Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PROCTER & GAMBLE ASIA, PTE. LTD.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8341
For*:* Refund

Members:
DEL ROSARIO, PJ, *Chairperson*
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
FEB 24 2014 8:30 a.m.

x - x

D E C I S I O N

MINDARO-GRULLA, J.:

This is a Petition for Review filed on September 26, 2011 by Procter & Gamble Asia, Pte. Ltd. as petitioner, against Commissioner of Internal Revenue as respondent for the Court in Division, pursuant to Section 7(a)(1) of Republic Act (RA) No. 1125, An Act Creating the Court of Tax Appeals, as amended[1], as well as Rule 4, Section 3(a)(2), in relation to Rule 8, Section 4(a) of the Revised Rules of the Court of Tax Appeals (RRCTA)[2], as amended.

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[1] Sec. 7. *Jurisdiction*. – The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
x x x x x x
(2) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds or internal revenue taxes, fees of other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
x x x x x x

[2] Rule 4, Sec. 3. *Cases within the jurisdiction of the Court in Division*. – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
x x x x x x

Petitioner seeks the refund of the amount of ₱98,422,081.42, representing its alleged unutilized input value-added tax (VAT) attributable to zero-rated sales for the fiscal year covering July 1, 2009 to June 30, 2010.

Petitioner Procter & Gamble Asia, Pte. Ltd. is a foreign corporation duly organized and existing under the laws of Singapore and is maintaining Regional Operating Headquarters in the Philippines at the 18th Floor, Petron Megaplaza, 358 Sen. Gil Puyat Avenue, Makati City, in accordance with the Certificate of Registration and License S.E.C. Reg. No. A199913443 issued by the Securities and Exchange Commission (SEC) on January 23, 2001. It is authorized by the SEC to provide management, marketing, technical and financial advisory, and other qualified services

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> (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided,* that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further,* that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules;
>
> x x x x x x

Rule 8. Sec. 4. *Where to appeal; mode of appeal.-*

> (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.
>
> x x x x x x

to its related companies or affiliates.[3] Petitioner is also registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, with Taxpayer's Identification Number (TIN) 203-684-973-000 as evidenced by its Certificate of Registration No. OCN 9RC0000071787.[4]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue, with the authority to act as such, including the power to decide, approve and grant claims for issuance of tax credit certificate or refund of overpaid internal revenue taxes as provided by law. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner renders services to its affiliates in the Philippines and abroad pursuant to Service Agreements[5] with said affiliates. Under these Service Agreements, petitioner provides the Service Recipients (petitioner's affiliates) accounting and financial reporting services, employee services, purchases, business intelligence services, information technology business solution, workplace services, and other services.[6]

Petitioner submitted to the BIR its original and amended Quarterly VAT Returns for fiscal year July 1, 2009 to June 30, 2010 on the following dates:

PERIOD COVERED (2008)			**DATE FILED**	**EXHIBIT**
First Quarter	July 1, 2009 to September 30, 2009	Original return	October 22, 2009	"G"
		First amendment	April 26, 2010	"H"
Second Quarter	October 1, 2009 to December 31, 2009	Original return	January 22, 2010	"I"
		First	April 26, 2010	"J"

[3] Par. 1, Admitted Facts by Petitioner and Respondent, Joint Stipulation of Facts and Issues (JSFI), Docket, p. 246; Exhibit "A".
[4] Par. 3, Admitted Facts by Petitioner and Respondent, JSFI, Docket, p. 247; Exhibit "B".
[5] Exhibits "C-1" to "C-51".
[6] Exhibit "K4".

		amendment		
		Second amendment	April 26, 2011	"M"
Third Quarter	January 1, 2010 to March 31, 2010	Original return	April 26, 2010	"K"
		First amendment	April 26, 2011	"L"
Fourth Quarter	April 1, 2010 to June 30, 2010	Original return	July 26, 2010	"N"
		First amendment	August 20, 2010	"O"
		Second amendment	September 20, 2010	"P"
		Third amendment	April 26, 2011	"Q"

On April 29, 2011, petitioner filed an administrative claim dated April 25, 2011 with the BIR Large Taxpayers Service for the refund or issuance of tax credit certificate in the aggregate amount of ₱98,422,081.42, representing unutilized input VAT attributable to its zero-rated sales for fiscal year ending June 30, 2010.[7] However, due to the inaction of respondent Commissioner on petitioner's administrative claim, petitioner filed the instant Petition for Review on September 26, 2011.

After the Motion for Extension of Time to File Answer was granted by the Court,[8] respondent filed her Answer[9] on October 28, 2011, interposing the following special and affirmative defenses:

> "4. Respondent hereby reiterates and repleads the preceding paragraphs of this answer as part of her Special and Affirmative Defenses.
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> 5. Taxes collected are presumed to be in accordance with laws and regulations.
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> 6. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination

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[7] Exhibits "II", "JJ", "KK", "LL", and "MM".
[8] Court Order dated October 18, 2011, Docket, p. 217.
[9] Docket, pp. 210-215.

by the Bureau of Internal Revenue. A claim for refund is not *ipso facto* granted because respondent CIR still has to investigate and ascertain the validity of the claim.

7. Petitioner is not entitled to the claim being sought for failure to file a timely and appropriate written claim for refund.

8. Petitioner must prove that it is a VAT registered taxpayer and that it paid the alleged VAT input taxes for the period in question.

9. Petitioner must prove that the same alleged input VAT was not utilized against any output VAT liability.

10. Petitioner must prove that its sales are VAT zero-rated as contemplated under Section 112 (A) of the Tax Code of 1997.

11. Petitioner must prove that the alleged VAT input taxes for the period in question are attributable to its alleged VAT zero-rated sales.

12. Petitioner must prove that its administrative application and petition for review were filed within the period prescribed by law.

13. Petitioner must prove that it submitted complete documents in support of the application filed with the BIR as required by section 112 of the Tax Code of 1997 in relation to RMO No. 53-98.

14. Entrenched in our jurisprudence is the principle that tax refunds are in the nature of tax exemptions which are construed *strictissimi juris* against the taxpayer and liberally in favor of the government. As tax refunds involve a return of revenue from the government, the claimant must show indubitably the specific provision of law from which its right arises; it cannot be allowed to exist

upon a mere vague implication or inference nor can it be extended beyond the ordinary and reasonable intendment of the language *actually used* by the legislature in granting the refund. To repeat, strict compliance with the conditions imposed for the return of revenue collected is a doctrine consistently applied in this jurisdiction.

In an action for refund, the burden of proof is on the taxpayer who claims the exemption and he must justify his claim by the clearest grant under the Constitutional or statutory law and cannot be permitted by vague implications **(BPI Leasing Corporation vs. Honorable Court of Appeals, G.R 127624, November 18, 2003).** The taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund. **(Commissioner of Internal Revenue vs. Eastern Telecommunications Philippines, Inc. G.R. 163835 July 7, 2010)**

15. Taxes are essential to government's very existence; **(CIR v. Solidbank Corporation, G.R. No. 148191, November 25, 2003)** hence, the dictum that 'taxes are the lifeblood of the government.' For this reason, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority. **(CIR v. Fortune Tobacco Corporation, G.R. Nos. 167274-75, July 21, 2008)** Since tax refunds are regarded as tax exemptions and these are to be construed ***strictissimi juris*** against the person or entity claiming the exemption. **(Philippine Phospate Fertilizer Corporation vs. Commissioner of Internal Revenue G.R 141973, June 28, 2005)**

16. Following the premise above-mentioned, petitioner has the burden of proving that the right to such tax refund indubitably exists and well-founded doubt is fatal to the claim."

A pre-trial conference was scheduled on December 8, 2011.[10] Subsequently, respondent's Pre-Trial Brief[11] was filed on November 29, 2011; while the Pre-Trial Brief (For Petitioner)[12] was filed on December 2, 2011.

The parties submitted their Joint Stipulation of Facts and Issues[13] on January 9, 2012, which the Court approved via Resolution[14] dated January 12, 2012. In the same Resolution, the Court terminated the pre-trial and the parties were ordered to proceed with the trial.

During trial, petitioner presented Maria Nora Manalo, Teresita O. Sugay, Jesse Teo, and Czarina R. Miranda as its witnesses. Petitioner likewise formally offered its documentary exhibits on November 16, 2012.

The documentary evidence formally offered and admitted are as follows:

Exhibits	Description
A	Certificate of Registration and License issued to petitioner by the Securities and Exchange Commission (SEC) on January 23, 2001.
B	Certificate of Registration issued by the Bureau of Internal Revenue to petitoner on October 8, 1999.
C-1	Service agreement with Detergent Products AG
C-2	Service agreement with Gillette Diversified Operations Private Limited
C-3	Service agreement with Gillette India Ltd
C-4	Service agreement with Procter & Gamble Distributing New Zealand
C-5	Service agreement with P&G K.K.

[10] Docket, p. 218.
[11] Docket, pp. 219-222.
[12] Docket, pp. 224-238.
[13] Docket, pp. 246-248.
[14] Docket, p. 250.

C-6	Service agreement with Max Factor Kabushiki Kaisha
C-7	Service agreement with Procter & Gamble Technical Centres Limited
C-8	Service agreement with Procter & Gamble Vietnam Ltd
C-9	Service agreement with Procter & Gamble Korea Inc.
C-10	Service agreement with Procter & Gamble Malaysia SDN BHD
C-11	Service agreement with Procter & Gamble Singapore Pte Ltd
C-12	Service agreement with Procter & Gamble Australia Pty Ltd
C-13	Service agreement with Procter & Gamble Distributing (HK) Limited
C-14	Service agreement with Procter & Gamble Export Operations SARL, Taiwan branch
C-15	Service agreement with Procter & Gamble Gulf FZE
C-16	Service agreement with Procter & Gamble Hong Kong Ltd
C-17	Service agreement with Procter & Gamble International Operations Pte Ltd
C-18	Service agreement with Procter & Gamble International Operations SA
C-19	Service agreement with Procter & Gamble Japan K.K.
C-20	Service agreement with Procter & Gamble Korea S&D Co.
C-21	Service agreement with Procter & Gamble Pet Care (Australia) Pty Ltd
C-22	Service agreement with **Procter & Gamble South Africa PTY LTD**
C-23	Service agreement with Procter & Gamble South African Trading Pty Ltd

C-24	Service agreement with Procter & Gamble Taiwan Limited
C-25	Service agreement with Procter & Gamble Manufacturing Pty Ltd
C-26	Service agreement with P.T. Procter & Gamble Home Products Indonesia
C-27	Service agreement with The Procter & Gamble Company
C-28	Service agreement with Procter & Gamble Distributing (Philippines), Inc.
C-29	Service agreement with Procter & Gamble Philippines, Inc.
C-30	Service agreement with Procter & Gamble Korea IE. Co.
C-31	Service agreement with Procter & Gamble Manufacturing (Thailand) Limited
C-32	Service agreement with Procter & Gamble Trading (Thailand) Ltd.
C-33	Service agreement with Procter & Gamble Hygiene and Health Care Limited
C-34	Service agreement with Procter & Gamble Home Products Limited
C-35	Service agreement with Procter & Gamble Indochina
C-36	Service agreement with Procter & Gamble Pakistan (Private) Limited
C-37	Service agreement with Cosmetic Suppliers Pty Ltd
C-38	Service agreement with Hyginett Magyar-Amerikai Higieniai Cikkeket Gyarto Kft
C-39	Service agreement with P&G Design Centre Godo Kaisha
C-40	Service agreement with P&G Innovation Godo Kaisha
C-41	Service agreement with **PPS Hairwear Australia Pty Ltd**

C-42	Service agreement with **Procter & Gamble Rakona s.r.o.**
C-43	Service agreement with **Procter & Gamble Czech Republic s.r.o.**
C-44	Service agreement with **Procter & Gamble d.o.o. za trgovinu.**
C-45	Service agreement with **Procter & Gamble Magyarorszag Nagykereskedelmi Kkt**
C-46	Service agreement with **Procter & Gamble RSC Regionalis Szolgaltato Kft**
C-47	Service agreement with **Procter & Gamble spol s.r.o.**
C-48	Service agreement with **Gillette Pakistan Limited**
C-49	Service agreement with **P&G Israel M.D.O. Ltd**
C-50	Service agreement with **Procter & Gamble Marketing in trgovske dejavnosti d.o.o Ljubljana**
C-51	Service agreement with **Wella India Ltd**
D	Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2009
E	First Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2009
F	Second Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2009
G	Quarterly VAT Return (BIR Form 2550Q) for the quarter ending September 30, 2009
H	Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending September 30, 2009
I	Quarterly VAT Return (BIR Form 2550Q) for the quarter ending December 31, 2009

J	First Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending December 31, 2009.
K	Quarterly VAT Return (BIR Form 2550Q) for the quarter ending March 31, 2010
L	Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending March 31, 2010
M	Second Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending December 31, 2009
N	Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2010
O	First Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2010
P	Second Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2010
Q	Third Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2010
R	Quarterly VAT Return (BIR Form 2550Q) for the quarter ending September 30, 2010
S	Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending September 30, 2010
T	Quarterly VAT Return (BIR Form 2550Q) for the quarter ending December 31, 2010
U	Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending December 31, 2010
V	Monthly VAT Declaration (BIR Form 2550-M) for the month of July 2009
W	Monthly VAT Declaration (BIR Form 2550-M) for the month of August 2009
X	Monthly VAT Declaration (BIR Form 2550-M) for the month of October 2009
Y	Monthly VAT Declaration (BIR Form 2550-M) for the month of November 2009

Z	Monthly VAT Declaration (BIR Form 2550-M) for the month of January 2010
AA	Monthly VAT Declaration (BIR Form 2550-M) for the month of February 2010
BB	Monthly VAT Declaration (BIR Form 2550-M) for the month of April 2010
CC	Monthly VAT Declaration (BIR Form 2550-M) for the month of May 2010
DD	Monthly VAT Declaration (BIR Form 2550-M) for the month of July 2010
EE	Amended Monthly VAT Declaration (BIR Form 2550-M) for the month of July 2010
FF	Monthly VAT Declaration (BIR Form 2550-M) for the month of August 2010
GG	Monthly VAT Declaration (BIR Form 2550-M) for the month of October 2010
HH	Monthly VAT Declaration (BIR Form 2550-M) for the month of November 2010
II	Application for Tax Credits/Refunds (BIR Form 1914) for the period July 1, 2009 to September 30, 2009
JJ	Application for Tax Credits/Refunds (BIR Form 1914) for the period October 1, 2009 to December 31, 2009
KK	Application for Tax Credits/Refunds (BIR Form 1914) for the period January 1, 2010 to March 31, 2010
LL	Application for Tax Credits/Refunds (BIR Form 1914) for the period April 1, 2010 to June 30, 2010
MM	Letter dated April 25, 2011 addressed to the BIR in support of petitioner's claim for refund
OO	Judicial Affidavit of Maria Nora Manalo with documentary stamp tax affixed
OO-1	Signature of Maria Nora Manalo
PP	Citibank Certification of inward remittances dated April 25, 2011

QQ	Citibank Certification of inward remittances dated April 27, 2010 for the period January 1, 2010 to June 30, 2010
RR	Judicial Affidavit of Teresita O. Sugay with documentary stamp affixed thereto
RR-1	Signature of Teresita O. Sugay
SS	Certificate of Authentication issued by Domingo P. Nolasco, Consul General of the Republic of the Philippines in the United States and affidavit of Susan S. Felder, Assistant Secretary of The Procter & Gamble Company
TT	Certificate of Incorporation with Affidavit of Nimalan Rutnam, Company Secretary of Procter & Gamble Australia Pty. Ltd., bearing the Seal of Philippine Consulate General in Sydney
UU	Certification of Incorporation on Change of Name of Procter & Gamble Hong Kong Limited with Certification issued by Victorio Mario M. Dimagiba, Jr., Consul of the Republic of the Philippines in and for Hong Kong SAR
VV	Affidavit executed by XIONG Qing Yun, Director of Procter & Gamble Hong Kong Limited, with Certification issued by Victorio Mario M. Dimagiba, Jr.
WW	Affidavit of Mari Nogami, Officer for Representative Member of P&G Max Factor Godo Kaisha with Authentication issued by Ana Marie L. Hernando, Vice Consul of the Republic of the Philippines in and for Osaka Japan
XX	Certificate of All Current Registered Matters for Max Factor Godo Kaisha with authentication likewise issued by Vice Consul Ana Marie L. Hernando
YY	Certificate of Incorporation with Authentication issued by Shirlene C. Mananquil, Vice Consul of Republic of the Philippines in Kuala Lumpur, Malaysia and affidavit of Zulhaimi bin Abdul Hamid, External Relations Leader of Procter & Gamble (Malaysia) Sdn. Bhd, and annexes thereto

ZZ	Certificate of Incorporation and Affidavit of Nimalan Rutnam, Company Secretary fo Procter & Gamble Distributing New Zealand bearig the Seal of Philippine Consulate General in Sydney
AAA	Certified copy of its Certificate of Incorporation with Certificate of Authentication issued by Nathaniel G. Imperial, Consul of the Republic of the Philippines in Singapore and affidavit of Ashok Kumar Chhabra, Director of Procter & Gamble (Singapore) Pte. Ltd.
BBB	Certificates of Tax Withheld at Source with Certificate of Authentication issued by Resurrecion M. Fernando of the Manila Economic and Cultural Office in Taiwan and affidavit of Max Rangel, General Manager of Procter & Gamble Taiwan, Ltd, and annexes thereto
CCC	Affidavit of Mrs. Sunee Kirdniyom, Legal Counselor of Procter & Gamble Manufacturing (Thailand) Ltd. with Authentication issued by Edgar B. Badajos, Consul General at the Philippine Embassy in Thailand
DDD	Certification issued by Miss Kannika Achariyasakulchai of the Bangkok Metropolis Partnership and Company Registration Office (with translations) certifying that Procter & Gamble Manufacturing (Thailand) Ltd has been registered under the Civil and Commercial Code with Authentication issued by Consul General Edgar B. Badajos
EEE	Affidavit of Mrs. Sunee Kirdniyom, Legal Counselor of Procter & Gamble Trading (Thailand) Ltd. with Authentication issued by Edgar B. Badajos, Consul at the Philippine Embassy in Thailand
FFF	Affidavit issued by Miss Kannikar Achariyasakulchai of the Bangkok Metropolis Partnership and Company Registration Office (with translations) certifying that Procter & Gamble Trading (Thailand) Ltd has been registered under the Civil and Commercial Code with Authentication issued by Consul Edgar B. Badajos

GGG	Certificate of Incorporation with Certificate of Authentication issued by Abraham R. Estavillo, Consul General in Seoul, Korea with attached Affidavit of Okuyama Shinji, Director of Procter & Gamble Korea Incorporation and annexes thereto
GGG-1	Duly authenticated Certificate of Incorporation of Procter & Gamble Korea Incorporation
HHH	Certificate of Incoporation with Authentication issued by Germinia V. Aguilar-Usudan, First Secretary and Consul of the Republic of the Philippines in and for the Consular District of Jakarta, Indonesia and affidavit of Mohamed Ahmed Ismail, President Director of P.T. Procter & Gamble Home Products Indonesia
III	Affidavit of LE THI THANHD HA, Country Finance Manager of Procter & Gamble Vietnam Ltd, with Authentication issued by Gerry T. Paglinawan, Consul General, a.h. of the Consulate General of the Republic of the Philippines Ho Chi Minh City, Vietnam
JJJ	Affidavit executed by Al Abdul Malek Rajwani, General Manager of Procter & Gamble Gulf FZE, with authentication of Vicente Vivencio T. Bandillo of the Consulate General of the Republic of the Philippines, Dubai – UAE
KKK	Affidavit of Klaus Lindner, member of the Board of Directors of Procter & Gamble International Operations SA, with Certificate of Authentication issued by Margarita S. Ibayan.
LLL	Certified extract of the Commercial Register, Geneva, of Procter & Gamble International Operations SA with Certificate of Authentication issued by Margarita S. Ibayan, First Secretary and Consul of the Republic of the Philippines in Switzerland
MMM	Affidavit executed by John M. Mang, Representative in Japan, of P&g Northeast Asia Pte. Ltd, and annex thereto. With authentication issued by Ana Marie L. Hernando

NNN	Certificate of All Current Registered Matters of P&G Northeast Asia PTE. LTD with authentication issued by Ana Marie L. Hernando
OOO	Certificate of Incorporation with Certificate of Authentication issued by Abraham R. Estavillo, Consul General in Seoul, Korea, and affidavit of Okuyama Shinji, Director of Procter & Gamble Korea S&D Company.
OOO-1	Duly authenticated Certificate of Incorporation of Procter & Gamble Korea S&D Company
PPP	Certificate of Incorporation with Authentication issued by Abraham R. Estavillo, Consul General in Seoul, Korea, and affidavit of Okuyama Shinji, Director of Procter & Gamble Korea IE Company and annexes thereto
PPP-1	Duly authenticated Certificate of Incorporation of Procter & Gamble Korea IE Company
QQQ	Certified Copy of its Certificate of Incorporation with Certificate of Authentication issued by Nathaniel G. Imperial, Consul of the Republic of the Philippines in Singapore, and affidavit of Ashok Kumar Chhabra, Director of Procter & Gamble International Operations Pte. Ltd
RRR	Authentication issued by Ana Marie L. Hernando, Vice consul of the Republic of the Philippines in Japan, and affidavit of Hatsunori Kiriyama, Representative Director of P&G K.K.
SSS	Company Register of P&G K.K. with Authentication issued by Ana Marie L. Hernando, Vice Consul of the Republic of the Philippines in Japan
TTT	Affidavit of Ori BenShai, Associate Marketing Director of Procter & Gamble Israel M.D.O. Ltd with Authentication issued by Thaddeus T. Hamoy, Vice Consul of the Republic of the Philippines in Tel Aviv, Israel
UUU	Certification of Translation (Form No. 7650) bearing the signature and seal of Michal Ophir, Advocate and Notary at 67 A'Blalik St.

	Ramat Gan Israel and attached Company details data
BBB	Certificates of Tax Withheld at Source with Certificate of Authentication issued by Resurrecion M. Fernando of the Manila Economic and Cultural Office in Taiwan and affidavit of Max Rangel, Branch Manager of Procter & Gamble Export Operations SARL and annexes thereto
VVV	Affidavit executed by XIONG Qing Yun, Director of Procter & Gamble Distributing (HK) Limited, attached to the certification issued by Victorio Mario Dimagiba
WWW	Certificate of Change of Name of Procter & Gamble Distributing (HK) Limited attached to the certification issued by Victorio Mario Dimagiba
XXX	Certified copy of license and affidavit of Hatsunori Kiriyama, Representative Director of Procter & Gamble Japan K.K. with Authentication issued by Ana Marie L. Hernando Vice Consul fo the Republic of the Philippines in Osaka Japan
YYY	Company Register of Procter & Gamble Japan K.K. with Authentication issued by Ana Marie L. Hernando Vice Consul of the Republic of the Philippines in Osaka Japan
ZZZ	Certificate of Registration on Change of Name of Procter & Gamble Pet Care (Australia) Pty. Ltd with the Seal of the Philippine Consulate General and signed by Vice Consul J. Anthony A. Reyes, and the affidavit of Nimalan Rutnam, Company Secretary of Procter & Gamble Pet Care (Australia) Pty. Ltd
A^4	Memorandum and Articles of Association of Procter & Gamble Hygiene and Health Care Limited with Certificate of Authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India and the affidavit of Amit Vyas, Company Secretary of Procter & Gamble Hygiene and Health Care Limited.
B^4	Joint Affidavit of Laurent Philippe and Thomas Gorham, legal representatives of Detergent Products AG with Certificate of

	Authentication issued by Margarita S. Ibayan, First Secretary and Consul of the Republic of the Philippines in Switzerland
C^4	Certified copy of the License of Detergent Products AG with Certificate of Authentication issued by Margarita S. Ibayan, First Secretary and Consul of the Republic of the Philippines in Switzerland
D^4	Certified copy of the Memorandum and Articles of Association of the Procter & Gamble Home Products Limited with Certificate of Authentication issued by Rajashree Birla Consul General of the Republic of the Philippines in India and affidavit of Sachin Harlalka, Company Secretary of Procter & Gamble Home Products Limited
E^4	Affidavit of Andrew Charles MacCarthy, Director of Procter & Gamble Technical Centres Limited, with annexed Certificate of Good Standing for the Company, sworn at Weybridge before Solicitor Gwyne M P Jarvis
F^4	Memorandum and Articles of Association of Gillette Diversified Operations Private Limited with Certificate of Authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India and the affidavit of Prashant Batnagar, Director of Gillette Diversified Operations Private Limited
G^4	Memorandum and Articles of Association of Gillette India Limited with Certificate of Authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India and the affidavit of Deepak Acharya, Company Secretary of Gillette India Limited
H^4	Certificates of Tax Withheld at source issued to Petitioner by Gillette India Limited and Gillette Diversified Operations Private Limited and affidavit of Prashant Bhatnagar, Country Tax Manager of Gillette India Limited with authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India

J^4	Exhibit 21 of the Procter and Gamble Company and Subsidiaries Report to the U.S. Securities and Exchange Commission.
K^4	Judicial Affidavit of Mr. Jesse Teo with documentary stamp affixed thereto
K^4-1	Signature of Mr. Jesse Teo
LLLL; LLLL 1 to LLLL 24	Independent CPA Report
LLLL 25	Signature of Ms. Czarina R. Miranda in her Final Independent CPA Report
MMMM, MMMM 1-1 to MMMM 1-3	Quarterly Summary List of Sales for the Period ended September 30, 2009
NNNN; NNNN 1-1 to NNNN 1-3	Quarterly Summary List of Sales for the Period ended December 31, 2009
OOOO; OOOO 1-1 to OOOO 13-	Quarterly Summary List of Sales for the Period ended March 31, 2010
PPPP; PPPP 1-1- to PPPP 1-3	Quarterly Summay List of Sales for Period ended June 30, 2010
QQQQ; QQQQ 1-1 to QQQQ 1-26	Schedule of zero-rated sales of services
RRRR; RRRR 1-1- to RRRR 1-314; RRRR 2-315 to RRRR 2-628; RRRR 3-269 to RRRR 3-942; RRRR 4-943 to RRRR 4-1256; RRRR 5-1257 to RRRR 5-1570; RRRR 6-1571 to RRRR	BIR-registered Debit/Credit Memos for Zero-rated Sales of Services

6-1887	
SSSS; SSSS 1-1 to SSSS 1-300; SSSS 2-301 to SSSS 2-443	VAT Official Receipts issued for Zero-rated Sales of Services
TTTT; TTTT 1-1 to TTTT 1-86	Bank Statements Issued by Citibank N.A. Philippine Branches
UUUU; UUUU 1-1 to UUUU 1-12	Schedule of Local Sales of Services
VVVV; VVVV 1-1 to VVVV 1-219	BIR-registered Debit/Credit Memos for Local Sales of Services
WWWW, WWWW 1-1 to WWWW 1-44	VAT Official Receipts issued for Local Sales of Services
XXXX, XXXX 1-1 to XXXX 1-4	Quarterly Summary Lists of Purchases for the period ended September 30, 2009
YYYY, YYYY 1-1 to YYYY 1-3	Quarterly Summary Lists of Purchases for the period ended December 31, 2009
ZZZZ, ZZZZ 1-1 to ZZZZ 1-4	Quarterly Summary Lists of Purchases for the period ended March 31, 2010
AAAAA, AAAAA 1-1 to AAAAA 1-4	Quarterly Summary Lists of Purchases for the period ended June 30, 2010
BBBBB, BBBBB 1-1 to BBBBB 1-13	Schedule of Domestic Purchases of Goods
CCCCC, CCCCC 1-1 to CCCCC 1-76	Schedule of Domestic Purchases of Services
DDDDD, DDDDD 1-1	Schedule of Capital Goods Purchased

to DDDDD 1-12	
EEEEE, EEEEE 1-1 to EEEEE 1-300; EEEEE 2-301 to EEEEE 2-526; EEEEE 3-1 to EEEEE 3-107; EEEEE 4-1 to EEEEE 4-300; EEEEE 5-301 to EEEEE 5-558; EEEEE 6-1 to EEEEE 6-34; EEEEE 7-1 to EEEEE 7-6; EEEEE 8-1 to EEEEE 8-14; EEEEE 9-1 to EEEEE 9-5	Various VAT Invoices, VAT Official Receipts, and Other Documents
FFFFF, FFFFF 1-1 to FFFFF 1-5; FFFFF 2-1 to FFFFF 2-2; FFFFF 3-1 to FFFFF 3-212; FFFFF 4-1; FFFFF 5-1 to FFFFF 5-3; FFFFF 6-1; FFFFF 7-1 to FFFFF 7-9; FFFFF 8-1 to FFFFF 8-11; FFFFF 9-1; FFFFF 10-1; FFFFF 11-1 to FFFFF 11-6; FFFFF 12-1; FFFFF 13-1 to FFFFF 13-5; FFFFF 14-1 to FFFFF 14-2; FFFFF 15-1; FFFFF 16-1 to FFFFF 16-5; FFFFF 17-1; FFFFF	Various VAT Invoices, VAT Official Receipts and Other Documents

18-1 to FFFFF 18-3; FFFFF 19-1 to FFFFF 19-33; FFFFF 20-1 to FFFFF 20-8; FFFFF 21; FFFFF 22-1 to FFFFF 22-11; FFFFF 23-1 to FFFFF 23-23; FFFFF 24-1 to FFFFF 24-4	
GGGGG; GGGGG 1-1 to GGGGG 1-49	Certificates of Non-registration of Corporation or Partnership issued by the Securities and Exchange Commission
HHHHH, HHHHH 1-1 to HHHHH 1-11	Certificate of Inward Remittances issued by Citibank dated April 27, 2010 and April 25, 2011
IIIII, IIIII 1-1 to IIIII 1-2	Amended Quarterly VAT Return for the quarter ended June 30, 2009
JJJJJ; JJJJJ 1-1 to JJJJJ 1-2	Amended Quarterly VAT Return for the quarter ended September 30, 2010
KKKKK, KKKKK 1-1 to KKKKK 1-4	BIR Authority to Print Invoices or Receipts
LLLLL	Judicial Affidavit of Ms. Czarina R. Miranda with documentary stamp affixed thereto
LLLLL-1	Signature of Ms. Czarina R. Miranda

On the other hand, respondent's counsel manifested during the hearing on January 30, 2013 that there was no report on petitioner's administrative claim for refund and she had no witness to present.

On May 6, 2013,[15] this case was submitted for decision upon the filing of the parties' Memoranda on April 1, 2013.

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[15] Docket, p. 661.

The parties submitted the following issues[16] for the Court's resolution:

> "1.) Whether Petitioner has complied with governing rules and regulations with regard to recovery of taxes collected/received as provided in the NIRC of 1997, as amended.
>
> 2.) Whether Petitioner has complied with the submission of complete documents in support of its administrative claim for refund.
>
> 3.) Whether petitioner's claim for refund for the taxable period July 1, 2009 to June 30, 2010 was filed within the period prescribed by law.
>
> 4.) Whether Petitioner's alleged sales of services to affiliates abroad doing business outside the Philippines and not doing business in the Philippines which are allegedly paid for in acceptable foreign currency and accounted for in accordance with the rules of the Bangko Sentral ng Pilipinas (BSP) are zero-rated for VAT purposes.
>
> 5.) Whether the Petitioner is entitled to a refund or tax credit in the total amount of Ninety Eight Million, Four Hundred Twenty (Two) Thousand, Eighty One and 42/100 (Php98,422,081.41) representing alleged unutilized input VAT paid on goods and services allegedly attributable to its zero-rated sales for the period of October 1 to December 31, 2009, January 1 to March 31, 2010, and April 1 to June 30, 2010."

The foregoing issues can be summarized as follows:

"Whether or not petitioner is entitled to a refund of the aggregate amount of ₱98,422,081.42, representing its alleged unutilized input VAT attributable to zero-rated sales for the fiscal year covering July 1, 2009 to June 30, 2010."

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[16] Issues to be Resolved, JSFI, Docket, pp. 247-248.

Petitioner anchors its claim on Sections 110(B) and 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, which state:

> "SEC. 110. *Tax Credits.* -
>
> xxx xxx xxx
>
> (B) *Excess Output or Input Tax.* - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided,* That the input tax inclusive of input VAT carried over from the previous quarter that may be credited in every quarter shall not exceed seventy percent (70%) of the output VAT: *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112."
>
> "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: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales."

Based on the above-quoted provision of Section 112(A), petitioner must comply with the following requisites to be entitled to a refund or tax credit of unutilized input taxes attributable to zero-rated or effectively zero-rated sales:

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.

The Court will resolve first petitioner's compliance with the fifth requirement pertaining to prescription.

As explicitly stated under Section 112(A), the application for tax credit certificate/refund of unutilized excess input VAT must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the four (4) quarters of fiscal year ending June 30, 2010, which closed on September 30, 2009, December 31, 2009, March 31, 2010 and June 30, 2010. Counting two years from the said dates, petitioner had until September 30, 2011, December 31, 2011, March 31, 2012 and June 30, 2012, respectively, within which to file its administrative claim for refund. Clearly, the administrative claim for refund filed on April 29, 2011[17] is well within the two-year prescriptive period provided under Section 112(A) of the NIRC of 1997.

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, provides that the BIR Commissioner has 120 days from the date of submission of complete documents in support of the application for refund or tax credit within which to grant or deny the claim. In case of full or partial denial by the BIR Commissioner, the taxpayer's recourse is to file an appeal before this Court within 30 days from receipt of the decision of the BIR Commissioner. However, if after the 120-day period the BIR Commissioner fails to act on the application for refund or tax credit, the remedy of the taxpayer is to appeal the inaction of the BIR Commissioner to this Court within 30 days. For easy reference, Section 112(C) of the NIRC of 1997, as amended, is quoted hereunder:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.-*
>
> xxx xxx xxx
>
> (C) *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 Subsection (A) 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 period prescribed above, the taxpayer affected may, within thirty (30) days from the 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."

[17] Exhibits "II" to "MM".

Petitioner, upon the filing of its administrative claim on April 29, 2011, simultaneously submitted the documents in support thereof.[18] Since the records do not show that a written notice was sent by the BIR informing petitioner that the aforesaid documents are incomplete or requiring petitioner to submit additional documents, the 120-day period started and continued to run from April 29, 2011, the date when petitioner filed its administrative claim together with the supporting documents. This is in accordance with Revenue Memorandum Circular No. 029-09 which states that:

> "III. *Period within which Refund or Tax Credit of Input Taxes shall be Made*
>
> Section 112 (C) of the Tax Code of 1997, as amended by Republic Act No. 9337, provides, among others, that in proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate (TCC) for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents.** For the purpose of defining 'proper cases' in the said provision, the taxpayer/claimant must have complied with the following conditions/requirements upon audit/verification of his/its claim:
>
> a. **Submission of complete documents** necessary to determine and/or ascertain the correctness of the return and the amount to be refunded/credited;
> b. That all books of accounts and accounting records pertaining to the claim are immediately available to the concerned Revenue Office (RO) for audit/verification;
> c. Any discrepancies/findings upon audit/ verification shall be reconciled/explained in writing by the taxpayer/claimant within five (5) days from receipt of the notification from the RO; and
> d. The taxpayer/claimant has signified his concurrence to the outcome of the

[18] Exhibit "MM".

audit/verification, which shall be evidenced by an Agreement Form.

In cases where taxpayer failed to comply with the above conditions/requirements, *i.e.*, failure to present accounting books and records for audit/verification, additional documents to explain discrepancies/findings are not submitted, taxpayer refuses or incurs delay in the submission of the Agreement Form, **the running of the 120-day period shall stop from the date of notification to the taxpayer**. Likewise, the running of the 120-day period shall be suspended in case a question of law arises during the conduct of audit/verification and/or review of the claim for tax refund/credit, and the issue is referred to the Legal Division or the Legal Service, as the case may be, for resolution and issuance of legal opinion, which should be rendered within thirty (30) working days from receipt of the request." *(Emphasis supplied)*

In the case of *Commissioner of Internal Revenue vs. First Express Pawnshop Company, Inc.*,[19] the Supreme Court explained the foregoing requirement in this wise:

"The term 'relevant supporting documents' should be understood as those documents necessary to support the legal basis in disputing a tax assessment **as determined by the taxpayer**. The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit." *(Emphasis supplied)*

Hence, pursuant to Section 112(C) of the NIRC of 1997, as amended, petitioner timely filed its appeal by way of a Petition for Review on September 26, 2011,[20] as the

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[19] G.R. Nos. 172045-46, June 16, 2009.
[20] Docket, pp. 7-23.

same was filed on the last day of the 30-day period after the 120-day period ended on August 27, 2011.

The Court will now proceed to discuss the remaining requisites.

Petitioner alleges that its sale of services to its affiliates abroad is subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which states:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
>
> xxx 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:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to 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 Pilipinas (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao,* *Inc.*[21], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. the services must be other than processing, manufacturing or repacking of goods;
2. payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

Corollary to the second requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), B(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* -
>
> (A) *Invoicing Requirements.* - A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:

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[21] G.R. No. 153205, January 22, 2007.

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(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: *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and xxx" *(Emphasis supplied)*

"SECTION 4.113-1. *Invoicing Requirements*. -

(A) ***A VAT-registered person shall issue:***

xxx xxx xxx

(2) A **VAT official receipt** for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their **TIN followed by the word 'VAT' in their invoice** or official receipts. Said documents shall be considered as a 'VAT Invoice' or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) ***Information contained in VAT invoice or VAT official receipt***. - The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) VAT, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt; *(Emphasis supplied)*

Pursuant to the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must likewise be supported by VAT zero-rated official receipts.

The Court shall now resolve whether or not petitioner complied with the aforesaid requisites for VAT zero-rating of sales of services.

Petitioner is duly registered with the BIR as a VAT taxpayer[22] and the services it performs in the Philippines, through its Regional Operating Headquarters, namely, management, marketing, technical and financial advisory services to related companies[23] (affiliates) are not in the

[22] Par. 3, Admitted Facts by Petitioner and Respondent, JSFI, Docket, p. 247.
[23] Exhibit "A".

same category as "processing, manufacturing or repacking of goods".

For the four (4) quarters of fiscal year ending June 30, 2010, petitioner rendered services to its non-resident foreign affiliates which were not registered corporations in the Philippines and were not doing business in the Philippines as indicated in the SEC Certificates of Non-Registration of Corporation/Partnership[24], Service Agreements[25], affidavits[26] executed by the respective officers of petitioner's affiliates abroad with attached proof of business registrations of the respective affiliates duly authenticated by consuls of the Republic of the Philippines and Exhibit 21[27] of The Procter & Gamble Company and Subsidiaries Report to the U.S. Securities and Exchange Commission, which can be accessed at the U.S. SEC website.

To prove compliance with the second requisite, petitioner presented Certifications[28] of inward remittances and bank statements[29] issued by Citibank N.A., Philippine Branch and duly affirmed by the testimony[30] of Citibank's representative, Ms. Teresita Sugay, BIR-registered Debit/Credit Memos[31], VAT zero-rated official receipts[32] and Report[33] of the Court-commissioned Independent CPA.

A careful scrutiny of these documents showed that out of the ₱2,549,972,648.76 zero-rated sales declared by petitioner for fiscal year 2010, a sum of ₱6,008,536.08, detailed below, must be denied VAT zero-rating:

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[24] Exhibits "GGGGG 1-1" to "GGGGG 1-49".
[25] Exhibits "C-1" to "C-51".
[26] Exhibits "SS" to "ZZ", "AAA" to "ZZZ", and "A^4" to "H^4".
[27] Exhibit "J^4".
[28] Exhibits "PP" to "QQ".
[29] Exhibits "TTTT 1-1" to "TTTT 1-86".
[30] Exhibits "RR" to "RR-1".
[31] Exhibits "RRRR 1-1" to "RRRR 1-314", "RRRR 2-315" to "RRRR 2-322", "RRRR 2-333" to "RRRR 2-628", "RRRR 3-629" to "RRRR 3-942", "RRRR 4-943" to "RRR 4-1256", "RRRR 5-1257" to "RRRR 5-1278", "RRRR 5-1280" to "RRRR 5-1570", and "RRRR 6-1571" to "RRRR 6-1887"
[32] Exhibits "SSSS 1-1" to "SSSS 1-300" and "SSSS 2-301" to "SSSS 2-443".
[33] Exhibits "LLLL" and "LLLL-1" to "LLLL-24".

(a) Amounts of zero-rated sales not supported by VAT official receipts:

OR No. per Schedule	Date	Customer Name	In Dollar	In Pesos
-	29-Jul-09	Procter and Gamble International	($214,747.66)	(₱282,832.08)
-	-	P&G Technical Centers LTD	(143.23)	(6,899.32)
-	-	Procter and Gamble Magyarorszag	39,976.93	1,864,595.62
3781	26-May-10	Procter and Gamble Export Operations	49,498.95	2,915,163.13
		Total	**($125,415.01)**	**₱4,490,027.35**

(b) Difference in amount of zero-rated sales per schedule (as declared in the Quarterly VAT Return) and per VAT official receipt:

Customer Name: Procter and Gamble Export Operations	**In Dollar**	**In Pesos**
Per Schedule	$25,038.62	₱1,459,807.61
Per OR[34] (No. 3733, dated 03/22/10)	18,369.82	1,071,001.64
Difference	**$6,668.80**	**₱388,805.97**

(c) Amount of zero-rated sales is not indicated on the VAT official receipt:

Exhibit	OR No.	Date	Customer Name	In Dollar	In Pesos
"SSSS 2-371"	3758	18-May-10	Procter and Gamble International Operations	$24,932.54	₱1,129,702.76

Consequently, only the remaining reported zero-rated sales for the four (4) quarters of fiscal year ending June 30, 2010 in the amount of ₱2,543,964,112.68, as computed below, is subject to zero percent (0%) VAT under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended:

Declared Zero-Rated Sales	₱ 2,549,972,648.76
Less: Disallowances	
a. No supporting zero-rated VAT official receipt	4,490,027.35
b. Difference in amount of zero-rated sales per schedule and per VAT official receipt	388,805.97

c

[34] Exhibits "SSSS 2-351".

c. Amount of zero-rated sales is not indicated on the VAT official receipt	1,129,702.76
Total	₱ 6,008,536.08
Valid Zero-rated Sales	**₱2,543,964,112.68**

Having resolved that petitioner had VAT zero-rated sales for the four (4) quarters of fiscal year ending June 30, 2010 in the amount of ₱2,543,964,112.68, the Court will now determine the amount of input VAT attributable thereto.

In support of its reported input VAT of ₱218,916,263.97, petitioner presented Schedule of Domestic Purchases of Goods[35], Schedule of Domestic Purchases of Services[36], Schedule of Capital Goods Purchased[37], and the related VAT sales invoices, official receipts and other documents[38] which were all examined by the Court-commissioned Independent CPA.

Upon examination of the Independent CPA Report and petitioner's supporting documents, the Court finds that input taxes in the amount of ₱197,753,778.25 should be disallowed for not being properly substantiated by VAT invoices or receipts as prescribed under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of Revenue Regulations No. 16-05, as amended. Below is the breakdown of the disallowed input VAT of ₱197,753,778.25:

	Input VAT	Exhibit
Domestic Purchases of Services supported by original copies of VAT ORs where amount of Input VAT was not separately indicated[39]	₱179,814,899.56	EEEEE 4-1 to EEEEE 4-300, EEEEE 5-301 to EEEEE 5-558
Domestic Purchases of Services supported by original copies of VAT ORs where amounts per OR are greater than amounts per schedule and Input VAT is not separately indicated[40]	285,365.17	EEEEE 8-1 to EEEEE 8-14

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[35] Exhibits "BBBBB 1-1" to "BBBBB 1-13".
[36] Exhibits "CCCCC 1-1" to "CCCCC 1-76".
[37] Exhibit "DDDDD 1-1" to "DDDDD 1-12".
[38] Exhibits "EEEEE" and "FFFFF".
[39] Annex 21 of Exhibit "LLLL".
[40] Annex 24 of Exhibit "LLLL".

Domestic Purchases of Services supported by original copies of VAT ORs where amounts per OR differ from amounts per Schedule[41]	2,162.75	FFFFF 1-1 to FFFFF 1-5
Domestic Purchases of Goods supported by original copies of Statement of Accounts[42]	50,539.99	FFFFF 3-1 to FFFFF 3-212
Domestic Purchases of Goods supported by original copy of Service Invoice with "Not Eligible for Claim as Input Tax" Stamp[43]	138.24	FFFFF 4-1
Domestic Purchases of Services supported by original copies of VAT ORs where date per OR differs from date per Schedule and Input VAT is not separately indicated[44]	76,944.03	FFFFF 5-1 to FFFFF 5-3
Domestic Purchases of Services supported by original copy of VAT ORs where year of date cannot be validated and Input VAT is not separately indicated[45]	34.80	FFFFF 6-1
Domestic Purchases of Services supported by original copies of VAT ORs with incorrect supplier name and TIN and where Input VAT is not separately indicated[46]	24,312.08	FFFFF 7-1 to FFFFF 7-9
Domestic Purchases of Services supported by original copies of VAT ORs with incorrect supplier name and where Input VAT is not separately indicated[47]	396,203.81	FFFFF 8-1 to FFFFF 8-11
Domestic Purchases of Services supported by original copy of VAT OR which includes VAT-Exempt Sale[48]	2,000.00	FFFFF 9-1
Domestic Purchases of Services supported by original copies of VAT ORs with different company address and where Input VAT is not separately indicated[49]	168,782.32	FFFFF 11-1 to FFFFF 11-6
Domestic Purchases of Services supported by original copy of VAT OR not in the name of the Company[50]	3,351.24	FFFFF 12-1
Domestic Purchases of Services supported by original copies of VAT ORs not in the name of the Company and where Input VAT is not separately indicated[51]	8,249.30	FFFFF 13-1 to FFFFF 13-5
Domestic Purchases of Services supported by original copies of VAT ORs with different company TIN and where Input VAT is not separately indicated[52]	1,556,075.88	FFFFF 14-1 to FFFFF 14-2
Domestic Purchases of Services supported by original copies of VAT ORs where Company's address and TIN are not indicated and Input VAT is not separately indicated[53]	42,053.57	FFFFF 15-1
Domestic Purchases of Services supported by original copies of VAT ORs with different company address and TIN and where Input VAT is not separately indicated[54]	172,065.71	FFFFF 16-1 to FFFFF 16-2
Domestic Purchases of Services supported by original copies of VAT ORs with different company name, address, and TIN and where Input VAT is not separately indicated[55]	15,760.88	FFFFF 18-1 to FFFFF 18-3
Domestic Purchases of Services supported by original copies of VAT ORs not within the period of claim[56]	3,281,585.70	FFFFF 19-1 to FFFFF 19-33

[41] Annex 26 of Exhibit "LLLL".
[42] Annex 28 of Exhibit "LLLL".
[43] Annex 29 of Exhibit "LLLL".
[44] Annex 30 of Exhibit "LLLL".
[45] Annex 31 of Exhibit "LLLL".
[46] Annex 32 of Exhibit "LLLL".
[47] Annex 33 of Exhibit "LLLL".
[48] Annex 34 of Exhibit "LLLL".
[49] Annex 36 of Exhibit "LLLL".
[50] Annex 37 of Exhibit "LLLL".
[51] Annex 38 of Exhibit "LLLL".
[52] Annex 39 of Exhibit "LLLL".
[53] Annex 40 of Exhibit "LLLL".
[54] Annex 41 of Exhibit "LLLL".
[55] Annex 43 of Exhibit "LLLL".
[56] Annex 44 of Exhibit "LLLL".

Domestic Purchases of Services supported by original copies of Payment Advice only and where Input VAT is not separately indicated[57]	39,507.20	FFFFF 20-1 to FFFFF 20-8
Domestic Purchases of Services supported by photocopies of VAT ORs[58]	1,657,497.60	FFFFF 21-1
Domestic Purchases of Services supported by original copies of Non-VAT ORs and where Input VAT is not separately indicated[59]	1,009,735.76	FFFFF 22-1 to FFFFF 22-11
Domestic Purchases of Services supported by original copies of VAT ORs stamped with "Not Valid Source of Input Tax" and where Input VAT is not separately indicated[60]	809,367.15	FFFFF 23-1 to FFFFF 23-23
Overstatement of Input VAT claimed on domestic purchases of Capital Goods with aggregate acquisition of cost of more than ₱1M in a calendar month[61]	232,996.61	FFFFF 24-1 to FFFFF 24-4
Domestic Purchases of Goods with no VAT Invoices[62]	2,432,098.85	
Domestic Purchases of Services with no VAT ORs[63]	5,672,050.05	
TOTAL	**₱197,753,778.25**	

Considering all of the aforesaid disallowances, out of the ₱218,916,263.97 input VAT reported by petitioner for the four (4) quarters of fiscal year ending June 30, 2010, only the amount of ₱21,162,485.72 represents petitioner's valid input VAT, computed as follows:

Input VAT	₱ 218,916,263.97
Less: Disallowances	197,753,778.25
Valid Input VAT	**₱ 21,162,485.72**

At this point the Court takes into consideration the output taxes declared by petitioner in its Quarterly VAT Returns for fiscal year ending June 30, 2010 and compare the same with the foregoing substantiated input VAT, to wit:

Output VAT	₱ 119,369,965.37
Less: Valid Input VAT	21,162,485.72
Output VAT Still Due	**₱98,207,479.65**

c

[57] Annex 45 of Exhibit "LLLL".
[58] Annex 46 of Exhibit "LLLL".
[59] Annex 47 of Exhibit "LLLL".
[60] Annex 48 of Exhibit "LLLL".
[61] Annex 49 of Exhibit "LLLL".
[62] Annex 50 of Exhibit "LLLL".
[63] Annex 51 of Exhibit "LLLL".

As shown above, petitioner's output tax liability in the amount of ₱119,369,965.37 as reflected in its Quarterly VAT Returns for the four (4) quarters of fiscal year ending June 30, 2010 is a lot higher than the valid input VAT of ₱21,162,485.72. Therefore, there is no excess input VAT which may be the proper subject of a claim for refund under Section 112(A) of the NIRC of 1997, as amended.

WHEREFORE, premises considered, the instant Petition for Review is hereby denied for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, 1st Division