REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

C.T.A. EB No. 484
(C.T.A. Case No. 7419)

-versus-

Present:
Acosta, *P.J.,*
Castañeda, Jr.,
Bautista,
Uy,
Casanova, and
Palanca-Enriquez, *JJ.:*

GST PHILIPPINES, INC.,
Respondent.

Promulgated:
OCT 3 0 2009 GP Apolinario 9:20 a.m.

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DECISION

CASTAÑEDA, JR., J.:

On appeal are the Decision dated January 27, 2009 ordering the Commissioner of Internal Revenue to issue a tax credit certificate in the amount of P27,369,114.36 representing unutilized input value added tax ("VAT") attributable to zero-rated sales for the first quarter of 2004 to the third quarter of 2005 and the Resolution dated March 30, 2009 denying his Motion for Reconsideration, both issued by the Court in Division in C.T.A. Case No. 7419 entitled,"GST Philippines, Inc. vs. Commissioner of Internal Revenue".

THE FACTS

The Commissioner of Internal Revenue as a public official is tasked to decide disputed assessments, refund of erroneously or excessively paid internal revenue taxes, fees or other charges, penalties, or other matters arising under Republic Act (R.A.) No. 8424, as amended or also known as the, "1997 National Internal Revenue Code ("NIRC"), as amended" or other laws administered by the Bureau of Internal Revenue ("BIR").

GST Philippines, Inc. ("GST") is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines. It is a duly registered VAT enterprise with taxpayer identification number ("TIN") 000-155-645-000.[1]

For the first to fourth quarters of year 2004 and first to third quarters of year 2005, GST filed quarterly VAT returns showing its zero-rated sales as follows:

[1] Division Docket, p. 214.

Period	Date of Filing	Zero-Rated Sales
1st Quarter of year 2004	April 16, 2004	P 77,687,420.54
2nd Quarter of year 2004	July 15, 2004	P 53,737,063.05
3rd Quarter of year 2004	October 15, 2004	P 74,280,682.00
4th Quarter of year 2004	January 11, 2005	P 104,633,604.23
1st Quarter of year 2005	April 25, 2005	P 37,742,969.02
2nd Quarter of year 2005	July 19, 2005	P 56,133,761.00
3rd Quarter of year 2005	October 26, 2005	P 51,147,677.80[2]

Convinced that it is entitled to unutilized input VAT of P32,722,109.68 attributable to zero-rated sales for the four quarters of taxable year 2004 and the first three quarters of 2005, GST filed separate claims for refund before the BIR.

The BIR's inaction on its claim for refund prompted GST to file a Petition for Review on March 17, 2006 with the Court in Division.

In ruling for GST, the Court in Division issued a Decision dated January 27, 2009 ordering the Commissioner of Internal Revenue to issue a tax credit certificate in the amount of P27,369,114.36 representing unutilized excess input VAT attributable to zero-rated sales for the first quarter of 2004 to the third quarter of 2005.[3]

Dissatisfied, the Commissioner moved to reconsider the Decision dated January 27, 2009, however, in a Resolution dated March 30, 2009, the Court in Division denied the same due to lack of merit.[4] gc

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[2] Exhibits "G" to "G-6". See Division Records and Division Docket, p. 215.
[3] Penned by Associate Justice Caesar A. Casanova and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justice Lovell R. Bautista. See *en banc* Docket, pp. 23-41.
[4] *en banc* Docket, pp. 43-45.

THE ISSUE

Unfazed, the Commissioner appealed by way of a Petition for Review with the Court *en banc* interposing the lone ground that:

> WHETHER RESPONDENT IS ENTITLED TO A REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE IN THE AMOUNT OF P27,369,114.36 REPRESENTING ALLEGED UNAPPLIED INPUT VAT PAYMENTS ATTRIBUTABLE TO ITS ZERO-RATED SALES FOR THE PERIOD 1 JANUARY 2004 TO 30 SEPTEMBER 2005.[5]

The Commissioner asserts that GST is disqualified to claim the amount of P27,369,114.36 for the period January 1, 2004 until September 30, 2005 due to its failure to comply with the substantiation requirements, namely: the claimed input VAT should be supported by VAT invoices and official receipts; the same must be directly attributable to zero-rated sales; and should not be applied against any output tax carried over to the succeeding months.

Since GST's claim for refund is pending investigation, its claim for refund cannot ipso facto be granted.

GST on the other hand, maintains that the Commissioner had failed to establish that the Court in Division committed errors in granting its claim for refund in the reduced amount of P27,369,114.36 representing

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[5] *en banc* Docket, p. 10.

unutilized excess input VAT attributable to zero-rated sales for the first quarter of 2004 to third quarter of 2005.

GST further points that its incurred excess input VAT in the amount of P32,722,109.68 for the covered period are substantiated by uncontroverted documentary and testimonial evidence.

Contrary to the Commissioner's allegation, GST's excess input VAT payments are attributable to its procurement of goods and services that are directly related to its zero-rated revenues for the same period, as reflected in the independent certified public accountant's report and attested by its budget and accounting officer, Ms. Ma. Lina P. Grecia.

It bears stressing that GST's VAT returns duly filed with the BIR clearly prove the fact that its excess input VAT payments for the same period were not carried over to the next succeeding quarters.

THIS COURT'S RULING

GST COMPLIED WITH THE SUBSTANTIATION REQUIREMENTS SUPPORTING ITS REFUND CLAIM OF P27,369,114.36

The substantiation of input VAT on the purchase of goods and services is incorporated in Sections 110, 106 and 108 of the 1997 NIRC, stating:

"SEC. 110. *Tax Credits.* –

"(A) *Creditable Input Tax.* -

"(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax: xxx xxx xxx

"(2) The input tax on domestic purchase of goods or properties shall be creditable:

"(a) To the purchaser upon consummation of sale and on importation of goods or properties; and xxx xxx xxx

However, in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

xxx xxx xxx

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

"(A) Rate and Base of Tax. – **There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged,** such tax to be paid by the seller or transferor.

"(1) The term '*goods or properties*' shall mean all tangible and intangible objects which are capable of pecuniary estimation and shall include:

xxx xxx xxx

"(D) *Determination of the Tax.* –

"(1) The tax shall be computed by multiplying the total amount indicated in the **invoice** by one-eleventh (1/11).

xxx xxx xxx

"SEC. 108. ***Value-added Tax on Sale of Services and Use or Lease of Properties. –***

"(A) Rate and Base of Tax.– **There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%)** *gc*

of gross receipts derived from the sale or exchange of services, including the use or lease of properties.

"The phrase '*sale or exchange of services*' means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including 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.

xxx xxx xxx

(C) *Determination of the Tax.* – The tax shall be computed by multiplying the total amount indicated in the **official receipt** by one-eleventh (1/11) (Emphasis supplied.)

xxx xxx xxx

The VAT on the sale of goods or properties accrues upon the ***consummation of sale*** regardless of whether or not the consideration thereof was actually received by the seller. It is for this reason that the afore-cited Section 106(D) (1) of the 1997 NIRC provides that the tax shall be computed by multiplying the total amount indicated in the ***invoice*** by one-eleventh (1/11). On the other hand, the VAT on the sale of services arises upon ***actual or constructive receipt of the consideration***, irrespective of whether or not the service has been rendered. In addition to this, Section 108(C) of the 1997 NIRC provides that the tax on the sale of services shall be computed by multiplying the total amount indicated in the ***official receipt*** by 1/11.[6]

Irrespective of the nature of the transaction, be it taxable, exempt, or zero-rated sales, the taxpayer shall issue VAT invoices pertaining to sales of goods, and official receipts as to sales of services.[7]

In the case of *AT & T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*[8], this Court explained the relevance of sales of services documented by official receipts and sales of goods by invoices, *viz:*

> xxx xxx xxx For every **sale of services, VAT shall be computed on the basis of gross receipts indicated in the official receipt**. The sale transaction becomes subject to VAT upon the actual or constructive receipt of the consideration whether or not the service has been rendered. In the same transaction, the output VAT of the seller becomes the input VAT of the purchaser.
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> This is to avoid the situation where the government could end up refunding a tax which was not even paid. It should be noted that the seller will only become liable to pay the output VAT upon receipt of payment from the purchaser. If we are to use sales invoice in the sale of services, an absurd situation will arise when the purchaser of the service can claim tax credit representing input VAT even before there is payment of the output VAT by the seller on the sale pertaining to the same transaction. As a matter of fact if the seller is not paid on the transaction, the seller of service would legally not have to pay output tax while the

[6] *Nippon Express Philippines, Inc. vs. Commissioner of Internal Revenue*, C.T.A. EB Case No. 335, August 20, 2008.
[7] *AT & T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, Resolution, C.T.A. EB No. 291, April 2, 2008.
[8] *AT & T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, C.T.A. EB No. 381, September 24, 2008. See also Northern Mindanao Power Corporation vs. Commissioner of Internal Revenue, C.T.A. No. EB No. 312, July 18, 2008 and *Team Sual Corporation (formerly "Mirant Sual Corporation" and "Southern Energy Pangasinan, Inc.") vs. Commissioner of Internal Revenue*, C.T.A. EB Case No. 400, March 11, 2009.

purchaser may legally claim input tax credit thereon. The government ends up refunding a tax which has not been paid at all. Hence, to avoid this, official receipt for the sale of services is an absolute requirement.

While the use of official receipt as proof of sale of services and sales invoice for sale of goods has already been recognized in NIRC of 1997 prior to its amendment, it was even clarified in the subsequent law under Republic Act (RA) No. 9337. In fact, during the Senate deliberation of Senate Bill No. 1950 which later on became RA No. 9337, it can be reasonably concluded that the true intendment of the legislature is to make a distinction between the VAT invoice and official receipt. The pertinent portion of the Senate deliberation provides:

> The President: Mr. Sponsor, is it not better if we delegate these matters of strict implementation to the BIR rather than define it here in the law which might be difficult to change later on should there be a need to change it? These are matters of implementation and administration. If we provide appropriate standards, maybe we can delegate these implementation provisions to the Bureau Internal Revenue. Would that be an acceptable idea to the sponsor?
>
> Senator Recto: To improve the system, Mr. President, **I think that we are better off putting it in the law insofar as a VAT invoice is for goods; a receipt is for services. And then it should be clear in the law that if one is selling an exempt product, it should be exempt; if one is selling a zero-rated product, it should be zero-rated; if one is selling at 10%, it should be 10%** so that it is clear to the consumer, to the taxpayer, how much taxes he paid. That is found in Europe.

Clearly, official receipt cannot be interchanged with sales invoice. Accordingly, the request of issuing a duly registered VAT official receipt with the imprinted word zero-rated" is mandatory under the law and cannot be substituted especially for input VAT refund purposes. The law itself specified that an official receipt shall cover sales of services. It did not provide for any other document which can be used as an alternative to or in lieu of an official receipt.[9] (Emphasis supplied.)

The invoices or official receipts shall contain information issued for sale of goods and services by all VAT registered persons in accordance

[9] *Ibid.*

with Section 113 of the 1997 NIRC and Section 4.108-1 of Revenue Regulations No. 7-95[10], to wit:

"SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –

"(A) *Invoicing Requirements.* –xxx xxx xxx

"(1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and

"(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.

xxx xxx xxx

VAT INVOICE OR RECEIPT

SEC. 4.108-1. Invoicing Requirements – All VAT-registered person shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:

1. the name, TIN and address of seller;
2. date of transaction;
3. quantity, unit cost and description of merchandise or nature of service;
4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
5. the word "zero-rated" imprinted on the invoice covering zero-rated sales; and
6. the invoice value or consideration.

Non-compliance with the invoicing requirements results to a denial of a claim for refund or tax credit of input tax on the purchase of goods and services pursuant to Revenue Memorandum Circular No. 42-03[11]: *gr*

[10] Consolidated Value-Added Tax Regulations dated December 9, 1995.
[11] 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

Without the VAT official receipts evidencing its zero-rated revenues, the input VAT payment alleged to be directly attributable thereto cannot be refunded or tax credit certificates cannot be issued in accordance with Revenue Memorandum Circular (RMC) No. 42-2003. RMC No. 42-2003 clarified the issue relative to the failure of a claimant to comply with certain invoicing requirements. Pertinently, said Circular provides:

'A-13. Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.

If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g., failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer.[12]

Per Court's verification and the independent certified public accountant's findings, the disallowed amount is P209,868.11; only the claimed input VAT of P32,512,241.57 is properly substantiated by VAT invoices or official receipts and only the input VAT of P32,232,636.29 can be attributed to GST's substantiated zero-rated sales of P451,456,163.84. The Division aptly observed that:

Based on the review and validation of the commissioned CPA, out of the total input VAT of P32,722,109.68, only the amount of P32,651,524.03 represents petitioner's valid claim. The exceptions found are shown below:

Inter-Agency Tax Credit, & Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.

[12] Supra note 6.

Description	**Reference (Annexed to Exh. VV)**	**Amount**
a. Purchases not supported by document vouchers, suppliers' official receipts and/or sales invoices	Annex A.1	P 39, 342.95
b. Purchases of goods not within the covered period	Annex A.2	766.05
c. Purchases of services with no date in official receipts	Annex. A.3	7,292.35
d. Supplier's official receipts/sales invoices not in the name of GST	Annex A.4	7,238.54
e. Suppliers' TIN not indicated in their official receipts and/or sales invoices	Annex A.5	1,069.09
f. Non-vatable payments made to banks	Annex A.6	14,876.68
TOTAL		P 70,585.65

Nevertheless, upon further examination of the invoices submitted by petitioner, the amount of P32,651,524.03 recommended by the commissioned CPA should be further reduced by P139,282.46 for failure to meet the invoicing requirements mandated under Sections 113, 237 and 238 of the 1997 National Internal Revenue Code of 1997, as amended, as well as Section 4.108-1 of RR 7-95 (See Annex 1 for details):

Additional Disallowances	**Amount**
1. Purchase of services not supported by official receipts	P 81,076.88
2. Purchase of services supported by undated OR/Petitioner's name not indicated in the OR	40,144.06
3. Purchase of goods supported by invoices that are not duly registered	17,608.57
4.Purchases of goods/services without supporting documents	452.95
TOTAL	**P 139,282.46**

Therefore, only the claimed input VAT of P32,512,241.57 was properly substantiated by VAT invoices or official receipts and only the input VAT of P32,232,636.29 can be attributed to petitioner's substantiated zero-rated sales of P451,456,163.84, computed below: *ge*

Input VAT Claim	P	32,722,109.68
Less: Disallowances		
Per Independent CPA		70,585.65
Per this Court's further verification		139,282.46
Validly supported input VAT	P	32,512,241.57
Multiply by rate of substantiated zero-rated sales		99.14%
Valid Input VAT attributable to substantiated zero-rated sales	**P**	**32,232,636.29**

> Also, these input VAT in the amount of P32,232,636.29 is found not to be applied against any output VAT and/or carried over to the succeeding taxable quarters(s). In petitioner's quarterly VAT returns of the subject period of claim showed that the amount of P32,232,636.29 is already net of its total output tax liability of P98,151.60 for the same period. Thus, petitioner has complied with the fourth requisite pursuant to Section 112 (A) of the NIRC of 1997, as amended.[13]

Considering that the Commissioner through Assistant Commissioner Nestor S. Valetoso issued a tax credit certificate in the amount of P4,863,521.93, GST's refundable input VAT is P27,369,114.36.[14]

REFUND CLAIMS FILED BOTH IN THE ADMINISTRATIVE AND JUDICIAL LEVELS WERE UNDERTAKEN WITHIN THE REGLEMENTARY PERIOD

According to the Commissioner, GST failed to specify the date when it submitted supporting documents relevant to the claimed amount. The Petition for Review filed with the Court in Division should have been denied for failure to observe the legally mandated procedure. Refund

[13] *en banc* Docket, pp. 37-39.
[14] Division Docket,p.388.

claims shall be construed strictly against the taxpayer, thus, the failure to submit relevant documents is fatal to such refund claim.

GST counters that its Petition for Review filed with the Court in Division was undertaken within the reglementary period.

We disagree with the Commissioner's arguments that the Petition for Review was filed beyond the prescriptive period.

The prescriptive period of refund of excess or unutilized input VAT attributable to zero-rated or effectively zero-rated sales is governed by Section 112 of the 1997 NIRC:

> "*SEC.112. Refunds or Tax Credits of Input Tax. – xxx xxx xxx*
>
> "*(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: 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 complete 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 prescribed above, **the taxpayer affected may within thirty (30) days from 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.** xxx xxx xxx. (Emphasis supplied.)

Under the law, the taxpayer ***may*** seek judicial redress for refund on excess or unutilized input VAT attributable to zero-rated sales or effectively zero-rated sales with the Court of Tax Appeals either within thirty (30) days from receipt of the denial of its claim for refund/tax credit, or after the lapse of the one hundred twenty (120) day period in the event of inaction by the Commissioner; **provided that both administrative and judicial remedies must be undertaken within the two (2) year period from the close of the taxable quarter when the relevant sales were made.** If the two year period is about to lapse, but the BIR has not yet acted on the application for refund, the taxpayer should file a Petition for Review with this Court within the two year period. Otherwise, the refund claim for unutilized input value added tax attributable to zero-rated sales is time barred.[15]

Subsections (A) and (D) of Section 112 of the 1997 NIRC under the heading "Refunds or Tax Credits of Input Tax.-" should be read in its entirety not in separate parts. Subsection (D) cannot be isolated from the rest of the subsections of Section 112 of the 1997 NIRC. A statute is passed as a whole, and is animated by one general purpose and intent. Its

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[15] *Commissioner of Internal Revenue vs. Team Energy Corporation*(Formerly: Mirant Pagbilao Corporation), C.T.A. EB Case No. 422, August 14, 2009; *Commissioner of Internal Revenue vs. San Roque Power Corporation*, C.T.A. EB Case No. 408, March 25, 2009; *Commissioner of Internal Revenue vs. CE Cebu Geothermal Power Company, Inc.*, C.T.A. EB No. 426 and *CE Cebu Geothermal Power Company, Inc. vs. Commissioner of Internal Revenue*, C.T.A. EB No. 427, May 29, 2009 citing *Commissioner of Internal Revenue vs. Toledo Power Inc.*, C.T.A. EB Case No. 321, May 7, 2008. See *Commissioner of Internal Revenue vs. Mirant Pagbilao Corporation(Formerly Southern Energy Quezon, Inc.)*, G.R. No. 172129, September 12, 2008.

meaning cannot be extracted from any single part thereof but from a general consideration of the statute as a whole.[16]

In the case of *Commissioner of Internal Revenue vs. Mirant Pagbilao Corporation (Formerly Southern Energy Quezon, Inc.)*[17], input VAT payments on purchases were made from April 1993 to September 1996; while zero-rated sales from Mirant to National Power Corporation transpired in 1998. The *Mirant Pagbilao* case illustrates how the two year prescriptive period applies in refund claims of excess input VAT payments attributable to zero-rated or effectively zero-rated sales as follows:

> The above proviso clearly provides in no uncertain terms that unutilized input VAT payments not otherwise used for any internal revenue tax due the taxpayer must be claimed within two years reckoned from the close of the taxable quarter when the relevant sales were made pertaining to the input VAT regardless of whether said tax was paid or not. As the CA aptly puts it, albeit it erroneously applied the aforequoted Section 112(A), "[P]rescriptive period commences from the close of the taxable quarter when the sales were made and not from the time the input VAT was paid nor from the time the official receipt was issued." Thus, when a zero-rated VAT taxpayer pays its input VAT a year after the pertinent transaction, said taxpayer only has a year to file a claim for refund or tax credit of the unutilized creditable input VAT. The reckoning frame would always be the end of the quarter when the pertinent sales or transaction was made, regardless when the input VAT was paid. Be that as it may, and given the last creditable input VAT due for the period covering the progress billing of September 6, 1996 is the third quarter of 1996 ending on September 30, 1996, any claim for unutilized creditable input VAT refund or tax credit for said quarter prescribed two years after September 30, 1996 or, to be precise, on September 30, 1998. Consequently, MPC's claim for refund or tax credit filed on December 10, 1999 had already prescribed.[18]

[16] *Romeo P. Gerochi vs. Department of Energy*, G.R. No. 159796, July 17, 2007, 527 SCRA 696 and Freedom from Debt Coalition vs. Energy Regulatory Commission, G.R. No. 161113, June 15, 2004, 432 SCRA 157.
[17] G.R. No. 172129, September 12, 2008.
[18] *Ibid.*

In the instant case, GST filed its refund claim before the administrative and judicial levels on the following dates:

Period	Last Day of Filing Refund Claim	Date of Filing of Administrative Claim for Refund	Date of Filing of the Judicial Claim for Refund
First Quarter of 2004	March 31, 2006	June 9, 2004	March 17, 2006
Second Quarter of 2004	June 30, 2006	August 12, 2004	March 17, 2006
Third Quarter of 2004	September 30, 2006	February 18, 2005	March 17, 2006
Fourth Quarter of 2004	December 31, 2006	February 18, 2005	March 17, 2006
First Quarter of 2005	March 31, 2007	May 11, 2005	March 17, 2006
Second Quarter of 2005	June 30, 2007	November 18, 2005	March 17, 2006
Third Quarter of 2005	September 30, 2007	November 18, 2005	March 17, 2006[19]

Clearly, the administrative claims for refund filed on June 9, 2004, August 12, 2004, February 18, 2005, May 11, 2005 and November 18, 2005 and Petition for Review filed with the Court in Division on March 17, 2006 involving the first quarter of 2004 until the third quarter of 2005 are well within the reglementary period.

WHEREFORE, premises considered, the Petition for Review is hereby **DISMISSED**. The assailed Decision dated January 27, 2009 and the Resolution dated March 30, 2009 are **AFFIRMED**.

SO ORDERED.

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

[19] Exhibits "I", "J", "K", "L" and "M". See Joint Stipulation of Facts and Issues, Division Docket, p. 215.

WE CONCUR:

(With Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

(With Separate Concurring and Dissenting Opinion)
LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

(Concurs with the Concurring and Dissenting Opinion of Justice Bautista)
CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

C E R T I F I C A T I O N

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.

ERNESTO D. ACOSTA
Presiding Justice