**REPUBLIC OF THE PHILIPPINES**
*Court of Tax Appeals*
**QUEZON CITY**

*Third Division*

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| **MTI ADVANCED TEST DEVELOPMENT CORPORATION,** *Petitioner,* | **CTA CASE NO. 9690** |
| | Members: |
| *-versus-* | **UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.* | Promulgated: FEB 23 2021 3:11 p.m. |

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# DECISION

***MODESTO-SAN PEDRO, J.:***

## The Case

This is a Petition for Review,[1] filed on 22 September 2017 April 2017, by petitioner MTI Advanced Test Development Corporation against respondent Commissioner of Internal Revenue ("CIR"), praying for the refund or issuance of tax credit certificate in favor of petitioner in the amount of One Million Seven Hundred Seventeen Thousand One Hundred Ninety-Three Pesos and 3/100 Pesos (₱3,717,193.03) for the period 1 July 2015 to 30 September 2015 and Two Million Six Hundred One Sixty- Eight Pesos and 29/100 (₱2,601,068.29) for the period 1 January 2016 to 31 March 2016 or in the total amount of Six Million Three Hundred Eighteen Pesos Two Hundred Sixty One Thousand and 32/100 (₱6,318,261.32) allegedly representing input VAT attributable to its zero-rated sales.[2]

[1] *See* Petition for Review, Records, pp. 10-57, with annexes.
[2] *See* Pre-Trial Order, *id.*, pp. 133-138.

## The Parties

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines and registered with the Securities and Exchange Commission with principal office at 3/F BPI Philam Life Alabang, Alabang-Zapote Road, cor. Acacia Ave., Madrigal Business Park, Alabang, Muntinlupa City.[3]

It is registered with the Bureau of Internal Revenue ("BIR") as a VAT registered entity pursuant to Section 107 (now Section 236) of the Tax Code on 30 March 2007 and was issued a Certificate of Registration (BIR Form No. 2303) with OCN 9RC0000580595.[4]

Meanwhile, respondent is the Commissioner of the Bureau of Internal Revenue ("BIR") vested with the authority to exercise functions of said office, including inter alia, the power to refund any internal revenue tax erroneously or illegally assessed or collected, or of any penalty to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, or of VAT input taxes attributable to zero-rated revenue, and holding office at the BIR National Office Building, Diliman, Quezon City, Metro Manila, where it may be served with summons and other legal processes of this Honorable Court.[5]

## The Facts

On 27 April 2017, petitioner filed its Applications for Tax Credits/ Refunds (BIR Form No. 1914) with BIR RDO No. 53B, requesting for the refund of its purported unutilized input VAT directly attributable to its zero-rated sales of ₱3,717,193.03 covering the period of 1 July 2015 to 30 September 2015[6] and ₱2,601,068.29 covering the period of 1 January 2016 to 31 March 2016[7] or in the aggregate amount of ₱6,318,261.32.

Due to respondent's inaction on petitioner's Applications for Tax Credits/Refunds within the period provided for in Section 112(C) of the National Internal Revenue Code of 1997 ("Tax Code"), as amended, petitioner filed the instant Petition for Review[8] on 22 September 2017.

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3 *See* Pre-Trial Order, Records, p. 133.
4 *See id.*, p. 134.
5 *Ibid.*
6 *See* Exhibit "P-3," *id.*, p. 361.
7 *See* Exhibit "P-4," *id.*, p. 362.
8 *See* Petition for Review, *id.*, pp. 10-57, with annexes.

On 24 November 2017 and within the extended period granted by the Court,[9] respondent filed its Answer through registered mail, which was received by this Court on 4 December 2017. In its Answer, respondent interposed the following defenses:[10]

> **"SPECIAL AND AFFIRMATIVE DEFENSES**
>
> 1. Respondent reiterates and repleads the preceding paragraphs of the answer as part of his Special and Affirmative Defenses;
>
> 2. Petitioner's claim for refund is still subject to investigation by the Bureau of Internal Revenue;
>
> 3. Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;
>
> 4. Taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence not refundable;
>
> 5. It is incumbent upon the Petitioner to show that it has complied with the provisions of Section 204(C) in relation to Section 229 of the 1997 Tax Code, as amended;
>
> 6. Petitioner's claim for refund or issuance of tax credit certificate in the aggregate amount of ₱6,318,261.32 as alleged unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales for the period July 1, 2015 to September 30, 2015 and January 1, 2016 to March 31, 2016 was not fully substantiated by proper documents, such as sales invoices, official receipts and others;
>
> 7. In an action for tax credit or refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge the said burden is fatal to the claim *(Emmanual & Zenaida Aguilar v. Commissioner, CA-GR No. Sp. 16432, March 30, 1990 cited in Aban, Law of Basic Taxation in the Philippines, 1st Edition, p. 206);*
>
> 8. Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from 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 121)."*

Respondent filed its Pre-Trial Brief on 19 March 2018,[11] while petitioner submitted its Pre-Trial Brief on 3 April 2018.[12] Following the filing of both parties' Pre-Trial Briefs, the Pre-Trial Conference was held on 10 April 2018.[13]

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[9] *See* Resolution dated 16 November 2017, *id.*, pp. 63-64.
[10] Answer, *id.*, pp. 65-66.
[11] *See* Respondent's Pre-Trial Brief, *id.*, pp. 73-75.
[12] *See* Petitioner's Pre-Trial Brief, *id.*, pp. 119-124.
[13] *See* Notice of Pre-Trial Conference, *id.*, pp. 69-70.

The parties submitted their Joint Stipulation of Facts and Simplification of Issue ("JSFI") on 23 April 2018.[14] Subsequently, the Court issued a Pre-Trial Order on 4 May 2018.[15]

On 6 July 2018, petitioner filed a Motion to Commission an Independent Certified Public Accountant ("ICPA")[16] which the Court granted[17] by commissioning Ofelia C. Flores as an ICPA for the case. The ICPA then submitted her report on 6 August 2018.[18]

Petitioner presented the following wtinesses: (1) Ms. Maria Eugene Ibanez,[19] its Senior Accountant, who testified during the hearing on 10 July 2018;[20] (2) Ms. Beverly Viray,[21] its Accounting Supervisor and Treasurer, who testified and identified her Judicial Affidavit during the hearing on 20 August 2018; [22] and (3) Ms. Ofelia C. Flores,[23] the ICPA, who testified and identified her Judicial affidavit during the hearing on 7 March 2019.[24]

Petitioner filed its Formal Offer of Evidence on 25 March 2019.[25] The Court admitted all of petitioner's formally offered documentary evidence.[26]

During the hearing on 7 March 2019, respondent, through counsel, manifested that he will not be presenting any evidence.[27] The Court directed the parties to submit their respective memoranda within thirty (30) days from receipt of the resolution of petitioner's Formal Offer of Evidence.[28]

On 12 September 2019, the Court received through registered mail respondent's Memorandum dated 12 September 2019.[29] Meanwhile, petitioner filed its Memorandum on 19 February 2020.[30]

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[14] *See* Joint Stipulation of Facts and Simplification of Issue, *id.*, pp. 129- 131.
[15] *See* Pre-Trial Order, *id.*, pp. 133-138.
[16] *See* Motion to Commission an Independent Certified Public Accountant, *id.*, pp. 158-160.
[17] *See* Minutes of Hearing dated 10 July 2018, *id.*, p. 161.
[18] *See* ICPA Report, *id.*, pp. 166-276.
[19] *See* Exhibit "P-10" and "P-10-a," Judicial Affidavit of Maria Eugene Ibanez, *id.*, pp. 368- 375.
[20] *See* Minutes of Hearing dated 10 July 2018, *id.*, p. 161.
[21] *See* Exhibit "P-11" and "P-11-a," Judicial Affidavit of Beverly Viray, *id.*, pp 335- 348.
[22] *See* Minutes of the Hearing dated 20 August 2018, *id.*, p. 278.
[23] *See* Exhibit "P-13" and "P-13", *id.*, pp. 393-420.
[24] *See* Minutes of the Hearing dated 7 March 2019, *id.*, p. 311.
[25] *See* Formal Offer of Evidence (for the Petitioner), *id.*, pp. 314- 422.
[26] *See* Resolution dated 1 August 2019, *id.*, pp. 428-434; *See also* Motion for Partial Reconsideration and Motion to Defer Submission of Memorandum (of the Resolution dated August 1, 2019), *id.*, pp. 444- 452; *See also* Resolution dated 10 January 2020, *id.*, pp. 457- 459.
[27] *See* Minutes of the Hearing dated 7 March 2019, *id.*, p. 311; *See also* Transcript of Stenographic Notes, Hearing Held 7 March 2019, p. 12.
[28] *See* Minutes of the Hearing dated 7 March 2019, Records, p. 311.
[29] *See* Respondent's Memorandum, *id.*, pp. 435-442.
[30] *See* Petitioner's Memorandum, *id.*, pp. 460-475.

Thereafter, the instant case was submitted for decision on 27 February 2020.[31]

## The Issues[32]

The sole issue for this Court's resolution is:

> Whether or not petitioner is entitled to unutilized input VAT refund in the amount of Three Million Seven Hundred Seventeen Thousand One Hundred Ninety-Three and 3/100 Pesos (₱3,717,193.03) covering the period of 1 July 2015 to 30 September 2015 and the amount of Two Million Six Hundred One Thousand Sixty-Eight and 29/100 Pesos (₱2,601,068.29) covering the period of 1 January 2016 to 31 March 2016 or in the total amount of Six Million Three Hundred Eighteen Two Hundred Sixty-One and 32/100 Pesos (₱6,318,261.32).

## Arguments of the Parties

### Petitioner's Arguments[33]

Petitioner argues that, *first,* its claim for refund was timely filed; *second,* its sales of service were zero-rated or effectively zero-rated; *third,* it incurred input VAT attributable to its sales of services and the excess were unutilized; and *fourth*, documentary and testimonial evidence shows and supports its claim that it is entitled as a matter of right to tax credit/refund covering the period 1 July to 30 September 2015 and 1 January to 31 March 2016.

### Respondent's Arguments[34]

Meanwhile, respondent claims that *first,* the claim for refund is still subject to investigation by the BIR; *second,* petitioner failed to demonstrate that the tax which is the subject of the case was erroneously or illegally collected; *third,* taxes paid and collected are presumed made in accordance with laws and regulations hence not refundable; and *fourth,* petitioner failed to fully substantiate by proper documents its unutilized input VAT paid on purchases of goods and services attributable to zero-rated sales.

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[31] *See* Resolution dated 27 February 2020, *id.*, pp. 476-477.
[32] *See* Statement of Issue, Pre-Trial Order, *id.*, p. 134.
[33] *See* Petitioner's Memorandum, *id.*, pp. 462-474.
[34] *See* Respondent's Memorandum, *id.*, Vol. 4, pp. 2747-2753.

## The Ruling of the Court

After due consideration, we partially grant the instant Petition for Review.

Pertinent to the resolution of the instant case is ***Section 112 (A) and (C) Tax Code***, as amended, which 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** <u>**when the sales were made**</u>, 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 of 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.
>
> (B) ...
>
> (C) Period within which Refund or Tax Credit of Input Taxes shall be Made. — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes **within one hundred twenty (120) days from the date of submission of complete documents** in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the **failure on the part of the Commissioner to act on the application** within the period prescribed above, the taxpayer affected may, **within thirty (30) days from the receipt** of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."[35]

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[35] Emphasis and undercoring supplied.

Based on the foregoing provision, the following requisites must be satisfied in order to be entitled to refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales:

1. that the claim for refund was filed within the two-year prescriptive period;

2. that there must be zero-rated or effectively zero-rated sales;

3. that input taxes were incurred or paid;

4. that such input taxes are attributable to zero-rated or effectively zero-rated sales; and

5. that input taxes were not applied against any output VAT liability.

**<u>Petitioner's claims for refund were timely filed.</u>**

The Court shall first determine whether the administrative and judicial claims were filed within the two-year prescriptive period.

Applying the above-quoted ***Section 112 (A) of the Tax Code, as amended***, the administrative claim for the issuance of tax credit certificate or the refund of input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made. Hence, petitioner's last day for filing of its administrative claims for the 2nd and 4th taxable quarters of fiscal year ("FY") ending 31 March 2016 are as follows:

| Taxable Period | End of Two-Year Period |
|---|---|
| 1 July to 30 September 2015 (2nd Quarter) | 30 September 2017 |
| January to 31 March 2016 (4th Quarter) | 31 March 2018 |

Petitioner filed its Applications for Tax Credits/ Refunds with the BIR on 27 April 2017.[36] Thus, the administrative claims for refund were timely filed.

In relation to the timeliness of the judicial claims for refund, ***Section 112(C) of the Tax Code, as amended***, provides that respondent has 120 days from the date of submission of the complete documents in support of the application for refund or tax credit within which to act on the claim. In case

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[36] *See* Exhibit "P-3," *id.*, p. 361.
[36] *See* Exhibit "P-4," *id.*, p. 362.

of respondent's inaction on the application, the taxpayer may file an appeal to this Court within thirty (30) days from the lapse of the 120-day period.

In the instant case, counting from the filing of the administrative claim on 27 April 2017, the 120- day period ended on 25 August 2017. From the said date, petitioner had 30 days, or until 24 September 2017, to file its appeal with this Court. Clearly, the Petition for Review was timely filed on 22 September 2017.[37] Therefore, both the administrative and the judicial claims for refund were timely filed.

**<u>Petitioner's sales of service were zero-rated or effectively zero-rated</u>**

For the second and fourth quarters of FY 2016, petitioner reported zero-rated sales in its Quarterly VAT Returns as follows:

| Exhibit | Period Covered | Amount of Zero-Rated Sales |
|---|---|---|
| "P-1"[38] | 1 July 2015- 30 September 2015 (2nd Quarter) | ₱103,892,434,81 |
| "P-2"[39] | 1 January- 31 March 2016 (4th Quarter) | ₱78,293,277.70 |

Petitioner submits that its sales of services , the consideration of which were paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas ("BSP"), are subject to zero percent (0%) VAT pursuant to ***Section 108(B)(2) of the Tax Code, as amended,***[40] which pertinently provides:

> "SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. —
>
> ...
>
> (B) Transactions Subject to Zero Percent (0%) Rate. — The following services **<u>performed in the Philippines</u> 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**,

[37] *See* Petition for Review, *id.*, pp. 10-57, with annexes.
[38] *See* Exhibit "P-1," *id.*, pp. 349-350.
[39] *See* Exhibit "P-2," *id.*, pp. 355-356.
[40] *See* Petitioner's Memorandum, *id.*, p. 465.

> 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);**"[41]

In ***Sitel Philippines Corporation v. Commissioner of Internal Revenue***,[42] the Supreme Court reiterated its pronouncements in ***Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.***[43] and ***Accenture, Inc. v. Commissioner of Internal Revenue***[44] that, to qualify for VAT zero-rating under ***Section 108 (B) (2) of the Tax Code***, the following requisites must be satisfied:

1. the service rendered must be other than "processing, manufacturing, or repacking of goods";

2. the payment for such service be in acceptable foreign currency accounted for in accordance with BSP rules and regulations; and

3. the service- recipient must be doing business outside the Philippines.

Based on the foregoing requisites, petitioner's sales of services indeed qualify for VAT zero-rating, as discussed in detail below.

*First,* a perusal of petitioner's Amended Articles of Incorporation reveals that petitioner is primarily engaged in the business of providing engineering support services in the areas of product validation and qualification, characterization, and development of manufacturing test procedures, and engaged in promoting business opportunities in connection with a variety of complementary metal oxide semiconductor (CMOS) components to support the market for cost-effective embedded control solutions and to provide Sales and Technical support services to Microchip sales channel and customers.[45] Thus, the services rendered by petitioner qualifies as other than processing, manufacturing, or repacking of goods.

*Second,* the services rendered by petitioner to Microchip Technology, Incorporated and Microchip Technology Ireland were paid for in US dollars which is an acceptable foreign currency and are accounted for in accordance with BSP rules and regulations as duly supported by billing invoices, official receipts, bank credit memos, settlement advice, and Certificates of Inward Remittances from the Bank of the Philippine Islands.[46]

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[41] Emphasis and underscoring supplied.
[42] G.R. No. 201326, 8 February 2017.
[43] G.R. No. 153205, 22 January 2007.
[44] G.R. No. 190102, 11 July 2012.
[45] *See* Exhibit "ICPA-P9-4."
[46] *See* Exhibits "ICPA-P1-1" to "ICPA-P1-59."

*Third*, to be considered as a non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by both Securities and Exchange Commission Certification of Non-Registration of Company and proof of incorporation or registration in a foreign country (e.g., Certificate of Incorporation, Memorandum of Association, and Articles of Association).

As found by the ICPA, petitioners customers for the 2nd and 4th quarters of FY ended 31 March 2016 are non-residents as evidenced by the Intragroup Services Agreement, SEC Certificate of Non-Registration for Non-Resident Customers and Articles of Incorporation/Association, Certificate of Incorporation and Memorandum of Association of Customers Issued in Their Respective Countries.[47]

However, a perusal of the records reveals that only Microchip Technology Incorporated and Microchip Technology Ireland Limited have both the SEC Certificate of Non-Registration and proof of incorporation/ registration in a foreign country. We summarize the proofs as follows:

| Customer | SEC Certificate of Non-Registration | Intragroup Services Agreement/ Articles of Incorporation/Association/ Certificate of Incorporation/ Memorandum of Association of Customers Issued in Their Respective Countries |
|---|---|---|
| Microchip Technology Incorporated | Exhibit "ICPA-P11-1" | Exhibits "ICPA-P11-2" to "ICPA-P11-11" |
| Microchip Technology Ireland | none | Exhibits "ICPA-P11-14" to "ICPA-P11-29" |
| Microchip Technology Ireland Limited | Exhibit "ICPA-P11-11 | Exhibits "ICPA-P11-13" |

Clearly, then, it being shown that Microchip Technology Ireland did not have an SEC Certificate of Non-Registration, the sales to it cannot qualify for VAT zero-rating purposes.

Considering that there were no sales to Microchip Technology Ireland Limited only the sales to Microchip Technology Incorporated shall be considered for purposes of VAT zero-rating. Accordingly, only petitioner's sale of services to Microchip Technology Incorporated for the 2nd and 4th quarters of FY ended 31 March 2016 in the total amount of USD622,097.42, with peso equivalent of ₱28,934,256.89,[48] shall qualify for VAT zero-rating pursuant to ***Section 108 (B) (2) of the Tax Code***, as amended.

[47] *See* ICPA Report, p. 10, *id.*, p. 175.
[48] *See* ICPA Report, Annex E, *id.*, p. 271.

**Petitioner incurred input VAT that were attributable to its sales of services and the excess were unutilized.**

The Court shall now determine the amount of unutilized excess input VAT attributable to petitioner's valid zero-rated sales for the 2nd and 4th quarters of FY 2016.

For the 2nd and 4th quarters of FY ended 31 March 2016, petitioner reported input VAT of ₱3,717,193.03 and ₱2,601,068.29, respectively, or in the aggregate amount of ₱6,318,261.32 , which is the subject of the present claim, broken down as follows:

| | FY 2016 | |
|---|---|---|
| | **2nd Quarter** | **4th Quarter** |
| **Input Tax on Capital Goods** | | |
| Input Tax Deferred on Capital Goods Exceeding P1M | ₱6,062,234.66 | ₱7,725,922.42 |
| Purchase Capital Goods Exceeding P1M | 2,371,757.75 | - |
| Total | 8,433,992.41 | 7,725,922.42 |
| Less: Input Tax on Purchases of Capital Goods exceeding P1M deferred for the succeeding period | 7,900,871.90 | 7,167,065.06 |
| Amortization of Input VAT | 533,120.51 | 558,857.36 |
| Purchase of Capital Goods Not Exceeding P1M | 17,678.57 | 45,559.41 |
| **Sub-Total** | **₱550,799.08** | **₱604,416.77** |
| **Domestic Purchase of Goods and Services Other than Capital Goods** | | |
| Domestic Purchase of Goods Other than Capital Goods | 81,801.35 | 173,813.33 |
| Domestic Purchase of Services | 1,265,775.60 | 1,194,187.19 |
| **Sub-Total** | **₱1,347,576.95** | **₱1,368,000.52** |
| **Importation of Goods Other than Capital Goods** | **₱1,818,817.00** | **₱628,651.00** |
| **TOTAL INPUT VAT REFUND CLAIM** | **₱3,717,193.03** | **₱2,601,068.29** |

To substantiate the claim, petitioner submitted in evidence various official receipts and invoices issued by its local suppliers,[49] importation and declaration documents, invoices, certificates of inward remittances, bank credit memos, and official receipts,[50] and invoices issued by supplier of capital goods[51] which were duly examined by the Court-commissioned ICPA. The ICPA Report noted the following exceptions:[52]

[49] *See* Exhibits "ICPA-P2-1" to "ICPA-P2-147" and "ICPA-P2-148" to "ICPA-P2-314."
[50] *See* Exhibits "ICPA-P3-1" to "ICPA-P3-233" and "ICPA-P3-234" to "ICPA-P3-420."
[51] *See* Exhibits "ICPA-P4-1" and "ICPA-P4-2" to "ICPA-P4-7"; Exhibits "ICPA-P5-1" to "ICPA-P5-15."
[52] *See* ICPA Report, p.8, Records, p. 173; *See also* Annex E- ICPA, *id.*, p. 178.

| | | DISALLOWED INPUT VAT AMOUNT | | |
|---|---|---|---|---|
| **Reference** | **Particulars** | **2nd Quarter** | **4th Quarter** | **Total** |
| ANNEX A.1 | Purchase of Local Goods not within the 2nd and 4th Quarter of the Fiscal Year ended March 31, 2016 | 11,070.55 | 34,916.89 | 45,987.44 |
| ANNEX A.2 | Purchase of Local Goods: Supplier's Sales Invoice with VAT amount incorrectly placed in VAT Exempt portion of the document | 107.14 | - | 107.14 |
| ANNEX A.3 | Purchase of Local Goods: Suppliers' Sales Invoices with Incomplete Breakdown of VAT | - | 130.19 | 130.19 |
| ANNEX A.4 | Purchase of Services not within the 2nd and 4th Quarter of the Fiscal Year ended March 31, 2016 | 34,848.47 | 23,427.34 | 58,275.81 |
| ANNEX A.5 | Purchase of Services: Official Receipt with VAT amount incorrectly placed in VAT Exempt portion of the document | - | 346.07 | 346.07 |
| ANNEX A.6 | Input VAT Incorrectly classified as Deferred Input VAT from CIP-Capital Goods Instead of Purchase of Services | 17,167.00 | 24,291.89 | 41,458.89 |
| ANNEX A.7 | Purchase of Imported Goods not within the 2nd and 4th Quarter of the Fiscal Year Ended March 31, 2016 | 2,080.00 | 16,661.00 | 18,741.00 |
| ANNEX A.8 | Purchase of Imported Goods not supported by Supplier's Sales Invoice | 600.00 | 2,653.00 | 3,253.00 |
| ANNEX A.9 | Purchase of Imported Goods not supported by Statement of Settlement of Duties and Taxes from Bureau of Customs | 78,331.00 | - | 78,331.00 |
| ANNEX A.10 | Disallowed Deferred Input VAT from CIP-Services Treated as Capital Goods from Previous Year | 86,111.95 | 86,111.95 | 172,223.90 |
| ANNEX A.11 | Disallowed Input VAT Incorrectly Classified as Deferred Input VAT From Aggregate Capital Goods Below P1,000,000 From Previous Years | 13,175.01 | 13,175.01 | 26,350.02 |
| ANNEX A.12 | Disallowed Deferred Input VAT Due to Lack of Invoice from Previous Year | 29,560.30 | 29,560.30 | 59,120.60[53] |
| **TOTAL** | | **₱273,051.42**[54] | **₱231,273.64**[55] | **₱504,325.06**[56] |

Accordingly, the substantiated input VAT claim attributable to zero-rated sales is computed as follows:

| | |
|---|---|
| Input VAT Claim | ₱ 6,318,261.32 |
| Less: Disallowances | 504,325.06 |
| Add: Reclassification of Input VAT Incorrectly Classified as Deferred Input VAT from CIP- Capital Goods Instead of Purchase of Services[57] | 213,746.83 |
| Substantiated Input VAT Claim | ₱6,027,683.09 |

Valid Zero-Rated Sales per the Court's Verification ₱28,934,256.89

[53] Discrepancy of ₱0.01 with ICPA Report.
[54] Discrepancy of ₱0.01 with ICPA Report.
[55] Discrepancy of ₱0.01 with ICPA Report.
[56] Discrepancy of ₱0.02 with ICPA Report.
[57] *See* Annex F- ICPA Report, Records, p. 272.

| | |
|---|---|
| Valid Zero-Rated Sales per the Court's Verification | ₱28,934,256.89 |
| Divided by: Total Receipts per Return | 182,185,712.51 |
| Multiplied by: Substantiated Input VAT | 6,027,683.09 |
| **Input VAT attributable to Zero-Rated Sales** | **₱ 957,300.81** |

**The claimed input taxes for the 2nd and 4th Quarters of FY 2016 were not applied against any output VAT liability.**

Petitioner's Quarterly VAT Returns for the 2nd and 4th Quarters of FY ended 31 March 2016 show that petitioner had no output tax liability against which the claimed input VAT may be applied or credited.[58] The claimed input VAT were also deducted from petitioner's total available input tax in the 2nd and 4th quarters of FY ended 31 March 2017.[59]

All told, petitioner is entitled to the duly substantiated input VAT attributable to zero-rated sales for services rendered to Microchip Technology Incorporated in the amount of ₱957,300.81, which claim was not applied against any output VAT liability.

**WHEREFORE**, premises considered, the instant Petition for Review filed by MTI Advanced Technology, Inc. is **PARTIALLY GRANTED.** Accordingly, respondent is **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **Nine Hundred Fifty Seven Three Hundred Pesos and 81/100 (₱957,300.81)** for the periods 1 July 2015 to 30 September 2015 and 1 January 2016 to 31 March 2016.

**SO ORDERED.**

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**WE CONCUR:**

**ERLINDA P. UY**
Associate Justice

[58] *See* Exhibits "P-1" and "P-2," *id.*, pp. 340-350 and 355-356.
[59] *See* Exhibits "P-5" and "P-6," *id.*, pp. 363-364 and 365-366.

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

## ATTESTATION

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

**ERLINDA P. UY**
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 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