REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

ACCENTURE, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A CASE NO. 7387

Members:

CASTAÑEDA, JR., Chairperson
UY, and
PALANCA-ENRIQUEZ, JJ.

Promulgated:

JUN 0 3 2008

1:00 p.m.

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DECISION

PALANCA-ENRIQUEZ, J.:

THE CASE

This is a Petition for Review filed by Accenture, Inc. (hereafter "petitioner") praying for the refund or issuance of a tax credit certificate in the amount of P110,982,729.25, representing petitioner's unutilized input value-added tax on domestic purchases of goods and services attributable to its zero-rated sale of services to its foreign clients for the period commencing from September 1, 2003 until August 31, 2004.

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THE PARTIES

Petitioner is a domestic corporation duly registered with the Securities and Exchange Commission, and existing under and by virtue of the Philippine laws, with principal office address at MSE Building, Ayala Avenue, Makati City. It is a value-added tax taxpayer duly registered as such with the Bureau of Internal Revenue (BIR), in accordance with *Section 236 of the NIRC of 1997, as amended,* with VAT Registration Certificate No. 000-845-543-000.

As stated in its Articles of Incorporation, petitioner is primarily engaged in the business of providing management consulting and management information consulting services, including, but not limited to business integration, strategic services, change management services, systems integration, systems management, the development, sale and/or licensing of software, and the sale of hardware and related products, either as principal or agent.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue vested with authority to act as such, including, *inter alia*, the power to decide, approve and grant claims for refund or tax credit of overpaid internal revenue taxes, as provided by law, with office address at the BIR National Office Building, Agham

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Road, Diliman, Quezon City, where she may be served with summons and other court processes.

THE FACTS

The facts of the case, as culled from the records, are as follows:

During the period from September 1, 2003 to August 31, 2004, petitioner filed the following Monthly and Quarterly VAT Returns on these dates:

Month	Date Filed	Exhibit
September 2003	October 24, 2003	*"D"*
October 2003	November 20, 2003	*"E"*
November 2003 (1st Quarter)	December 22, 2003	*"F"*
December 2003	January 23, 2004	*"G"*
January 2004	February 23, 2004	*"H"*
February 2004 (2nd Quarter)	March 23, 2004	*"I"*
March 2004	April 26, 2004	*"J"*
	April 26, 2004 (Amended)	*"K"*
April 2004	May 25, 2004	*"L"*
May 2004 (3rd Quarter)	June 25, 2004	*"M"*
	July 27, 2004 (Amended)	*"N"*
June 2004	July 23, 2004	*"O"*
	July 29, 2004 (Amended)	*"P"*
July 2004	August 25, 2004	*"Q"*
August 2004 (4th Quarter)	September 24, 2004	*"R"*

During the four (4) quarters of the period, the Quarterly VAT Returns of petitioner showed the following:

	1st Quarter Ending November 30, 2003		2nd Quarter Ending February 29, 2004	
Domestic Purchases	**Amount**	**Input VAT**	**Amount**	**Input VAT**
Capital Goods	23,263,529.00	2,326,352.90	52,224,351.50	5,222,435.15
Goods other than Capital Goods	167,134,485.50	16,713,448.55	123,380,097.40	12,338,009.74
Services	58,699,932.10	5,869,993.21	74,485,137.70	7,448,513.77
Total Input VAT		24,909,794.66		25,008,958.66
Zero-Rated Sales		824,103,109.50		755,277,064.27
Total Sales		914,601,199.66		826,136,102.44

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Domestic Purchases	3rd Quarter Ending May 31, 2004		4th Quarter Ending August 31, 2004	
	Amount	Input VAT	Amount	Input VAT
Capital Goods	145,487,625.30	14,548,762.53	250,360,383.90	25,036,038.39
Goods other than Capital Goods	36,414,585.90	3,641,458.59		0.00
Services	143,242,393.10	14,324,239.31	92,483,964.20	9,248,396.42
Total Input VAT		32,514,460.43		34,284,434.81
Zero-Rated Sales		927,429,478.44		1,362,639,542.45
Total Sales		937,802,579.94		1,373,736,100.95

Thus, petitioner had a total zero-rated sales of P3,869,449,194.66 and paid a total input VAT of P116,717,648.56, broken down as follows:

Period	Zero-rated Sales	Input VAT
1st Quarter	824,103,109.50	24,909,794.66
2nd Quarter	755,277,064.27	25,008,958.66
3rd Quarter	927,429,478.44	32,514,460.43
4th Quarter	1,362,639,542.45	34,284,434.81
***Total* Input VAT**	***3,869,449,194.66***	***116,717,648.56***

On November 18, 2005, petitioner filed an administrative claim for refund or issuance of tax credit certificate of its unutilized input VAT credit on its domestic purchases of taxable goods, which are directly attributable to its zero-rated sales of services for the period in the total amount of P110,982,729.25, computed as follows:

Period	Input VAT
1st Quarter	22,418,815.19
2nd Quarter	22,758,152.38
3rd Quarter	31,864,171.22
4th Quarter	33,941,590.46
Total Input VAT	**110,982,729.25**

(Exhibit "C")

For failure of respondent to act on petitioner's claim for refund, on December 20, 2005, petitioner elevated its case to this Court by way of a Petition for Review.

On February 10, 2006, respondent filed her *Answer* alleging that the amount of P110,982,729.25 being claimed by petitioner, as alleged unutilized input VAT on domestic purchases of goods and services for the period commencing from 1 September 2003 until 31 August 2004, was not properly documented; 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; and claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation, and as such, they are looked upon with disfavor.

Petitioner presented Emmanuel Y. Mendoza, the Court-commissioned Independent CPA; Loida S. Samson, its Country Controller; and Leonardo M. Jose, its Tax and Statutory Specialist, as witnesses; and documentary evidence, marked as *Exhibits "A"* to *"EEE"*, inclusive of their submarkings. Except for *Exhibits "SS-1353", "TT-936", "TT-938", "TT-940", "TT-943* to *"TT-951", "TT-953"* to *"TT-956", "TT-958"* to *"TT-1325", "TT-1328", "TT-1332", "TT-1334"* to

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"TT-1344", "TT-1346", "TT-1347", "TT-1349", "TT-1351", "TT-1352", "TT-1355" to *"TT-1361", "UU-2419", "UU-2423", "UU-2428", "UU-2429", "UU-2434", "UU-2436", "UU-2439", "UU-2448", "UU-2454", "UU-2456", "UU-2458"* to *"UU-2460", "UU-2463", "UU-2465"* to *"UU-2471", "UU-2506", "VV-851", "VV-857", "VV-861"* and *"VV-862"*, the Court admitted all the other exhibits in a Resolution dated January 2, 2008.

Upon manifestation of counsel for respondent that he will not present any evidence, both parties were granted thirty (30) days from January 14, 2008 to file their simultaneous memoranda. Petitioner was granted an extension of thirty (30) days from February 13, 2008 to file its memorandum.

Both parties having filed their respective memoranda, the case was deemed submitted for decision on March 17, 2008.

Hence, this decision.

ISSUES

As stipulated upon by the parties, the issues for this Court's consideration are:

I

WHETHER OR NOT PETITIONER'S SALES OF GOODS AND SERVICES ARE ZERO-RATED FOR VAT

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PURPOSES UNDER SECTION 108(B)(2)(3) OF THE 1997 TAX CODE.

II

WHETHER OR NOT PETITIONER'S CLAIM FOR REFUND/TAX CREDIT IN THE AGGREGATE AMOUNT OF P110,982,729.22 (P110,982,729.25) AROSE FROM PETITIONER'S DOMESTIC PURCHASES OF GOODS WHICH ARE ATTRIBUTABLE TO ITS ZERO-RATED SALES DURING THE PERIOD COVERING 1 SEPTEMBER 2003 TO 31 AUGUST 2004.

III

WHETHER OR NOT PETITIONER HAS CARRIED OVER TO THE SUCCEEDING TAXABLE QUARTERS THE ALLEGED UNUTILIZED INPUT VAT PAID ON ITS DOMESTIC PURCHASES OF GOODS AND SERVICES FOR THE PERIOD COMMENCING FROM 1 SEPTEMBER 2003 UNTIL 31 AUGUST 2004, AND APPLIED THE SAME FULLY TO ITS OUTPUT VAT LIABILITY FOR THE SAID PERIOD.

IV

WHETHER OR NOT PETITIONER IS PAID FOR IN ACCEPTABLE FOREIGN CURRENCY WHERE PROCEEDS ARE INWARDLY REMITTED TO THE PHILIPPINES AND ACCOUNTED FOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BSP.

V

WHETHER OR NOT PETITIONER IS ENTITLED TO THE REFUND OF THE AMOUNT OF P110,982,729.25, REPRESENTING THE UNUTILIZED INPUT VAT ON DOMESTIC PURCHASES OF GOODS AND SERVICES FOR THE PERIOD COMMENCING FROM 1

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SEPTEMBER 2003 TO 31 AUGUST 2004, FROM ITS SALES OF SERVICES TO VARIOUS FOREIGN CLIENTS.

THE COURT'S RULING

The petition is partly meritorious.

The above issues boil down to the principal issue of whether or not petitioner is entitled to the refund or issuance of tax credit certificate in the amount of P110,982,729.25 representing alleged unutilized input VAT on domestic purchases of goods and services for the period September 1, 2003 to August 31, 2004.

Records reveal that the subject claim in the amount of P110,982,729.25 represents petitioner's unutilized input value-added tax on domestic purchases of goods and services attributable to its zero-rated sales of services to its foreign clients for the period commencing from September 1, 2003 until August 31, 2004.

Petitioner anchors its claim on *Section 112(A) of the NIRC of 1997, as amended*, which provides, as follows:

> "**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,

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> 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.
>
> xxx xxx."

Pursuant to the aforequoted provision, in order to be entitled to a refund or tax credit of unutilized input VAT paid, petitioner must prove the following:

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

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As regards the first requisite, petitioner claims that the bulk of its sales is zero-rated, pursuant to *Section 108(B)(2) of the NIRC of 1997, as amended,* which provides, as follows:

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

The Court finds that petitioner's sales of services are zero-rated, pursuant to the above provision because it renders management consulting and management information consulting services, including, but not limited to, business strategic services, change management services, systems integration, systems management, the development, sale and/or licensing of software, and the sale of hardware and related products, either as principal or agent, and other related business activities,

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to its various foreign clients, the considerations for which are paid for in accordance with the rules and regulations of the BSP.

In support thereof, petitioner submitted its Schedule of Zero-Rated Sales – Local *(Annex D of Exhibit "JJ")*, Schedule of Billings and Remittances *(Annex C of Exhibit "JJ")*, Intercompany Payment Requests *(Exhibits "WW-1" to "WW-11")*, Official Receipts *(Exhibits "XX-1" to "XX-11")*, Billing Statements *(Exhibits "YY-1" to "Y-11")*, Memo Invoices-Receivable *(Exhibits "ZZ-1" to "ZZ-90")*, Memo Invoices-Payable *(Exhibits "AAA-1" to "AAA-73")*, Bank Statements *(Exhibits "BBB-1" to "BBB-11")*, and presented the testimony of its Country Controller, Loida S. Samson *(Exhibit "II")*.

After examining and verifying the documentary evidence presented, the Commissioned Independent CPA, Emmanuel Mendoza, noted that the zero-rated sales contained in the Intercompany Payment Requests (IPR) and General Ledger (GL) amounting to P4,612,647,486.92 are higher than the zero-rated and exempt sales indicated in petitioner's Quarterly VAT Returns by P581,841,163.93. The difference noted is due to: (1) items included in the IPR as billing, but not reported in the Quarterly VAT Returns; and (2) the different foreign exchange rates used. The pertinent portion of the report of the Commissioned Independent CPA reads as follows:

"The difference noted is accounted as follows:

Reconciling Items	**Annex**		**Amount**
Items included in the IPR as billings but not reported in the Quarterly VAT Returns:			
Reimbursements of cost incurred	C-1	P493,236,968.29	
Mark up	C-2	3,178,452.67	
Others	C-3	6,562,200.90	P502,977,621.86
Amounts reported in the GL but not reported in the Quarterly VAT Returns	D		93,133,173.00
			596,110,794.86
Different foreign exchange rate used:			
Per IPR (booking rate)	C-4	4,016,536,692.06	
Per VAT Returns (payment rate)	C-4	4,030,806,322.99	(14,269,630.93)
Total			**P581,841,163.93**

The difference mainly represents amounts in the Intercompany Payment Requests and GL that were not reported in the Quarterly VAT Returns amounting to P596,110,794.86. Also, we noted that the peso/dollar exchange rates used on US dollar denominated zero-rated sales as reported in the Schedule of Billings and Remittances were the exchange rates prevailing at the time the billing statements were issued to Accenture Participations B.V.; while the exchange rates used on the US dollar denominated sales as reported in the Quarterly VAT Returns were the exchange rates prevailing at the time collections were made." *(Exhibit "JJ")*

Furthermore, the Commissioned Independent CPA found that of the total zero-rated sales contained in the IPR and GL, only the amount of P4,519,514,313.92 was duly substantiated, as these sales were supported by zero-rated official receipts, billing statements, and memo invoices

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issued by petitioner. On the other hand, the amount of P93,133,173.00 in zero-rated sales has no supporting documents.

Notwithstanding the above findings, the Commissioned Independent CPA found that the substantiated zero-rated sales contained in the IPR and GL in the amount of P4,519,514,313.92 is still higher than petitioner's zero-rated sales, as reported in its Quarterly VAT Returns for the period commencing from September 1, 2003 to August 31, 2004. Since petitioner did not file an Amended VAT Return to reflect the zero-rated sales of P4,519,514,313.92, all of petitioner's zero-rated sales amounting to P3,869,449,194.66 reported in its Quarterly VAT Returns fall within those transactions referred to as subject to zero percent (0%) VAT, under *Section 108(B)(2) of the NIRC of 1997, as amended.* Hence, only the allowable input tax attributable to the zero-rated sales of P3,869,449,194.66 can be the proper subject of a claim for refund.

As to the second and third requisites, in determining whether or not petitioner paid input taxes on its purchases of goods and services in the amount of P116,717,648.56, petitioner submitted a summary list of input VAT *(Annexes A-1 to A-48 of Exhibit "JJ")* claimed from first quarter to fourth quarter of 2004 and the related suppliers' invoices/official receipts *(Exhibits "SS-1" to "VV-864"),* which were examined by the Commissioned

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Independent CPA. As correctly noted in his Report dated October 10, 2006 *(Exhibit "JJ")*, the Court finds that out of P116,717,648.56 in input taxes, the following input taxes amounting to P54,435,227.68 should be disallowed from petitioner's claim for the following reasons:

	Findings	Reference (Annex to Exhibit JJ)	Input VAT	Total
1	**Input VAT on domestic purchases of services supported by documents other than ORs.**			
	1st qtr	A-3	P 1,882,370.65	
	2nd qtr	A-16	1,094,443.01	
	3rd qtr	A-31	8,242,136.64	
	4th qtr	A-42	6,579,061.42	P 17,798,011.72
2	**Input VAT on domestic purchases of goods supported by documents other than sales invoices.**			
	1st qtr	A-4	778,119.03	
	2nd qtr	A-17	59,686.95	
	3rd qtr	A-32	73,915.76	
	4th qtr	A-43	24,867.89	936,589.63
3	**Input VAT on domestic purchases of services supported by ORs with no BIR authority to print.**			
	1st qtr	A-5	153,634.08	
	2nd qtr	A-24	211,657.90	
	3rd qtr	A-35	1,282,260.75	1,647,552.73
4	**Input VAT on domestic purchases of services supported by sales invoices with no BIR authority to print.**			
	1st qtr	A-6	2,089,551.37	
	2nd qtr	A-18	771,557.31	
	3rd qtr	A-33	2,259,230.25	
	4th qtr	A-44	425,590.34	5,545,929.27
5	**Input VAT on domestic purchases of services supported by ORs with preprinted "TIN" only.**			
	2nd qtr	A-25	6,930.00	6,930.00
6	**Input VAT on domestic purchases of goods supported by sales invoices with preprinted "TIN" only.**			
	1st qtr	A-9	4,950.00	4,950.00
7	**Input VAT on domestic purchases of goods supported by sales invoices with stamped TIN.**			
	1st qtr	A-10	112,745.18	
	4th qtr	A-45	87,359.24	200,104.42
8	**Input VAT on domestic purchases of services supported by ORs with no TIN.**			
	3rd qtr	A-36	1,490.90	1,490.90
9	**Input VAT on domestic purchases of goods supported by sales invoices with no TIN.**			
	2nd qtr	A-19	132,267.48	132,267.48
10	**Input VAT on domestic purchases of services supported by ORs with preprinted "TIN Non-VAT/NV"**			
	1st qtr	A-7	45,866.07	
	2nd qtr	A-21	38,989.53	
	3rd qtr	A-34	8,612.37	93,467.97
11	**Input VAT on domestic purchases of goods supported by sales invoices with preprinted "TIN Non-VAT/NV"**			
	1st qtr	A-8	75,707.27	

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	2nd qtr	A-22	4,924.72	
	3rd qtr	A-47	7,203.00	87,834.99
12	**Input VAT on domestic purchases of services supported by photocopied ORs.**			
	2nd qtr	A-26	5,500,806.76	
	3rd qtr	A-38	616,899.37	6,117,706.13
13	**Input VAT on domestic purchases of goods supported by photocopied /faxed sales invoices.**			
	1st qtr	A-11	2,960.73	
	2nd qtr	A-27	1,925,691.59	
	3rd qtr	A-37	810,236.76	
	4th qtr	A-46	169,233.56	2,908,122.64
14	**Input VAT on domestic purchases of goods supported by sales invoices issued not under Company's name.**			
	2nd qtr	A-20	5,463.63	5,463.63
15	**Input VAT on domestic purchases of services supported by ORs with preprinted Non-VAT where the word "Non" was crossed out.**			
	2nd qtr	A-23	2,915.00	2,915.00
16	**Input VAT on domestic purchases of goods supported by sales invoices dated before the taxable year of claim.**			
	1st qtr	A-12	2,665,917.97	2,665,917.97
17	**Input VAT on domestic purchases of goods and services with no supporting documents presented.**			
	1st qtr	A-13	2,583,771.87	
	2nd qtr	A-28	4,303,967.15	
	3rd qtr	A-39	1,063,128.86	
	4th qtr	A-48	8,329,105.32	16,279,973.20
TOTAL				**P 54,435,227.68**

Only the input VAT of P62,282,420.88 (P116,717,648.56-P54,435,227.68) was properly substantiated, in accordance with the invoicing requirements prescribed under *Sections 110(A) and 113(A) of the NIRC of 1997, as amended,* and as implemented by *Sections 4.104-1, 4.104-5 and 4.108-1 of Revenue Regulations No. 7-95.*

Inasmuch as petitioner's input tax cannot be directly or entirely attributed to its zero-rated, taxable, and exempt sales; the refundable amount of input tax shall be allocated proportionately to its zero-rated sales on the basis of its volume of sales, as follows:

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Period Covered	Zero-Rated Sales	Exempt	VAT Sales	Total Sales	Substantiated Input Tax
2004	**(A)**	**(B)**	**(C)**	**[D=(A+B+C)]**	**(E)**
1st Quarter	824,103,109.50	90,498,090.16		914,601,199.66	14,514,200.44
2nd Quarter	755,277,064.27	70,859,038.17		826,136,102.44	10,949,657.64
3rd Quarter	927,429,478.44		10,373,101.50	937,802,579.94	18,156,548.76
4th Quarter	1,362,639,542.45		11,096,558.50	1,373,736,100.95	18,662,014.04
	3,869,449,194.66	**161,357,128.33**	**21,469,660.00**	**4,052,275,982.99**	**62,282,420.88**

Period Covered	Substantiated Input Tax Attributable to			Total Substantiated Input Tax	Output VAT
	Zero-Rated Sales	Exempt Sales	VAT Sales		
2004	**[(A/D) x (E)]**	**[(B/D) x (E)]**	**[(C/D) x (E)]**		
1st Quarter	13,078,047.26	1,436,153.18		14,514,200.44	
2nd Quarter	10,010,487.68	939,169.96		10,949,657.64	
3rd Quarter	17,955,717.87		200,830.89	18,156,548.76	1,037,310.15
4th Quarter	18,511,268.83		150,745.21	18,662,014.04	1,109,655.85
	59,555,521.65	**2,375,323.14**	**351,576.09**	**62,282,420.88**	**2,146,966.00**

Since petitioner's input tax allocated to taxable sales amounting to P351,576.09 will not entirely cover its output tax liability of P2,146,966.00, petitioner still has to pay output tax in the amount of P1,795,389.91, computed as follows:

Output Tax	2,146,966.00
Less: Input Tax Allocated to VAT Sales	351,576.09
Output Tax Payable	**1,795,389.91**

In petitioner's Quarterly VAT Return for the first quarter of 2004, the excess input VAT carried over from the previous quarter (pertaining to the 4^{th} quarter of 2003) amounts to P161,820,406.23 (*Exhibit "F"*), which can be claimed as tax credit against the current year output tax liability, in addition to the substantiated input VAT. However, the output tax payable of P1,795,389.91 cannot be offset against its input tax carried-over from previous quarter in the amount of P161,820,406.23

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because petitioner did not present VAT invoices or official receipts to prove the existence of that amount. Therefore, petitioner's output tax payable must be applied against its substantiated claimed input tax allocated to zero-rated sales, resulting to a refundable input tax of P57,760,131.74 only, computed as follows:

Substantiated Input VAT allocated to zero-rated sales	59,555,521.65
Output VAT Payable	1,795,389.91
Refundable Input VAT attributable to zero-rated sales	57,760,131.74

Likewise, petitioner complied with the fourth requisite. Although petitioner carried-over the claimed input VAT of P110,982,729.25 *(which included the amount of P57,760,131.74 as valid claim)* to the succeeding four quarters of 2005 and the first quarter of 2006, as evidenced by its Quarterly VAT Returns for the first *(Exhibit "V")*, second *(Annex E of CTA Case No. 7577)*, third *(Annex F of C.T.A. Case No. 7637)* and fourth *(Annex F of C.T.A. Case No. 7679)* quarters of 2005 and first quarter of 2006 *(Exhibit "EEE")*, the same was not applied against any output VAT for the said periods. Moreover, the same was deducted as "Any VAT Refund/TCC" claimed from the total available input tax of P358,621,638.68, as of the first quarter of 2006. In other words, the subject claim no longer formed part of the excess input VAT of P241,671,616.93 as of the first quarter of

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2006, which was to be carried over/applied to the succeeding second quarter of 2006.

As regards the fifth requisite, We rule that the claim for refund or tax credit certificate was filed within the two-year prescriptive period. The reckoning of the two-year prescriptive period for the filing of claim for VAT refund starts from the date of filing of the corresponding Quarterly VAT Return. The earliest quarter covered by the subject claim is the quarter ending November 30, 2003, for which petitioner filed its VAT Return on December 22, 2003 *(Exhibit "F")*. Counting from this date, petitioner had until December 22, 2005, within which to file its claim administratively and judicially. Hence, the original administrative claim filed on November 18, 2005 and the Petition for Review filed on December 20, 2005 were both filed within the two-year prescriptive period.

In sum, the Court finds that petitioner is entitled to a refund or issuance of a tax credit certificate, but in the reduced amount of P57,760,131.74 only, representing unutilized input VAT on domestic purchase of its goods and services for the period commencing from September 1, 2003 until August 31, 2004.

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WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED to REFUND or to ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **FIFTY SEVEN MILLION SEVEN HUNDRED SIXTY THOUSAND ONE HUNDRED THIRTY ONE AND 74/100 PESOS (P57,760,131.74)**, representing unutilized input VAT on domestic purchase of its goods and services for the period commencing from September 1, 2003 until August 31, 2004.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

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ATTESTATION

I attest 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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second 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 Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice

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