REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

PHPC CO. LTD., INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NOS. 6843 and 6897

Members:

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

Promulgated:

JUL 04 2007; 10:25AM

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DECISION

BAUTISTA, J.:

These consolidated cases seek the refund or issuance of tax credit certificate of petitioner's alleged excess and unutilized creditable input value-added tax (VAT) on domestic purchases of taxable goods and services and importation of goods in the aggregate amount of P13,643,946.47, broken down as follows:

CTA Case No.	Period Covered	Amount
6843	October 1, 2001 to December 31, 2001	P2,634,978.65
6897	First, second, third and fourth quarters of 2002 and first and second quarters of of 2003	11,008,967.82
TOTAL		P13,643,946.47

Petitioner is a domestic corporation duly organized and existing under and by virtue of Philippine laws, with principal office located at the 11th Floor, Oledan Square, 6788 Ayala Avenue, Makati City, Philippines[1]. As stated in its Articles of Incorporation, it is engaged primarily in the business of general contractor, builder, founder and more specifically, build, erect, maintain, alter, repair, pull down restore, install and construct facilities for power generation. It has a Securities and Exchange Commission (SEC) Certificate of Registration with No. 189106.[2] It is duly registered with the Bureau of Internal Revenue as a VAT Taxpayer as shown by its Certificate of Registration No. 470-000-197-459-V.[3]

Respondent, on the other hand, is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), vested with the authority to act as such, including *inter alia*, the power to decide, approve and grant refunds and/or tax credits of excess input value-added tax (VAT) and is holding office at the BIR National Office Building, Diliman, Quezon City, where he may be served with summons and other court processes of this Court.[4]

For the period covering the fourth quarter of 2001, four quarters of 2002 and first two quarters of 2003, petitioner duly filed with the BIR its quarterly VAT returns, including the amendments thereto, reflecting the following:

Fourth Quarter 2001 (Exhibit "E")

Taxable Sales/Receipts	P 80,528,620.09
Zero-Rated Sales/Receipts	27,486,805.73
Total Sales/Receipts	P108,015,425.82

[1] Joint Stipulation of Facts and Simplification of Issues, Paragraph 1.
[2] Joint Stipulation of Facts and Simplification of Issues, Paragraph 3.
[3] Joint Stipulation of Facts and Simplification of Issues, Paragraph 4.
[4] Joint Stipulation of Facts and Simplification of Issues, Paragraph 2.

Output Tax Due	P 7,320,397.92
Less: Input Tax	
Input Tax Carried Over from Previous Quarter	P 5,409,607.74
Domestic Purchases	9,619,319.31
Importation of Goods	36,154.00
Total Available Input Tax	P 15,065,081.05
Less: Any VAT Refund/TCC Claimed	-
Net Creditable Input Tax	P 15,065,081.05
Excess Input Tax	P 7,744,683.13

First Quarter 2002 (Exhibit "F-3")

Taxable Sales/Receipts	P 58,427,406.34
Zero-Rated Sales/Receipts	32,632,091.83
Total Sales/Receipts	P 91,059,498.17
Output Tax Due	P 5,842,762.50
Less: Input Tax	
Input Tax Carried Over from Previous Quarter	P 7,744,683.13
Domestic Purchases-Goods and Services	6,625,731.85
Total Available Input Tax	P 14,370,414.98
Less: Any VAT Refund/TCC Claimed	2,634,978.67
Net Creditable Input Tax	P 11,735,436.31
Excess Input Tax	P 5,892,673.81

Second Quarter 2002 (Exhibit "G-3")

Taxable Sales/Receipts	P 57,716,423.86
Zero-Rated Sales/Receipts	29,479,115.13
Total Sales/Receipts	P 87,195,538.99
Output Tax Due	P 5,771,642.39
Less: Input Tax	
Input Tax Carried Over from Previous Quarter	P 5,892,673.81
Domestic Purchases-Goods and Services	4,608,607.86
Total Available Input Tax	P 10,501,281.67
Less: Any VAT Refund/TCC Claimed	2,373,999.72
Net Creditable Input Tax	P 8,127,281.95
Excess Input Tax	P 2,355,639.56

Third Quarter 2002 (Exhibit "H-3")

Taxable Sales/Receipts	P 43,685,982.77
Zero-Rated Sales/Receipts	31,892,456.48
Total Sales/Receipts	P 75,578,439.25
Output Tax Due	P 4,368,598.27
Less: Input Tax	
Input Tax Carried Over from Previous Quarter	P 2,355,639.56
Domestic Purchases-Goods and Services	4,918,259.93
Total Available Input Tax	P 7,273,899.49
Less: Any VAT Refund/TCC Claimed	1,557,708.59

Net Creditable Input Tax	P 5,716,190.90
Excess Input Tax	P 1,347,592.63

Fourth Quarter 2002 (Exhibit "I-3")

Taxable Sales/Receipts	P 21,277,931.52
Zero-Rated Sales/Receipts	84,692,892.12
Total Sales/Receipts	P105,970,823.64
Output Tax Due	P 2,127,793.15
Less: Input Tax	
Input Tax Carried Over from Previous Quarter	P 1,347,592.63
Domestic Purchases-Goods and Services	7,647,078.74
Total Available Input Tax	P 8,994,671.37
Less: Any VAT Refund/TCC Claimed	1,347,592.63
Net Creditable Input Tax	P 7,647,078.74
Excess Input Tax	P 5,519,285.59

First Quarter 2003 (Exhibit "J-3")

Taxable Sales/Receipts	P 37,547,800.84
Zero-Rated Sales/Receipts	66,269,719.89
Total Sales/Receipts	P103,817,520.73
Output Tax Due	P 3,754,780.08
Less: Input Tax	
Input Tax Carried Over from Previous Quarter	P 5,519,285.59
Domestic Purchases-Goods and Services	2,536,602.14
Total Available Input Tax	P 8,055,887.73
Less: Any VAT Refund/TCC Claimed	1,764,505.51
Net Creditable Input Tax	P 6,291,382.22
Excess Input Tax	P 2,536,602.14

Second Quarter 2003 (Exhibit "K-3")

Taxable Sales/Receipts	P 13,981,802.70
Zero-Rated Sales/Receipts	44,293,090.89
Total Sales/Receipts	P 58,274,893.59
Output Tax Due	P 1,398,180.27
Less: Input Tax	
Input Tax Carried Over from Previous Quarter	P 2,536,602.14
Domestic Purchases-Goods and Services	3,683,867.77
Total Available Input Tax	P 6,220,469.91
Less: Any VAT Refund/TCC Claimed	3,938,161.37
Net Creditable Input Tax	P 2,282,308.54
Excess Input Tax	P 884,128.27

According to petitioner, for the period October 1, 2001 to June 30, 2003, it entered into agreements with various enterprises registered with Philippine

Economic Zone Authority (PEZA), Clark Development Authority (CDA) and Subic Bay Metropolitan Authority (SBMA) and it provided construction services, which are subject to VAT at zero rate pursuant to Sections 106(A)(2)(c) and 108(B)(3) of the 1997 National Internal Revenue Code (NIRC), as amended.

Petitioner further claims that for the year 2001, it incurred excess/unutilized input taxes arising from its domestic purchases of goods and services and importation of capital goods, which are attributable to its zero-rated sales.

Petitioner now contends that having generated zero-rated sales and paid input taxes in the course of its trade or business, which are attributable to zero-rated sales and have not been applied to any VAT output tax liability, it is entitled to refund/issuance of tax credit certificate.

Consequently, petitioner filed with BIR an administrative claim on December 11, 2003 (Exhibit "O") but subsequently filed an amended administrative claim on December 30, 2003 (Exhibit "P").

On January 22, 2004, petitioner filed a letter clarifying the exact amount of its claim for refund or issuance of tax credit certificate for the four quarters of 2002 and the first and second quarter of 2003 (Exhibit "Q").

The details of petitioner's claims are as follows:

CTA Case No. 6843

FOR THE YEAR 2001

Exh.	Qtr.	Zero-rated Sales (A)	Total Sales (B)	Allocation Rate (A/B)= (C)	Input Tax (D)	Input Tax Attributable to Zero-rated Sales (D x C) = (E)	Excess/Unutilized
E	4th	P27,486,805.73	P100,694,642.22	27.29%	P9,655,473.31*	P2,634,978.65	P2,634,978,65
							==========

The total sales were reduced to P100,694,642.22 from P108,015,425.82 per return (Exhibit "E") after considering that the total gross receipts of P80, 528,620.09 (Exhibit "E") was reported inclusive of the VAT.

*P9,619,319.31 Input Tax on Domestic Purchases
\+ 36,154.00 Input Tax on Importation of Goods
P9,655,473.31

CTA Case No. 6897

FOR THE YEAR 2002

Exh.	Qtr.	Zero-rated Sales (A)	Total Sales (B)	Allocation Rate (A/B)= (C)	Input Tax (D)	Input Tax Attributable to Zero-rated Sales (D x C) = (E)	Excess/Unutilized
F-3	1st	P32,632,091.83	P 91,059,498.17	35.83%	P6,625,731.85	P2,373,999.72	P2,373,999.72
G-3	2nd	P29,479,115.13	P 87,195,538.99	33.80%	P4,608,607.86	P1,557,708.59	P1,557,708.59
H-3	3rd	P31,892,456.48	P 75,578,439.25	42.19%	P4,918,259.93	P2,075,013.86	P1,347,592.63*
I-3	4th	P84,692,892.12	P105,970,823.64	79.92%	P7,647,078.74	P6,111,545.33	P1,764,505.51*
							P7,070,806.45

FOR THE YEAR 2003

Exh.	Qtr.	Zero-rated Sales (A)	Total Sales (B)	Allocation Rate (A/B)= (C)	Input Tax (D)	Input Tax Attributable to Zero-rated Sales (D x C) = (E)	Excess/Unutilized
J-3	1st	P66,269,719.89	P103,817,520.73	63.83%	P2,536,602.14	P1,619,113.14	P1,138,421.87*
K-3	2nd	P44,293,090.59	P 58,274,893.59	76.00%	P3,683,867.77	P 2,799,739.50	P2,799,739.50
							P3,938,161.37
GRAND TOTAL							P11,008,967.82

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*
- P727,421.23 was applied against petitioner's output tax liability, thereby lowering the refundable amount for the third quarter of 2002 from P2,075,013.86 to P1,347,592.63.
- P4,347,039.82 was applied against petitioner's output tax liability, thereby lowering the refundable amount for the fourth quarter of 2002 from P6,111,545.33 to P1,764,505.51.
- P480,691.27 was applied against petitioner's output tax liability, thereby lowering the refundable amount for the first quarter of 2003 from P1,619,113.14 to P1,138,421.87.

(A verification by this Court of the computations, however would show that the total excess/unutilized input tax for 2002 should be P7,043,806.45 lowering the GRAND TOTAL to P10,981,967.82.)

The inaction of respondent on its claim for refund/issuance of tax credit certificate propelled petitioner to file the instant Petitions for Review in order to toll the running of the prescriptive period provided for under the 1997 NIRC, as amended in the following dates to wit:

CTA Case No.	Date of Filing
6843	December 30,2003
6897	March 22, 2004

On April 19, 2004, petitioner filed an "Omnibus Motion" for the consolidation of the foregoing cases. This Court granted the Motion during the hearing held on April 23, 2004, which was confirmed in a Resolution dated May 7, 2004.

Respondent, for his part interposed the following Special and Affirmative Defenses in his Answer:

For CTA Case No. 6843

3. He reiterates and repleads the preceding paragraphs of this answer as part of his Special and Affirmative Defenses;

4. Petitioner's alleged claim for issuance of tax credit certificate is still subject to administrative routinary investigation/examination by the respondent's Bureau;

5. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable;

6. Petitioner's claim for refund or issuance of tax credit certificate in the amount of P2,634,978.65 as alleged excess and unutilized VAT input tax paid on petitioner's domestic purchases of taxable goods and services and importation of goods for the period covering October 1, 2001 to December 31, 2001 (4th quarter of 2001) were not fully substantiated/documented;

7. In an action for refund/credit, the burden of proof is on the petitioner to establish its right to refund and failure to adduce sufficient proof is fatal to the claim for tax refund/credit;

8. Petitioner's sales of services to Philippine Economic Zone Authority (PEZA) registered enterprises do not qualify as zero-rate VAT;

9. It is incumbent upon the latter to show that it has complied with the provisions under Section 204(c) in relation to Section 229 of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund;

10. Claims for refund are construed strictly against the claimants for the same partake the nature of exemption from taxation (**Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95**) and as such, they are looked upon with disfavor (**Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211**).

For CTA Case No. 6897

4. Assuming without admitting that petitioner filed a claim for refund, the same is subject to investigation by the Bureau of Internal Revenue;

5. Petitioner failed to demonstrate that the tax subject of the case at bar was erroneously or illegally collected;

6. Taxes paid and collected are presumed to have been made in accordance with law and regulations, hence, not refundable;

7. Petitioner's claim for tax refund/credit in the amount of P11,008,967.82 representing alleged unutilized and unapplied input VAT for the four quarters of taxable year 2002 and first two quarters of taxable year 2003 were not fully substantiated;

8. In an action for refund/credit, the burden of proof is on the taxpayer to establish its right to refund and failure to adduce sufficient proof is fatal to the action for tax refund/credit;

9. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code, as amended; and

10. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation (**Commissioner of Internal Revenue vs. Ledesma, G.R. No. L-13509, January 30, 1970, 31 SCRA 95**) and as such, they are looked upon with disfavor (**Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211**).

During trial petitioner presented testimonial and documentary evidence while respondent submitted the case for decision without presenting any evidence. Petitioner also moved for the commissioning of an Independent Certified Public Accountant (CPA). The Court granted the motion and commissioned Ms. Emerita Escueta of SGV & Co. as Independent CPA.

In the Court's Resolution dated November 6, 2006, the instant case was submitted for decision sans the parties' memoranda.

Petitioner and respondent jointly stipulated on the following issues in both cases:

"1. Whether or not the sale of services by Petitioner to various Philippine Economic Zone Authority ("PEZA"), Clark Development Authority ("CDA") and Subic Bay Metropolitan Authority ("SBMA") registered enterprises are subject to Zero Percent (0%) VAT under Section 108(B)(3) of the National Internal Revenue Code;

2. Whether or not Petitioner has unutilized creditable input value-added taxes amounting to Php2,634,978.65 for the 4th Quarter of 2001 and amounting to Php11,008,967.82 for the 1st, 2nd, 3rd, and 4th Quarters of 2002 as well as the 1st and 2nd Quarters of 2003, which are proper subjects of a claim for refund;

3. Whether or not said creditable input tax for the 4th Quarter of 2001, 1st to 4th Quarters of 2002 and 1st and 2nd Quarters of 2003, derived from domestic purchases of goods and services and importation of goods, are substantiated by documentary evidence in the form of invoices or official receipts;

4. Whether or not said creditable input tax for the 4th Quarter of 2001, 1st to 4th Quarters of 2002 and 1st and 2nd Quarters of 2003 were carried-over or utilized in the succeeding taxable quarter and applied against any output tax liability of the Petitioner for the same and succeeding taxable periods."

Anent the first issue, it is petitioner's positions that the sale of services it made to various Philippine Economic Zone Authority, Clark Development Authority, and Subic Bay Metropolitan Authority (SBMA) registered enterprises are subject to zero percent (0%) VAT under Section 108(B)(3) of the 1997 NIRC, as amended.

This Court agrees with petitioner for undoubtedly, the questioned transactions fall within those referred to under said Section 108(B)(3), quoted hereunder:

> "SEC 108. **Value-added Tax on Sale of Services and Use or Lease of Properties. –**
>
> xxx
>
> (B) Transactions Subject to Zero Percent (0%) Rate. –
>
> 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;
> xxx" (*Emphasis supplied)*

The special laws being referred to by the above quoted law are Republic Act No. 7227, otherwise known as the "Bases Conversion and Development Act of 1992," which provides under Section 12 thereof the tax exemption of Subic Special Economic Zone and Republic Act No. 7916, otherwise known as the "Special Economic Zone Act of 1995" which provides under Section 24 thereof the tax exemption of Ecozones.

In conjunction thereto, Revenue Regulations 7-95 provides that:

> "Section 4.100-2. Zero-rated sales. – A zero-rated sales by a VAT-registered person, which is a taxable transaction for VAT purposes, shall not result in any output tax. However, the input tax on his purchases of goods, properties or services related to such zero-rated sale shall be available as tax credit or refund in accordance with these regulations.
>
> The following sales by VAT-registered persons shall be subject to 0%:

(a) Export sales

"Export Sales" shall mean:

xxx

(5) Those considered export sales under Articles 23 and 77 of Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws, e.g. Republic Act No. 7227, otherwise known as the Bases Conversion and Development Act of 1992.

xxx

(c) Sales to persons or entities whose exemption under special laws, e.g. R.A. No. 7227 duly registered and accredited enterprises with Subic Bay Metropolitan Authority (SBMA) and Clark Development (CDA), R.A. No. 7916, Philippine Economic Zone Authority (PEZA), or international agreements, e.g. Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc. to which the Philippines is signatory effectively subject such sales to zero-rate."

Furthermore, with respect to the sale of services made to the PEZA registered enterprises, Revenue Memorandum Circular No. 74-99 provides that:

"Section 3. Tax Treatment of Sales Made by a VAT Registered Supplier from the Customs Territory to a PEZA registered Enterprise. –

(1) If the buyer is a PEZA registered enterprise which is subject to the 5% special tax regime, in lieu of all taxes, except real property tax, pursuant to R.A. No. 7916, as amended:

xxx

(b) Sale of Service. – This shall be treated subject to zero percent (0%) VAT under the "cross border doctrine" of the VAT System, pursuant to VAT Ruling No. 032-98 date Nov. 5, 1998.

(2) If Buyer is a PEZA registered enterprise which is not embraced by the 5% special tax regime, hence, subject to taxes under the NIRC, e.g., Service Establishments which are subject to taxes under the NIRC rather than the 5% special tax regime:

xxx

> (b) Sale of Service. – This shall be treated subject to zero percent (0%) VAT under the "cross border doctrine" of the VAT System, pursuant to VAT Ruling No. 032-98 dated Nov. 5, 1998."

As can be seen from the above laws and regulations, petitioner's sales of services to PEZA, SBMA, and CDA registered enterprises are subject to zero percent (0%) VAT.

Going to the remaining issues, they can be summarized into whether or not petitioner is entitled to refund or issuance of tax credit certificate.

Relevant hereto is Section 112 of the 1997 NIRC, as amended, which provides that:

> "Section 112. Refunds or Tax Credits of Input Tax. -
>
> (A) Zero-rated or Effectively Zero-rated Sales. – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax; *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(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"

From the foregoing, petitioner must comply with the following requisites in order to be entitled to refund or issuance of tax credit certificate representing unutilized/excess input VAT payments attributable to zero-rated or effectively zero-rated sales:

1. There must be zero-rated or effectively zero-rated sales;

2. That input taxes were incurred or paid;

3. That such input VAT payments are directly attributable to zero-rated sales or effectively zero-rated sales;

4. That the input VAT payments were not applied against any output VAT liability; and

5. That the claim for refund was filed within the two-year prescriptive period.

We shall first go to the fifth and final requisite. Compliance thereto by petitioner was already settled by admission of both parties in their Joint Stipulation of Facts and Simplification of Issues.[5] Thus, discussion thereof is no longer necessary.

Going now to the first requisite. As already discussed, petitioner clearly had zero-rated or effectively zero-rated sales. The only question left unanswered is how much zero-rated or effectively zero-rated sales were generated by petitioner.

An examination of the report of the commissioned Independent CPA (*Exhibit "T" to "T-59"*) and petitioner's supporting evidence, such as VAT returns for the questioned period (*Exhibit "E" to "M", inclusive of sub-markings*), and various receipts (*Exhibit "UU" to "PP"*), shows that petitioner had sale of services to allegedly CDA and SBMA registered enterprises in the amount of P1,549,622.00 and export sales to Loken (Singapore) in the amount of P33,707,095.43.

However, the sale of services to said allegedly CDA and SBMA registered enterprises cannot be considered as zero-rated sales because petitioner failed to submit to this Court documents showing their registration, such as Certificates of

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[5] Paragraphs 21 and 23

Registration, upon which the Court could verify whether said enterprises are really registered with the CDA and SBMA.

On the other hand, with respect to the sale of services to Loken (Singapore) the relevant provision of the 1997 NIRC, as amended, is Section 108(B)(2), quoted hereunder:

> "SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –
>
> 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
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or a nonresident person not engaged in business who is outside the Philippines when the services are performed, 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 Plipinas (BSP); xxx"

According to the CPA report, the sales of services to Loken (Singapore) were supported by Bank Credit Advices and by entries of deposits in petitioner's foreign currency bank account.

However, a thorough scrutiny of the pieces of evidence of petitioner shows that it failed to actually submit to this Court such Bank Credit Advices or entries of deposit proving that its sale of services to Loken (Singapore) were really paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. Thus, petitioner's sale to Loken (Singapore) likewise failed to qualify as zero-rated sales.

Accordingly out of the amount of P316,744,782.06 claimed as zero-rated sales by petitioner within the period of the claim, only P281,488,064.63 qualifies for VAT zero-rating.

We shall now proceed to the second requirement. The amount of input taxes being claimed by petitioner per quarterly VAT returns amounted to P39,675,621.60. But as correctly noted by the Court commissioned CPA in its report dated May 27, 2005,[6] only P24,932,449.63 was supported by valid VAT documents. The amount of 14,743,171.97 was excluded and a detailed summary of the amount and reasons for the exclusions are as follows:

For the 4th Quarter 2001		
a.	Domestic purchase of goods supported by official receipts only	P 10,827.27
b.	Domestic purchase of services supported by unregistered official receipt (OR)	17,096.89
c.	Domestic purchase of services with wrong support (provisional receipt only)	167,359.00
d.	Input taxes claimed not within the coverage of the refund	324,773.64
e.	Out of the year period input taxes claimed	788,513.46
f.	Input taxes claimed with photocopied supporting documents	56,818.08
g.	Unsupported Domestics purchase of services	44,838.48
h.	Erroneous amount of input taxes claimed	96,398.31
i.	Unsubstantiated input taxes claimed	4,055,897.05
	Total for the 4th Quarter of 2001	**P5,562,523.07**
For the 1st Quarter 2002		
a.	Domestic purchase of goods supported by official receipt only	P 12,090.91
b.	Domestic purchase of goods supported by unregistered invoice	80,000.00
c.	Out-of-year period input taxes claimed	235,371.20
d.	Unsupported Domestic purchase of services	18,181.82
e.	Erroneous amount of input taxes claimed	210,952.76
f.	Unsubstantiated input taxes claimed	1,851,012.95
	Total for the 1st Quarter of 2002	**P2,407,609.64**
For the 2nd Quarter of 2002		
a.	Input taxes claimed with photocopied supporting documents	P 2,072.73
b.	Domestic purchase of service supported by TAN official receipts	26,570.89
c.	Erroneous amount of input taxes claimed	289,044.58
d.	Unsubstantiated input taxes claimed	483,741.28
	Total for the 2nd Quarter of 2002	**P801,429.48**

[6] Exhibit "T", pages 4 to 6

For the 3rd Quarter 2002

a.	Domestic purchase of goods supported by official receipts only	P 166,350.00
b.	Domestic purchase of goods supported by stamped TIN VAT invoice	4,600.00
c.	Domestic purchase of service supported by Statement of Account only	2,023.43
d.	Domestic purchase of service supported by TAN official receipts	3,181.82
e.	Erroneous amount of input taxes claimed	26,481.48
f.	Unsubstantiated input taxes claimed	809,014.97
	Total for the 3rd Quarter of 2002	**P1,011,651.70**

For the 4th Quarter 2002

a.	Out-of-year period input taxes claimed	P1,133,725.05
b.	Unsupported Domestic purchase of goods and services	6,545.45
c.	Domestic purchase of service supported by TAN official receipts	13,636.36
d	Erroneous amount of input taxes claimed	524,128.14
e.	Unsubstantiated input taxes claimed	2,125,317.01
	Total for the 4th Quarter of 2002	**P 2,783,352.01**

For the 1st Quarter 2003

a.	Input taxes claimed not within the coverage of the refund	P 53,636.36
b	Out-of-year period input taxes claimed	8,910.00
c	Domestic purchase of service with Non-VAT support	75,818.18
d	Unsupported domestic purchase of service	5,363.64
e.	Domestic purchase of services supported by TAN official receipts	7,387.81
f.	Erroneous amount of input taxes claimed	818.18
g	Unsubstantiated input taxes claimed	720,186.20
	Total for the 1st Quarter of 2003	**P 872,120.38**

For the 2nd Quarter 2003

a.	Input taxes claimed not within the coverage of the refund	P 228,849.53
b	Domestic purchase of service with Non-VAT support	12,702.28
c.	Unsupported domestic purchase of goods and services	39,281.82
d.	Domestic purchase of services supported by TAN official receipts	121,730.73
e.	Unsubstantiated input taxes claimed	901,921.34
	Total for the 2nd Quarter of 2003	**P 1,304,485.69**

GRAND TOTAL	**P14,743,171.97**

Finally, with respect to the third and fourth requisites, being interrelated, they shall be discussed jointly. Records show that not all of the substantiated input VAT of P24,932,449.63 can be attributed to petitioner's zero-rated sales since it also had taxable sales for the subject period in the amount of P305,845,184.48 with the related output tax of P30,584,540.30, detailed as follows:

Exhibit	Taxable Quarter	Taxable Sales/ Receipts	Output VAT
E	4th qtr-2001	P 73,207,836.45	P 7,320,783.64 [7]
F-3	1st qtr-2002	58,427,406.34	5,842,762.50
G-3	2nd qtr-2002	57,716,423.86	5,771,642.39
H-3	3rd qtr-2002	43,685,982.77	4,368,598.27
I-3	4th qtr-2002	21,277,931.52	2,127,793.15
J-3	1st qtr-2003	37,547,800.84	3,754,780.08
K-3	2nd qtr-2003	13,981,802.70	1,398,180.27
		P 305,845,184.48	P 30,584,540.30

As can be seen from the table above, the substantiated input VAT of P24,932,449.63 is not enough to cover petitioner's output VAT liability of P30,584,540.30. This means that the entire input tax of P24,932,449.63 shall be applied against the output tax of P30,584,540.30.

Based on the foregoing, it follows that there is no excess/unutilized input VAT which may be the proper subject of claim for refund/issuance of tax credit certificates pursuant to section 112(A) of the 1997 NIRC, as amended.

WHEREFORE, the instant Petition for Review is hereby **DENIED DUE COURSE,** and accordingly, **DISMISSED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

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[7] Per VAT return, erroneously computed by petitioner as P7,320,397.92

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division