Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION
****

GST PHILIPPINES, INC.
Petitioner,

C.T.A. CASE NO. 7419

Members:

- versus -

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JAN 27 2009 3:00 pm

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DECISION

CASANOVA, ***J.*****:**

This is a Petition for Review filed by GST Philippines, Inc. (petitioner) seeking the issuance of a tax credit certificate or a tax refund in the amount of Thirty Two Million Seven Hundred Twenty Two Thousand One Hundred Nine Pesos and Sixty Eight Centavos (P32,722,109.68) allegedly representing unapplied input Value Added Tax (VAT) payments attributable to its zero rated revenues for the period from January 1, 2004 to September 30, 2005.

STATEMENT OF FACTS

Petitioner is a corporation duly organized and existing under Philippine laws with principal office at 2nd Floor ALPAP I Building, 140 Leviste Street, Salcedo Village, Makati City.[1] It is a duly registered VAT enterprise pursuant to Section 107 of the 1997 National Internal Revenue Code (NIRC) with Tax Identification Number 000-155-645-000.[2]

Respondent is a public officer duly appointed by the President of the Philippines and is the head of the Bureau of Internal Revenue (BIR) – the government agency officially responsible for the assessment and collection of all national and internal revenue taxes.[3]

Petitioner filed its 1st to 4th quarterly VAT returns for the year 2004 and reflected the following:[4]

Period 2004	Date of Filing	Zero-rated Sales
1st quarter	April 16, 2004	₱77,687,420.54
2nd quarter	July 15, 2004	53,737,063.05
3rd quarter	October 15, 2004	74,280,682.00
4th quarter	January 11, 2005	104,633,604.23

Petitioner also filed its VAT returns for the 1st to 3rd quarters of the year 2005 which reported the following:[5]

[1] Paragraph 1, Petition for Review in relation to Paragraph 1, Joint Stipulation of Facs and Issues for Trial, Rollo, pp. 1, 214.
[2] Paragraph 2, Joint Stipulation of Facts and Issues for Trial, Rollo, p. 214.
[3] Paragraph 2, Petition for Review in relation to Paragraph 1, Joint Stipulation of Facts and Issues for Trial, Rollo, p. 1, 214.
[4] Exhibit "G, G-1, G-2, G-3."
[5] Exhibit "G-4, G-5, G-6."

Period 2005	Date of Filing	Zero-rated Sales
1st quarter 2nd quarter 3rd quarter	April 25, 2005 July 19, 2005 October 26, 2005	P37,742,969.02 56,133,761.00 51,147,677.80

On June 9 and August 12, 2004, and on February 18, May 11, and November 18, 2005, petitioner respectively filed claims of its 2004 and 2005 unapplied input VAT payments with the BIR.[6]

However, the claims for refund remain unresolved by the BIR,[7] hence, the instant Petition for Review was filed on March 17, 2006.

During trial, both parties agreed to the following: that under Revenue Memorandum Order No. 9-00 (RMO 9-00), in relation to Section 106(2)(a) of the National Internal Revenue Code of 1997 (NIRC of 1997), the sale of goods, properties or services made by a VAT-registered supplier to a Bureau of Investment (BOI)-registered exporter with 100% export sales shall be accorded automatic zero-rating. Likewise, under Revenue Memorandum Circular No. 74-99 (RMC 74-99), the sale of goods, property or services made by a VAT registered supplier to any registered enterprise operating in the ecozone is entitled to the zero percent (0%) VAT.[8]

On April 21, 2006, respondent filed his Answer interposing the following as Special and Affirmative Defenses:

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[6] Paragraph 6, Joint Stipulation of Facts and Issues for Trial, Rollo, p. 215.
[7] Paragraph 7, Ibid.
[8] Paragraph 3, 4, 5, Joint Stipulation of Facts and Issues for Trial, Rollo, pp. 214-215.

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"4. Petitioner's alleged claim for refund is subject to administrative investigation/examination by the Bureau;

5. The amount of P32,722,109.68 being claimed by petitioner as alleged unapplied input VAT payments attributable to its zero rated revenues for the period January 1, 2004 to September 30, 2005 was not properly documented;

6. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;

7. Petitioner must show that it has complied with the provisions of Sections 204 (C) and 229 of the 1997 Tax Code on the prescriptive period for claiming tax refund/credit;

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

On August 16, 2007, petitioner filed its Formal Offer of Evidence, while respondent waived her right to present any. On April 8, 2008, petitioner filed its Memorandum while respondent filed her Memorandum on June 17, 2008. On August 1, 2008, the instant case was submitted for decision.

STATEMENT OF ISSUES

The parties have jointly stipulated that the following are the issues for this Court to resolve:

1. Whether or not petitioner has excess input VAT in the amount of P32,722,109.68 for the period from January 1, 2004 to September 30, 2005;

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2. Whether or not petitioner's excess input VAT are attributable to its purchases that are directly related to its zero-rated revenue for the same period;

3. Whether or not petitioner's excess input VAT were not applied to any of petitioner's output VAT liability during the same period or the succeeding quarters of 2005;

4. Whether or not petitioner's claim for refund was filed within the period prescribed by law;

5. Whether or not petitioner, based on the facts and applicable laws, is entitled to a refund of its excess and unapplied input VAT payments for the period from January 1, 2004 to September 30, 2005.

THE COURT'S RULING

The foregoing issues boil down to the sole issue of whether or not petitioner is entitled to a refund of its alleged excess and unapplied input VAT payments for the period covering January 1, 2004 to September 30, 2005 in the amount of P32,722,109.68.

Section 112(A) of the NIRC of 1997, as amended, provides for the following:

> "**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 sales 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.

Based on the aforementioned provisions, to be entitled to a refund of its unutilized input VAT, petitioner has to comply with the following requisites:

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 directly 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

In the instant case, petitioner's VAT returns for the quarters covering the instant claim reported the following zero-rated sales:

Exhibit	**Period**	**Zero-rated Sales**
	2004	
G	1st Qtr	P 77,687,420.54
G-1	2nd Qtr	53,737,063.05
G-2	3rd Qtr	74,280,682.00
G-3	4th Qtr	104,633,604.23
	Subtotal	***P 310,338,769.82***
	2005	
G-4	1st Qtr	P 37,742,969.02
G-5	2nd Qtr	56,133,761.00
G-6	3rd Qtr	51,147,677.80
	Subtotal	***P 145,024,407.82***
	TOTAL	**P 455,363,177.64**

The reported zero-rated sales consisted of domestic sales in the amount of P331,305,960.00 and export sales in the amount of P121,267,303.84, as can be seen in petitioner's "Summary of Zero Rated Sales", detailed as follows: a

Period Covered	ZERO–RATED SALES Exh.		Domestic	Exh.		Export		Total
2004								
1st Qtr	W	P	27,188,225.00	V	P	49,052,166.24	P	76,240,391.24
2nd Qtr	X		43,998,340.00	V		31,226,020.55		75,224,360.55
3rd Qtr	Y		51,758,850.00	V		-		51,758,850.00
4th Qtr	Z		65,593,700.00	V		38,708,104.23		104,301,804.23
Subtotal		***P***	***188,539,115.00***		***P***	***118,986,291.02***	***P***	***307,525,406.02***
2005								
1st Qtr	AA	P	36,374,728.00	V	P	1,372,091.02	P	37,746,819.02
2nd Qtr	BB		56,153,361.00	V		-		56,153,361.00
3rd Qtr	CC		50,238,756.00	V		908,921.80		51,147,677.80
Subtotal		***P***	***142,766,845.00***		***P***	***2,281,012.82***	***P***	***145,047,857.82***
Total		**P**	**331,305,960.00**		**P**	**121,267,303.84**	**P**	**452,573,263.84**

Nevertheless, a comparison of the amount of zero-rated sales declared in the quarterly VAT returns as against the amount declared in the "Summary of Zero-Rated Sales" prepared by petitioner, disclosed a discrepancy of P2,789,913.80, detailed as follows:

Period		Zero-rated Sales per VAT Returns	Zero-rated Sales per Summary		Difference
2004					
1st Qtr	P	77,687,420.54	76,240,391.24	P	1,447,029.30
2nd Qtr		53,737,063.05	75,224,360.55		(21,487,297.50)
3rd Qtr		74,280,682.00	51,758,850.00		22,521,832.00
4th Qtr		104,633,604.23	104,301,804.23		331,800.00
Subtotal	***P***	***310,338,769.82***	***307,525,406.02***	***P***	***2,813,363.80***
2005					
1st Qtr	P	37,742,969.02	37,746,819.02	P	(3,850.00)
2nd Qtr		56,133,761.00	56,153,361.00		(19,600.00)
3rd Qtr		51,147,677.80	51,147,677.80		-
Subtotal	***P***	***145,024,407.82***	***145,047,857.82***	***P***	***(23,450.00)***
TOTAL	**P**	**455,363,177.64**	**452,573,263.84**	**P**	**2,789,913.80**

A perusal of the documents submitted would show that the difference in the amount of P2,789,913.80 was not supported by any document. Thus, such cannot be considered for VAT zero-rating.

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To prove its export sales of P121,267,303.84 and the foreign currency proceeds therefrom, petitioner presented various sales invoices, bills of lading, packing lists and bank credit advices/memos[9] and the judicial affidavit of Ms. Maria Lina P. Grecia, petitioner's Budget and Accounting Officer[10]. A perusal of these documents proved that petitioner shipped and sold its products abroad to the following entities:

1. Malex Industrial Products SDN BHD in Malaysia,
2. CSR Building Materials SDN BHD in Malaysia,
3. Hume Cemboard Berhad in Malaysia,
4. UAC Berhad in Malaysia, and
5. Boroo Gold Mining Company in Mongolia.

As payment thereof, petitioner received foreign currency payments, which were inwardly remitted in accordance with the BSP rules and regulations. These (export sales) then may fall within the export sales transactions subject to zero percent (0%) VAT referred to under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, which states:

> "**SEC. 106.** ***Value-Added Tax on Sale of Goods or Properties.*** **–**
>
> (A) ***Rate and Base of Tax.*** –There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
>
> xxx xxx xxx

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[9] Exhibits "MM to MM-66".
[10] Exhibit "DD".

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(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) Export Sales. – The term 'export sales" means:

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)."

However, the aforementioned provisions must be read in relation to Section 113(A) of the same Code and Section 4.108-1 of Revenue Regulations No. 7-95 (RR 7-95), which provide that any person claiming VAT zero-rated direct export sales must present at least three (3) types of documents, to wit: a) the sales invoice as proof of sale of goods; b) the export declaration and bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and c) bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services. In other words, only export sales supported by these documents shall qualify for VAT zero-rating.

Furthermore, the sales invoices supporting the export sales must be registered with the BIR and contain all the required information under the law and regulations, such as the imprinted word "zero-rated" and the taxpayer's TIN-VAT number.

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Evidence shows, however, that petitioner did not submit airway bills or bills of lading for the following three (3) shipments to Boroo Gold Mining Company:

Exh.	Customer	Invoice Number		Amount
MM-43	Boroo Gold Mining Company	4748	P	402,000.00
MM-48	Boroo Gold Mining Company	4816		330,000.00
MM-52	Boroo Gold Mining Company	4831		337,500.00
	TOTAL		**P**	**1,069,500.00**

Thus, the foregoing amount shall not be credited for VAT zero-rating for petitioner's failure to substantiate its claim.

From the claimed amount of P121,267,303.84 zero-rated export sales, petitioner's claim is reduced to the amount of P120,197,803.84 (P121,267,303.84 less P1,069,500.00).

As to the domestic sales of P331,305,960.00, records show that sales were made by petitioner to Philex Mining Corporation, Lepanto Consolidated Mining Co., Philippine Associated Smelting and Refining Corp. (PASAR), and Rapu-rapu Processing, Inc. The first two corporations are VAT taxpayers and BOI registered entities whose products are 100% exported[11], while the last two corporations are PEZA registered entities[12]. The sales made to the first two corporations were properly covered by VAT invoices and official receipts duly stamped with the word "zero-rated", the name of the BOI company/buyer and the corresponding BOI registry number and registration date. While the sales

[11] Exhibits "C to C-3", and "D to D-3".
[12] Exhibit "E", "E-2" and "E-4" and "F to F-2".

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made to the last two corporations were supported by proper VAT invoices and official receipts[13].

Petitioner's domestic sales to the aforementioned BOI companies and PEZA entity qualify for VAT zero-rating pursuant to Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended, which provides:

> "**SEC. 106.** ***Value-Added Tax on Sale of Goods or Properties.*** -
>
> (A) *Rate and Base of Tax.* – x x x
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* – The term 'export sales' means:
>
> xxx xxx xxx
>
> (5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws."

The VAT zero-rating of sales made by a VAT taxpayer like herein petitioner to a PEZA entity was further clarified in RMC No. 74-99, the pertinent provisions of which read as follows:

> "**SECTION 3.** ***Tax Treatment of Sales Made By A VAT Registered Supplier from the Customs Territory, To A PEZA Registered Enterprise.—***
>
> (1) If the Buyer is a PEZA registered enterprise which is subject to the 5% special tax regime, in lieu of all taxes, except real property tax, pursuant to R.A. No. 7916, as amended:

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[13] Exhibits "NN-1 to TT-58".

(a) *Sale of goods (i.e., merchandise).* – This shall be treated as indirect export hence, considered subject to zero percent (0%) VAT, pursuant to Sec. 106(A)(2)(a)(5), NIRC and Sec. 23 of R.A. No. 7916, in relation to ART. 77(2) of the Omnibus Investments Code.

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

(a) *Sale of goods (i.e., merchandise).* – This shall be treated as indirect export hence, considered subject to zero percent (0%) VAT, pursuant to Sec. 106(A)(2)(a)(5), NIRC and Sec. 23 of R.A. No. 7916, in relation to ART. 77(2) of the Omnibus Investments Code.

3. In the final analysis, any sale of goods, property or services made by a VAT registered supplier from the Customs Territory to any registered enterprise operating in the ecozone, regardless of the class or type of the latter's PEZA registration, is actually qualified and thus legally entitled to the zero percent (0%) VAT. Accordingly, all sales of goods or property to such enterprise made by a VAT registered supplier from the Customs Territory shall be treated subject to 0% VAT, pursuant to Sec. 106(A)(2)(a)(5), NIRC , in relation to Art. 77(2) of the Omnibus Investments Code, while all sales of services to the said enterprises, made by VAT registered supplies from the Customs Territory, shall be treated effectively subject to 0% VAT, pursuant to Section 108(B)(3), NIRC, in relation to the provisions of R.A. 7916 and the 'Cross Border Doctrine' of the VAT system.

This Circular shall serve as a sufficient basis to entitle such supplier of goods, property or services to the benefit of the zero percent (0%) VAT for sales made to the aforementioned ECOZONE enterprises and shall serve as sufficient compliance to the requirement for prior approval of zero-rating imposed by Revenue

> Regulations No. 7-95 effective as of the date of issuance of this Circular."

Likewise, in RMO 9-00 dated February 2, 2000, the BIR enumerated the requirements for the zero-rating of sales by a VAT taxpayer to a BOI entity, thus:

> "**SECTION 3.** ***Sales of goods, properties or services made by a VAT-registered supplier to a BOI registered exporter shall be accorded automatic zero-rating, i.e., without necessity of applying for and securing approval of the application for zero-rating as provided in Revenue Regulations No. 7-95, subject to the following conditions:***
>
> (1) The supplier must be VAT-registered,
>
> (2) The BOI-registered buyer must likewise be VAT-registered;
>
> (3) The buyer must be a BOI-registered manufacturer/producer whose products are 100% exported. For this purpose a Certification to this effect must be issued by the Board of Investments (BOI) and which certification shall be good for one year unless subsequently re-issued by the BOI;
>
> (4) The BOI-registered buyer shall furnish each of its suppliers with a copy of the aforementioned BOI Certification which shall serve as authority for the supplier to avail of the benefits of zero-rating for its sales to said BOI-registered buyers; and;
>
> (5) The VAT-registered supplier shall issue for each sale to BOI-registered manufacturer/exporters a duly-registered VAT invoice with the words 'zero-rated' stamped thereon in compliance with Sec. 4.108-1(5) of RR 7-95. The supplier must likewise indicate in the VAT invoice the name and BOI-registry number of the buyer."

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However, a scrutiny of the invoices submitted revealed that there is a discrepancy of P47,600.00 between the sales amount per summary and amount per invoices, detailed as follows:

Customer	Invoice No.	Amount	Exh.	Amount Per Summary	Difference
PASAR	4674	P 720,300.00	NN-62	P 724,800.00	P 4,500.00
PASAR	4698	142,660.00	OO-26	146,660.00	4,000.00
PASAR	4726	856,250.00	OO-68	865,250.00	9,000.00
PASAR	4791	833,420.00	PP-63	840,070.00	6,650.00
PASAR	4854	484,550.00	RR-15	488,400.00	3,850.00
Rapu-rapu Processing	4896	2,048,330.00	SS-22	2,064,780.00	16,450.00
PASAR	4911	390,735.00	SS-44	393,885.00	3,150.00
TOTAL		**P5,476,245.00**		**P5,523,845.00**	**P47,600.00**

Thus, petitioner's total substantiated zero-rated sales amounted only to P451,456,163.84, as computed below:

Declared zero-rated sales		P 455,363,177.64
Less: Unsubstantiated zero-rated sales		2,789,913.80
Disallowed zero-rated sales:		
Export sales	P 1,069,500.00	
Domestic sales	47,600.00	
Total		1,117,100.00
Substantiated zero-rated sales		**P 451,456,163.84**

In view of this, only the portion of the input VAT claim attributable to the substantiated zero-rated sales of P451,456,163.84 will be considered for refund. The rate then to be applied is based on the volume of sales and is computed as follows:

Substantiated zero-rated sales	P 451,456,163.84
Divided by total declared zero-rated sales	455,363,177.64
Rate of substantiated zero-rated sales	**99.14%**

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We then proceed to the determination of the amount of unutilized input VAT attributable thereto.

Petitioner's declared excess unutilized input VAT from domestic purchases of goods and services for the first quarter of 2004 to the third quarter of 2005 amounted to P32,722,109.68, broken down as follows:

Exh.	Period		Excess Input Tax
	2004		
G	1st Qtr	P	5,413,683.58
G-1	2nd Qtr		5,512,615.30
G-2	3rd Qtr		121,386.78
G-3	4th Qtr		6,371,889.36
	Subtotal	***P***	***17,419,575.02***
	2005		
G-4	1st Qtr	P	4,315,797.10
G-5	2nd Qtr		4,364,408.65
G-6	3rd Qtr		6,622,328.91
	Subtotal	***P***	***15,302,534.66***
	TOTAL	**P**	**32,722,109.68**

Based on the review and validation of the commissioned CPA, out of the total input VAT of P32,722,109.68, only the amount of P32,651,524.03 represents petitioner's valid claim[14]. The exceptions found are shown below[15]:

Description	Reference (Annexed to Exh. VV)		Amount
a. Purchases not supported by document vouchers, suppliers' official receipts and/or sales invoices	Annex A.1	P	39,342.95
b. Purchases of goods not within the covered period	Annex A.2		766.05
c. Purchases of services with no date in official receipts	Annex A.3		7,292.35
d. Suppliers' official receipts/sales invoices not in the name of GST	Annex A.4		7,238.54

[14] Exhibit "VV", p. 9.
[15] Ibid, p. 7.

e. Suppliers' TIN not indicated in their official receipts and/or sales invoices	Annex A.5	1,069.09
f. Non-vatable payments made to banks	Annex A.6	14,876.68
TOTAL		**P 70,585.65**

Nevertheless, upon further examination of the invoices submitted by petitioner, the amount of P32,651,524.03 recommended by the commissioned CPA should be further reduced by P139,282.46 for failure to meet the invoicing requirements mandated under Sections 113, 237 and 238 of the 1997 National Internal Revenue Code of 1997, as amended, as well as Section 4.108-1 of RR 7-95 *(see Annex 1 for details)*:

Additional Disallowances	**Amount**
1. Purchase of services not supported by official receipts	P 81,076.88
2. Purchase of services supported by undated OR/Petitioner's name not indicated in the OR	40,144.06
3. Purchase of goods supported by invoices that are not duly registered	17,608.57
4. Purchases of goods/services without supporting documents	452.95
TOTAL	**P 139,282.46**

Therefore, only the claimed input VAT of P32,512,241.57 was properly substantiated by VAT invoices or official receipts and only the input VAT of P32,232,636.29 can be attributed to petitioner's substantiated zero-rated sales of P451,456,163.84, computed below:

Input VAT Claim	P 32,722,109.68
Less: Disallowances	
Per Independent CPA	70,585.65
Per this Court's further verification	139,282.46
Validly supported input VAT	P 32,512,241.57
Multiply by rate of substantiated zero-rated sales	99.14%
Valid Input VAT attributable to substantiated zero-rated sales	**P32,232,636.29**

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Also, these input VAT in the amount of P32,232,636.29 is found not to be applied against any output VAT and/or carried over to the succeeding taxable quarter(s). In petitioner's quarterly VAT returns of the subject period of claim showed that the amount of P32,232,636.29 is already net of its total output tax liability of P98,151.60 for the same period[16]. Thus, petitioner has complied with the fourth requisite pursuant to Section 112 (A) of the NIRC of 1997, as amended.

Finally, records show that petitioner's administrative claims filed on June 9, 2004, August 12, 2004, February 18, 2005, May 11, 2005 and November 18, 2005[17] and the Petition for Review filed with this Court on March 17, 2006 are well within the two-year prescriptive period.

In view thereof, petitioner sufficiently proved that it is entitled to a tax credit certificate in the amount of P32,232,636.29 representing unutilized input VAT for the period covering the first quarter of 2004 to the third quarter of 2005.

However, it is noted that respondent has issued a Tax Credit Certificate (TCC) Number 116-07-00079 to petitioner in the amount of P4,863,521.93 for the first quarter of 2004[18].

Thus, petitioner's refundable amount is reduced to P27,369,114.36 after deducting the value of its TCC, which is computed below:

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[16] Exhibits "G-1", "G-2", "G-4", "G-5", "H", and "H-1 to H-7".
[17] Exhibits "I", "J", "K", "L" and "M".
[18] Annex A of Petitioner's Memorandum, CTA Records p. 388.

Valid Input VAT attributable to substantiated zero-rated sales	P	32,232,636.29
Less: Tax credit certificate issued		4,863,521.93
Refundable input VAT	**P**	**27,369,114.36**

WHEREFORE, premises considered, petitioner's claim is hereby **GRANTED** in the reduced amount of P27,369,114.36. Accordingly, respondent is **ORDERED TO REFUND TO PETITIONER IN THE FORM OF A TAX CREDIT CERTIFICATE** the amount of P27,369,114.36 representing unutilized excess input VAT attributable to zero-rated sales for the first quarter of 2004 to the third quarter of 2005.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

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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

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