REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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TOLEDO POWER COMPANY ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6961

Members:

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

Promulgated:

NOV 11 2009; 2:40pm

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DECISION

BAUTISTA, *J.*:

This case seeks the issuance of a tax credit certificate or cash refund in the amount of P14,254,013.27 allegedly representing unutilized input value-added tax (VAT) on petitioner's domestic purchases of taxable goods and services and importation of goods for the four quarters of 2002, attributable to petitioner's zero-rated sales of electricity, pursuant to the Electric Power Industry Reform Act of 2001 (EPIRA).

Toledo Power Company (Petitioner) is a general partnership duly organized and existing under Philippine laws, with principal office at Sangi, Toledo City, Cebu.[1] Petitioner is principally engaged in the business of power generation and subsequent sale thereof to the National Power Corporation (NPC), Cebu Electric Cooperative III (CEBECO), Atlas

[1] Par. 1, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), docket, p. 151

Consolidated Mining and Development Corporation, and Atlas Fertilizer Corporation.[2] It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer in accordance with Section 236 of the National Internal Revenue Code (NIRC), with Tax Identification No. 003-883-626 and BIR Certificate of Registration bearing RDO Control No. 94-083-000300.[3]

Respondent is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of said office including, among others, the power to decide, approve and grant refunds or tax credits of erroneously or excessively paid taxes. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On June 20, 2002, petitioner filed an application with the Energy Regulatory Commission (ERC) for the issuance of a Certificate of Compliance (COC), pursuant to the Implementing Rules and Regulations of the EPIRA.[4]

Petitioner filed its Quarterly VAT Returns on the following dates:

Period Covered 2002	Date Filed	Exhibit
First Quarter	April 25, 2002	"B"
Second Quarter	July 25, 2002	"C"
Third Quarter	October 25, 2002	"D"
Fourth Quarter	January 27, 2002	"E"

On December 22, 2003, pursuant to the procedure prescribed in Revenue Regulations (R.R.) No. 7-95, as amended, petitioner filed with the BIR Revenue District Office (RDO) No. 83 an administrative claim for refund or issuance of tax credit certificate for its unutilized input VAT in the total amount of P14,254,013.27, for the four quarters of 2002.[5]

In order to suspend the running of the two-year prescriptive period under the NIRC of 1997 and R.R. No. 7-95, and to preserve its right to judicially claim refund of its unutilized input VAT, petitioner filed a Petition for Review before this Court on April 22, 2004.

[2] Par. 1, Jointly Stipulated Facts, JSFI, docket, p. 152
[3] Annex "C", Petition for Review
[4] Par. 2, Jointly Stipulated Facts, JSFI, docket, p. 152
[5] Exhibit "A"

In respondent's Answer[6] filed on June 9, 2004, he interposed the following Special and Affirmative Defenses:

> "5. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by respondent's Bureau;
>
> 6. Petitioner utterly failed to demonstrate that the total amount of P14,254,013.27 claimed as refundable VAT input taxes, were erroneously or illegally collected, and that the same are properly documented.
>
> 7. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable;
>
> 8. In an action for tax refund, the burden is on the taxpayer to establish its right to refund and failure to sustain the burden is fatal to the claim for refund;
>
> 9. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code;
>
> 10. Well-settled is the rule that claims for refund/tax credit are construed in *strictissimi juris* against the taxpayer as they partake the nature of exemption from tax."

Pre-Trial Conference was held on September 17, 2004.[7] The parties filed their Joint Stipulation of Facts and Issues[8] on October 6, 2004, which the Court approved in a Resolution[9] dated November 5, 2004.

On June 28, 2005, the Court granted petitioner's Motion to Avail of the Provisions of CTA Circular No. 1-95, as amended[10] filed on May 4, 2005, where Mr. Emmanuel Y. Mendoza was commissioned as Independent Certified Public Accountant (CPA).[11]

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[6] Docket, pp. 124-126
[7] Docket, p. 147
[8] Docket, pp. 151-155
[9] Docket, p. 157
[10] Docket, pp. 171-173
[11] Docket, p. 179

After presentation of its evidence, the Court admitted petitioner's documentary evidence as enumerated in its Formal Offer of Evidence[12] filed on June 28, 2007, in Resolutions dated September 4, 2007[13], November 8, 2007[14], and January 23, 2008[15].

On June 24, 2008, respondent's counsel manifested that since the case involves merely questions of law, he will no longer present any evidence.

On November 27, 2008, the case was submitted for decision, taking into consideration the Memorandum for Petitioner[16] filed on July 23, 2008, respondent's Memorandum[17] filed on August 26, 2008, and petitioner's Reply Memorandum[18] filed on September 19, 2008.

Hence, this decision.

The parties submitted the following issues[19] for this Court's resolution:

"1. Whether or not the power generation services by petitioner to NPC, CEBECO, Atlas Consolidated Mining and Development Corporation and Atlas Fertilizer Corporation are subject to zero-percent (0%) VAT pursuant to the EPIRA and its implementing rules and regulations.

2. Whether or not petitioner has unutilized input VAT for the four (4) quarters of calendar year 2002 in the amount of P14,254,013.27 arising from its domestic purchases of taxable goods and services and importation of goods.

3. Whether or not the unutilized input VAT are attributable to its zero-rated sales of electricity to NPC, CEBECO, Atlas Consolidated Mining and Development Corporation and Atlas Fertilizer Corporation.

4. Whether or not the administrative claim for refund was seasonably filed.

5. Whether or not the unutilized creditable input taxes for the four (4) quarters of calendar year 2002 are properly substantiated by invoices and official receipts.

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[12] Docket, pp. 285-322
[13] Docket, pp. 328-330
[14] Docket, pp. 594-595
[15] Docket, p. 601
[16] Docket, pp. 619-648
[17] Docket, pp. 650-666
[18] Docket, pp. 674-683
[19] Docket, pp. 153-154

6. Whether or not the unutilized input VAT payments for the four (4) quarters of calendar year 2002 were carried over to and utilized in the succeeding taxable quarter(s) or applied against any of the output VAT liability of the petitioner.

7. Whether or not petitioner is entitled to a refund and/or issuance of tax credit certificate for the unutilized input VAT payments in the amount of P14,254,013.27."

All of the above issues may be simplified into: Whether or not, based on the evidence presented, petitioner is entitled to the issuance of tax credit certificate or cash refund in the amount of P14,254,013.27, representing its unutilized input VAT for the four quarters of taxable year 2002.

The NIRC provision pertinent to claim for refund or tax credit of input tax is Section 112(A), which states:

"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."

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

1. 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 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.

Petitioner is principally engaged in the business of power generation for lighting and power purposes and bulk sale of electric power to NPC, CEBECO, Atlas Consolidated Mining and Development Corporation, and Atlas Fertilizer Corporation.[20] Petitioner maintains that such sale of electricity is zero-rated for VAT purposes, pursuant to Section 6 of the EPIRA[21], which provides:

> "SEC. 6. *Generation Sector.* – xxx
>
> Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax zero-rated.
>
> xxx xxx xxx"

Indeed, the provisions of the EPIRA, the regulations implementing the same, the interpretative rulings issued by the BIR, and the existing jurisprudence are unanimous in declaring that the sales of generated power by generation companies are VAT zero-rated.

Section 4(x) in relation to Section 6 of the EPIRA defines a "generation company" as follows:

> "SEC. 4. *Definition of Terms.* –
>
> (x) 'Generation Company' refers to any person or entity authorized by the ERC[22] to operate facilities used in the generation of electricity;"

Moreover, Section 4, Rule 5 of the Rules and Regulations to Implement Republic Act No. 9136, entitled "Electric Power Industry Reform Act of 2001", provides:

> "**Section. 4. Obligations of a Generation Company.**
>
> (a) A COC[23] shall be secured from the ERC before commercial operation of a new Generation Facility. The COC shall stipulate all obligations of a Generation Company consistent with this Section and such other operating guidelines as ERC may establish. The ERC shall establish and publish the standards and requirements for issuance of a COC. A COC shall be issued upon compliance with such standards and requirements.

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[20] Par. 1, Jointly Stipulated Facts, JSFI, docket, p. 152
[21] Republic Act No. 9136
[22] Energy Regulatory Commission
[23] Certificate of Compliance

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

Pursuant to the above provisions, petitioner filed on June 20, 2002 an application[24] for the issuance of a Certificate of Compliance with the Energy Regulatory Commission, but it failed to submit proof of the approved Certificate of Compliance; thus, its sales of generated power cannot qualify for VAT zero-rating under the EPIRA.

However, pursuant to Section 108(B)(3) of the NIRC of 1997, as amended, in relation to Section 13 of Republic Act No. 6395, as amended, otherwise known as the NPC Charter, sale of electricity to NPC is effectively zero-rated for VAT purposes. The applicable provisions read:

"**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:

xxx xxx xxx

(3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate.**" (*Emphasis supplied*)

"Sec. 13. Non-profit Character of the Corporation; Exemption from All Taxes, Duties, Fees, Imposts and Other Charges by the Government and Governmental Instrumentalities. — The corporation shall be non-profit and shall devote all its returns from its capital investment, as well as excess revenues from its operation, for expansion. To enable the Corporation to pay its indebtedness and obligations and in furtherance of effective implementation of the policy enunciated in Section one of this Act, **the Corporation, including its subsidiaries, is hereby declared exempt from the payment of all forms of taxes, duties, fees, imposts as**

[24] Docket, page 47

> **well as costs and service fees including filing fees, appeal bonds, supersedeas bonds, in any court or administrative proceedings."** (*Emphasis supplied*)

This Court has consistently held that NPC is an entity with a special charter, which exempts it from payment of all taxes, direct or indirect, including VAT. By virtue of the said charter, services rendered by a VAT-registered entity, like herein petitioner, to NPC are effectively subject to zero percent (0%) VAT, in accordance with Section 108(B)(3) of the NIRC of 1997, as amended.

Moreover, the Supreme Court already settled this issue in the landmark case of **Maceda vs. Macaraig**[25], where the High Tribunal held that:

> "The NPC is a non-profit public corporation created for the general good and welfare, wholly owned by the government of the Republic of the Philippines. From the very beginning of its corporate existence, the NPC enjoyed preferential tax treatment, to enable the Corporation to pay the indebtedness and obligation and in furtherance and effective implementation of the policy enunciated in Section one of 'Republic Act No. 6395' which provides:
>
> xxx xxx xxx
>
> (P)residential Decree No. 938 amended the tax exemption by simplifying the same law in general terms. It succinctly exempts NPC from *'all forms of taxes*, duties, fees, imposts, as well as costs and service fees including filing fees, appeal bonds, supersedeas bonds, in any court or administrative proceedings'.
>
> The use of the phrase 'all forms' of taxes demonstrate the intention of the law to give NPC all the tax exemptions it has been enjoying before. The rationale for this exemption is that being non-profit the NPC 'shall devote all its returns from its capital investment as well as excess revenues of its operation, for expansion. xxx'
>
> xxx xxx xxx
>
> It is evident from the provisions of P.D. No. 938 that its purpose is to maintain the tax exemption of NPC from *all forms* of taxes including indirect taxes as provided for under R.A. No. 6895 and P.D. No. 380 if it is to attain its goals."

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[25] G.R. No. 88291, May 31, 1991.

Therefore, out of the P439,660,958.77 zero-rated sales declared by petitioner in its Quarterly VAT Returns for the four quarters of 2002, only the amount of P280,337,939.83 pertaining to petitioner's sales of electricity to NPC shall be considered as valid zero-rated sales, to wit:

Exhibit	Date	OR No.	Sold to	Amount
RR-4	2/1/2002	1300	NPC	P 22,634,336.86
RR-5	3/1/2002	1313	NPC	25,911,022.60
RR-6	4/1/2002	1324	NPC	23,704,160.75
RR-13	5/1/2002	1339	NPC	28,150,762.69
RR-14	7/1/2002	1351	NPC	28,700,406.35
RR-15	7/1/2002	1365	NPC	29,428,558.74
RR-21	8/1/2002	1378	NPC	25,653,368.68
RR-22	9/1/2002	1393	NPC	29,686,212.66
RR-24	10/1/2002	1406	NPC	35,208,968.45
RR-26	11/1/2002	1414	NPC	31,260,142.05
TOTAL				**P280,337,939.83**

Petitioner's sales of electricity to companies other than NPC worth P159,323,018.94 shall be denied VAT zero-rating for petitioner's failure to present Certificate of Compliance from the ERC, as stated earlier. The amount of P159,323,018.94 is broken down as follows:

Exhibit	Date	OR No.	Sold To	Amount
RR-1	02/06/2002	1292	CEBECO 111	P 13,783,882.23
RR-2	03/08/2002	1305	CEBECO 111	14,060,163.74
RR-3	04/04/2002	1316	CEBECO 111	12,089,008.42
RR-7	01/25/2002	367	CEBECO 111	897,985.38
RR-8	02/25/2002	374	CEBECO 111	797,243.49
RR-9	03/25/2002	379	CEBECO 111	666,054.20
RR-10	05/03/2002	1330	CEBECO 111	13,726,591.82
RR-11	06/03/2002	1344	CEBECO 111	14,336,230.93
RR-12	07/03/2002	1356	CEBECO 111	15,147,641.75
RR-16	04/25/2002	386	CEBECO 111	701,237.56
RR-17	05/25/2002	393	CEBECO 111	932,629.30
RR-18	06/25/2002	401	CEBECO 111	841,528.16
RR-19	09/04/2002	1385	CEBECO 111	14,829,690.98
RR-20	08/02/2002	1370	CEBECO 111	14,636,010.09
RR-23	10/03/2002	1398	CEBECO 111	14,016,859.41
RR-25	11/07/2002	1409	CEBECO 111	14,074,918.05
RR-27	12/04/2002	1417	CEBECO 111	13,785,343.43
			Total	**P159,323,018.94**

After finding that petitioner had VAT zero-rated sales for the four quarters of 2002 in the amount of P280,337,939.83, the Court now determines the amount of input VAT attributable thereto.

Petitioner submitted its summary lists of purchases and corresponding suppliers' invoices/official receipts, Bureau of Customs (BOC) Import Entries and Internal Revenue Declarations (IEIRDs), BOC official receipts, and other documentary evidence[26] in support of the following input taxes reported in its Quarterly VAT Returns for the four quarters of 2002:

		INPUT VAT			
Exhibit	**2002**	**Capital Goods**	**Domestic**	**Importation**	**Total**
B	1st Qtr	P -	P 4,125,313.95	P 865,825.00	P 4,991,138.95
C	2nd Qtr	-	1,909,526.31	988,772.00	2,898,298.31
D	3rd Qtr	124,159.73	1,414,962.64	338,135.00	1,877,257.37
E	4th Qtr	90,741.19	3,566,849.48	1,133,758.00	4,791,348.67
	TOTAL	**P 214,900.92**	**P11,016,652.38**	**P3,326,490.00**	**P14,558,043.30**

Upon examination of the supporting documents of petitioner, the Court-commissioned Independent CPA recommended that out of the total reported input VAT of P14,558,043.30, only the amount of P11,347,363.55 represents petitioner's valid claim, while the remaining amount of P3,210,679.75 should be disallowed for the following reasons[27]:

	Findings	Amount
1.	Input VAT on Domestic Purchases of Services Supported by Documents Other Than VAT ORs	P 9,658.16
2.	Input VAT on Domestic Purchases of Goods Supported by Documents Other Than VAT Invoices	33,363.35
3.	Input VAT on Importation of Goods Supported by Other Than BOC Import Entry	6,568.00
4.	Input VAT on Domestic Purchases of Services Supported by ORs with Pre-Printed "TIN" while the word "VAT" was self-printed by the company	9,924.85
5.	Input VAT on Domestic Purchases of Goods Supported by Invoices With Pre-Printed "TIN" and stamped "TIN V"	9,717.56
6.	Input VAT on Domestic Purchases of Services Supported by ORs with Pre-Printed "TIN" only	1,045.45
7.	Input VAT on Domestic Purchases of Services Supported by ORs with Pre-Printed "TIN" and stamped "VAT"	635.00

[26] Exhibits "S" to "Sc-9/9", "T-1/4" to "T-4/4", "U-1/4" to "U-3/4", "U-4/4"; "V-1/14" to "V-9/14"; "W-1" to "W-657", "X-1" to "X-293", "Y-1" to "Y-397", and "Z-1" to "Z-543"
[27] Exhibit "N", pages 4 to 7

8.	Input VAT on Domestic Purchases of Goods Supported by Invoices but Recorded Twice in the Schedule of Input VAT	17,967.96
9.	Input VAT on Domestic Purchases of Services Supported by ORs not issued in the name of the company	11.82
10.	Input VAT with no Available Supporting Documents	3,121,787.60
	TOTAL	**P3,210,679.75**

The Court finds the disallowance of the above input taxes proper except for input taxes classified under Nos. 3 and 10 in the respective amounts of P6,568.00 and P3,121,787.60.

The input VAT of P6,568.00 represents petitioner's valid claim because the same is duly supported by BOC official receipt[28]. As to the input taxes of P3,121,787.60, petitioner submitted documents marked as Exhibits "SS-3" to "SS-28" but only with respect to the claimed amount of P1,106,820.84 as summarized in Exhibit "SS". Out of the P1,106,820.84 input VAT claim, only the amount of P969,369.59 is valid, while the remaining input VAT of P137,451.25 shall be denied for the following reasons:

	Supplier's Name	Exhibit	OR/ Inv. No.	Input VAT
1.	**Purchases of services supported by ORs with pre-printed TAN, stamped TIN-V**			
	Anscor Land Management and Devt. Corp.	"SS-3"	797	P 26,181.82
	Anscor Land Management and Devt. Corp.	"SS-4"	798	26,181.82
	Anscor Land Management and Devt. Corp.	"SS-5"	800	26,181.82
	Anscor Land Management and Devt. Corp.	"SS-6"	802	26,181.82
	Anscor Land Management and Devt. Corp.	"SS-8"	805	20,945.45
	Sangi Arrastre & Stevedoring Co., Inc.	"SS-11"	3985	624.31
	Sangi Arrastre & Stevedoring Co., Inc.	"SS-12"	3975	1,624.61
	Sangi Arrastre & Stevedoring Co., Inc.	"SS-12"	3975	2,122.96
	Sangi Arrastre & Stevedoring Co., Inc.	"SS-12"	3975	5,994.00
2.	**Purchase of goods supported by an invoice with pre-printed TIN-V instead of TIN-VAT**			
	AFC Fertilizer & Chemicals, Inc.	"SS-9"	60550	1,412.64
	Total			**P137,451.25**

[28] Exhibit "X-288"

Therefore, the P3,121,787.60 input VAT disallowed by the Independent CPA for not having supporting documents shall now be reduced to P2,152,418.01 (P3,121,787.60 less P969,369.59).

In addition to the disallowances found by the Independent CPA, the amount of P102,700.85[29], representing out-of-period claim, shall be denied.

In sum, only the input VAT claim of P12,220,600.29 is duly substantiated in accordance with Sections 110(A) and 113(A) of the NIRC of 1997, as implemented by Sections 4.104-1, 4.104-5, and 4.108-1 of Revenue Regulations No. 7-95. The amount of P12,220,600.29 is computed below:

Input VAT per 2002 Quarterly VAT Returns			P 14,558,043.30
Less:	Disallowances		
	Per Independent CPA	P3,210,679.75	
	Less: Valid claim		
	Input VAT on Importation of Goods	6,568.00	
	Input VAT per add'l documents submitted	969,369.59	2,234,742.16
	Per this Court's further verification		102,700.85
Substantiated Input VAT			**P12,220,600.29**

A portion of the substantiated input VAT of P12,220,600.29, however, shall be applied against petitioner's reported output VAT liability of P304,030.03, detailed as follows:

Exhibit	2002	Taxable Sales	Output VAT
B	1st Quarter	673,033.58	67,303.36
C	2nd Quarter	867,181.42	86,718.15
D	3rd Quarter	326,751.45	32,675.14
E	4th Quarter	1,173,333.80	117,333.38
TOTAL		**3,040,300.25**	**304,030.03**

Hence, only the remaining input VAT of P11,916,570.26 can be attributed to the entire zero-rated sales declared by petitioner in the amount of P439,660,958.77, and only the input VAT of P7,598,279.29 is attributable to the substantiated zero-rated sales of P280,337,939.83, as computed below:

Substantiated Input VAT	P 12,220,600.29
Less: Output VAT	304,030.03
Excess Input VAT	**P11,916,570.26**

[29] Exhibit "N", Annexes "A-9", "A-10", "A-39", and "A-40"

Substantiated Zero-Rated Sales	P 280,337,939.83
Divided by Total Reported Zero-Rated Sales	÷ 439,660,958.77
Multiplied by Substantiated Excess Input VAT	× 11,916,570.26
Excess Input VAT attributable to Substantiated Zero-Rated Sales	**P 7,598,279.29**

As evidenced by its Quarterly VAT Returns[30] from the first quarter of 2003 to the second quarter of 2004, petitioner was able to prove that the input VAT of P7,598,279.29 was not applied against any output VAT in the succeeding quarters.

Finally, petitioner's claim was timely filed within the two-year prescriptive period. The reckoning of the two-year prescriptive period for the filing of a claim for VAT refund starts from the date of filing of the corresponding Quarterly VAT Return. The earliest quarter covered by the subject claim is the quarter ending March 31, 2002, for which petitioner filed its VAT Return on April 25, 2002[31]. Counting from this date, petitioner had until April 25, 2004 within which to file its claim administratively and judicially. Clearly, the administrative claim filed on December 22, 2003[32], as well as the Petition for Review filed on April 22, 2004, fall within the two-year prescriptive period.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **SEVEN MILLION FIVE HUNDRED NINETY EIGHT THOUSAND TWO HUNDRED SEVENTY NINE PESOS AND 29/100 (P7,598,279.29)**, representing its unutilized input taxes attributable to zero-rated sales for taxable year 2002.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

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[30] Exhibits "F" to "M"
[31] Exhibit "B-7"
[32] Exhibit "A"

WE CONCUR:

(With Concurring and Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division