REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SAN ROQUE POWER CORPORATION, Petitioner,	C.T.A. CASE NO. 8007
	Members:
- versus -	ACOSTA, *Chairperson* UY, and FABON-VICTORINO, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: DEC 06 2012; 10:45 a.m.

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AMENDED DECISION

***Fabon-Victorino, J.*:**

On May 7, 2012, the Court promulgated the assailed Decision denying the instant *Petition for Review* for insufficiency of evidence. The Court found the petitioner's evidence inadequate to sustain its claim that it is a generation company entitled to a refund or issuance of a tax credit certificate in the amount of Php26,645,244.93, representing its unutilized input value-added tax (VAT) from purchases of capital goods, other goods and services, as well as importation of goods for the period January 2008 to March 2009. In particular, petitioner failed to present its Energy Regulatory Commission (ERC) Registration and Certificate of Compliance (COC), without which all of the reported zero-rated sales/receipts of Php8,671,202,381.65 cannot qualify for VAT zero-rating under Section 108(B)(7) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (R.A.) No. 9337, in relation to Section 4.108-3 of Revenue Regulations No. 16-2005 and Section 4 of Rule 5 of the Implementing Rules and Regulations of R.A. No. 9136.

With a strong belief that it is entitled to the relief sought, petitioner filed a *Motion for Reconsideration (with Motion for Leave of Court to Admit Evidence)*[1] on May 29, 2012, praying that:

1. This Honorable Court allow petitioner to present evidence on this Motion for Reconsideration or re-open the trial of this case for the reception of supplemental documentary and testimonial evidence, more particularly, its COC, in support of the Petition for Review; and

2. This Honorable Court reconsider its Decision dated May 7, 2012 and, subsequently, issue an Order granting petitioner a refund in the amount of Twenty Six Million Six Hundred Forty Five Thousand Two Hundred Forty Four and 93/100 Pesos (Php26,645,244.93).

[1] Docket, pp. 489-509.

Petitioner argues, among others, that its non-submission of the COC was due to an honest belief that its presentation is no longer necessary on account of the stipulation entered into by the parties in their Joint Stipulation of Facts and Issues as to petitioner's business and status as a power generation company.

On May 31, 2012, respondent filed her Comment[2] to which a Reply[3] thereto was filed by petitioner on June 15, 2012.

Petitioner's motion to reopen the case for presentation of additional documents was granted in the interest of substantial justice in the Resolution[4] dated July 13, 2012.

On September 6, 2012, petitioner presented its Accountant, Ms. Lalaine A. Estayo, who identified the following exhibits:

Exhibit	Description
"EEE"	Supplemental Sworn Statement of Lalaine Estayo executed on August 6, 2012
"EEE-1"	Signature of Lalaine Estayo
"FFF"	Certificate of Compliance (COC No. 04-06-GN1-0064)

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[2] Docket, pp. 520-525.
[3] Docket, pp. 530-539.
[4] Docket, pp. 541-547.

"GGG"	Certificate of Compliance (COC No. 09-08-GN1-0064)

In the same proceeding, petitioner orally offered the foregoing exhibits to establish that it is registered with the ERC and that it was issued with COC on June 16, 2004 and a renewed COC on August 17, 2009.

All the additional exhibits of petitioner were admitted and the incident was deemed submitted in the Resolution dated September 19, 2012.

After a careful examination of all the evidence presented, this Court hereby partially grants the instant *Petition for Review*.

As stated in the Decision dated May 7, 2012, the main issue for the resolution of the Court is whether petitioner is entitled to the refund or issuance of tax credit certificate in the amount of Php26,645,244.93, representing its alleged unutilized input VAT attributable to effectively zero-rated sales for the period covering January 1, 2008 to March 31, 2009.

Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides the basis for refunds or tax credits of input tax attributable to zero-rated or effectively zero-rated sales, to wit:

> 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.

In the case of *Silicon Philippines, Inc. vs. Commissioner of Internal Revenue*,[5] the Supreme Court enumerated the requisites for refund/tax credit as follows:

1. The taxpayer must be VAT registered;

2. The taxpayer must be engaged in sales which are zero-rated or effectively zero-rated;

3. The claim must be filed within two years after the close of the taxable quarter when such sales were made; and

4. The creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.

As stated by the Court in the assailed Decision of May 7, 2012, petitioner is a duly registered VAT taxpayer with Tax Identification No. (TIN) 005-017-501-000. The Court also found that both the administrative and judicial claims for refund were seasonably filed by petitioner.

Most importantly, the additional pieces of evidence formally offered by petitioner and admitted by the Court, proved that it is engaged in sales which are zero-rated or effectively zero-rated.

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[5] G.R. No. 172378, January 17, 2011.

Petitioner was able to established that it was authorized by the ERC to operate power generation facilities, utilizing hydro and diesel as fuel, as evidenced by the ERC Certificates of Compliance dated June 16, 2004[6] and August 17, 2009[7] with attached Terms and Conditions of the Certificates of Compliance. Likewise, it was established that it actually generated receipts from the sale of electricity to the National Power Corporation (NPC) for the subject period based on the official receipts[8] and the related sales invoices[9] and credit memo[10] issued by petitioner to NPC, journal vouchers[11] and bank documents[12]. Such receipts from sale of electricity generated through renewable source of energy, i.e., hydropower, qualify for VAT zero-rating under Section 108(B)(7) of the NIRC of 1997, as amended by R.A. No. 9337, in relation to Section 4.108-3 of Revenue Regulations No. 16-2005 and Section 4 of Rule 5 of the Implementing Rules and Regulations of R.A. No. 9136.

For the subject period covering January 1, 2008 to March 31, 2009 (fourth quarter of FY 2008 to fourth quarter of FY 2009), the official receipts submitted by petitioner reflected zero-

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[6] Exhibit "FFF".
[7] Exhibit "GGG".
[8] Exhibits "AA1b" to "AA49b".
[9] Exhibits "AA1" to "AA49".
[10] Exhibit "AA32d".
[11] Exhibits "AA7a", "AA9a", "AA16a", "AA18a", "AA26a", "AA30a", "AA34a", "AA34a1", "AA37a", "AA40a", "AA46a" and "AA49a".
[12] Exhibits "AA1c" to "AA49c".

rated receipts in the amount of only Php 8,143,908,947.05, detailed as follows:

Exhibit	Date	US Dollar	Japanese Yen	Philippine Peso
AA1b	02/27/08			30,247,906.40
AA2b	03/27/08			30,247,906.40
AA3b	04/25/08			30,247,906.40
AA4b	02/27/08		484,215,000.00	185,890,138.50
AA5b	03/27/08		484,215,000.00	183,759,592.50
AA6b	04/25/08		484,215,000.00	200,222,902.50
AA7b	02/27/08	6,696,283.47		274,139,148.98
AA8b	03/27/08	7,120,410.14		289,394,829.32
AA9b	04/25/08	6,872,531.83		285,904,196.66
AA10b	05/28/08			30,247,906.40
AA11b	06/25/08			30,247,906.40
AA12b	07/25/08			30,247,906.40
AA13b	05/28/08		484,215,000.00	194,751,273.00
AA14b	06/25/08		484,215,000.00	201,966,076.50
AA15b	07/25/08		484,215,000.00	200,561,853.00
AA16b	05/28/08	6,421,893.44		270,091,994.30
AA17b	06/25/08	7,378,630.05		320,498,174.85
AA18b	07/27/08	7,998,686.65		356,397,481.06
AA19b	08/27/08			31,364,039.41
AA20b	08/27/08			4,310,582.64
AA21b	09/25/08			31,364,039.41
AA22b	10/28/08			31,364,039.41
AA23b	08/27/08		484,215,000.00	198,915,522.00
AA24b	09/25/08		483,466,549.40	203,200,990.71
AA25b	09/25/08		748,450.60	314,573.79
AA26b	10/24/08		484,215,000.00	211,844,062.50
AA27b	08/27/08	6,981,845.05		308,346,205.23
AA28b	09/25/08	9,078,726.47		413,999,005.76
AA29b	10/24/08	9,978,726.17		464,000,788.64
AA31b	11/26/08			31,364,039.41
AA32b	01/09/09			34,267,857.14
AA33b	01/09/09			5,199,989.86
AA34b	02/16/09			34,281,896.55
AA35b	11/26/08		484,215,000.00	243,414,880.50
AA36b	01/05/09		484,215,000.00	248,595,981.00
AA37b	02/05/09		484,215,000.00	252,808,651.50
AA38b	11/26/08	8,302,112.63		406,106,141.90
AA39b	01/06/09	6,619,022.54		328,250,568.78
AA40b	02/05/09	6,624,606.73		314,801,311.81
AA41b	03/10/09			34,281,896.55
AA42b	03/30/09			34,281,896.55
AA44b	03/13/09			258,328,702.50
AA45b	03/30/09			241,478,020.50

AA47b	03/13/09			309,381,431.55
AA48b	03/30/09			322,976,731.88
Total				**8,143,908,947.05**

On the other hand, petitioner's Quarterly VAT Returns for the same period reflected a total amount of Php 8,671,202,381.65 VAT zero-rated receipts, broken down as follows:

Exhibit	Period		Zero-rated Sales/Receipts
F	FY 2008 - 4th quarter	01/01/08 to 03/31/08	P 1,520,972,956.70
H	FY 2009 - 1st quarter	04/01/08 to 06/30/08	1,564,178,337.01
J	FY 2009 - 2nd quarter	07/01/08 to 09/30/08	1,779,022,199.41
L	FY 2009 - 3rd quarter	10/01/08 to 12/31/08	1,388,093,952.36
N	FY 2009 - 4th quarter	01/01/09 to 03/31/09	2,418,934,936.17
		Total	**P8,671,202,381.65**

Clearly, the amount of Php 8,671,202,381.65 zero-rated receipts declared per petitioner's Quarterly VAT Returns is higher by Php 527,293,434.60 when compared with the zero-rated receipts of Php 8,143,908,947.05 shown per petitioner's official receipts.

In her report[13] dated August 25, 2010, the Court-commissioned Independent CPA, Ms. Ma. Milagros F. Padernal, explained that the discrepancy of Php 527,293,434.60 pertains to petitioner's collections from sales made for the third quarter of FY 2008. However, considering that petitioner failed to substantiate the amount of Php 527,293,434.60 with VAT zero-rated official receipts, the same shall be denied VAT zero-rating. Thus, petitioner's total valid zero-rated receipts amounted only to Php 8,143,908,947.05, computed as follows:

Zero-Rated Receipts per VAT Return	P 8,671,202,381.65
Less: Unsubstantiated Zero-Rated Receipts	527,293,434.60
Valid Zero-Rated Receipts	**P8,143,908,947.05**

The Court will now determine the amount of unutilized excess input VAT attributable thereto.

Petitioner's Quarterly VAT Returns for the subject period of claim reflected the following output and input tax transactions:

	Jan-Mar 2008 (Exhibit F)	**Apr-June 2008 (Exhibit H)**	**July-Sept 2008 (Exhibit J)**
Vatable Sales/Receipts	P 135,356.25	P 226,760.00	
Output Tax Due	P 16,242.75	P 27,211.20	

[13] Exhibit "CCC", page 4, under Summary of Findings, Schedule of Zero-Rated Sales and Collections, (Exhibit AA), item no. 12

Less:	Allowable Input Tax			
	Input Tax Carried Over from Previous Quarter/Excess over 70% Output VAT	P 28,982,124.60	P 31,242,846.75	P 24,076,636.60
	Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter	3,988,094.77	4,136,518.66	4,223,920.55
	Total Input Tax from Previous Quarter	**P32,970,219.37**	**P35,379,365.41**	**P 28,300,557.15**
	Current Transactions			
	Purchases of Capital Goods not exceeding P1Million	39,033.22	43,630.15	7,343.79
	Purchase of Goods exceeding P1Million	459,412.62	439,184.52	218,755.81
	Domestic Purchases of Goods other than Capital Goods	859,994.28	1,289,896.61	1,442,495.86
	Importation of Goods Other than Capital Goods	122,157.00	279,507.00	64,067.00
	Domestic Purchases of Services	1,720,507.19	7,891,068.73	2,287,732.01
	Services rendered by non-residents		464,282.49	37,095.24
	Total Current Input Tax	**P 3,201,104.31**	**P10,407,569.50**	**P 4,057,489.71**
Total Available Input Tax		P 36,171,323.68	P 45,786,934.91	P 32,358,046.86
Less:	Deductions from Input Tax			
	Input Tax on Purchases of Capital Goods exceeding P1Million deferred for the succeeding period	P 4,043,947.23	P 4,146,970.53	P 4,083,727.94
	VAT Refund/TCC Claimed	775,715.52	17,459,164.54	
	Input Tax in excess of 70% cap to be carried to next period			
	Others	92,571.43	76,950.00	
Total Allowable Input Tax		P 31,259,089.50	P 24,103,849.84	P 28,274,318.92
Tax Payable (Overpayment)		**P31,242,846.75**	**P24,076,638.64**	**P 28,274,318.92**

		Oct-Dec 2008 (Exh. L)	Jan-Mar 2009 (Exh. N)	Total
Vatable Sales/Receipts		P 10,714.25	P 411,616.08	P 784,446.58
Output Tax Due		P 1,285.71	P 49,393.93	P 94,133.59
Less:	Allowable Input Tax			
	Input Tax Carried Over from Previous Quarter/Excess over 70% Output VAT	P 28,274,318.92	P 32,830,123.19	P 28,982,124.60

	Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter	4,083,727.94	4,453,835.34	3,988,094.77
	Total Input Tax from Previous Quarter	**P32,358,046.86**	**P37,283,958.53**	**P 32,970,219.37**
	Current Transactions			
	Purchases of Capital Goods not exceeding P1Million		197,614.86	287,622.02
	Purchase of Goods exceeding P1Million	778,931.50	381,502.04	2,277,786.49
	Domestic Purchases of Goods other than Capital Goods	1,380,725.10	1,634,377.40	6,607,489.25
	Importation of Goods Other than Capital Goods	10,281.00	71,182.00	547,194.00
	Domestic Purchases of Services	2,638,056.80	2,343,601.78	16,880,966.51
	Services rendered by non-residents	119,202.93		620,580.66
	Total Current Input Tax	**P 4,927,197.33**	**P 4,628,278.08**	**P 27,221,638.93**
Total Available Input Tax		P 37,285,244.19	P 41,912,236.61	P 60,191,858.30
Less:	Deductions from Input Tax			
	Input Tax on Purchases of Capital Goods exceeding P1Million deferred for the succeeding period	P 4,453,835.29	P 4,470,355.23	P 4,470,355.23
	VAT Refund/TCC Claimed		10,830,397.50	29,065,277.56
	Input Tax in excess of 70% cap to be carried to next period			
	Others			
Total Allowable Input Tax		P 32,831,408.90	P 26,611,483.88	P 26,656,225.51
Tax Payable (Overpayment)		**P32,830,123.19**	**P26,562,089.95**	**P 26,562,091.92**

Of the above reported input taxes, petitioner is claiming refund of the following input taxes in the total amount of Php 26,645,244.93, net of petitioner's output tax liability of Php 94,133.59:[14]

[14] Docket, p. 8.

Particulars	Period Covered					Total Input VAT
	Jan-Mar 2008	**Apr – June 2008**	**July-Sept 2008**	**Oct-Dec 2008**	**Jan-Mar 2009**	
Input Taxes on Capital Goods:						
Not Exceeding P1 Million	39,033.22	43,630.15	7,343.79	-	197,614.86	287,622.02
Exceeding P1Million (Amortization)	310,985.72	351,785.64	358,948.42	408,824.15	364,982.15	1,795,526.08
Input Taxes on Domestic Purchases:						
Services	1,720,507.19	7,891,068.73	2,287,732.01	2,638,056.80	2,343,601.78	16,880,966.51
Goods Other than capital Goods	859,994.28	1,289,896.61	1,442,495.86	1,380,725.10	1,634,377.40	6,607,489.25
Input Taxes on Importations of Goods						
Other Than Capital Goods	122,157.00	279,507.00	64,067.00	10,281.00	71,182.00	547,194.00
Input Taxes on Services Rendered						
By Non-Residents	-	464,282.49	37,095.24	119,202.93	-	620,580.66
Less: Output VAT	16,242.75	27,211.20	-	1,285.71	49,393.93	94,133.59
TOTAL	3,036,434.66	10,292,959.42	4,197,682.32	4,555,804.27	4,562,364.26	**26,645,244.93**

The Court-commissioned ICPA summarized the results of her verification on petitioner's claimed input VAT in the amount of Php 26,739,378.08 before deduction of the output VAT of Php94,133.59, as follows:[15]

Exhibit	Particulars				Total
Summary of Input Taxes on Capital Goods Not Exceeding P1 Million					
DD	a.)	Supported by original VAT invoices in the Petitioner's name			
			Dated in the current quarter		P 264,329.16
			Not dated within the taxable quarter but dated within the taxable year		
				Second quarter of 2009	23,292.86
		Total Input Taxes on CG not exceeding P1 million			**P 287,622.02**

[15] Exhibit "CCC".

Summary of Input Taxes on Capital Goods Exceeding P1 Million					
EE		Amortization During the Quarter			P 1,860,008.92
		Adjustment (Paragraph 38, Page 11 of 25)			(64,482.98)
		Total Input Taxes on CG exceeding P1 million			**P1,795,525.94**
Summary of Input Taxes on Domestic Purchases					
		Purchases of Services			
FF	a.)	Supported by original VAT ORs in the Petitioner's name			
			Dated in the current quarter		P 15,209,231.04
			Not dated within the taxable quarter but dated within the taxable year		
				First quarter of 2009	P 573,988.74
				Second quarter of 2009	386,904.58
				Third quarter of 2009	367,308.74
			Not dated within the taxable year		
				Fourth quarter of 2007	14,662.50
				Fourth quarter of 2008	6,032.55
				First quarter of 2009	1,641.43
				First quarter of 2010	106,217.73
				Third quarter of 2010	36,832.82
					1,493,589.09
					P 16,702,820.13
GG	b.)	Supported by original VAT ORs in the acronym (SRPC) of Petitioner's name			
			Dated in the current quarter		P 343,347.83
			Not dated within the taxable quarter but dated within the taxable year		
				Second quarter of 2009	4,763.57
					P 348,111.40
HH	c.)	Supported by original VAT ORs in the Petitioner's name with no BIR permit to print			P 14,983.06
II	d.)	Supported by original VAT ORs in the Petitioner's name marked as "Not a Valid Source of Input Tax"			P 51,245.89
JJ	e.)	Supported by original VAT ORs in the Petitioner's name but not in the Company's TIN			P 168,278.87
KK	f.)	Supported by original VAT ORs not in the Petitioner's name			
			Dated in the current quarter		P 5,983.62
			Not dated within the taxable quarter but dated within the taxable year		
				Second quarter of 2009	1,200.00
					P 7,183.62
LL	g.)	Supported by photocopies of VAT ORs in the Petitioner's name			
			Dated in the current quarter		P 1,614.03

		Not dated within the taxable quarter but dated within the taxable year	
		Fourth quarter of 2009	9,027.31
			P 10,641.34
MM	h.)	Downward adjustment to input taxes on purchases of services	P (8,330.04)
NN	i.)	Not supported by VAT ORs in the Petitioner's name	P 119,405.69
		Total Purchases of Services	**17,414,339.96**
		Purchases of Goods Other Than Capital Goods	
OO	j.)	Supported by original VAT invoices in the Petitioner's name	
		Dated in the current quarter	P 4,304,428.72
		Not dated within the taxable quarter but dated within the taxable year	
		Third quarter of 2008	P 7,788.43
		First quarter of 2009	188,485.07
		Second quarter of 2009	289,388.51
		Third quarter of 2009	134,208.88
		Fourth quarter of 2009	9,654.92
		Not dated within the taxable year	
		Third quarter of 2008	8,271.58
		Fourth quarter of 2008	220,746.35
		First quarter of 2009	1,331.57
		Fourth quarter of 2009	557.14
		First quarter of 2010	268.39
		Third quarter of 2010	4,795.71
			P 865,496.55
			P 5,169,925.27
PP	k.)	Supported by original VAT invoices in the acronym (SRPC) of Petitioner's name	
		Dated in the current quarter	P 631,943.37
		Not dated within the taxable quarter but dated within the taxable year	
		Third quarter of 2008	P 6,743.82
		First quarter of 2009	28,274.43
		Second quarter of 2009	7,116.52
		Not dated within the taxable year	
		Fourth quarter of 2008	7,475.94
		Second quarter of 2010	4,168.04
		Third quarter of 2010	170.71
			P 53,949.46
			P 685,892.83
QQ	l.)	Supported by original VAT invoice in the Petitioner's name with no BIR permit to print	P 716.24

RR	m.)	Supported by original VAT invoices in the Petitioner's name marked as VAT ZERO-RATED SALE			
			Dated in the current quarter		P 61,976.33
			Not dated within the taxable quarter but dated within the taxable year		
				Second quarter of 2009	417.86
			Not dated within the taxable year		
				Fourth quarter of 2008	1,781.46
					P 2,199.32
					P 64,175.65
SS	n.)	Supported by original VAT invoices not in the Petitioner's name			
			Dated in the current quarter		P 6,203.11
			Not dated within the taxable quarter but dated within the taxable year		
				Second quarter of 2009	3,685.71
				Third quarter of 2009	12,685.71
					P 16,371.42
					P 22,574.53
TT	o.)	Supported by photocopies of VAT invoices in the Petitioner's name			
			Dated in the current quarter		P 2,257.97
			Not dated within the taxable quarter but dated within the taxable year		
				First quarter of 2009	P 301.07
				Second quarter of 2009	535.71
				Third quarter of 2009	184.07
			Not dated within the taxable year		
				Fourth quarter of 2008	552.87
				Third quarter of 2009	3,038.57
					P 4,612.29
					P 6,870.26
UU	p.)	Supported by original VAT invoice in the Petitioner's name subsequently classified as capital goods subject to amortization			P 70,345.07
VV	q.)	Not supported by VAT invoices in the petitioner's name			P 53,615.95
		Total Purchases of Goods other than Capital Goods			**P 6,074,115.80**
		Total Domestic Purchases			**P23,488,455.76**
Summary of Input Taxes on Importations of Goods					
WW	a.)	Supported by original bank ORs and original IEIRDs			P 535,767.06
XX	b.)	Supported by original Bureau of Customs OR			482.00

YY	c.)	Not supported by bank/Bureau of Customs ORs and IEIRDs/IIDEs	10,944.64
		Total Input Taxes on Importations	**P 547,193.70**
Summary of Input Taxes on Services by Non-Residents			
ZZ		Supported by original suppliers' invoices in the Petitioner's name, BIR Form No. 1600 (Monthly Remittance Return of Value-Added Tax and Other Percentage Taxes Withheld) and EFPS payment confirmation receipts	P 620,580.66
		Total Input Taxes on Services by Non-Residents	**P 620,580.66**
		GRAND TOTAL	**P26,739,378.08**

Based on the above ICPA's findings, input VAT in the total amount of Php 720,555.47 should be deducted from petitioner's input VAT claim, to wit:

Exhibit				**Particulars**	**Total**
Input Taxes on Domestic Purchases					
		Purchases of Services			
FF	**a.)**	Supported by original VAT ORs in the Petitioner's name			
			Not dated within the taxable year		
				Fourth quarter of 2007	P 14,662.50
				First quarter of 2010	106,217.73
				Third quarter of 2010	36,832.82
					P 157,713.05
HH	**b.)**	Supported by original VAT ORs in the Petitioner's name with no BIR permit to print			P 14,983.06
II	**c.)**	Supported by original VAT ORs in the Petitioner's name marked as "Not a Valid Source of Input Tax"			P 51,245.89
JJ	**d.)**	Supported by original VAT ORs in the Petitioner's name but not in the Company's TIN			P 168,278.87
KK	**e.)**	Supported by original VAT ORs not in the Petitioner's name			

			Dated in the current quarter	P 5,983.62
			Not dated within the taxable quarter but dated within the taxable year	
			Second quarter of 2009	1,200.00
				P 7,183.62
LL	**f.)**	Supported by photocopies of VAT ORs in the Petitioner's name		
			Dated in the current quarter	P 1,614.03
			Not dated within the taxable quarter but dated within the taxable year	
			Fourth quarter of 2009	9,027.31
				P 10,641.34
NN	**g.)**	Not supported by VAT ORs in the Petitioner's name		P 119,405.69
		Total Purchases of Services		**P 529,451.52**
		Purchases of Goods Other Than Capital Goods		
OO	**h.)**	Supported by original VAT invoices in the Petitioner's name		
			Not dated within the taxable quarter but dated within the taxable year	
			Third quarter of 2008	P 7,788.43
			Not dated within the taxable year	
			Third quarter of 2008	8,271.58
			First quarter of 2010	268.39
			Third quarter of 2010	4,795.71
				P 21,124.11
PP	**i.)**	Supported by original VAT invoices in the acronym (SRPC) of Petitioner's name		
			Not dated within the taxable quarter but dated within the taxable year	
			Third quarter of 2008	P 6,743.82
			Not dated within the taxable year	
			Second quarter of 2010	4,168.04
			Third quarter of 2010	170.71
				P 11,082.57
QQ	**j.)**	Supported by original VAT invoice in the Petitioner's name with no BIR permit to print		P 716.24
RR	**k.)**	Supported by original VAT invoices in the Petitioner's name marked as VAT ZERO-RATED SALE		
			Dated in the current quarter	P 61,976.33

		Not dated within the taxable quarter but dated within the taxable year	
		Second quarter of 2009	417.86
		Not dated within the taxable year	
		Fourth quarter of 2008	1,781.46
			P 2,199.32
			P 64,175.65
SS	**l.)**	Supported by original VAT invoices not in the Petitioner's name	
		Dated in the current quarter	P 6,203.11
		Not dated within the taxable quarter but dated within the taxable year	
		Second quarter of 2009	3,685.71
		Third quarter of 2009	12,685.71
			P 16,371.42
			P 22,574.53
TT	**m.)**	Supported by photocopies of VAT invoices in the Petitioner's name	
		Dated in the current quarter	P 2,257.97
		Not dated within the taxable quarter but dated within the taxable year	
		First quarter of 2009	P 301.07
		Second quarter of 2009	535.71
		Third quarter of 2009	184.07
		Not dated within the taxable year	
		Fourth quarter of 2008	552.87
		Third quarter of 2009	3,038.57
			P 4,612.29
			P 6,870.26
VV	**n.)**	Not supported by VAT invoices in the petitioner's name	P 53,615.95
		Total Purchases of Goods other than Capital Goods	**P 180,159.31**
		Total Domestic Purchases	**P 709,610.83**
Input Taxes on Importations of Goods			
YY	**o.)**	Not supported by bank/Bureau of Customs ORs and IEIRDs/IIDEs	P 10,944.64
		Total Input Taxes on Importations	**P 10,944.64**
		GRAND TOTAL	**P 720,555.47**

The input taxes under letters a, h and i shall be disallowed as the supporting invoices or official receipts are dated beyond the subject period. The input taxes under letters b, c, d, e, g, j, k, l, n and o shall also be denied for failure to meet the substantiation requirements under Sections 110(A) and 113(A) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of RR No. 16-05. The input taxes under letters f and m shall be disallowed for the reason that the supporting invoices or official receipts cannot be given evidentiary value for being mere photocopies in violation of the Best Evidence Rule.

Further scrutiny of the said report and petitioner's supporting documents reveals that aside from the disallowance of Php 720,555.47, the input VAT of Php 263,179.53 should as well be disallowed for either the supporting invoice or official receipt did not comply with the invoicing requirements under the VAT law and regulations or was dated outside the period of claim or there was an over-claim of input tax by petitioner, to wit:

Exhibit	Supplier's Name	Input VAT
1. Purchase of goods supported by invoice dated outside the period of claim.		
OO9	Pacific Orient Winds Corp.	P 26,412.00
	Subtotal	**P 26,412.00**
2. Purchase of goods supported by delivery receipt.		

m/

OO1118	Accent Micro	P 3,297.86
	Subtotal	**P 3,297.86**
3. Purchases of goods or services supported by blank OR or not legible OR.		
OO176	SM ACA Shell Forbes	P 328.16
OO187	SM ACA Shell Forbes	244.12
OO196	SM ACA Shell Forbes	170.78
OO197	SM ACA Shell Forbes	268.05
OO202	SM ACA Shell Forbes	201.52
OO207	SM ACA Shell Forbes	221.21
OO646	SM ACA Shell Forbes	451.26
OO648	SM ACA Shell Forbes	204.74
OO668	SM ACA Shell Forbes	370.82
OO669	SM ACA Shell Forbes	330.41
OO670	SM ACA Shell Forbes	393.91
OO689	SM ACA Shell Forbes	414.74
OO690	SM ACA Shell Forbes	389.70
OO701	SM ACA Shell Forbes	351.88
OO708	SM ACA Shell Forbes	576.25
OO710	SM ACA Shell Forbes	219.59
OO711	SM ACA Shell Forbes	326.85
OO779	SM ACA Shell Forbes	338.88
OO786	SM ACA Shell Forbes	369.79
OO796	SM ACA Shell Forbes	367.64
OO826	SM ACA Shell Forbes	315.56
OO896	SM ACA Shell Forbes	292.94
OO901	SM ACA Shell Forbes	304.72
OO911	SM ACA Shell Forbes	320.90
OO914	SM ACA Shell Forbes	294.28
OO946	SM ACA Shell Forbes	354.88
OO947	SM ACA Shell Forbes	210.72
OO1005	SM ACA Shell Forbes	299.56
OO1074	SM ACA Shell Forbes	236.40
OO1087	SM ACA Shell Forbes	153.16
OO1129	SM ACA Shell Forbes	210.47
OO1183	SM ACA Shell Forbes	181.33
OO1196	SM ACA Shell Forbes	185.85
OO1239	SM ACA Shell Forbes	170.29
OO1240	SM ACA Shell Forbes	198.90
OO1348	SM ACA Shell Forbes	211.84
	Subtotal	**P 10,482.10**
4.Purchases of goods or services supported by invoices or official receipts wherein VAT was not separately shown		
GG9	B.S. Benin Construction & Supplies	P 763.64
PP30	Rivera's Hollow Blocks	1,325.46
PP83	Rivera's Hollow Blocks	360.00
PP117	Binalonan Alfonso Lumber & Hardware	70.71

PP118	Binalonan Alfonso Lumber & Hardware	66.43
PP153	Rivera's Hollow Blocks	624.64
PP174	Rivera's Hollow Blocks	3,096.43
PP180	Binalonan Alfonso Lumber & Hardware	36.96
PP330	Binalonan Alfonso Lumber & Hardware	1,963.93
PP1198	Binalonan Alfonso Lumber & Hardware	150.00
PP1201	Rivera's Hollow Blocks	144.64
OO8	SM ACA Shell Forbes	42.86
OO103	Gerbag Industrial Tech	6,956.57
OO108	SM ACA Shell Forbes	35.89
OO124	J. Tancio Enterprises, Inc.	2,517.86
OO138	SM ACA Shell Forbes	271.32
OO150	SM ACA Shell Forbes	56.79
OO177	SM ACA Shell Forbes	39.64
OO189	Abstract Industrial Sales	8,970.00
OO193	Forsanz Enterprise	2,507.14
OO237	Forsanz Enterprise	675.00
OO238	Forsanz Enterprise	3,037.50
OO299	SM ACA Shell Forbes	244.19
OO303	SM ACA Shell Forbes	305.35
OO310	SM ACA Shell Forbes	272.37
OO333	Forsanz Enterprise	3,616.07
OO407	Forsanz Enterprise	3,037.50
OO471	Abstract Industrial Sales	12,910.71
OO529	Forsanz Enterprise	2,410.71
OO577	SM ACA Shell Forbes	418.32
OO578	SM ACA Shell Forbes	432.20
OO594	Forsanz Enterprise	3,278.57
OO608	Bon Bon General Merchandise	14,378.57
OO662	Shirts & Print Trading Corp.	3,369.64
OO684	SM ACA Shell Forbes	393.85
OO688	SM ACA Shell Forbes	356.21
OO693	SM ACA Shell Forbes	280.39
OO695	SM ACA Shell Forbes	350.95
OO697	SM ACA Shell Forbes	387.68
OO699	Bumanlag Brass Products	1,446.43
OO706	SM ACA Shell Forbes	362.74
OO735	SM ACA Shell Forbes	434.00
OO742	SM ACA Shell Forbes	321.46
OO780	Forsanz Enterprise	3,133.93
OO805	SM ACA Shell Forbes	350.08
OO830	Bottle Zone	4,500.00
OO831	Bumanlag Brass Products	1,446.43
OO851	SM ACA Shell Forbes	370.68
OO870	SM ACA Shell Forbes	261.83
OO878	Forsanz Enterprise	3,037.50
OO879	SM ACA Shell Forbes	339.52

00886	Bottle Zone	9,375.00
00887	Bends Marketing	5,944.29
00940	Elan Premium Gifts	578.57
001084	Tiong San Marketing	34,224.00
001157	Southern Control Industrial Supply	5,357.14
001188	Bends Marketing	5,944.29
	Subtotal	**P157,584.58**
5. Importation of goods supported by document which does not show actual payment of VAT.		
WW9 & WW9a	Vibrosystem Inc	P 920.00
	Subtotal	**P 920.00**
6. Over-claimed input tax on purchases previously classified as goods other than capital goods in the third quarter of FY 2009 but subsequently reclassified as capital goods subject to amortization in the fourth quarter of FY 2009		
UU1 and CCC, p.11, item no. 38	Original input VAT claim under goods other than capital goods	P 70,345.07
	Less: input tax amortization upon reclassification to capital goods	5,862.08
	Overclaimed input tax	P 64,482.99
	Subtotal	**P 64,482.99**
	Total	**P263,179.53**

Therefore, petitioner's valid input VAT claim amounts only to Php25,755,643.08, computed as follows:

Input VAT Claim		P 26,739,378.08
Less:	Disallowances	
	Per ICPA's findings	P 720,555.47
	Per this Court's findings	263,179.53
	Total	P 983,735.00
Valid Input VAT Claim		**P 25,755,643.08**

However, a portion of the creditable input VAT of Php 25,755,643.08 shall be applied against petitioner's reported output VAT liability of Php 94,133.59. Hence, only the remaining input VAT of Php 25,661,509.49 can be attributed to the entire zero-rated receipts declared by petitioner in the amount of Php 8,671,202,381.65. Consequently, only the input VAT of Php 24,101,040.15 represents petitioner's refundable excess input VAT attributable to the valid zero-rated receipts of Php 8,143,908,947.05, as computed below:

Valid Input VAT	P 25,755,643.08
Less: Output VAT	94,133.59
Valid Excess Input VAT	**P 25,661,509.49**
Valid Zero-Rated Receipts	P 8,143,908,947.05
Divided by Total Reported Zero-Rated Receipts	÷ P8,671,202,381.65
Multiplied by Valid Excess Input VAT	× P 25,661,509.49
Refundable Excess Input VAT attributable to the Valid Zero-Rated Receipts	**P 24,101,040.15**

Although petitioner carried-over the claimed excess input VAT of Php 26,645,244.88, including the refundable amount of Php24,101,040.15, to the succeeding first[16] and second[17] quarters of FY 2010, the same remained unutilized until it was

[16] Exhibit "O".
[17] Exhibit "P".

fully deducted as "VAT Refund/TCC Claimed"[18] from the total available input tax as of the second quarter of FY 2010. Thus, the excess input VAT of Php 15,371,220.09[19] to be carried-over to the third quarter of FY 2010 no longer included the claimed input VAT of Php 26,645,244.88.

WHEREFORE, petitioner's Motion for Reconsideration is hereby **PARTIALLY GRANTED.** The Decision dated May 7, 2012 is **MODIFIED** ordering respondent to refund or issue a tax credit certificate in favor of petitioner in the reduced amount of **TWENTY FOUR MILLION ONE HUNDRED ONE THOUSAND FORTY AND 15/100 PESOS** (Php 24,101,040.15), representing the latter's unutilized excess input VAT for the period January 1, 2008 to March 31, 2009 attributable to zero-rated receipts.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

ERNESTO D. ACOSTA
Presiding Justice

ERLINDA P. UY
Associate Justice

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[18] Exhibit "P", line 23D.
[19] Exhibit "P", line 29.

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice