collections-from subscriber type of revenue excluded from the returns (*Annex C, Exh. I*)		461,217,876.09
Collections-Other Type of Services (P76,562,872.22 + P5,934,274.13)		82,497,146.35
TOTAL OUTPUT TAX		P 810,986,705.70
LESS: INPUT TAX and PAYMENTS		
Allowable Input Tax (*Annex E, p. 1, Exh. I*)	P431,601,336.20	
Payments per VAT Returns	636,989,538.18	1,068,590,874.38
REFUND		P 257,604,168.68
LESS: Increments		
Surcharge	P44,784,524.23	
Interest	6,406,826.71	
Compromise	75,000.00	51,266,350.94
TOTAL REFUNDABLE VALUE-ADDED TAX		P 206,337,817.74

From among the exceptions noted by the commissioned independent CPA and the revenue officer in their respective reports, petitioner made the following reservations: (1) on the exclusion of P118,302,280.55 input VAT supported by toll settlement statements of Joaquin Cunanan & Co.; and (2) on the proposed increments on the underdeclared value added tax for the months of May, June and July 1997 of the revenue office.

We shall tackle the above protestations of petitioner individually.

Input VAT in the amount of P118,302,280.55 supported by Toll Settlement Statements.

217

The amount of P118,302,280.55 was included in the sum of P127,420,324.30 utilized by petitioner as a creditable input VAT but was disallowed by the independent CPA in her report due to invoicing requirements of the Bureau of Internal Revenue. The amount was elucidated by Ms. Vallestero as follows: *(pp. 8 and 9, Exhibit I)*

- "Input VAT relating to purchases of goods and/or services which are supported by toll settlement statements amounting to P127,420,324.30 as summarized on Annex E, page 2.

In compliance with Executive Order No. 59, Series of 1993 and Republic Act No. 7925 otherwise known as the Public Telecommunications Act of the Philippines, the Company has entered into interconnection agreements with various telecommunication carriers/operators. Interconnection is a linkage of two or more existing telecommunications carrier or operator to access or reach the subscribers of the other carrier/operator. This arrangement is subject to revenue sharing as agreed upon by the parties to the agreement. Each party is exclusively responsible for the collection of all charges payable by its respective subscribers and should account for and be responsible to the other telephone carriers/operators for any payments relating to such charges subject to verification by and reconciliation with the other party. Settlement of revenue is being carried out through submission by each party to the other party of a monthly statement summarizing all calls originating from its telecommunication system.

When PLDT billed its subscribers for the period May to December 1997, those billings included the proportionate share in revenue of other telecommunication carrier/operators. The practice of PLDT then was to declare output VAT based on billed revenues which included the proportionate share of other telephone carriers/operators. Instead of reducing the output VAT corresponding to the proportionate share in revenues of other telephone carriers/operators when the related charges were determined, PLDT erroneously recorded the corresponding share by charging input VAT. In substance, no input VAT should have been recorded and correspondingly, the output VAT should have been reduced.

Although the VAT obligations for the same period would have resulted in the same amount had PLDT booked the recording correctly, the implication now relates to the strict invoicing requirements of the BIR for the recorded input VAT to be creditable. The primary document that supports the recorded input VAT by the Company is the Toll Settlement Statement (TSS). TSS did not comply with the invoicing requirements by the BIR for

218

> the related input VAT to be creditable and therefore, we classified this as an exception. TSS is a monthly statement prepared by the Company which details the types of revenues being shared and the computations which maybe necessary to determine the amount to be paid to other parties.
>
> The reduction in output VAT that should have been recorded for the period May to December 1997 as this was the proportionate share in revenues of other telecommunication carriers, instead of charging input VAT for the same period is P138,056,219.82. We were able to inspect the available toll settlement statements amounting to P118,302,280.55. We have also inspected the journal entries in recording the related output VAT which included the proportionate share in revenue of other telecommunication carriers/operators and the subsequent recording of the corresponding input VAT. We have also traced the posting of the output and input VAT to the general ledger used as a basis in declaring and filing the VAT obligations of the Company from May to December 1997."

Hence, petitioner asserts that since the amount of P118,302,280.55 was disallowed as a valid creditable input VAT, the same should be (correctly) treated as a deduction from its gross receipts and consequently, from its output VAT liability.

We agree in part with the petitioner. The amount of P118,302,280.55 should be excluded from its gross receipts because it forms part of the revenue earned by the other telecommunications carriers. And for purposes VAT, the proportionate share of other telecommunications carriers in the amount billed by petitioner to its subscribers should be excluded from gross receipts. This finds support in Revenue Memorandum Circular No. 5-96, thus:

> Q-5 What is the basis in computing VAT payable on transaction of telecommunications companies?
>
> A-5 The basis for computing VAT payable on transactions of telecommunications companies shall be the gross receipts.
>
> Q-6 What is gross receipts for purposes of franchise grantees subject to VAT?
>
> A-6 For purposes of franchise grantees subject to VAT, gross receipts, as defined under Revenue Regulations No. 7-95, refer to the total amount of money or

219

> its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding VAT. However, said gross receipts subject to VAT **shall not include amounts earmarked for payment to another telecommunications company**; foreign administration's (FA's) share for the service performed outside the Philippines, and amounts received from overseas dispatch, message or conversation originating from the Philippines which is covered by Section 118, Title V of the Tax Code. (Underlining supplied).

Despite the above finding, the Court cannot allow the deduction of P118,302,280.55 from the computed output VAT liability of petitioner. It should be noted that TSS is not a valid proof of input VAT and neither do we consider the same as proof of actual output VAT collection. TSS is only a monthly statement prepared by petitioner detailing the types of revenues being shared and the computations which maybe necessary to determine the amount to be paid to the other party. It does not show information with respect to the actual collection of revenue or output tax. Thus, even if petitioner included the share of other telecommunication carriers in its billings to its subscribers, still we cannot trace the amount of revenue due to other carriers.

Earlier, we have ruled that the 10% output tax should be based on the amount actually collected and we stand firm on the said ruling.

Increments on under declared gross receipts for the months of May, June and July 1997

Petitioner vehemently objects to the imposition of tax increments on its underdeclared gross receipts for the months of May, June and July 1997 found by the independent CPA in her report. According to petitioner, such increments should not be

220

imposed because the gross receipts were previously declared in the VAT returns and the corresponding output taxes were already paid *(pp. 7 and 8, Exhibit I)*. The only reason why the said auditing firm adjusted the output tax liability is because petitioner's accounting system is not capable of segregating collections limited for the revenue period May to December 1997.

Petitioner further argues that the assessment for value-added tax increments should neither be offset against the refund nor be heard jointly with the present claim.

Moreover, the said the assessment for tax increments is already barred by prescription.

We find the ratiocinations of the petitioner to be in order.

Time and again, this Court has ruled that report for possible deficiency assessment or a pending assessment for tax should not be an obstacle for a meritorious claim for refund to be granted **(Citytrust Banking Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4099, October 16, 1997; Oranbo Realty Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5335, July 24, 1998; and Pepsi Cola Products Philippines, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5497, January 21, 2000)**.

Moreover, as correctly pointed out by petitioner, the proposed assessment for tax increments is already barred by prescription. Section 203 of the Tax Code, as amended, provides:

> **SEC. 203.** ***Period of limitation upon assessment and collection.*** - Except as provided in the succeeding section, internal revenue taxes shall be assessed within three years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for collection of such taxes shall be begun after the expiration of such period:

> *Provided*, That in a case where a return is filed beyond the period prescribed by law, the three-year period shall be counted from the day the return was filed. For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Records show that the increments on the deficiency output VAT cover the period May, June and July 1997. The second and third quarterly VAT returns covering the aforesaid months were filed by petitioner on July 21, 1997 and October 20, 1997, respectively. Therefore, any deficiency assessment for the second and third quarters of 1997 should be made on or before July 20, 2000 and October 19, 2000, respectively (year 2000 being a leap year). It should be noted that no formal deficiency assessment notice has been issued against petitioner up to the present date. Thus, we see no plausible reason why petitioner should be held liable for the said increments.

Having settled the reservations made by petitioner on the reports made by both the revenue officer and the independent auditing firm, the correct overpaid output taxes is recomputed as follows:

Total output VAT recommended by the respondent		P810,986,705.70
Less creditable input VAT		
Input VAT per returns	P704,900,178.51	
Less noncreditable input VAT	273,298,842.31	431,601,336.20
Output VAT still payable		P379,385,369.50
Less total payments per VAT returns		636,989,538.18
Overpaid Output VAT		P257,604,168.68

WHEREFORE, in view of the foregoing, petitioner's claim for refund is hereby *PARTIALLY GRANTED*. Respondent is **ORDERED to REFUND or ISSUE A TAX**

222

CREDIT CERTIFICATE in the amount of P257,604,168.68 representing erroneously paid output value-added tax for the period May 1, 1997 to December 31, 1997.

SO ORDERED.

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

I CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge