REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SONY ERICSSON MOBILE COMMUNICATIONS, INTERNATIONAL AB,

Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

CTA Case No. 8579

Members:

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

Promulgated:

OCT 09 2014 ; 1:21 p.m.

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DECISION

DEL ROSARIO, PJ.:

This involves a Petition for Review[1] filed by Sony Ericsson Mobile Communications, International AB assailing the inaction of the Commissioner of Internal Revenue on petitioner's administrative claim for refund or issuance of tax credit certificate (TCC) in the total amount of ₱3,911,144.55, representing its unutilized input Value-Added Tax (VAT) for the 2nd to 4th quarters of year 2010, which are attributable to petitioner's zero-rated sales of marketing services to companies located outside the Philippines.

THE PARTIES

Petitioner Sony Ericsson Mobile Communications, International AB is a branch office duly licensed by the Securities and Exchange Commission (SEC) in accordance with Philippine laws. Its principal office is at the 7th

[1] Dated October 30, 2012. CTA Docket, p. 21.

Floor Octagon Building, San Miguel Avenue, Ortigas Complex, San Antonio, Pasig City.[2] Petitioner is a VAT-registered entity as evidenced by Bureau of Internal Revenue (BIR) Certificate of Registration No. SRC0000172137 VAT and Taxpayer's Identification Number 219-660-821-000 VAT. Such registration was made on August 8, 2002.[3]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR), empowered to perform the duties of said office, including, among others, the duty to act on and approve claims for refund or tax credit as provided by law with office address at BIR, National Office Building, BIR Road, Diliman, Quezon City.[4]

THE FACTS

Petitioner is licensed by the SEC in accordance with the Corporation Code of the Philippines to establish a branch office in the Philippines.[5] It is primarily engaged in providing marketing services to companies located outside the Philippines by organizing promotional events to launch new products and services under the brand name of "Sony Ericsson" in the local market pursuant to its Sales Promotional and Marketing Services Agreement dated January 1, 2006 executed between petitioner and Sony Ericsson Mobile Communications AB, a corporation organized and existing under the laws of Sweden.[6]

On the following dates, petitioner filed its Quarterly VAT Returns for the taxable period of April 2010 to December 2010, as follows:

Exhibit	Period	Date of Filing
L	April to June 2010	July 26, 2010
M	July to September 2010	October 26, 2010
N	July to September 2010 (amended)	July 28, 2011
O	October to December 2010	January 25, 2011

On June 29, 2012, petitioner filed with the Revenue District Office No. 43A-Pasig an administrative claim for refund or issuance of TCC of its

[2] CTA Docket, pp. 7 & 340.
[3] CTA Docket, p. 340.
[4] CTA Docket, p. 8 & 339.
[5] Exhibit "A" License to Transact Business in the Philippines, CTA Docket, p. 570.
[6] Exhibit "D" Sales Promotion and Marketing Services Agreement, CTA Docket, p. 587.

unutilized input VAT for the 2nd to 4th quarters of 2010.[7] It allegedly has incurred unutilized input VAT from its purchases of non-capital goods, importation of non-capital goods and domestic purchases of service in the total amount of ₱3,911,144.55.

Due to the alleged inaction of respondent in deciding the administrative claim for refund or issuance of TCC within the 120-day period provided for by Section 112 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, petitioner filed the subject Petition for Review on November 26, 2012.

In her Answer[8] filed on January 7, 2013, respondent raised by way of special and affirmative defenses that: (a) petitioner's contention that it is entitled to a refund/tax credit certificate is erroneous; (b) petitioner failed to substantiate and prove that its input taxes have not been applied against output taxes during and in the succeeding quarters and that the same were attributable to zero-rated or effectively zero-rated sales; (c) 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; and, (d) refund/tax credit certificate are construed strictly against the taxpayer as they partake the nature of tax exemption.

During trial, petitioner presented Patrick Emmanuel S. Larraga, petitioner's resident agent;[9] Jocelyn Calma, manager-in-charge of Villaruz, Villaruz & Co.;[10] and, Atty. Clifford Chua, independent Certified Public Accountant (ICPA),[11] as its witnesses.

Thereafter, petitioner filed its Formal Offer of Evidence[12] on August 22, 2013, submitting Exhibits "A" to "NNN-1", inclusive of sub-markings; which this Court admitted in the Resolution[13] dated December 17, 2013, except Exhibits "VV-76 to VV-91", "VV-99", "VV-109" and "YY-16".

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[7] Exhibit "I" Application for VAT Refund for the 2nd to 4th Quarters of 2010, CTA Docket, p. 657.
[8] CTA Docket, pp. 94 to 96.
[9] Minutes of Hearing dated May 23, 2013, CTA Docket, pp. 372 to 376.
[10] Minutes of Hearing dated March 14, 2013, CTA Docket, pp. 345 to 346.
[11] Minutes of Hearing dated June 25, 2013 and July 23, 2013, CTA Docket, p.393, and 481 to 484, respectively.
[12] CTA Docket, pp. 556 to 569.
[13] CTA Docket, pp. 807 to 808.

On February 4, 2014, respondent presented her witness, Atty. Carmencita G. Villanueva, Revenue Officer II- Assessment Section of RDO 43-A, East Pasig.[14]

Respondent filed her Formal Offer of Evidence[15] on February 5, 2014, submitting Exhibits "R-1" to "R-8-1", inclusive of sub-markings, all of which were admitted in the Resolution[16] dated March 27, 2014.

With the filing of petitioner's Memorandum on June 9, 2014 and respondent's Memorandum on May 6, 2014, the case was considered submitted for decision on June 18, 2014.

The main issue as stated in the parties' Joint Stipulation of Facts and Issues[17] is as follows:

> "WHETHER PETITIONER IS ENTITLED TO A REFUND FOR THE UNUTILIZED INPUT TAXES ATTRIBUTABLE TO PETITIONER'S ZERO-RATED SALES/RECEIPTS FOR THE 2ND, 3RD, AND 4TH QUARTERS OF THE TAXABLE YEAR 2010 IN THE AMOUNT OF THREE MILLION NINE HUNDRED ELEVEN THOUSAND ONE HUNDRED FORTY-FOUR AND 55/100 PESOS (₱3,911,144.55)."

THE COURT'S RULING

Section 112(A) of the NIRC of 1997, as amended, outlines the requirements for refund or tax credit of input tax due or paid which are attributable to the taxpayer's zero-rated sales. The provision reads:

> "**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

[14] Minutes of Hearing dated February 4, 2014, CTA Docket, pp. 825 to 826.
[15] CTA Docket, pp. 830 to 837.
[16] CTA Docket, pp. 860 to 861.
[17] CTA Docket, pp. 325 to 330.

> 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."

Thus, in order to be entitled to a refund or tax credit of unutilized input VAT attributable to zero-rated sales, the following requisites are to be complied with:

1. There must be zero-rated or effectively zero-rated sales;
2. Input taxes were incurred or paid;
3. Such input taxes are attributable to zero-rated or effectively zero-rated sales;
4. Such input taxes were not applied against any output VAT liability; and
5. The claim for refund was filed within the two-year prescriptive period.

Timeliness of the filing of the administrative and judicial claims

At the onset, it is appropriate to ascertain the timeliness of the filing of petitioner's administrative and judicial claims as the same will determine whether it is still necessary for the Court to resolve petitioner's compliance with the other requisites for input VAT refund.

Pursuant to the above quoted provision of Section 112(A) of the NIRC of 1997, as amended, a taxpayer must file an administrative claim for refund or issuance of TCC of unutilized or excess creditable input VAT attributable to its zero-rated sales within two (2) years after the close of the taxable quarter when the sales were made.

The present claim covers the 2nd to 4th taxable quarters of year 2010 which closed on June 30, 2010, September 30, 2010 and December 31,

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2010. Records show that petitioner's administrative claim for refund was timely filed, *viz.:*

Period/Quarter Covered	Close of Taxable Quarter	Last Day for Filing of Administrative Claim for Refund	Date of Filing of Administrative Claim for Refund
2nd Quarter of 2010	June 30, 2010	June 30, 2012	
3rd Quarter of 2010	September 30, 2010	September 30, 2012	June 29, 2012
4th Quarter of 2010	December 31, 2010	December 31, 2012	

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

In her Memorandum, respondent argues that this Court has no jurisdiction to entertain the Petition for Review for petitioner's failure to submit the required documents, despite notice, in support of its administrative claim for refund. Respondent alleges that when the Letter of Authority No. 43A-2012-00000836[18]was served and received by petitioner, a copy of the Checklist of Requirements was also attached informing petitioner to submit the documents specified therein to enable the assigned Revenue Officer to properly determine whether petitioner is entitled to refund or issuance of TCC.

On December 7, 2012, respondent sent to petitioner the Second Request for Presentation of Books and Other Accounting Records.[19] On December 17, 2012, petitioner received the Final Notice for Presentation of Books of Accounts and other Accounting Records.[20] In all these instances, respondent claimed that petitioner did not submit the required documents.

Records, however, show that when petitioner filed the administrative claim on June 29, 2012, petitioner simultaneously submitted the documents

[18] CTA Docket, p. 819.
[19] Exhibit "R-4", CTA Docket, p. 821.
[20] Exhibit "R-5", CTA Docket, p. 822.

in support thereof. This is evident from petitioner's letter claim which stated:[21]

> "For your immediate reference, we attached the following documents:
> 1. Application for Tax Refund/ Credit (BIR Form No. 1914);
> 2. Authorization Letter issued by the Company in favor of Du-Baladad & Associates;
> 3. SEMCI's Certification showing amount of zero-rated sales;
> 4. BIR Certificate of Registration of SEMCI (BIR Form No. 2303);
> 5. SEC License to Transact Business in the Philippines of SEMCI;
> 6. Sales Promotion and Marketing Services Agreement dated January1, 2006;
> 7. Duly filed quarterly VAT returns (BIR Form No. 2550-Q) for 2010 (2nd, 3rd, & 4th);
> 8. Duly filed quarterly VAT returns (BIR Form No. 2550-Q) for 2011 (1st, 2nd, 3rd, & 4th);
> 9. Summary of importations made during the period;
> 10. Summary list of purchases/input tax schedule;
> 11. Summary of Sales transactions;
> 12. Invoices, official receipts, and other documents evidencing payment of input VAT or input taxes incurred on local purchases and importations; (3 binders); and,
> 13. Import entry documents (1 binder)."

In other words, in filing the administrative claim for refund, petitioner already attached all the supporting documents it perceived to be sufficient and necessary in resolving the claim.

In the case of *Commissioner of Internal Revenue vs. First Express Pawnshop Company, Inc.,* [22]the Supreme Court explained the term "relevant supporting documents" in the following manner:

> "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)*

Though the afore-quoted jurisprudence pertains to an administrative protest on a tax assessment, the Court finds it proper to apply said doctrine in administrative claim for refund. The relevant supporting documents that a

[21] Exhibit "I", CTA Docket, pp. 657 to 663.
[22] G.R. Nos. 172045-46, June 16, 2009.

taxpayer must submit in support of its administrative claim pertain to documents that the taxpayer deems necessary to sufficiently prove its claim. The CIR or her authorized representative is allowed to request the submission of additional documents from the taxpayer; however, the CIR cannot dictate upon the taxpayer what documents to submit.

In essence, petitioner has a choice to either: (1) elevate the administrative claim for refund to the CTA after the lapse of the 120-day period from the submission of what it considered as complete supporting documents; or, (2) comply with the CIR's request for additional documents. If the taxpayer chooses the second option and submits additional documents prior to the filing of judicial claim, the counting of the 120-day period shall be reckoned from the time of submission of additional documents.

In the present case, petitioner opted to take the first option and thus, the 120-day period is reckoned from June 29, 2012, the date when petitioner filed its administrative claim together with the supporting documents.

Applying Section 112(C) of the NIRC of 1997, as amended, the following are the pertinent dates of petitioner's claim for refund:

Year 2010	**Date of Filing Administrative Claim with Supporting Documents**	**End of 120 days within which to decide the claim**	**End of the 30 days from the expiration of the 120 days**	**Date of Judicial Claim**
2nd Quarter	June 29, 2012	October 27, 2012	November 26, 2012	November 26, 2012
3rd Quarter				
4th Quarter				

Indubitably, petitioner's judicial claim for refund for the 2nd to 4th quarters of 2010 was timely filed within the "120-30" day period required under Section 112(C) of the NIRC of 1997, as amended.

The Court will now proceed to determine petitioner's compliance with the other requisites.

In its Quarterly VAT Returns[23] for the second, third and fourth quarters of 2010, petitioner reported VAT zero-rated sales/receipts in the

[23] Exhibits "L", "N' and "O", CTA Docket, pp.666, 678 and 679.

amount of ₱58,434,716.32 and input VAT of ₱3,911,144.55, broken down as follows:

Exhibit	Year 2010	Zero-rated Sales/Receipts	Input VAT
L	2nd Quarter	₱ 24,880,118.85	₱ 1,863,122.44
N	3rd Quarter	19,549,975.85	1,508,557.35
O	4th Quarter	14,004,621.62	539,464.76
	Total	**₱ 58,434,716.32**	**₱ 3,911,144.55**

Existence of zero-rated sales

Anent the first requisite, petitioner submits that its sale of services to its affiliate abroad is zero-rated pursuant to Section 108(B)(1) and (2) of the NIRC of 1997, which is hereunder quoted for easy reference:

> **"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.,*[24] the Supreme Court held that in order for the supply of services to be considered VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended *[then Section*

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

102(b)(2) of the NIRC of 1977, 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.

Petitioner complied with the first and third requisites. Petitioner is primarily engaged in providing marketing services to its affiliate company, Sony Ericsson Mobile Communications AB, which is located outside the Philippines, by organizing promotional events to launch new products and services under the brand name of "Sony Ericsson" in the local market.[25] Such marketing services are not of the same category as "processing, manufacturing or repacking of goods".

For the period April 1 to December 31, 2010, petitioner rendered services to its affiliate company, Sony Ericsson Mobile Communications AB, a non-resident foreign corporation engaged in business conducted outside the Philippines [26] as indicated in the Certification of Non-Registration[27] of Sony Ericsson Mobile Communications AB issued by the Philippines SEC, as well as the Certificate of Registration of Sony Ericsson Mobile Communications AB.[28]

Likewise, the second requisite was met. For services rendered for the second to fourth quarters of 2010, petitioner received foreign currency payments which were accounted for in accordance with the BSP rules and regulations as evidenced by official receipts[29] issued by petitioner, Bank Statements[30] and Bank Certification.[31]

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[25] Paragraph Nos. 6 and 7, Summary of Admitted Facts, JSFI, CTA Docket, pp. 326-327; Sales Promotions and Marketing Services Agreement, Exhibit "MM"; Judicial Affidavit of Patrick Emmanuel S. Larraga, No. 13, Exhibit "KK", CTA Docket, p. 196.
[26] Paragraph No. 8, Summary of Admitted Facts, JSFI, CTA Docket, p. 327.
[27] Exhibit "E", CTA Docket, p. 597.
[28] Exhibit "F", CTA Docket, pp. 598-603.
[29] Exhibits "NN-5" to "NN-23".
[30] Exhibits "BBB", "CCC", "DDD", "EEE", "FFF", "GGG", "HHH", "III", "JJJ" and "KKK", CTA Docket, pp. 788-797.

A scrutiny of Summary of Sales[32] and supporting VAT official receipts[33] shows that petitioner's sales of services in the aggregate amount of ₱58,434,716.32 to Sony Ericsson Mobile Communications AB, its sole non-resident foreign client/affiliate, which are properly supported by valid VAT zero-rated official receipts,[34] qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

Input VAT paid or incurred which are attributable to zero-rated sales

Anent the second requisite for the entitlement to a refund of input taxes, petitioner reported input VAT for the second to fourth quarters of 2010 in the aggregate amount of ₱3,911,144.55, details of which are as follows:

Exhibit	Year 2010	Purchases of Goods Other than Capital Goods	Importation of Goods Other than Capital Goods	Purchase of Services	Input VAT
L	2nd Quarter	₱ 62,391.93	₱ 65,003.00	₱ 1,735,727.51	₱ 1,863,122.44
N	3rd Quarter	3,582.52	132,822.00	1,372,152.83	1,508,557.35
O	4th Quarter	952.82	20,061.00	518,450.94	539,464.76
				Total	**₱ 3,911,144.55**

The Court-commissioned ICPA, Mr. Clifford E. Chua, summarized the results of his verification on petitioner's claimed input VAT in the amount of ₱3,911,144.55, as follows:[35]

2nd Quarter				**Exhibit**
Total amount of input VAT			₱ 1,805,385.41	
A	Purchases and importation with appropriate supporting documents (No exceptions noted)		₱ 1,197,642.09	VV to VV-75
B	Exceptions Noted			
	Summary of input VAT…			
	1	from local purchases and importation without proper supporting documents	₱ 345,050.62	VV-76 to VV-98

[31] Exhibit "LLL", CTA Docket, p. 798.
[32] Annex A, Exhibit "MMM", CTA Docket, p.431.
[33] Exhibits "NN-5" to "NN-23".
[34] Exhibits "NN-5" to "NN-23".
[35] Exhibit "MMM", CTA Docket, pp. 426-428.

	2	from local purchases where Input VAT in the supporting documents are not separately shown.	7,373.65	VV-99 to VV-100
	3	from local purchases where the TIN of the customer is not indicated in the supporting documents or the TIN indicated is incorrect.	3,298.18	VV-101 to VV-102
	4	where there are noted alterations in the supporting documents.	51,847.29	VV-103 to VV-106
	5	where the amount indicated in the schedule of purchases is different from the amount in the supporting documents.	111,592.83	VV-107 to VV-110
	6	outside the period of claim	87,767.24	VV-111 to VV-126
	7	where the amount in words is not indicated.	813.50	VV-127 to VV-130
3rd Quarter				
Total amount of input VAT			₱ 1,259,062.70	
A		Purchases and importation with proper supporting documents (No exceptions noted)	₱ 1,078,810.06	WW to WW-66 and YY to YY-10
B		Exceptions Noted		
		Summary of input VAT…		
	1	from local purchases and importation without proper supporting documents	₱ 20,653.28	WW-67 to WW-89 and YY-16 to YY-17
	2	from local purchases where Input VAT in the supporting documents are not separately shown.	20,132.55	WW-90 to WW-92
	3	from local purchases where the TIN of the customer is not indicated in the supporting documents or the TIN indicated is incorrect.	6,171.47	WW-93 to WW-105
	4	outside the period of claim	5,589.07	WW-106 to WW-107
	5	where the amount in words is not indicated.	127,706.27	WW-108 to WW-154
4th Quarter				
Total amount of input VAT			₱ 587,598.87	
A		Purchases and importation with proper supporting documents (No exceptions noted)	₱ 361,237.22	XX to XX-32 and YY-11[36]
B		Exceptions Noted		
		Summary of input VAT…		
	1	from local purchases without proper supporting documents	₱ 19,612.65	XX-33 to XX-64

[36] No supporting documents submitted/offered.

	2	from local purchases where Input VAT in the supporting documents are not separately shown.	2,786.61	XX-65 to XX-67
	3	from local purchases where the TIN of the customer is not indicated in the supporting documents or the TIN indicated is incorrect.	69,707.61	XX-68 to XX-96
	4	where the amount indicated in the schedule of purchases is different from the amount in the supporting documents.	2,970.44	XX-97
	5	outside the period of claim	131,284.35	XX-98 to XX-125

It should be noted that the ICPA findings under "Exceptions Noted[37]" are disallowed for failure to meet the substantiation requirements under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, and as implemented by Sections 4.110-1, 4.110-8 and 4.113-1 of Revenue Regulations No. 16-2005.

Hence, the amount of input VAT without exceptions[38] per ICPA's findings amounted to ₱2,637,689.37, detailed as follows:

Year 2010	Amount
2nd Quarter	₱ 1,197,642.09
3rd Quarter	1,078,810.06
4th Quarter	361,237.22
	₱ 2,637,689.37

The Court notes, however, that the amount of ₱361,237.22 for the fourth quarter of 2010 examined by the ICPA as without exceptions should be deducted as the supporting documents cannot be found in the records of this case. In addition, the ICPA noted that the amount of input VAT in the summary list of purchase of services is greater by ₱64,747.14 as compared to the input vat on services in the VAT return. Accordingly, the ICPA reduced the input vat that may be allowed by ₱64,747.14.[39]

Further evaluation of the official receipts, invoices and Import Entry & Internal Revenue Declaration (IEIRDs)[40] revealed that the following additional input taxes in the amount of ₱72,254.01 should be disallowed for the reasons stated hereunder:

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[37] Letter B of second, third and fourth quarters.
[38] Letter A of second, third and fourth quarters.
[39] Exhibit "MMM", CTA Docket, p. 428.
[40] Exhibits "VV" to "VV-75", "WW" to "WW-66" and "YY" to "YY-10".

Exhibit	Invoice/ OR No.	Supplier	Input Tax
1. Input VAT on purchase of goods dated outside the period of claim.			
VV-4	14990	Sommelier Selection, Inc. (02/26/2010)	₱ 3,267.86
2. Input VAT on purchase of services supported by non-vat official acknowledgement receipt.			
VV-30	7676	DHL Global Forwarding	₱ 1,092.00
3. Input VAT on purchase of services wherein the VAT amount was not separately shown in the official receipts.			
VV-34	151357	Good Deal Food Corporation	₱ 180.54
4. Input VAT on purchase of services supported by document which pertains to other transaction.			
VV-56	1139	Barcino Retail Corporation (03/26/2010)	₱ 203.04
5. Input VAT on purchase of services not payable to Sony Ericsson Mobile Communications, International AB(either payable to the name Sony Ericsson only or payable to an individual/others)			
VV-5	5217	Cable Access Technology, Inc.	₱ 12,375.00
VV-42	116040	Medicard	13,570.18
VV-47	142	PM Productions, Inc.	21,528.00
WW-56	28845	Pier One Entertainment & Restaurant Corp.	18,032.00
WW-59	240067854	Philippine Airlines	2,005.39
		Total	**₱ 72,254.01**

In sum, petitioner's substantiated input taxes for the second, third and fourth quarters of year 2010 amounted to ₱2,139,451.00,[41] computed as follows:

Amount of Input VAT without Exceptions per ICPA's findings	₱2,637,689.37
Less: Disallowed Input VAT	498,238.37[42]
Substantiated Input VAT for the second, third and fourth quarters of year 2010	**₱ 2,139,451.00**

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[41] ₱2,637,689.37 less ₱361,237.22 less ₱64,747.14 less ₱72,254.01.
[42] ₱361,237.22 + ₱64,747.14 + ₱72,254.01 = ₱498,238.37

Input VAT was not applied against any output VAT liability in the succeeding quarters

Although the claimed input VAT was carried-over by petitioner in its succeeding Quarterly VAT Returns[43], the same remained unutilized until it was deducted as "Any VAT Refund/TCC Claimed"[44] in its Quarterly VAT Return for the fourth quarter of 2011. Thus, the excess input VAT of ₱8,524,640.88[45] as of the end of the fourth quarter of 2011 which was to be carried-over to the succeeding first quarter of 2012[46] no longer included the subject claim.

In fine, petitioner has sufficiently proven its entitlement to a refund or issuance of a TCC in the amount of ₱2,139,451.00, representing its unutilized input VAT incurred for the second, third and fourth quarters of 2010 attributable to its zero-rated receipts for the same period.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent **COMMISSIONER OF INTERNAL REVENUE** is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner **SONY ERICSSON MOBILE COMMUNICATIONS, INTERNATIONAL AB** in the reduced amount of **TWO MILLION ONE HUNDRED THIRTY NINE THOUSAND FOUR HUNDRED FIFTY ONE PESOS (₱2,139,451.00)**, representing petitioner's unutilized input VAT attributable to its zero-rated sales of marketing services to its affiliate company, Sony Ericsson Mobile Communications AB, for the second, third and fourth quarters of 2010.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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[43] Exhibits "P" to "Y", CTA Docket, pp. 680-689.
[44] Exhibit "Y", line 23D, CTA Docket, p. 689.
[45] Exhibit "Y", line 29, CTA Docket, p. 689.
[46] Exhibit "CC", line 20A, CTA Docket, p. 703.

WE CONCUR:

ERLINDA P. UY
Associate Justice

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

CERTIFICATION

Pursuant to Section 13 of Article VIII 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.

ROMAN G. DEL ROSARIO
Presiding Justice