REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

EMERSON ELECTRIC (ASIA) LIMITED-ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8384

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

AUG 13 2015

4:00 p.m.

x- x

AMENDED DECISION

CASTAÑEDA, JR., *J.*:

Before this Court are (1) petitioner's **Motion for Reconsideration (And to Reopen Trial for Reception of Additional Evidence)**, filed on April 15, 2015, without respondent's comment despite due notice as per Records Verification dated May 20, 2015; and (2) respondent's **Motion for Reconsideration**, filed on April 16, 2015, with petitioner's **Comment (To Respondent's Motion for Reconsideration dated 16 April 2015)**, filed on May 19, 2015.

Both petitioner and respondent seek reconsideration of the Court's Decision dated March 31, 2015, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE**

in favor of petitioner in the amount of **₱852,298.76** representing its excess unutilized input taxes for the period covering October 1, 2009 to December 31, 2009 or the 1st quarter of fiscal year ending September 30, 2010."

SO ORDERED."[1]

<u>On petitioner's Motion for Reconsideration</u>

A. There is no cogent reason to re-open trial for reception of additional evidence.

Petitioner prays that this case be re-opened for the purpose of submitting the properly issued certified true copies of official receipts and invoices, hence, it asks for the relaxation of the rules of procedure, citing the principle enunciated in the *Philippine National Bank v. Commissioner of Internal Revenue*[2] (*Philippine National Bank* case).

We now re-examine the *Philippine National Bank* case, where the Supreme Court cited the ruling in *Suarez v. Judge Villarama, Jr.*[3], to wit:

> "It is an accepted tenet that rules of procedure must be faithfully followed except only when, for persuasive and weighting reasons, they may be relaxed to relieve a litigant of an injustice commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal interpretation of the rules of procedure, however, should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules."[4]

Based on the foregoing, the Court may only relax the rigid application of the rules of procedure upon showing of compelling and persuasive reasons. In the instant case, petitioner neither advanced

[1] Docket, p. 2324.
[2] G.R. No. 172458, December 14, 2011, 662 SCRA 424.
[3] G.R. No. 124512, June 27, 2006, 493 SCRA 74.
[4] *Ibid.*

any justifiable reason nor adequately explained the circumstances for its failure to submit the certified true copies of the official receipts and invoices. It simply invoked the liberal application of rules without providing any cogent reason for the application of the exception.

While a party may believe that it has a meritorious legal defense, this must be weighed against the need to halt an abuse of the flexibility of procedural rules. It is well established that faithful compliance with the Rules of Court is essential for the prevention and avoidance of unnecessary delays and for the organized and efficient dispatch of judicial business.[5]

In the case of *Luzon Hydro Corporation v. Commissioner of Internal Revenue*,[6] the Supreme Court denied the party's prayer to remand the case before the CTA to enable it to present evidence consisting of VAT official receipts. It held:

> xxx Verily, the Court has emphasized in *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue* **that a judicial claim for tax refund or tax credit brought to the CTA is by no means an original action but an appeal by way of a petition for review of the taxpayer's unsuccessful administrative claim; hence, the taxpayer has to convince the CTA that the quasi-judicial agency *a quo* should not have denied the claim, and to do so the taxpayer should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA, including whatever was required for the successful prosecution of the administrative claim as the means of demonstrating to the CTA that its administrative claim should have been granted in the first place.**
>
> Nonetheless, on the proposition that we may relax the stringent rules of procedure for the sake of rendering justice, we still hold that the concept of newly discovered evidence may not apply herein. In order that newly discovered evidence may be a ground for allowing a new

[5] *Philippine National Bank v. Commissioner of Internal Revenue*, G.R. No. 172458, December 14, 2011.
[6] G.R. No. 188260, November 13, 2013, 709 SCRA 462.

> trial, it must be fairly shown that: (a) the evidence is discovered after the trial; (b) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (c) such evidence is material, not merely cumulative, corroborative, or impeaching; and (d) such evidence is of such weight that it would probably change the judgment if admitted.
>
> The first two requisites are not attendant. To start with, **the proposed evidence was plainly not newly discovered considering the petitioner's admission that its former Finance and Accounting Manager had misplaced the VAT official receipts. If that was true, the misplaced receipts were forgotten evidence. And, secondly, the receipts, had they truly existed, could have been sooner discovered and easily produced at the trial with the exercise of reasonable diligence. But the petitioner made no convincing demonstration that it had exercised reasonable diligence. The Court cannot accept its tender of such receipts and return now, for, indeed, the non-production of documents as vital and material as such receipts and return were to the success of its claim for refund or tax credit was improbable, as it goes against the sound business practice of safekeeping relevant documents precisely to ensure their future use to support an eventual substantial claim for refund or tax credit**. (Emphases supplied)

Applying the foregoing, the Court cannot relax the rules of procedure for reasons discussed above.

B. Petitioner was able to establish the twenty nine (29) foreign clients were indeed doing business outside the Philippines, hence, the refundable input VAT was accordingly adjusted. Jc

Petitioner posits that it rendered services to additional twenty-nine (29) clients considered as zero-rated transactions. Petitioner likewise avers that it submitted various documents that would establish that it rendered services to clients doing business outside the Philippines. Petitioner insists that its zero-rated sales amounted to ₱337,337,536.29, thus, the refundable input VAT should be recomputed into a total amount of ₱1,963,018.36.

Petitioner enumerates the various exhibits, which the Court allegedly omitted in the assailed Decision, denominated as Certificates of Foreign Registration/Incorporation, Articles of Association/Incorporation, and Tax Residency/Payment Certificates that would establish that its twenty-nine (29) foreign clients are doing business outside the Philippines. Thus, petitioner prays that the sales made to these entities covered by eighty six (86) invoices be reconsidered as zero-rated sales.

Upon careful re-examination of the records of the case, the Court reconsiders its earlier findings.

We reiterate the requisites in order for the supply of services to be VAT zero-rated under Section 108 (B)(2) of the National Internal Revenue Code (NIRC) of 1997, as amended, to wit: (1) the services must be other than processing, manufacturing, or repacking of goods; (2) the 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 must be doing business outside the Philippines.[7]

The Court found petitioner to have fully met the first and second requisites. However, with reference to the third requisite, it was ruled that only those clients of petitioner with Securities and Exchange Commission (SEC) Certificates of Non-registration and Certificates of Registration or Incorporation in a foreign country are considered to have complied with the said requisite. Based on the assailed Decision, out of the declared zero-rated sales/receipts for the first quarter of fiscal year (FY) ending September 30, 2010, *i.e.*, from October 1, 2009 to December 31, 2009, in the amount of

[7] Page 12 of the Decision dated March 31, 2015, docket, p. 2310, citing *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 2, 2007, 512 SCRA 124.

₱487,383,178.98[8], only the amount of ₱215,816,767.89 may be considered as zero-rated.

After considering petitioner's arguments and upon scrutiny of the records, petitioner was able to sufficiently establish that the additional twenty nine (29) foreign clients are indeed foreign entities doing business outside the Philippines. The supporting documents are as follows:

	Client Name	**SEC Certificate of Non-Registration (Exhibit)**	**Certificate of Foreign Registration/ Incorporation; Articles of Association/Incorporation; Tax Residency Certificate/Tax Payment Certificate (Exhibit)**	**Service Contract (Exhibit)**
A. With SEC Certificate of Non-registration, Certificate of Registration or Incorporation in Foreign Country and Service Contract with petitioner				
1	Emerson Climate Technologies (Hong Kong)	U^{5}	Y^{8}, Y^{8}-1	KK
2	Emerson Network Power Connectivity Solutions	M^{6}	G^{9}, G^{9}-1	TT
3	Emerson Japan Ltd.	H^{6}	H^{9}, H^{9}-1 to H^{9}-3	UU
4	Emerson Network Power S.R.L.	N^{6}	I^{9}, I^{9}-1	VV
5	Emerson Network Power Ltd. (UK)	O^{6}	J^{9}, J^{9}-1 to J^{9}-6	WW
6	Emerson Power Transmission	R^{6}	L^{9}, L^{9}-1 to L^{9}-2	XX
7	Emerson Process Management (Australia)	T^{6}	N^{9}, N^{9}-1 to N^{9}-2	YY
8	Emerson Process Management Flow B.V.	W^{6}	O^{9}, O^{9}-1	AAA
9	Emerson Process Management Shared Services Ltd.	Z^{6}	Q^{9}, Q^{9}-1 to Q^{9}-4	CCC
10	Emerson Tool Company	C^{7}	F^{10}, F^{10}-1	DDD
11	Fisher Rosemount Systems, Inc.	F^{7}	S^{9}, S^{9}-1	EEE
12	Fusite	G^{7}	T^{9}	FFF
13	InSinkErator	I^{7}	U^{9}	GGG
14	Instrument & Valve Services Company	J^{7}	V^{9}, V^{9}-1	HHH
15	Intermetro	K^{7}	W^{9}, W^{9}-1	III
16	Kato Engineering, Inc.	L^{7}	X^{9}, X^{9}-1	JJJ
17	KNAACK L.L.C.	M^{7}	Y^{9}, Y^{9}-1 to Y^{9}-2	KKK
18	Liebert Corporation	N^{7}	Z^{9}, Z^{9}-1	LLL
19	Liebert Services	O^{7}	A^{10}, A^{10}-1	MMM
20	LLLP Corporate Headquarters	P^{7}	B^{10}, B^{10}-1	NNN
21	Micro Motion Inc.	CCCCC	C^{10}, C^{10}-1	OOO
22	Regulator Technologies, Inc.	GGGGG	H^{10}, H^{10}-1	PPP
23	Ridge Tool Company	FFFFF	D^{10}, D^{10}-1	QQQ
24	Therm-o-Disc	BBBBB	E^{10}, E^{10}-1 to E^{10}-2	RRR
25	Emerson Network Power - Energy Systems, N.A. Inc.	P^{6}	K^{9}, K^{9}-1	SSS
26	Emerson Process Management Valve Automation Inc.	A^{7}	G^{10}	TTT
B. With SEC Certificate of Non-registration and Certificate of Registration or Incorporation or Certification by Taxing Authority in Foreign Country				

[8] Exhibit "J".

1	Emerson Process Management-Power & Water Solution	S[6]	M[9], M[9]-1	
2	Emerson Process Management GMBH & Co. OHG Argelsri	X[6]	P[9], P[9]-1	
3	EPM Process Systems & Solutions	D[7]	R[9]	

As such, petitioner's receipts derived from services rendered to the aforementioned entities in the amount of ₱121,107,993.70 may qualify for VAT zero-rating pursuant to Section 108(B)(2) of the NIRC of 1997, as amended. Below is the breakdown of the amount of ₱121,107,993.70:

	Client	Invoice No.	Invoice Date	Amount in USD	Exchange Rate	Amount in Php
1	Emerson Climate Technologies (HK)	1284	10/28/2009	6,177.15	47.61905	294,150.01
2	Emerson Power Transmission	1289	10/28/2009	3,308.96	47.61905	157,569.53
3	Emerson Tool Company	1290	10/28/2009	8,488.50	47.61905	404,214.31
4	Emerson Network Power Connectivity Solutions	1292	10/28/2009	9,443.93	47.61905	449,710.97
5	Emerson Network Power Energy Systems, N.A., Inc.	1293	10/28/2009	41,070.95	47.61905	1,955,759.62
6	Emerson Japan Ltd.	1296	10/28/2009	7,617.40	47.61905	362,733.35
7	Emerson Network Power SRL	1298	10/28/2009	4,058.09	47.61905	193,242.39
8	Emerson Network Power Ltd. (UK)	1301	10/28/2009	19,416.75	47.61905	924,607.19
9	Emerson Process Management (Australia)	1303	10/28/2009	21,489.11	47.61905	1,023,291.00
10	Emerson Process Management Flow B.V.	1305	10/28/2009	10,744.87	47.61905	511,660.50
11	Emerson Process Management GMBH & Co. OHG	1306	10/28/2009	1,877.90	47.61905	89,423.81
12	EPM Process Systems & Solutions	1308	10/28/2009	1,328.24	47.61905	63,249.53
13	Emerson Process Management Shared Services Ltd.	1309	10/28/2009	136,907.07	47.61905	6,519,384.61
14	Fisher Rosemount Systems, Inc.	1311	10/28/2009	2,340.82	47.61905	111,467.62
15	Fusite	1312	10/28/2009	4,555.57	47.61905	216,931.92
16	InSinkErator	1314	10/28/2009	4,955.26	47.61905	235,964.77
17	Instrument and Valve Services Company	1315	10/28/2009	27,420.57	47.61905	1,305,741.49
18	Intermetro	1316	10/28/2009	32,936.01	47.61905	1,568,381.51
19	Kato Engineering Inc.	1317	10/28/2009	6,493.90	47.61905	309,233.35
20	Knaack LLC	1318	10/28/2009	14,799.51	47.61905	704,738.61
21	Liebert Corporation	1319	10/28/2009	145,531.46	47.61905	6,930,069.87
22	Liebert Services	1320	10/28/2009	82,432.16	47.61905	3,925,341.15
23	LLLP Corporate	1321	10/28/2009	12,827.29	47.61905	610,823.36

	Headquarters					
24	Micro Motion Inc.	1324	10/28/2009	38,852.23	47.61905	1,850,106.28
25	Regulator Technologies Inc.	1325	10/28/2009	48,821.18	47.61905	2,324,818.21
26	Ridge Tool Company	1326	10/28/2009	16,749.99	47.61905	797,618.61
27	Therm-o-disc	1332	10/28/2009	36,045.62	47.61905	1,716,458.18
28	Emerson Climate Technologies (HK)	1350	11/24/2009	8,348.12	46.59832	389,008.37
29	Emerson Network Power Pty. Ltd. (Australia)	1358	11/24/2009	207,615.35	46.59832	9,674,526.52
30	Emerson Network Power Connectivity Solutions	1365	11/24/2009	9,559.83	46.59832	445,472.02
31	Emerson Japan Ltd.	1366	11/24/2009	6,390.84	46.59832	297,802.41
32	Emerson Network Power SRL	1368	11/24/2009	4,902.33	46.59832	228,440.34
33	Emerson Network Power Ltd. (UK)	1369	11/24/2009	26,812.47	46.59832	1,249,416.06
34	Emerson Network Power Energy Systems, N.A., Inc.	1370	11/24/2009	49,498.16	46.59832	2,306,531.10
35	Emerson Power Transmission	1371	11/24/2009	5,422.89	46.59832	252,697.56
36	Emerson Process Management- Power & Water Solution	1372	11/24/2009	(445.96)	46.59832	(20,780.99)
37	Emerson Process Management (Australia)	1373	11/24/2009	23,317.03	46.59832	1,086,534.43
38	Emerson Process Management Flow B.V.	1376	11/24/2009	11,261.75	46.59832	524,778.63
39	Emerson Process Management GMBH & Co. OHG	1377	11/24/2009	1,886.64	46.59832	87,914.25
40	Emerson Process Management Shared Services Ltd.	1379	11/24/2009	135,191.44	46.59832	6,299,693.98
41	Emerson Process Management Valve Automation Inc.	1380	11/24/2009	12,078.08	46.59832	562,818.24
42	Emerson Tool Company	1382	11/24/2009	6,502.17	46.59832	302,990.20
43	EPM Process Systems & Solutions	1383	11/24/2009	1,822.89	46.59832	84,943.61
44	Fisher Rosemount Systems, Inc.	1384	11/24/2009	2,352.79	46.59832	109,636.06
45	Fusite	1385	11/24/2009	4,505.22	46.59832	209,935.68
46	InSinkErator	1388	11/24/2009	5,760.91	46.59832	268,448.73
47	Instrument and Valve Services Company	1389	11/24/2009	30,814.70	46.59832	1,435,913.25
48	Intermetro	1390	11/24/2009	35,590.82	46.59832	1,658,472.42
49	Kato Engineering Inc.	1391	11/24/2009	7,137.22	46.59832	332,582.46
50	Knaack LLC	1392	11/24/2009	19,822.01	46.59832	923,672.37
51	Liebert Corporation	1393	11/24/2009	159,689.15	46.59832	7,441,246.11
52	Liebert Services	1394	11/24/2009	93,683.17	46.59832	4,365,478.33
53	LLLP Corporate Headquarters	1395	11/24/2009	14,380.19	46.59832	670,092.70
54	Micro Motion Inc.	1398	11/24/2009	38,459.58	46.59832	1,792,151.82

55	Regulator Technologies Inc.	1400	11/24/2009	54,701.30	46.59832	2,548,988.68
56	Ridge Tool Company	1401	11/24/2009	28,670.54	46.59832	1,335,999.00
57	Therm-o-disc	1406	11/24/2009	40,379.88	46.59832	1,881,634.57
58	Emerson Climate Technologies (HK)	1421	12/22/2009	8,606.50	46.94836	404,061.06
59	Emerson Network Power Connectivity Solutions	1435	12/22/2009	10,890.13	46.94836	511,273.74
60	Emerson Japan, Ltd.	1436	12/22/2009	5,278.82	46.94836	247,831.94
61	Emerson Network Power SRL	1438	12/22/2009	4,776.83	46.94836	224,264.33
62	Emerson Network Power Ltd. (UK)	1439	12/22/2009	19,452.77	46.94836	913,275.65
63	Emerson Network Power Energy Systems N.A., Inc.	1440	12/22/2009	47,711.74	46.94836	2,239,987.95
64	Emerson Power Transmission	1441	12/22/2009	7,789.63	46.94836	365,710.35
65	Emerson Process Management (Australia)	1442	12/22/2009	23,340.80	46.94836	1,095,812.28
66	Emerson Process Management Flow B.V.	1445	12/22/2009	10,861.57	46.94836	509,932.90
67	Emerson Process Management GMBH & Co. OHG	1446	12/22/2009	1,566.43	46.94836	73,541.32
68	Emerson Process Management Shared Services Ltd.	1448	12/22/2009	140,749.59	46.94836	6,607,962.42
69	Emerson Process Management Valve Automation Inc.	1449	12/22/2009	12,636.18	46.94836	593,247.93
70	Emerson Tool Company	1451	12/22/2009	6,267.48	46.94836	294,247.91
71	EPM Process Systems & Solutions	1452	12/22/2009	1,281.09	46.94836	60,145.07
72	Fisher Rosemount Systems, Inc.	1456	12/22/2009	5,348.27	46.94836	251,092.51
73	Fusite	1457	12/22/2009	6,361.28	46.94836	298,651.66
74	InSinkErator	1459	12/22/2009	5,565.80	46.94836	261,305.18
75	Instrument and Valve Services Company	1460	12/22/2009	31,870.28	46.94836	1,496,257.38
76	Intermetro	1461	12/22/2009	9,925.24	46.94836	465,973.74
77	Kato Engineering Inc.	1462	12/22/2009	7,836.92	46.94836	367,930.54
78	Knaack LLC	1463	12/22/2009	17,063.23	46.94836	801,090.66
79	Liebert Corporation	1464	12/22/2009	149,041.95	46.94836	6,997,275.12
80	Liebert Services	1465	12/22/2009	91,153.82	46.94836	4,279,522.36
81	LLLP Corporate Headquarters	1466	12/22/2009	12,261.18	46.94836	575,642.29
82	Micro Motion Inc.	1467	12/22/2009	38,368.26	46.94836	1,801,326.88
83	Regulator Technologies Inc.	1469	12/22/2009	50,194.54	46.94836	2,356,551.33
84	Ridge Tool Company	1470	12/22/2009	21,340.88	46.94836	1,001,919.32
85	Therm-o-disc	1475	12/22/2009	36,389.54	46.94836	1,708,429.22
	TOTAL			**2,576,732.75**		**121,107,993.70**

The Court, in the assailed Decision, initially considered the amount of ₱215,816,767.89[9] as petitioner's zero-rated receipts for the first quarter of fiscal year (FY) ending September 30, 2010. However, after considering the foregoing, petitioner's aggregate receipts that may qualify for VAT zero-rating amount to ₱336,924,761.59 (₱215,816,767.89 plus ₱121,107,993.70).

However, petitioner must substantiate its zero-rated receipts by proper VAT zero-rated official receipts (ORs) in accordance with Sections 113(A)(2) and (B) of the NIRC of 1997, as amended, which provide as follows:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.*—
>
> (A) *Invoicing Requirements.*—A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> (2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.*—The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: xxx
>
> xxx xxx xxx

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[9] Page 19 of the Decision dated March 31, 2015, docket, p. 2317.

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, **the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client**. (Emphases supplied)

The Court-commissioned Independent Certified Public Accountant (ICPA) reported the following findings with regard to petitioner's zero-rated receipts for the first quarter of FY ending September 30, 2010:

Findings	Amount
a) Gross receipts from zero-rated sales supported by ORs and invoices[10]	₱ 394,950,723.28
b) Gross receipts from zero-rated sales supported by invoices[11]	89,973,369.59
c) Gross VATable sales subject to 12% included in gross receipts from zero-rated sales[12]	2,459,087.10
TOTAL	**₱ 487,383,179.97**

An examination of the ICPA report[13] and the related supporting documents reveals that the following zero-rated receipts were not properly substantiated and should be disallowed:

Client	Invoice No.	Invoice Date	Amount in USD	Exchange Rate	Amount in PhP
1. Found to be supported by invoices only, per ICPA Report, Annex B-2					
Emerson Electric Asia-Pacific	1336	10/28/2009	429,310.32	47.61905	20,443,349.59
Air Comfort Products	1337	11/24/2009	2,534.90	46.59832	118,122.08
Emerson Electric Asia-Pacific	1352	11/24/2009	500,943.22	46.59832	23,343,112.47
Emerson Hermetic Motors	1357	11/24/2009	4,983.88	46.59832	232,240.44
Emerson Network Power (Malaysia) SDN BHD	1361	11/24/2009	39,260.63	46.59832	1,829,479.40
Emerson Network Power (Singapore) Pte. Ltd.	1363	11/24/2009	27,873.44	46.59832	1,298,855.48
Instrument and Valve	1315	10/28/2009			

[10] Exhibit Z^7, Annex B-1.
[11] Exhibit Z^7, Annex B-2.
[12] Exhibit Z^7, Annex B-3.
[13] Exhibit Z^7.

Services Company			27,420.57	47.61905	1,305,741.49
Intermetro	1316	10/28/2009	32,936.01	47.61905	1,568,381.51
Knaack LLC	1318	10/28/2009	14,799.51	47.61905	704,738.61
LLLP Corporate Headquarters	1321	10/28/2009	12,827.29	47.61905	610,823.36
Micro Motion Inc.	1324	10/28/2009	38,852.23	47.61905	1,850,106.28
Regulator Technologies Inc.	1325	10/28/2009	48,821.18	47.61905	2,324,818.21
Emerson Japan, Ltd.	1366	11/24/2009	6,390.84	46.59832	297,802.41
Emerson Power Transmission	1371	11/24/2009	5,422.89	46.59832	252,697.56
Emerson Process Management Power & Water Solution	1372	11/24/2009	(445.96)	46.59832	(20,780.99)
Emerson Process Management (Australia)	1373	11/24/2009	23,317.03	46.59832	1,086,534.43
Emerson Process Management Flow B.V.	1376	11/24/2009	11,261.75	46.59832	524,778.63
Emerson Process Management GMBH & Co. OHG	1377	11/24/2009	1,886.64	46.59832	87,914.25
Emerson Process Management Valve Automation Inc.	1380	11/24/2009	12,078.08	46.59832	562,818.24
Fusite	1385	11/24/2009	4,505.22	46.59832	209,935.68
Instrument and Valve Services Company	1389	11/24/2009	30,814.70	46.59832	1,435,913.25
Kato Engineering Inc.	1391	11/24/2009	7,137.22	46.59832	332,582.46
Knaack LLC	1392	11/24/2009	19,822.01	46.59832	923,672.37
Micro Motion Inc.	1398	11/24/2009	38,459.58	46.59832	1,792,151.82
Knaack LLC	1463	12/22/2009	17,063.23	46.94836	801,090.66
Sub-total			**1,358,276.41**		**63,916,879.69**
2. As found by the Court, ORs were not issued in the name of the client in the corresponding invoice					
Alber Corporation	1271	10/28/2009	1,654.73	47.61905	78,796.67
ASCO Numatics	1272	10/28/2009	17,123.41	47.61905	815,400.52
Closetmaid	1276	10/28/2009	11,085.69	47.61905	527,890.03
EGS Electrical Group	1279	10/28/2009	2,676.33	47.61905	127,444.29
Electric Reliability Services	1280	10/28/2009	4,815.86	47.61905	229,326.68
Emerson Electric Co.	1335	10/28/2009	635,415.03	47.61905	30,257,860.08
Alber Corporation	1338	11/24/2009	2,777.27	46.59832	129,416.12
ASCO Numatics	1339	11/24/2009	19,914.86	46.59832	927,999.02
Closetmaid	1343	11/24/2009	13,821.27	46.59832	644,047.96
EGS Electrical Group	1346	11/24/2009	6,534.30	46.59832	304,487.40
Electric Reliability Services	1347	11/24/2009	5,897.30	46.59832	274,804.27
Emerson Electric Co.	1353	11/24/2009	731,760.23	46.59832	34,098,797.36
Alber Corporation	1409	12/22/2009	2,714.50	46.94836	127,441.32
ASCO Numatics	1410	12/22/2009	25,464.17	46.94836	1,195,501.02
EGS Electrical Group	1417	12/22/2009	4,901.51	46.94836	230,117.86
Electric Reliability Services	1418	12/22/2009	5,492.51	46.94836	257,864.34
Emerson Climate Technologies (HK)	1284	10/28/2009	6,177.15	47.61905	294,150.01
Emerson Power Transmission	1289	10/28/2009	3,308.96	47.61905	157,569.53
Emerson Tool Company	1290	10/28/2009	8,488.50	47.61905	404,214.31

Emerson Process Management Flow B.V.	1305	10/28/2009	10,744.87	47.61905	511,660.50
Emerson Process Management GMBH & Co. OHG	1306	10/28/2009	1,877.90	47.61905	89,423.81
EPM Process Systems & Solutions	1308	10/28/2009	1,328.24	47.61905	63,249.53
Emerson Process Management Shared Services Ltd.	1309	10/28/2009	136,907.07	47.61905	6,519,384.61
Fusite	1312	10/28/2009	4,555.57	47.61905	216,931.92
Liebert Corporation	1319	10/28/2009	145,531.46	47.61905	6,930,069.87
Liebert Services	1320	10/28/2009	82,432.16	47.61905	3,925,341.15
Emerson Climate Technologies (HK)	1350	11/24/2009	8,348.12	46.59832	389,008.37
EPM Process Systems & Solutions	1383	11/24/2009	1,822.89	46.59832	84,943.61
Liebert Corporation	1393	11/24/2009	159,689.15	46.59832	7,441,246.11
LLLP Corporate Headquarters	1395	11/24/2009	14,380.19	46.59832	670,092.70
Regulator Technologies Inc.	1400	11/24/2009	54,701.30	46.59832	2,548,988.68
Emerson Climate Technologies (HK)	1421	12/22/2009	8,606.50	46.94836	404,061.06
Emerson Power Transmission	1441	12/22/2009	7,789.63	46.94836	365,710.35
Emerson Process Management Flow B.V.	1445	12/22/2009	10,861.57	46.94836	509,932.90
Emerson Process Management GMBH & Co. OHG	1446	12/22/2009	1,566.43	46.94836	73,541.32
Emerson Process Management Valve Automation Inc.	1449	12/22/2009	12,636.18	46.94836	593,247.93
Emerson Tool Company	1451	12/22/2009	6,267.48	46.94836	294,247.91
EPM Process Systems & Solutions	1452	12/22/2009	1,281.09	46.94836	60,145.07
Fusite	1457	12/22/2009	6,361.28	46.94836	298,651.66
Instrument and Valve Services Company	1460	12/22/2009	31,870.28	46.94836	1,496,257.38
Liebert Corporation	1464	12/22/2009	149,041.95	46.94836	6,997,275.12
Liebert Services	1465	12/22/2009	91,153.82	46.94836	4,279,522.36
LLLP Corporate Headquarters	1466	12/22/2009	12,261.18	46.94836	575,642.29
Regulator Technologies Inc.	1469	12/22/2009	50,194.54	46.94836	2,356,551.33
Sub-total			**2,522,234.43**		**118,778,256.33**
TOTAL			**3,880,510.84**		**182,695,136.02**

Moreover, the Court finds that the following zero-rated receipts in the amount of $114,544.14 were not supported by official receipts:

Exhibit	Invoice No.	Invoice Amount in USD	OR Number	OR Amount in USD	Difference
DDDDDDDD-26 & DDDDDDDD-26a	1297	31,852.01	1250	21,438.70	10,413.31

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DDDDDDDD-56 & DDDDDDDD-56a	1343	13,821.27	1724	11,896.00	1,925.27
DDDDDDDD-68 & DDDDDDDD-68a	1359	163,495.31	1599	163,345.96	149.35
DDDDDDDD-102 & DDDDDDDD-102a to -102b	1414	12,173.23	1605, 1574	10,170.82	2,002.41
DDDDDDDD-30 & DDDDDDDD-30a	1301	19,416.75	1522	13,663.56	5,753.19
DDDDDDDD-43 & DDDDDDDD-43a	1314	4,955.26	1319	1,930.44	3,024.82
DDDDDDDD-67 & DDDDDDDD-67a	1358	207,615.35	1589	207,595.73	19.62
DDDDDDDD-77 & DDDDDDDD-77a	1379	135,191.44	1565	125,160.20	10,031.24
DDDDDDDD-84 & DDDDDDDD-84a	1388	5,760.91	1782	88.82	5,672.09
DDDDDDDD-87 & DDDDDDDD-87a	1394	93,683.17	1547	50,273.00	43,410.17
DDDDDDDD-91 & DDDDDDDD-91a	1401	28,670.54	1608	12,117.26	16,553.28
DDDDDDDD-135 & DDDDDDDD-135b	1448	140,749.59	1565	125,160.20	15,589.39
TOTAL		**857,384.83**		**742,840.69**	**114,544.14**

Using the foreign currency exchange rate on the invoice date per petitioner's Schedule of Zero-Rated Sales,[14] the foregoing zero-rated receipts which are not supported by VAT zero-rated ORs amounted to ₱5,363,311.47, thus:

Client	Invoice No.	Amount in USD	Exchange Rate	Amount in PhP
Emerson Network Power (Malaysia) SDN BHD	1297	10,413.31	47.61905	495,871.93
Closetmaid	1343	1,925.27	46.59832	89,714.35
Emerson Network Power (Hong Kong) Co. Ltd.	1359	149.35	46.59832	6,959.46
Closetmaid	1414	2,002.41	46.94836	94,009.87
Emerson Network Power Ltd. (UK)	1301	5,753.19	47.61905	273,961.44
InSinkErator	1314	3,024.82	47.61905	144,039.05
Emerson Network Power Pty. Ltd. (Australia)	1358	19.62	46.59832	914.26
Emerson Process Management Shared Services Ltd.	1379	10,031.24	46.59832	467,438.93
InSinkErator	1388	5,672.09	46.59832	264,309.86
Liebert Services	1394	43,410.17	46.59832	2,022,840.99
Ridge Tool Company	1401	16,553.28	46.59832	771,355.04
Emerson Process Management Shared Services Ltd.	1448	15,589.39	46.94836	731,896.29
TOTAL		**114,544.14**		**5,363,311.47**

[14] Exhibit CCCCCCCC-1.

Thus, petitioner's adjusted substantiated zero-rated receipts for the first quarter of FY ending September 30, 2010 is ₱148,866,314.10, computed as follows:

Gross receipts considered to be zero-rated		₱ 336,924,761.59
Less: Disallowances		
Supported by invoices only	₱ 63,916,879.69	
Official receipts not issued in the name of the client in the corresponding invoice	118,778,256.33	
Not supported by official receipts	5,363,311.47	188,058,447.49
Substantiated zero-rated receipts		**₱148,866,314.10**

Inasmuch as only a portion of petitioner's zero-rated receipts is substantiated, only the portion of the input tax claimed attributable thereto will be refunded. The rate to be applied is 30.5440%, computed as follows:

Substantiated zero-rated receipts	₱ 148,866,314.10
Divided by total zero-rated receipts, per VAT returns	₱ 487,383,178.98
Rate of substantiated zero-rated receipts	**30.5440%**

In fine, petitioner has proven that it is entitled to a refund or an issuance of tax credit certificate for its excess unutilized input taxes for the first quarter of FY ending September 30, 2010 in the adjusted amount of ₱866,276.08, computed as follows:

Substantiated input taxes	₱ 2,836,157.95[15]
Portion of substantiated zero-rated sales	x 30.5440%
Refundable input taxes	**₱ 866,276.08**

On respondent's Motion for Reconsideration

Respondent, on the other hand, alleges that petitioner failed to prove the latter's submission of complete documents in support of the administrative claim for refund. As such, the period of 120 days will not commence to run. Respondent further asserts that petitioner failed to comply with the invoicing and accounting requirements. Respondent points out that the VAT invoices or official receipts should include not only the name of the taxpayer but also the TIN number, registered address, and business style.

[15] Page 26 of the Decision dated March 31, 2015, docket, p. 2324.

It is noteworthy that the issues regarding the timeliness of the filing of the Petition for Review and the invoicing requirements have already been passed upon extensively by the Court in the assailed Decision.

WHEREFORE, petitioner's **Motion to Reopen Trial for Reception of Additional Evidence** is **DENIED**. Further, petitioner's **Motion for Reconsideration of the Decision** is **PARTIALLY GRANTED** and the assailed Decision promulgated on March 31, 2015 is **MODIFIED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱866,276.08** representing its excess unutilized input taxes for the period covering October 1, 2009 to December 31, 2009 or the 1st quarter of fiscal year ending September 30, 2010. Meanwhile, respondent's **Motion for Reconsideration** is **DENIED**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice