REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

TOLEDO POWER COMPANY, Petitioner,	**CTA Case Nos. 7233 & 7294** **(CTA EB No. 708)**
-versus-	**Members:** **BAUTISTA,** *and* **CASANOVA.**
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JUL 13 2018 3:29 pm

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AMENDED DECISION

This is an Amended Decision rendered only in CTA Case No. 7233 pursuant to the Decision[1] of the Special First Division of Supreme Court in the case of *"Toledo Power Company vs. Commissioner of Internal Revenue"*, docketed as G.R. No. 199645, promulgated on August 10, 2015, to wit:

> "**WHEREFORE**, premises considered, the Petition in G.R. No. 195175 is **DENIED**, while the Petition in G.R. No. 199645 is **PARTLY GRANTED**. Accordingly, the case in G.R. No. 199645 is hereby **REMANDED** to the Court of Tax Appeals insofar as the Petition in C.T.A. Case No. 7233, for the purpose of the computation of the refundable input VAT attributable to the zero-rated or effectively zero-rated sales of Toledo Power Corporation for the first quarter of 2003.
>
> **SO ORDERED**."

The above-captioned consolidated cases involve the claim for refund or issuance of tax credit certificate ("TCC") of Toledo Power Company ("TPC") against the Commissioner of Internal Revenue ("CIR").

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[1]En Banc Rollo (CTA EB No. 589), pp. 162-170.

In **CTA Case No. 7233,** the amount prayed for refund or issuance of TCC is ₱3,907,783.80, representing TPC's unutilized input VAT for the first quarter of 2003.[2]

In **CTA Case No. 7294**, the amount prayed for refund or issuance of TCC is ₱2,124,847.14, representing TPC's unutilized input VAT for the second quarter of 2003.[3]

The facts of the above-captioned cases, as narrated in this Court's Decision[4] dated December 15, 2009 remain undisputed.

On April 22, 2005, TPC filed a Petition for Review with the Court of Tax Appeals ("CTA"), docketed as CTA Case No. 7233, praying for the refund or issuance of TCC in the amount of ₱3,907,783.80, representing its unutilized input VAT from domestic purchase of taxable goods and services, and the importation of goods attributable to zero-rated sales for the first quarter of 2003.[5]

Another Petition was filed by TPC before the CTA on July 22, 2005, docketed as CTA Case No. 7294, praying for the refund or issuance of TCC of the alleged unutilized input VAT for the second quarter of 2003 in the total amount of ₱2,124,847.14.[6]

In a Resolution promulgated on September 22, 2005, the CTA Special First Division consolidated CTA Case No. 7294 with CTA Case No. 7233.[7]

On December 15, 2009, the CTA Special First Division partially granted[8] the refund, but in the reduced amount of P185,395.11.

Upon Motion for Partial Reconsideration of both parties, this Court, citing the case of *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*[9] rendered an Amended Decision[10] on

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[2] Par. 2, August 10, 2015 Decision of the Supreme Court, En Banc Rollo (CTA EB No. 589), p. 164
[3] Par. 3, Ibid.
[4] Annex "B" to the Petition for Review, CTA EB No. 708 (CTA Case Nos. 7233 and 7294), En Banc Rollo, pp. 842-847.
[5] Par. 2, Ibid.
[6] Par. 3, Id.
[7] Last par., December 15, 2009 Decision of CTA First Special Division, Annex "B" to the Petition for Review, En Banc Rollo (CTA EB No. 708), pp. 845-846.
[8] Decision, Annex "B" to the Petition for Review, En Banc Rollo (CTA EB No. 708), pp. 842-862.
[9] G.R. No. 184823, October 6, 2010.
[10] Annex "A" to the Petition for Review, En Banc Rollo (CTA EB No. 708), pp. 823-831.

December 1, 2010, reversing and setting aside its December 15, 2009 Decision, to wit:

> "**WHEREFORE**, respondent's (CIR) *Motion for Partial Reconsideration* is hereby **GRANTED**; while petitioner's (TPC) *Motion for Partial Reconsideration* is hereby **DENIED** for lack of merit. This Court's *Decision* promulgated on December 15, 2009 is hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner's claim for refund or issuance of tax credit certificate for its unutilized input VAT for the first quarter of taxable year 2003 filed on April 22, 2005 and docketed as CTA Case No. 7233, is hereby **DISMISSED** for being prematurely filed. Likewise, petitioner's claim for refund or issuance of tax credit certificate for its unutilized input VAT for the second quarter of taxable year 2003 filed on July 22, 2005 and docketed as CTA Case No. 7294 is hereby **DISMISSED** for having been filed beyond the period provided by law.
>
> **SO ORDERED.**"

Within the extended time granted[11], TPC appealed[12] the assailed Amended Decision with the CTA En Banc on January 7, 2011, which was docketed as CTA EB No. 708. The said Petition was, however, denied by the CTA En Banc in its Decision[13] promulgated on July 7, 2011.

Undaunted, TPC filed a Motion for Reconsideration[14] on August 9, 2011, which was denied by the CTA Court En Banc in a Resolution[15] dated December 7, 2011.

On January 27, 2012, TPC filed its Petition for Review on *Certiorari* with the Supreme Court, docketed as G.R. No. 199645.

In a Resolution promulgated on March 7, 2012, the Second Division of the Supreme Court consolidated G.R. No. 199645 (*Toledo Power Company vs. Commissioner of Internal Revenue*) with G.R. No. 195175 (*Commissioner of Internal Revenue vs. Toledo Power Company*)

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[11] Minute Resolution dated December 28, 2010, En Banc Rollo (CTA EB No. 708), p. 776.
[12] En Banc Rollo (CTA EB No. 708), p. 777-822.
[13] En Banc Rollo (CTA EB No. 708), pp. 162-176.
[14] En Banc Rollo (CTA EB No. 708), pp. 194-223.
[15] En Banc Rollo (CTA EB No. 708), pp. 236-238.

in order to avoid conflicting decisions on related cases and to save the time and resources of the Court.[16]

On August 10, 2015, the Special First Division of Supreme Court, citing the consolidated cases of *Commissioner of Internal Revenue vs. San Roque Power Corporation, Taganito Mining Corporation vs. Commissioner of Internal Revenue, and Philex Mining Corporation vs. Commissioner of Internal Revenue*[17], rendered a Decision denying the Petition in G.R. No. 195175 and partially granting the Petition in G.R. No. 199645. Pertinent portions of the said Decision are hereunder quoted for ready reference:

> "In sum, the CTA has jurisdiction over the Petition of TPC, but only in C.T.A. Case No. 7233 or the claim for refund of unutilized input VAT attributable to zero-rated or effectively zero-rated sales for the first quarter of 2003. However, considering that the original Decision of the CTA First Division did not separate the computation of the refundable amount of input VAT for the first and the second quarters of 2003, we cannot determine the actual amount that may be attributed to the first quarter of 2003. Thus, a remand of the case to the CTA is necessary.
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> The Court finds, in view of the absence of jurisdiction of the Court of the Tax Appeals over the judicial claims of TPC in C.T.A. Case Nos. 7471 and 7294, that there is no need to discuss the other issues raised.
>
> **WHEREFORE**, premises considered, the Petition in G.R. No. 195175 is **DENIED**, while the Petition in G.R. No. 199645 is **PARTLY GRANTED**. Accordingly, the case in G.R. No. 199645 is hereby **REMANDED** to the Court of Tax Appeals insofar as the Petition in C.T.A. Case No. 7233, for the purpose of the computation of the refundable input VAT attributable to the zero-rated or effectively zero-rated sales of Toledo Power Corporation for the first quarter of 2003.
>
> **SO ORDERED.**"

Thereafter, CIR filed a Motion for Partial Reconsideration and/or Clarification (of the Decision dated August 10, 2015) in G.R. No. 195175

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[16] As per Notice of Resolution dated March 7, 2012.
[17] G.R. Nos. 187485, 196113 and 197156, February 12, 2013.

and Motion for Partial Reconsideration (Re: Decision dated August 10, 2015) in G.R. No. 199645.

TPC, on the other hand, filed a Motion for Clarification (of the Decision dated 10 August 2015) in G.R. No. 195175 and Motion for Partial Reconsideration (Re: Decision dated 10 August 2015) in G.R. No. 199645.

The foregoing Motions were all resolved by the Special First Division of Supreme Court in a Resolution promulgated on July 20, 2016 in this wise:

> "This Court finds no substantial argument that would merit the reversal of our Decision in G.R. No. 199645.
>
> **WHEREFORE**, premises considered, this court
>
> 1) **GRANTS** the prayer for clarification in the Motion for Partial Reconsideration and/or Clarification (of the Decision dated August 10, 2015) filed by the CIR in G.R. No. 195175;
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> 2) **GRANTS** the Motion for Clarification (of the Decision dated 10 August 2015) filed by the TPC in G.R. No. 195175; and
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> 3) **DENIES** both the Motion for Partial Reconsideration (Re: Decision dated August 10, 2015) filed by the CIR and the Motion for Partial Reconsideration (Re: Decision dated 10 August 2015) filed by the TPC in G.R. No. 199645.
>
> **SO ORDERED.**"

On October 10, 2016, the August 10, 2015 Decision of the Special First Division of the Supreme Court became final and executory.[18]

In view of the Entry of Judgment issued by the Supreme Court in G.R. No. 195175 and G.R. No. 199645, a Resolution dated April 2, 2018 was issued by the CTA En Banc remanding to the CTA Special First Division CTA Case No. 7233 for the purpose of computing TPC's

[18] Per Entry of Judgement dated October 10, 2016.

refundable input VAT attributable to zero-rated or effectively zero-rated sales for the first quarter of 2003.

Hence, this Amended Decision.

Pertinent to the resolution of the issue at hand is the provision of Section 112(A) of the NIRC of 1997, as amended, which provides:

> "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 ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales."

Based thereon, in order to be entitled to a refund or tax credit of unutilized input tax, petitioner must prove the following:

1. that 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 sales 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.

It is clear that effective June 26, 2001, the sale of generated power by generation companies shall be VAT zero-rated by virtue of Section 6[19] of the Electric Power Industry Reform Act of 2001 ("EPIRA Law").

In relation thereto, Section 4(x) of the EPIRA Law defines a Generation Company as any person or entity authorized by the Energy Regulatory Commission ("ERC") to operate facilities used in the generation of electricity.

Thus, to be entitled to a refund or credit of unutilized input VAT attributable to the sale of electricity under the EPIRA Law, a taxpayer must establish: (i) that it is a generation company and, (ii) that it derived sales from power generation.[20]

Further, for an entity to be considered a generation company, it should be authorized by the ERC to operate the generation facility. Specifically, both new and existing generation facilities are required to secure a Certificate of Compliance ("COC") from the ERC before it can operate the facilities used for generation of electricity, as provided under Rule 5, Section 4 (a) of the Implementing Rules and Regulations of RA No. 9136, to wit:

> "SECTION 4. Obligations of a Generation Company. —
>
> (a) A COC shall be secured from the ERC before commercial operation of a new Generation Facility. The COC shall stipulate all obligations of a Generation Company consistent with this Section and such other operating guidelines as ERC may establish. The ERC shall establish and publish the standards and requirements for issuance of a COC. A COC shall be issued upon compliance with such standards and requirements.

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[19] SECTION 6. Generation Sector. — Generation of electric power, a business affected with public interest, shall be competitive and open.
xxx xxx xxx
Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax zero-rated.
xxx xxx xxx
(Repealed by Section 24 of Republic Act No. 9337)

[20] Commissioner of Internal Revenue vs. Toledo Power Co., G.R. Nos. 196415 and 196451, December 2, 2015.

(i) A Person owning an existing Generation Facility or a Generation Facility under construction, shall submit within ninety (90) days from effectivity of these Rules to ERC, when applicable, a certificate of DOE/NPC accreditation, a three (3) year operational history, a general company profile and other information that ERC may require. Upon making a complete submission to the ERC, such Person shall be issued a COC by the ERC to operate such existing Generation Facility."

To recall, in the December 15, 2009 Decision of the CTA Special First Division, the Court found that TPC failed to submit the approved COC; and, that only the Letter for the Submission of Documents to the ERC for the Issuance of COC dated June 20, 2002 was presented by TPC which merely proved that it filed an application with the ERC for the issuance of COC.[21]

The CTA Special First Division further noted that the ERC Registration and Compliance attached to TPC's Application for VAT Refund or Issuance of TCC dated December 20, 2004 was not made part of the record nor offered to the Court.[22]

Thus, out of the reported zero-rated sales of ₱132,824,216.20 for the first quarter of taxable year 2003, PTC's sales of generated power to the following companies, by virtue of the EPIRA Law, shall be denied VAT zero-rating:

Exhibit	Invoice/ O.R. No.	Date	Sold to	Amount
NN-3	1443	2/3/2003	CEBECO III	₱ 13,567,687.60
OO-2	462	3/5/2003	Visayan Electric Company	8,517,748.84
-	1417	12/4/2002	CEBECO III	13,843,696.34
-	1454	3/5/2003	CEBECO III	13,081,237.94
			Total	**₱ 49,010,370.72**

On the other hand, TPC's sale of power generation services to National Power Corporation ("NPC") qualifies for zero-rating under Section 108 (B)(3)[23] of the NIRC of 1997, as amended since NPC is an

[21] Par. 2, December 15, 2009, Annex "B" to the Petition for Review, En Banc Rollo (CTA EB No. 708), pp. 852.
[22] Par. 3, December 15, 2009, Annex "B" to the Petition for Review, Ibid.
[23] "Section 108. Value-Added Tax on Sale of Services and Use or Lease of Properties. —
xxx xxx xxx

entity enjoying exemption from payment of all taxes pursuant to Section 13 of Republic Act No. 6395[24], which provides:

> "Sec. 13. *Non-profit Character of the Corporation; Exemption from all Taxes, Duties, Fees, Imposts and other Charges by Government and Governmental Instrumentalities.* —
>
> The Corporation shall be non-profit and shall devote all its returns from its capital investment, as well as excess revenues from its operation, for expansion. To enable the Corporation to pay its indebtedness and obligations and in furtherance and effective implementation of the policy enunciated in Section one of this Act, the Corporation is hereby declared exempt:
>
> (a) From the payment of all taxes, duties, fees, imposts, charges, costs and service fees in any court or administrative proceedings in which it may be a party, restrictions and duties to the Republic of the Philippines, its provinces, cities, municipalities and other government agencies and instrumentalities;
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> (b) From all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities;
>
> (c) From all import duties, compensating taxes and advanced sales tax, and wharfage fees on import of foreign goods required for its operations and projects; and
>
> (d) From all taxes, duties, fees, imposts, and all other charges imposed by the Republic of the Philippines, its provinces, cities, municipalities and other government agencies and instrumentalities, on all

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(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 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; . . ."

[24] An Act Revising the Charter of the National Power Corporation.

> petroleum products used by the Corporation in the generation, transmission, utilization, and sale of electric power."

Moreover, no less than the Supreme Court has ruled in the case of *CBK Power Company Limited vs. Commissioner of Internal Revenue*[25] that NPC is exempt from payment of VAT and that the services rendered thereto by a VAT-registered entity are effectively zero-rated, viz.:

> "Petitioner's sales to NPC are effectively zero-rated.
>
> As aptly ruled by the CTA Special Second Division, petitioner's sales to NPC are effectively subject to zero percent (0%) VAT. **The NPC is an entity with a special charter, which categorically exempts it from the payment of any tax, whether direct or indirect, including VAT. Thus, services rendered to NPC by a VAT-registered entity are effectively zero-rated**. In fact, the BIR itself approved the application for zero-rating on 29 December 2004, filed by petitioner for its sales to NPC covering January to October 2005. As a consequence, petitioner claims for the refund of the alleged excess input tax attributable to its effectively zero-rated sales to NPC." (Emphasis supplied)

Since NPC is exempt from the payment of all taxes, including VAT, TPC should therefore be allowed to claim a refund or credit of its unutilized input VAT attributable to its zero-rated sales of electricity to NPC.

However, upon review of the records, the sales of ₱56,034,845.48 to NPC shall be denied VAT zero-rating for the following reasons:

Exhibit	O.R. No.	Sold to	Amount
1) Supported by an undated official receipt			
NN-2	1438	NPC	₱ 28,695,523.97
2) Without supporting official receipt			
SS, Annex C-4	-	NPC	27,339,321.51
		Total	**₱ 56,034,845.48**

Thus, only the remaining sales of ₱27,779,000.00[26], duly covered by official receipt, qualify for VAT zero-rating.

[25] G.R. Nos. 198729-30, January 15, 2014.
[26] Exhibit "NN-1".

Having resolved that TPC had valid zero-rated sales of ₱27,779,000.00 for the first quarter of 2003, the Court shall now determine the amount of unutilized excess input VAT attributable thereto.

Records show that for the first quarter of 2003, TPC had a reported input VAT attributable to zero-rated sales in the amount of ₱3,963,690.00.

To substantiate the existence of such input VAT, TPC offered various suppliers' invoices, official receipts, Bureau of Customs (BOC) Import Entries and Internal Revenue Declarations (IEIRDs), BOC and bank official receipts,[27] which were duly examined by the Court-commissioned ICPA, Mr. Emmanuel Y. Mendoza.

Based on the Report submitted by the ICPA,[28] the following input VAT in the amount of ₱1,416,094.99 should be disallowed for the grounds stated below:

	ICPA Findings	Exhibit "SS"	Disallowed Input VAT
1	Input VAT on domestic purchases of services supported by documents other than ORs	Annex A-3	₱ 30,724.20
2	Input VAT on domestic purchases of goods supported by documents other than invoices.	Annex A-4	7,785.27
3	Input VAT on domestic purchases of goods supported by invoices with no BIR permit number on the authority to print	Annex A-5	33,447.51
4	Input VAT on domestic purchases of services supported by ORs with pre-printed "TIN" only	Annex A-6	1,400.00
5	Input VAT on domestic purchases of services supported by ORs dated before the taxable year of claim	Annex A-7	340,762.67
6	Input VAT on domestic purchases of goods supported by invoices dated before the taxable year of claim	Annex A-8	816,802.84
7	Input VAT on domestic purchases of services supported by photocopied ORs	Annex A-9	19,709.27
8	Input VAT on domestic purchases of goods supported by photocopied invoices	Annex -10	13,909.84
9	Input VAT on domestic purchases of goods/services with no available supporting documents	Annex A-11	151,018.39
10	Input VAT on Importation of goods with no available supporting documents	Annex A-15	535.00

[27] Exhibits "HH-1" to "HH-794", as summarized in Exhibit "SS", Annexes A-1 to A-15.
[28] Exhibit "SS".

	TOTAL		**₱ 1,416,094.99**

Upon further verification, the input VAT claim should be further decreased by ₱581,251.91 due to the following reasons:

	Findings	Exhibit No.	Input VAT	Total
1	**Input VAT on domestic purchases of goods/services supported by "TIN V" Invoice/ORs**			
	Stitches & Wear Industries	HH-76	₱ 24,243.64	
	Liang Chi Industry Phils. Inc.	HH-174	8,480.91	
	Mic's Parts Supply	HH-181	3,990.91	
	Philippine Packings & Seals Corp.	HH-189	164.50	₱ 36,879.96
2	**Input VAT on domestic purchases of services/goods supported by ORs/invoices issued not in the name of the petitioner**			
	Globe Telecom	HH-31	4,585.16	
	Globe Telecom	HH-32	4,585.16	
	Globe Telecom	HH-34	4,600.00	
	Traders Hotel Manila	HH-81	577.27	
	United Bearing Industrial Corp.	HH-214	396.36	14,743.95
3	**Input VAT on importation of goods supported by ORs issued by BOC but dated outside the period of claim**			
	OR No.98131792	HH-779	5,545.00	
	OR No.98143911	HH-780	11,081.00	
	OR No.96765121	HH-769	10,872.00	
	OR No.98164981	HH-770	9,440.00	
	OR No.98150385	HH-771	28,047.00	
	OR No.98122753	HH-772	195,081.00	
	SN No.37288386	HH-773	62,339.00	
	SN No.37288422	HH-775	91,292.00	
	SN No.37288377	HH-776	76,551.00	
	SN No.37288431	HH-777	39,380.00	529,628.00
	TOTAL			**₱ 581,251.91**

Thus, TPC was able to support, by proper VAT invoices and/or official receipts, the input taxes in the amount of ₱1,966,343.20, computed as follows:

Input VAT for the 1st Quarter		₱ 3,963,690.10
Less: Disallowances		
Per CPA Findings	₱ 1,416,094.99	
Per this Court's Findings	581,251.91	1,997,346.90
Substantiated Input VAT		**₱ 1,966,343.20**

However, a portion of the substantiated input VAT shall be applied against the reported output VAT liability of ₱55,906.30. Hence, only the remaining input VAT of ₱1,910,436.90 can be attributed to the entire zero-rated sales declared by TPC in the amount of ₱132,824,216.20; and, only the input VAT of ₱399,550.84 is attributable to the valid zero-rated sales of ₱27,779,000.00, as computed below:

Substantiated Input VAT	₱ 1,966,343.20
Less: Output VAT	55,906.30
Excess Input VAT	**₱ 1,910,436.90**

Excess Input VAT	₱ 1,910,436.90
Divided by Total Reported Zero-rated Sales	₱ 132,824,216.20
Multiply by Valid Zero-rated Sales	₱ 27,779,000.00
Input VAT attributable to Valid Zero-rated Sales	**₱ 399,550.84**

As evidenced by its Quarterly VAT Returns[29] from the 3rd quarter of 2003 to 4th quarter of 2005, TPC was able to prove that the input VAT of ₱399,550.84 was not applied against any output VAT in the succeeding quarters.

Thus, the Court finds TPC entitled to a refundable input VAT amounting to ₱399,550.84, covering the first quarter of taxable year 2003 under CTA Case No. 7233.

WHEREFORE, in light of the foregoing considerations, the Petition for Review filed by *Toledo Power Company vs. Commissioner of Internal Revenue* in CTA Case No. 7233 is hereby **PARTIALLY GRANTED**. Accordingly, the Commissioner of Internal Revenue is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of Toledo Power Company in the amount of **THREE HUNDRED NINETY-NINE THOUSAND FIVE HUNDRED FIFTY PESOS AND EIGHTY-FOUR CENTAVOS (₱399,550.84)**, representing its unutilized input VAT first quarter of taxable year 2003.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

I CONCUR:

LOVELL R. BAUTISTA
Associate Justice

[29] Exhibits "D" to "O".

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
Associate Justice
Acting Chairperson, Special First Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice