REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

TEAM ENERGY CORPORATION (formerly: MIRANT PAGBILAO CORPORATION),
Respondent.

C.T.A. EB NO. 422
(C.T.A. CASE NO. 6957)

Present:

ACOSTA, Presiding Justice,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA, and
PALANCA-ENRIQUEZ, JJ.

Promulgated:

AUG 1 4 2009 ~~GvApolinario~~ 10:15 a.m.

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DECISION

PALANCA-ENRIQUEZ, J.:

The reckoning of the two-year prescriptive period for the filing of a claim for refund or issuance of a Tax Credit Certificate ("TCC") for input VAT under *Section 112 (A) of the NIRC of 1997, as amended*, commences from the close of the taxable quarter when the relevant sales were made pertaining to the input VAT regardless of whether said tax was paid or not.

THE CASE

This is a Petition for Review filed by the Commissioner of Internal Revenue (hereafter "petitioner CIR") under *Section 11 of RA 9282 (An Act Expanding the Jurisdiction of the Court of Tax Appeals)*, in relation to *Rule 43 of the 1997 Rules of Civil Procedure, as amended,* which seeks to reverse the Decision dated May 16, 2008 partially granting the Petition For Review in the reduced amount of P69,618,971.19, and the Resolution dated September 8, 2008 denying Commissioner of Internal Revenue's "Motion For Partial Reconsideration" rendered by the First Division of this Court in C.T.A. Case No. 6957. The respective dispositive portions of said Decision and Resolution read, as follows:

> "Wherefore, IN VIEW OF ALL THE FOREGOING, the instant Petition for Review is hereby PARTIALLY GRANTED. Thus, Respondent is hereby ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE to petitioner in the reduced amount of SIXTY NINE MILLION SIX HUNDRED EIGHTEEN THOUSAND NINE HUNDRED SEVENTY ONE AND 19/100 PESOS (P69,618,971.19) representing unutilized input value-added taxes paid by petitioner on its domestic purchases of goods and services and importation of goods attributable to its effectively zero-rated sales of power generation services to the National Power Corporation for the taxable year 2002.
>
> SO ORDERED."

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> "WHEREFORE, finding no basis, factual or legal to grant the reconsideration sought, respondent's Motion for Partial Reconsideration is hereby DENIED for lack of merit.
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> SO ORDERED."

THE PARTIES

Petitioner is the duly appointed Commissioner of Internal Revenue and is empowered to perform the duties of his office, including, among others, the duty to act on and approve claims for refund or issuance of a TCC of overpaid internal revenue taxes, as provided by law, with office address at the BIR National Office Building, Agham Road, Diliman, Quezon City, where he may be served with summons and other court processes.

Respondent TeaM Energy Corporation (respondent "TeaM Energy"), on the other hand, is a domestic corporation organized and existing under and by virtue of Philippine laws, with principal office at Pagbilao Grande Island, Quezon. It is principally engaged in the business of power generation and subsequent sale thereof to the National Power Corporation ("NPC"), under a Build, Operate, Transfer ("BOT") scheme. It is registered with the Bureau of Internal Revenue ("BIR"), as a value-

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added tax ("VAT") taxpayer, in accordance with *Section 107 of the Old Tax Code* [*now Section 236 of the NIRC of 1997*], with BIR Certificate of Registration bearing RDO Control No. 96-600-002498 and Taxpayer Identification No. 001-726-870. It was originally registered with the Securities and Exchange Commission ("SEC") under the name of "Hopewell Power (Philippines), Corporation", which was subsequently changed to "Southern Energy Quezon, Inc." on September 22, 1999. On June 28, 2001, respondent's name was again changed from "Southern Energy Quezon, Inc." to "Mirant Pagbilao Corporation". On July 23, 2007, respondent again changed its corporate name from "Mirant Pagbilao Corporation" to "TeaM Energy Corporation".

THE FACTS

The facts, as culled from the records, are as follows:

On the following dates, respondent TeaM Energy filed with the BIR its first to fourth quarterly VAT returns for the calendar year 2002:

Quarter	Date Filed
First	April 25, 2002
Second	July 23, 2002
Third	October 25, 2002
Fourth	January 27, 2003

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On July 25, 2003, respondent amended its first to fourth quarterly VAT returns for calendar year 2002.

On December 22, 2003, respondent filed an administrative claim for refund of unutilized input VAT with the Revenue District Office No. 60, Lucena City, in the total amount of P79,918,002.95 for calendar year 2002.

Due to petitioner CIR's inaction and to toll the running of the two-year prescriptive period, on April 22, 2004, respondent elevated its claim to this Court, by way of a Petition For Review, docketed as C.T.A. Case No. 6957.

In his Answer, petitioner CIR alleged the following special and affirmative defenses:

> "5. Petitioner's alleged claim for refund is subject to administrative investigation/examination by the respondent;
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> 6. To support its claim, it is imperative for petitioner to prove the following, viz:
>
>> a. The registration requirements of a value-added taxpayer in compliance with Section 6 (a) and (b) of the Revenue Regulations No. 6-97 in relation to Section 4.107-1 (a) of Revenue Regulations No. 7-95, and Section 236 of the Tax Code, as amended;

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b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT in compliance with the provisions of Sections 113 and 114 of the Tax Code as amended;

c. Proof of compliance with the prescribed checklist of requirements to be submitted involving claim for VAT refund in pursuance to Revenue Memorandum Order No. 53-98, **otherwise there would be no sufficient compliance with the filing of administrative claim for refund which is a condition sine qua non prior to the filing of judicial claim** in accordance with the provision of Section 229 of the Tax Code, as amended. It is worthy of emphasis that Section 112 (D) of the Tax Code, as amended, requires the **submission of complete documents in support of the application filed** with the Bureau of Internal Revenue before the 120-day audit period shall apply, and **before the taxpayer could avail of judicial remedies as provided for in the law**. Hence, petitioner's failure to submit proof of compliance with the above-stated requirements warrants immediate dismissal of the petition for review.

d. That the input taxes of P79,918,002.95 allegedly paid by the petitioner on its purchases of goods and services for the four (4) quarters of the year 2002 were attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over in the succeeding taxable quarter or quarters;

e. That petitioner's administrative and judicial claims for tax credit or refund of the unutilized input tax (VAT) was filed within two (2) years after the close of the taxable quarter when the sales were made in accordance with Sections 112 (A) and (D) and 229 of the TAX Code, as amended;

f. That petitioner's domestic purchases of goods and services were made in the course of its trade and business, properly supported by VAT invoices and/or official receipts and other documents, such as subsidiary purchase Journal, showing that it actually paid VAT in accordance with Sections 110 (A) (2) and 113 of the Tax Code as amended, and in pursuance to Section 4.104-5 (a) & (b) of Revenue Regulations No. 7-95 (Re: Substantiation of Claims for Input Tax Credit);

g. The requirements as enumerated under Section 4.104-2 of the Revenue Regulations 7-95. (Re: Persons who can avail of the Input Tax Credits);

7. Furthermore, 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. This is so because exemptions from taxation are highly disfavored in law and he who claims exemption must be able to justify his claim by the clearest grant of organic or statutory law. An exemption from common burden cannot be permitted to exist upon vague **implications** ***(Asiatic Petroleum Co. {P.I.} v. LLanes, 49 Phil. 466*** cited ***in Collector of Internal Revenue v. Manila Jockey Club, Inc. 98 Phil.670)***;

8. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from

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taxation (***Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)*** and as such, they are looked upon with disfavor ***(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211).***"

After trial on the merits, the First Division of this Court rendered judgment in the terms earlier set forth with the Court *En Banc*.

Not satisfied, petitioner CIR filed his Motion For Partial Reconsideration, which the First Division denied in its Resolution dated September 8, 2008.

On October 10, 2008, petitioner CIR filed the instant Petition For Review with the Court *En Banc*.

On October 24, 2008, We required respondent TeaM Energy to file its comment on the petition, and not a motion to dismiss, within ten (10) days from notice.

On November 6, 2008, respondent filed its Comment (To: Petitioner's Petition For Review).

On November 12, 2008, We required both parties to submit their simultaneous memoranda, within thirty days from notice. Petitioner CIR having filed his memorandum, without respondent filing the same, the case was deemed submitted for decision.

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On February 24, 2009, respondent filed a "Motion To Change Caption" praying to change its corporate name from "Mirant Pagbilao Corporation" to "TeaM Energy Corporation", which the Court granted in a Resolution dated April 30, 2009.

Hence, this Petition For Review raising this sole:

ISSUE

WHETHER OR NOT RESPONDENT IS ENTITLED TO REFUND OR ISSUANCE OF A TCC IN THE AMOUNT OF P69,618,971.19 REPRESENTING INPUT VALUE-ADDED TAXES ALLEGEDLY PAID BY RESPONDENT ON ITS DOMESTIC PURCHASES OF GOODS ATTRIBUTABLE TO ITS EFFECTIVELY ZERO-RATED SALES OF POWER GENERATION SERVICES TO THE NPC FOR TAXABLE YEAR 2002.

Petitioner CIR's Arguments

Petitioner CIR argues that respondent is not entitled to a refund or tax credit even in the reduced amount of P69,618,971.19, representing alleged unutilized input tax, because respondent failed to submit all the necessary and relevant documents pertaining to said claim; that for respondent's failure to submit relevant documents with the BIR for the purpose of determining the propriety of the subject refund, said administrative claim for refund filed by respondent is considered *pro*

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forma; that a *pro forma* administrative claim for refund produces no effect and warrants the dismissal of the petition filed before the First Division; and the First Division lacks jurisdiction to entertain the same.

Respondent TeaM Energy's Counter-arguments

Respondent counters that its administrative claim filed on December 22, 2003 and judicial claim filed on April 22, 2004, were both filed before April 24, 2004, well within the two-year prescriptive period reckoned from the filing of the original first quarter VAT return on April 25, 2002; that the sale of power generation services to the NPC is effectively zero-rated VAT, pursuant to *Section 108 (B) (3) of the NIRC of 1997, as amended,* in relation to *Section 13 of RA 6395, as amended*, otherwise known as the NPC Charter; that respondent successfully established that the unutilized creditable taxes amounting to P69,618,971.19 is duly substantiated by official receipts and invoices, bank debit advices, BOC official receipts, IERDs and other documents *(Exhibits "CC-1 to CC-2988", "DD-1 to DD-2795", "EE-1 to EE-3254", "FF-1 to FF-4244", "JJ" to "DDDDD"; TSN dated July 12, 2005, pp. 5-28*), also, the input VAT declared in respondent's VAT returns for the four quarters of calendar year 2002 were all substantiated by supporting documents (*Exhibits "C", "D", "E", and "F"*); that the total amount of P69,618,971.19, representing unutilized input VAT for calendar year 2002, was not applied against any VAT liability in the same or succeeding quarters, thus respondent is entitled to the claim for refund or issuance of a TCC.

THE COURT *EN BANC'S* RULING

The petition is partly meritorious.

Section 112 of the NIRC of 1997, as amended, provides:

> **"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

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> any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales." *(emphasis supplied)*

Pursuant to the above provision, to be entitled to a refund or issuance of a TCC, petitioner must prove compliance with the following requisites:

1) there must be zero-rated or effectively zero-rated sales;

2) the input taxes were incurred or paid and are duly supported by VAT invoices or official receipts;

3) such input taxes are directly attributable to zero-rated or effectively zero-rated sales;

4) the input taxes were not applied against any output VAT liability; and

5) the claim for refund was filed within the two-year prescriptive period.

First Requisite

As to the first requisite, record shows that petitioner has complied with the first requirement.

Section 108 (B) of the NIRC of 1997, as amended, subjects to zero percent (0%) or effectively zero percent (0%) rate, the following sale of services:

> "SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –
>
> 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
>
> (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."

Pursuant to the aforequoted provision, the services rendered by a VAT registered entity 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, shall be subject to zero percent (0%) rate.

In the case at bar, respondent TeaM Energy, a VAT registered entity, has rendered power generation services to NPC, an entity with a special charter (RA 6395), which categorically exempts it from payment of all taxes, direct or indirect. This exemption from direct and indirect taxes of NPC was affirmed by the Supreme Court in the case of *Maceda* *vs. Macaraig, Jr., et al., 197 SCRA 771*. Hence, pursuant to the Supreme Court ruling and by virtue of the said charter, services rendered by respondent to NPC are effectively subject to zero percent (0%) VAT.

Second and Fifth Requisites:

As regards the second requisite, the First Division ruled that out of the claimed unutilized input taxes of P79,918,002.95, the amount of P69,618,971.19 was duly substantiated, computed, as follows:

Claimed Input VAT	P79,918,002.98
Less: Disallowances:	10,286,492.68
Substantiated Input VAT	69,631,510.27
Less: Output tax liability	12,539.08
Refundable Input VAT	P69,618,971.22

As regards the fifth requisite, *Section 112 (A) of the NIRC of 1997, as amended*, provides that a VAT registered taxpayer whose sale is 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 refund or issuance of a TCC of its creditable input tax due or paid attributable to such sales.

In the recent case of *Commissioner of Internal Revenue vs. Mirant Pagbilao (Formerly Southern Energy Quezon, Inc.), 565 SCRA 154* (hereafter referred to as the "Mirant Case"), the Supreme Court definitely settled the issue on the reckoning of the prescriptive period on claims for refund of input VAT attributable to zero-rated or effectively zero-rated sales, as follows:

> "The claim for refund or tax credit for the creditable input VAT payment made by MPC embodied in OR No. 0189 was filed beyond the period provided by law for such claim. Sec. 112 (A) of the NIRC pertinently reads:
>
> > (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 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: xxx. (Emphasis ours.)
>
> The above proviso clearly provides in no uncertain terms that unutilized input VAT payments not otherwise used for any internal revenue tax due the taxpayer must be claimed within two years reckoned from the close of the taxable quarter when the relevant sales were made pertaining to the input VAT regardless of whether said tax was paid or not. As the CA aptly puts it, albeit it erroneously applied the aforequoted Section 112 (A), 'Prescriptive period commences from the close of the taxable quarter when the sales were made and not from the time the input VAT was paid nor from the time the official receipt was issued.' Thus, when a zero-rated VAT taxpayer pays its input VAT a year

after the pertinent transaction, said taxpayer only has a year to file a claim or refund or tax credit of the unutilized creditable input VAT. The reckoning frame would always be the end of the quarter when the pertinent sales or transaction was made, regardless when the input VAT was paid. Be that as it may, and given that the last creditable input VAT due for the period covering the progress billing of September 6, 1996 is the third quarter of 1996 ending on September 30, 1996, any claim for unutilized creditable input VAT refund or tax credit for said quarter prescribed two years after September 30, 1996 or, to be precise, on September 30, 1998. Consequently, MPC's claim for refund or tax credit filed on December 10, 1999 had already prescribed."

Pursuant to the above ruling of the Supreme Court, it is clear that the two year prescriptive period provided in *Section 112 (A) of the NIRC of 1997, as amended*, should be counted not from the payment of the tax, but from the close of the taxable quarter when the sales were made.

Pursuant to the above ruling of the Supreme Court, the following are the pertinent dates relevant to petitioner's claim for refund:

Period (2002)	**Close of Taxable Quarter**	**Last Day for Filing of the Claim**
1st Quarter	March 31, 2002	March 31, 2004
2nd Quarter	June 30, 2002	June 30, 2004
3rd Quarter	September 30, 2002	September 30, 2004
4th Quarter	December 31, 2002	December 31, 2004

Record shows that respondent filed its administrative claim for refund or issuance of a TCC on December 22, 2003, while the judicial claim for refund was filed on April 22, 2004. Since respondent filed its judicial claim for refund for the four quarters of 2002, only on April 22, 2004, twenty two (22) days from March 31, 2004, the last day prescribed by the Mirant Case, respondent is barred from claiming refund of its unutilized input taxes for the first quarter of 2002.

Therefore, the claim for refund granted by the First Division of this Court in the amount of P69,618,971.19 should be reduced by deducting the portion of the claim corresponding to the first quarter that had already prescribed, computed as follows:

Total Claim Per Petition for Review			P79,918,002.95
Less: Prescribed Claim - 1st Quarter			24,476,329.78
Unprescribed Claim			55,441,673.17
Less: Disallowance per Decision dated May 16, 2008			
Due to Substantiation Requirements	P10,286,492.68		
Adjustments on Disallowances per Court *en Banc's* verification			
Unconsidered retrieved documents on local purchases of goods and services *(the detailed computation of which is part and parcel of this Decision as Annexes "A" and "A-5")*	(4,228.18)		
Transposition error on input taxes claimed on local purchases of goods and services dated outside the period of claim	10,000.00		
Adjusted disallowances		P10,292,264.50	
Less: Disallowances pertaining to the 1st Quarter before effecting transposition error (the detailed computation of which is part and parcel of this Decision as *Annex "A"*)	5,983,098.34		

Additional Disallowances:			
Transposition error on input taxes claimed on local purchases of goods and services dated outside the period of claim *(Exhibit "S-72")*	10,000.00		
Net disallowances pertaining to the 1st Quarter		P5,993,098.34	
Less: Unprescribed disallowances after effecting adjustment			P4,299,166.16
Substantiated Claim - 2nd to 4th Quarters			51,142,507.01
Less: Output VAT – 2nd to 4th Quarters (12,539.08 - P4,983.47)			7,555.61
Refundable Input VAT – 2nd to 4th Quarters			**P51,134,951.40**

In sum, the Court *En Banc* finds that the total substantiated input tax filed within the two-year prescriptive period of respondent TeaM Energy amounts to P51,134,951.40 only.

Third and Fourth Requisites

As regards the third and fourth requisites, We find that respondent TeaM Energy input taxes were directly attributable to its effectively zero-rated sales and they were not applied against output VAT liabilities, except with respect to the minimal amount of P12,539.08 (consisting of respondent's sale of transport equipment for the first, third and fourth quarters of calendar year 2002, which resulted to output VAT liability of P4,983.47, P5,316.36 and P2,239.25, respectively), as shown in its Quarterly VAT Returns for the four (4) quarters of 2002 (*Exhibits "C" to "G")*. This output VAT liability of P12,539.08 was already deducted from the substantiated input VAT of petitioner, as shown in the above computation. Moreover, respondent TeaM Energy's second quarter VAT return for calendar year 2004 shows that its claim for unutilized input VAT for calendar year 2002 in the amount of P79,980,002.95 was deducted from the total available input tax of P210,307,638.69 *(Exhibit "P", TSN dated May 10, 2005, pp. 31-32)*. While its third quarter VAT return for calendar year 2004 shows that the amount of P79,980,002.95 was no longer carried over to the succeeding taxable quarters *(Exhibit "Q")*. Hence, We find that the unutilized input VAT of P51,134,951.40 was not applied by respondent TeaM Energy to any output VAT liability, therefore, the same should be refunded.

WHEREFORE, premises considered, the petition is hereby **PARTLY GRANTED**. The assailed Decision dated May 16, 2008 and Resolution dated September 8, 2008 are hereby **AFFIRMED,** with modification that only P51,134,951.40 is the refundable amount to respondent for taxable year 2002. Accordingly, the Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** or **ISSUE** a **TAX CREDIT CERTIFICATE** in favor of TeaM Energy Corporation the

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reduced amount of **FIFTY ONE MILLION ONE HUNDRED THIRTY FOUR THOUSAND NINE HUNDRED FIFTY ONE AND 40/100 PESOS** (P51,134,951.40), representing the latter's excess and unutilized input VAT for the period covering calendar year 2002.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

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

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the cases was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice

Annex "A"

Computation of the Disallowances

	Original Amount	First Quarter	Unprescribed Portion	Exhibit/ Reference
a) Input tax on purchases of goods supported by invoices with pre-printed TIN-NONVAT	P10,404.73	198.82	P10,205.91	"S-6"
b) Input tax on purchases of goods supported by invoices with pre-printed TAN-VAT	5,457.86	1,436.37	4,021.49	"S-6"
c) Input tax on purchases of goods supported by invoices with pre-printed TAN	9,026.33	-0-	9,026.33	"S-7"
d) Input tax on purchases of services supported by ORs without pre-printed TIN-VAT	3,454.55	-0-	3,454.55	"S-7"
e) Input tax on purchases of service supported by ORs with pre-printed TIN only	76,311.36	-0-	76,311.36	"S-7"
f) Input tax on purchase of service supported by an OR with pre-printed VAT No. only	247.71	-0-	247.71	S-7"
g) Over-claimed input tax on purchase of goods	16.30	-0-	16.30	"S-6"
h) Over-claimed input tax on purchases of services	44,057.97	3,850.59	40,207.38	"S-7"
i) Input tax on purchases of goods supported by VAT invoices issued not in the name of the petitioner/no name	41,309.71	730.36	40,579.35	"S-6"
j) Input tax on purchases of services supported by VAT ORs issued not in the name of the petitioner/no name, broken down as follows:	974.46	-0-	974.46	"S-7"
k) Input tax on purchases of goods supported by photocopied VAT invoices, broken down as follows:	7,074.84	-0-	7,074.84	"S-6"
l) Input tax on importations supported by a photocopied IED only, broken down as follows:	11,968.00	-0-	11,968.00	"S-8"
m) Input tax on importations supported by a photocopied informal IED	45,583.00	45,583.00	-0-	"S-8"
n) Input tax on purchases of services				

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supported by ORs without BIR permit	812.84	-0-	812.24	"S-7"
o) Input tax without available supporting documents on local purchases of goods and services and importations	2,576,620.30	747,868.21	1,828,752.09	The detailed computation of which is made part and parcel of this Decision as *Annex "A-1"*
p) Input tax on local purchases of goods supported by VAT invoices, on local purchases of services supported by ORs, on importations of goods supported by original copies of BOC ORs, and on importations of goods supported by original copies of BOC ORs dated outside the period of claim	P4,463,595.21	4,374,424.00	P89,171.21	The detailed computation of which is made part and parcel of this Decision as *Annex "A-2"*
q) Input tax on local purchases of goods supported by VAT invoices as well as on local purchases of services supported by VAT ORs issued in the former names of petitioner	P459,580.30	221,662.25	P237,918.05	The detailed computation of which is made part and parcel of this Decision as *Annex "A-3"*
r) Input tax on local purchases of goods supported by certified true copies of VAT invoices	P51,884.63	1,669.63	50,215.00	"S-9" & "S-54"
s) Input tax on local purchases of goods supported by invoices with Pre-printed TIN-V as well as on local purchases of services supported by ORs with pre-printed TIN-V printed after January 1, 1996	924,345.96	137,267.47	787,078.49	The detailed computation of which is made part and parcel of this Decision as *Annex "A-4"*
t) Input tax on local non-life insurance premium payments supported by VAT OR's issued by the insurance agent	243,231.62	149,915.64	93,315.98	"S-9" & "S-64"
u) Input tax on importations of goods which are supported only by photocopied IEDs certified by BOC	1,310,535.00	298,492.00	1,012,043.00	"S-9" & "S-67"
Total Disallowance	**P10,286,492.68**	**P5,983,098.34**	**P4,303,394.34**	
Adjustments:				
Unconsidered retrieved documents on local purchases of goods and services	(4,228.18)		(4,228.18)	The detailed computation of which is made part and

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				parcel of this Decision as *Annex "A-5"*
Transposition error on input taxes claimed on local purchases of goods and services dated outside the period of claim *(Exhibit "S-72")*	10,000.00	10,000.00	-0-	The detailed computation of which is made part and parcel of this Decision as *Annex "A-2"*
Total Disallowances	**P10,292,264.50**	**P5,993,098.34**	**P4,299,166.16**	

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Annex "A-1"

Input tax without available supporting documents	**Original Amount**	**First Quarter**	**Unprescribed Portion**	**Exhibit/ Reference**
1) on local purchases of goods and services	P1,868,654.88	P537,524.03	P1,331,130.55	"S-8"
Less: Input VAT pertaining to documents retrieved per the First Division's computation	(373,089.58)	(P137,957.82)	(235,131.76)	The detailed computation of which is made part and parcel of this Decision as *Annex "A-2"*
Input tax without supporting documents on local purchases of goods and services after taking into consideration retrieved documents	**P1,495,565.30**	**P399,566.21**	**P1,095,998.79**	
2) on importations	P1,783,842.00	695,415.00	1,088,427.00	"S-8"
Less: Input VAT pertaining to documents retrieved	P702,787.00	347,113.00	355,674.00	"NN" to "NN-54"
Input tax without supporting documents on importation after taking into consideration retrieved documents	**P1,081,055.00**	**348,302.00**	**P732,753.00**	
Total input tax without available supporting documents on local purchases of goods and services and importations	**P2,576,620.30**	**P747,868.21**	**P1,828,752.09**	

Annex "A-2"

Input Taxes Outside the Period of Claim

	Total	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Exhibit No.
1) Input taxes were claimed on local purchases of goods which are supported by VAT invoices dated outside the period of claim	P2,439,836.82	P2,352,165.61	P61,569.70	P23,754.24	P2,347.27	"S-8", "S-44" to "S-52"
2) Input taxes were claimed on local purchases which are supported by OR's dated outside the period of claim	195,758.39	194,258.39	-0-	-0-	1,500.00	"S-9", "S-58" to "S-60"
3) Input taxes were claimed on importations of goods which are supported by original copies of BOC ORs dated outside the period of claim and photocopied IEDs certified by the BOC	12,859.00	12,859.00	-0-	-0-	-0-	"S-9" & "S-68"
4) Input taxes were claimed on importations of goods which are supported by original copies of BOC ORs dated outside the period of claim and photocopied informal IEDs certified by the BOC	6,897.00	6,897.00	-0-	-0-	-0-	"S-10" & "S-69
5) Input taxes were claimed on importations of goods which are supported by original copies of Bank ORs dated outside the period of claim and photocopied IEDs certified by the BOC	131,898.00	131,898.00	-0-	-0-	-0-	"S-10" & "S-70"
6) Input taxes were claimed on importations of goods which are supported by original copies of Bank ORs dated outside the period of claim and photocopied IEDS certified by the BOC issued not in the name of the Company	216,624.00	216,624.00	-0-	-0-	-0-	"S-10" & "S-71"
7) Input taxes were claimed on importations of goods which are supported by original copies of Bank ORs dated outside the period of claim and photocopied IEDs certified by the BOC issued in the former name of the Company	1,469 ,722.00[1]	1,469,722.00	-0-	-0-	-0-	"S-10" & "S-72"

[1] The amount as appearing in No. 16 of the summary of observations of the Court-Commissioned Independent CPA is P1,459,722.00. However, Annex 21 of the Court-Commissioned Independent

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Total input taxes outside the period of claim as found by the Court En Banc	**P4,473,595.21**	**P4,384,424.00**	**P61,569.70**	**P23,754.24**	**P3,847.27**	
Total input taxes outside the period of claim as found by the First Division	**P4,463,595.21**	**4,374,424.00**				
Adjustment on disallowances on input taxes outside the period of claim	**P10,000.00**	**P10,000.00**				

Annex "A-3"

Input tax on local purchases of goods supported by VAT invoices as well as on local purchases of services supported by VAT ORs issued in the former names of petitioner

	Total	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Exhibit No.
1) Purchases of goods	P284,590.02	P220,516.37	P36,185.86	P27,887.79	-0-	"S-9" & "S-53"
2) Purchases of services	174,990.28	1,145.88	144.10	44.08	173,656.22	"S-9" & "S-61"
Total	**P459,580.30**	**P221,662.25**	**P36,329.96**	**P27,931.87**	**P173,656.22**	

Annex "A-4"

Input tax on local purchases of goods supported by invoices with pre-printed TIN-V as well as on local purchases of services supported by ORs with pre-printed TIN-V printed after January 1, 1996

	Total	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Exhibit No.
1) Purchases of goods	P133,244.20	P47,867.47	P28,277.12	P15,934.29	P41,165.32	"S-9", "S-55" to "S-57"
2) Purchases of services	791,101.76	89,400.00	165,323.34	118,394.22	417,984.20	"S-9" & "S-61"
Total	**P924,345.96**	**P137,267.47**	**P193,600.46**	**P134,328.51**	**P459,149.52**	

CPA's Report shows that the correct amount as added is P1,469,722.00, which the Court accordingly adopted.

Annex "A-5"

Adjustments on Amount Reconsidered by the Court
on Local Purchases of Goods and Services Due
to Documents Retrieved by Petitioner

Per the Court En Banc's Verification

	Total	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Exhibit No.
1) Horsepower Builder & Industrial Supply, Inc.	P96,337.50	P94,973.86	P1,363.64	-0-	-0-	"JJ" to "JJ-6"
2) Quan's Worth Farm & Resort	696.55	-0-	-0-	-0-	P696.55	"KK" & "KK-1"
3) Famous Electrical & Construction Supply	4,422.58	-0-	-0-	P4,422.58	-0-	"LL" & "LL-1"
4)Deltech Industrial Trading Corporation	7,125.00	-0-	-0-	7,125.00	-0-	"MM" & "MM-1"
5) Eagle Express Lines, Inc., Race Enterprises, Azulrem Construction & Engineering Services, All Trans Link Network Phils. Inc., Diamond Rent a Car, Inc., Mirant Philippines Employees Association, Inc., Sky Aire Industrial Sales and Services & System 10 Alarms	P96,695.58	663.64	68,399.62	12,582.99	15,049.33	"OO" to "CCC-2"
5) JMTSUKI, Luisa Restaurant, Zetroc Trading,	124,430.13	42,320.32	25,805.00	36,495.21	P19,809.60	"DDD" to "MMMM"
6) Dealo Koffee Klatch, Gould Star Corporation, Race Enterprises, Junna Industrial Corporation, Manila Fluid System Components, Inc., Michelene's Mart & P.T. Cerna Corporation	47,610.42	-0-	38,960.41	-0-	8,650.01	"NNNN" to "EEEEE"
Total Retrieved documents on domestic purchases of goods and services per the Court en Banc's Verification	**P377,317.76**	**P137,957.82**	**P134,528.67**	**P60,625.78**	**P44,205.49**	
Total Retrieved documents on domestic purchases of goods and services per the First Division's Verification	**P373,089.58**					Decision dated May 16, 2008, p. 14
Adjustment	**P4,228.18**					

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