REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

TEAM SUAL CORPORATION (Formerly: MIRANT SUAL CORPORATION),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6630 and 6733

Members:

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

Promulgated:
JUN 09 2009; 11:00am

x - x

DECISION

BAUTISTA, *J.*:

This is a consolidation of two Petitions for Review separately filed by petitioner to seek the issuance of tax credit certificate or refund of alleged unutilized input value-added taxes (VAT) paid on its domestic purchases of goods and services and importation of goods attributable to its effectively zero-rated sales to the National Power Corporation (NPC) for taxable year 2001 in the amount of P166,720,367.79, broken down as follows:

CTA Case No.	Period Covered	Amount of Claim
6630	1st quarter - 2001	P 37,985,009.25
6733	2nd, 3rd & 4th quarters -2001	128,735,358.54
	TOTAL	**P 166,720,367.79**

TEAM SUAL CORPORATION (formerly: Mirant Sual Corporation) (Petitioner) is a corporation duly organized and existing under and by virtue of Philippine laws, with principal office at Barangay Pangascasan, Sual, Pangasinan. Petitioner is registered as a VAT taxpayer in accordance with Section 107 of the Tax Code (now Section 236 of the National Internal Revenue Code of 1997), with Bureau of Internal Revenue (BIR) Certificate of Registration bearing RDO Control No. 05-0181 and Taxpayer's Identification No. (TIN) 003-841-103.[1]

It is principally engaged in the business of power generation and subsequent sale thereof to the National Power Corporation (NPC) under a Build, Operate, and Transfer (BOT) Scheme.

Petitioner was originally registered with the Securities and Exchange Commission (SEC) under the name "Pangasinan Electric Corporation". Over the years, petitioner changed its name to "Southern Energy Pangasinan, Inc." on August 17, 1999; "Mirant Sual Corporation"[2] on June 28, 2001; and TEAM Sual Corporation on July 23, 2007.[3]

Respondent is the Commissioner of Internal Revenue, who is duly appointed and empowered to perform the duties of his office, including among others, the duty to act on and approve claims for refund or tax credit as provided by law. He holds office at the BIR National Office Building, Diliman, Quezon City.

On December 6, 2000, petitioner filed with the BIR Revenue District Office No. 5-Alaminos, Pangasinan an Application for VAT Zero-Rate for the supply of electricity to the National Power Corporation. The same was subsequently approved.[4]

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[1] Annex "A", Petition for Review (CTA Case No. 6630), Rollo, p. 7
[2] Par. 4, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), *Rollo*, (CTA Case No. 6630), p.143
[3] Petitioner's "Certificate of Filing of Amended Articles of Incorporation"
[4] Exhibit "D"

Petitioner filed its Quarterly VAT Returns for taxable year 2001 with the BIR on the following dates:

Exhibit	Period Covered	Date of Filing
"F"	1st Quarter-2001	April 18, 2001
"G"	2nd Quarter-2001	July 24, 2001
"H"	3rd Quarter-2001	October 24, 2001
"I"	4th Quarter-2001	January 24, 2002

In the said Returns, petitioner declared zero-rated sales amounting to P13,970,077,071.38, taxable sales amounting to P98,819,987.19, output VAT of P9,881,998.46, and excess input VAT of P166,720,367.79; detailed as follows:

				Input VAT		
	Zero-Rated			on Domestic		Excess
Exh	Sales/Receipts	Taxable Sales	Output VAT	Purchases	on Importation	Input VAT
"F"	P 3,497,849,694.35	P 484,811.00	P 48,481.10	P 25,719,981.35	P12,313,509.00	P 37,985,009.25
"G"	3,483,578,645.29	8,613,210.01	861,321.00	21,408,178.12	8,751,699.00	29,298,556.12
"H"	3,606,942,848.42	31,172,787.48	3,117,278.49	22,089,436.74	13,897,677.15	32,869,835.40
"I"	3,381,705,883.32	58,549,178.70	5,854,917.87	63,103,992.89	9,317,892.00	66,566,967.02
	P13,970,077,071.38	**P98,819,987.19**	**P9,881,998.46**	**P132,321,589.10**	**P44,280,777.15**	**P166,720,367.79**

Pursuant to the procedure prescribed in Revenue Regulations No. 7-95, as amended, petitioner filed an administrative claim for refund of the unutilized input VAT with the BIR on March 20, 2003 in the total amount of P166,720,367.79 for the four quarters of taxable year 2001.[5]

Due to respondent's inaction and in order to suspend the running of the two-year prescriptive period within which to file a judicial claim for refund/issuance of a tax credit certificate, petitioner filed with this Court a Petition for Review, docketed as CTA Case No. 6630 on March 31, 2003, praying for the refund or issuance of tax credit certificate for its alleged unutilized input VAT for the first quarter of taxable year 2001 in the amount of P37,985,009.25. On July 23, 2003, petitioner filed another Petition for

[5] Par. 10, Stipulation of Facts, JSFI, *Rollo*, (CTA Case No. 6630), p. 144

Review docketed as CTA Case No. 6733, seeking the refund or issuance of tax credit certificate for its alleged unutilized input VAT for the second, third, and fourth quarters of taxable year 2001 in the amount of P128,735,358.54. At the instance of petitioner, the said cases were consolidated on August 7, 2003.[6]

Respondent interposed the following Special and Affirmative Defenses in his Answers to the Petitions for Review for CTA Case Nos. 6630 and 6733:

CTA Case No. 6630

"4. Petitioner failed miserably to show that the total amount of Php:37,985,009.25 allegedly representing VAT input taxes for the first quarter of year 2001, were erroneously or illegally collected, or that the same were properly documented.

5. Taxes paid and collected are presumed to have been paid in accordance with law; hence, not refundable.

6. In an action for tax refund/credit, the taxpayer has the burden to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund.

7. It is incumbent upon petitioner to show that it has complied with the provisions of Section 204 (c) in relation to Section 279 of the Tax Code.

8. Well-established is the rule that claims for refund/tax credit are construed strictly against the taxpayer as they partake the nature of exemption from tax."

CTA Case No. 6733

"4. He reiterates and pleads the preceding paragraphs of this answer as part of his Special and Affirmative Defenses;

5. Petitioner's alleged claim for refund is subject to administrative investigation/examination by the respondent;

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)

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[6] *Rollo*, (CTA Case No. 6630), p. 118

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;

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 Section 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, the administrative claim thereof being mere pro-forma, 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 P128,735,358.54 allegedly paid by the petitioner on its purchases of goods and services and importation of goods for the second, third and fourth quarters of the year 2001 were attributable to 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 and importation of goods were made in the course of its trade or business, properly supported by VAT invoices and/or official receipts, import entry documents, confirmation receipt evidencing payment of VAT 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 taxation."

Petitioner formally offered its evidence on December 18, 2006, submitting Exhibits "A" to "GGGGG", inclusive of submarkings; while respondent submitted the case for decision without making a formal offer of evidence.

The case was submitted for decision on June 17, 2008, taking into consideration respondent's Memorandum filed on May 26, 2008 and petitioner's Memorandum filed on June 13, 2008.

The following are parties' jointly stipulated issues[7] submitted for this Court's resolution:

> "1. Whether or not the power generation services rendered by Petitioner to NPC are subject to zero percent (0%) VAT pursuant to Section 108(B)(3) and Section 112 (A) of the National Internal Revenue Code of 1997 ('Tax Code');
>
> 2. Whether or not Petitioner has unutilized creditable input VAT for the four quarters of CY 2001 arising from its domestic purchases of goods and services and importations of goods amounting to P166,720,367.79 that can be a proper object of a claim for refund pursuant to Section 108 (B)(3) and Section 112 (A) of the Tax Code;
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> 3. Whether or not the unutilized creditable input taxes for CY 2001 are substantiated by proper invoices and official receipts;
>
> 4. Whether or not the unutilized creditable input VAT for the four quarters of 2001 was carried over to the succeeding taxable quarter(s) and applied against any of the output VAT liability of the Petitioner;
>
> 5. Whether or not Petitioner is entitled to a refund and/or issuance of tax credit certificate for the unutilized input VAT payments in the amount of P166,720,367.79;
>
> 6. Whether or not the petitioner has filed its administrative and judicial claims for tax credit and/or refund in the amounts of P166,720,367.79 within the statutory period of two years as required under Sections 112 (A), 204 (C), and 229 of the Tax Code, as amended;
>
> 7. Whether or not petitioner is engaged in the business of power generation and subsequent sale thereof to the National Power Corporation ('NPC') under a Build, Operate, and Transfer ('BOT') scheme."

The issues boil down into one major issue, *viz.*, "Whether or not petitioner is entitled to a refund or issuance of tax credit certificate for its unutilized input VAT payments amounting to P166,720,367.79, arising from its domestic purchases of goods

[7] Stipulation of the Issues, JSFI, *Rollo*, (CTA Case No. 6630), pp. 144-145

and services and importations of goods attributable to its effectively zero-rated sales to the National Power Corporation for the four quarters of taxable year 2001".

Section 112(A) of the National Internal Revenue Code of 1997 lays down the requisites for refunds or issuance of a tax credit certificate of input tax due or paid attributable to zero-rated or effectively zero-rated sales, which reads as follows:

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

From the foregoing, petitioner must comply with the following requisites to be entitled to a refund:

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

This Court finds it appropriate to determine first the timeliness of the filing of the instant claim. The Supreme Court recently held in **Commissioner of Internal Revenue vs. Mirant Pagbilao Corporation (Formerly Southern Energy Quezon,**

Inc.)[8] that Section 112(A) of the NIRC of 1997 provides for the period within which to file the claim for refund or issuance of tax credit certificate for unutilized input VAT attributable to zero-rated or effectively zero-rated sales, the pertinent portion of the High Court's Decision reads:

> "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 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 <u>due or paid</u> 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 Sec. 112(A), '[P]rescriptive 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 for 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.**" (*Emphasis supplied*)

Based on the afore-quoted jurisprudence, the reckoning of the prescriptive period shall commence 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.

[8] G.R. No. 172129, September 12, 2008

The present claim involves petitioner's input VAT incurred for the four quarters of 2001. Counting from the close of each of the said taxable quarters, petitioner had until the following dates within which to file its claim both in the administrative and judicial levels:

CTA Case No.	Taxable Quarter (Year 2001)	Close of Taxable Quarter	End of Two(2) year period	Date of Filing		Amount of Claim
				Administrative Claim	Judicial Claim	
6630	1st	3/31/2001	3/31/2003	3/20/2003	3/31/2003	P37,985,009.25
6733	2nd	6/30/2001	6/30/2003	3/20/2003	7/23/2003	29,298,556.12
6733	3rd	9/30/2001	9/30/2003	3/20/2003	7/23/2003	32,869,835.40
6733	4th	12/31/2001	12/31/03	3/20/2003	7/23/2003	66,566,967.02
						P166,720,367.79

Petitioner's administrative and judicial claims for refund of input VAT for the first, third, and fourth quarters of taxable year 2001 fall within the two-year prescriptive period.

The second quarter of taxable year 2001 does not however fall within the two-year period. Although the administrative claim filed on March 20, 2003 is seasonably filed, the Petition for Review filed on July 23, 2003 is outside the two-year prescriptive period; hence, the claim for the second quarter of 2001 in the amount of P29,298,556.12, shall be denied outright due to prescription.

Consequently, this Court's evaluation will be limited only to petitioner's refund claim for the first, third, and fourth quarters of taxable year 2001.

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

Petitioner posits that its sale of electricity to NPC is effectively zero-rated for VAT purposes pursuant to Section 108(B)(3) of the NIRC of 1997, in relation to Section 13 of Republic Act No. 6395, as amended, otherwise known as the NPC Charter, which are all quoted hereunder for easy reference:

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"**SEC. 108. Value-Added Tax on Sale of Services and Use or Lease of Properties.** –

xxx xxx xxx

(B) ***Transactions Subject to Zero Percent (0%) Rate.*** — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

xxx 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;**" (*Emphasis supplied*)

"**SECTION 13.** *Non-profit Character of the Corporation, Exemption from All Taxes, Duties, Fees, Imposts and Other Charges by the Government and Government Instrumentalities.* — The Corporation shall be non-profit and shall devote all its returns from its capital investments, as well as excess revenues from its operation, for expansion. To enable the Corporation to pay its indebtedness and obligations and in furtherance of effective implementation of the policy enunciated in Section One of this Act, **the Corporation, including its subsidiaries, is hereby declared exempt from the payment of all forms of taxes**, duties, fees, imposts as well as costs and service fees including filing fees, appeal bonds, supersedeas bonds, in any court or administrative proceedings." (*Emphasis supplied*)

The Court agrees with petitioner.

This Court has consistently held that NPC is an entity with a special charter which categorically exempts it from payment of all taxes, direct or indirect, including VAT. By virtue of the said charter, services rendered by a VAT-registered entity like herein petitioner to NPC are effectively subject to zero percent (0%) VAT in accordance with Section 108(B)(3) of the NIRC of 1997.

In addition, the Supreme Court in its Resolution in the case of **Maceda vs. Macaraig, Jr.**[9], affirmed NPC's tax exemption in the following manner:

> "A chronological review of the NPC laws will show that it has been the lawmaker's intention that the NPC was to be completely tax-exempt from all forms of taxes — direct or indirect.
>
> xxx xxx xxx
>
> One common theme in all these laws is that the NPC must be enabled to pay its indebtedness which, as of P.D. No. 938 was P12 Billion in total domestic indebtedness, at any one time, and US$4 Billion in total foreign loans at any one time. The NPC must be and has to be exempt from all forms of taxes if this goal is to be achieved."

Moreover, respondent himself approved petitioner's Application for Effective Zero-Rate covering its sales of electricity to NPC.[10]

Petitioner likewise was able to establish through the various invoices and official receipts it issued to the NPC[11] that it actually derived revenues from its sale of power generation services to the NPC for the first, third, and fourth quarters of taxable year 2001 in the total amount of P10,486,498,426.09 which was reflected in its Quarterly VAT Returns as follows:

Exhibit	Year 2001	Zero-Rated Sales/Receipts
"F"	1st Quarter	P 3,497,849,694.35
"H"	3rd Quarter	3,606,942,848.42
"I"	4th Quarter	3,381,705,883.32
	Total	**P 10,486,498,426.09**

The Court will now determine the amount of input taxes attributable to petitioner's effectively zero-rated sales of P10,486,498,426.09.

In its VAT Returns for the first, third, and fourth quarters of taxable year 2001, petitioner reported the following excess input VAT amounting to P137,421,811.67:

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[9] 223 SCRA 217, June 8, 1993
[10] Exhibit "D"; par. 5, Stipulation of Facts, JSFI, *Rollo*, (CTA Case No. 6630), p. 144
[11] Exhibit "LL"

Exhibit	Year 2001	Excess Input VAT
"F"	1st Quarter	P 37,985,009.25
"H"	3rd Quarter	32,869,835.40
"I"	4th Quarter	66,566,967.02
	Total	**P 137,421,811.67**

In support of the alleged input taxes of P137,421,811.67, petitioner presented its Schedules/Summaries of Domestic Purchases and Importation of Goods for taxable year 2001[12] and the related suppliers' invoices and official receipts, Bureau of Customs (BOC) Import Entries and Internal Revenue Declarations (IEIRDs), BOC official receipts, bank debit advices/official receipts.[13] Upon verification of these documents, the Court-commissioned Independent CPA, made the following findings in its Report dated June 3, 2004:[14]

	Findings	Annexed to Exhibit Z as	1st Qtr	3rd Qtr	4th Qtr	Total
I. Input Taxes on Purchases of Goods						
1.	Erroneously Computed	(Annex 4-1)	-	20,169.53	19,636.36	39,805.89
2.	Supported by VAT invoices without BIR permit number	(Annex 4-2)	10,992.09	9,524.24	38,236.69	58,753.02
3.	Supported by photocopied VAT invoices	(Annex 4-3)	1,800.00	376.60	13,424.65	15,601.25
4.	Supported by documents other than VAT Invoice	(Annex 4-4)	17,790.85	-	20,167.78	37,958.63
5.	Supported by an invoice without pre-printed "TIN-VAT"	(Annex 4-5)	-	-	18,411.20	18,411.20
6.	Supported by VAT invoice with pre-printed "TIN" only	(Annex 4-6)	6,275.64	-	4,495.47	10,771.11
7.	Supported by Non-VAT invoices	(Annex 4-7)	2,563.76	681.82	-	3,245.58
8.	Supported by an invoice with pre-printed "TAN-VAT"	(Annex 4-8)	-	-	50,788.00	50,788.00
9.	Supported by an invoice with pre-printed "VAT #" only	(Annex 4-9)	-	37,210.50	-	37,210.50
	subtotal		***39,422.34***	***67,962.69***	***165,160.15***	***272,545.18***
II. Input Taxes on Purchases of Services						
1.	Erroneously Computed	(Annex 5-1)	73,659.57	34,713.69	23,436.78	131,810.04
2.	Supported by VAT ORs without BIR permit number	(Annex 5-2)	-	24,209.34	-	24,209.34
3.	Supported by documents other than VAT OR	(Annex 5-3)	39,420.61	47,438.66	33,456.13	120,315.40

[12] Exhibits "BB" "CC", "DD", and "EE"
[13] Exhibits "FF" to "II" (including submarkings)
[14] Exhibit "Z", pages 4 to 7

4.	Supported by OR with pre-printed VAT number only	(Annex 5-4)	-	-	-	-
5.	Supported by OR with pre-printed TIN number only	(Annex 5-5)	21,590.91	-	-	21,590.91
6.	Supported by Non-VAT ORs	(Annex 5-6)	-	1,806.44	-	1,806.44
7.	Supported by ORs issued not in the name of the company	(Annex 5-7)	4,914.87	3,104.32	147.00	8,166.19
	subtotal		***139,585.96***	***111,272.45***	***57,039.91***	***307,898.32***
III. Input taxes claimed on purchases of goods and services without supporting documents		(Annex 6)	539,379.66	246,788.64	1,074,990.78	1,861,159.08
	subtotal		***539,379.66***	***246,788.64***	***1,074,990.78***	***1,861,159.08***
IV. Input Claimed on Importations						
1.	Erroneously Computed	(Annex 7-1)	-	38,335.09	-	38,335.09
2.	Supported by certified true copies of Informal IEDs (by customs brokers)	(Annex 7-2)	5,188.00	18,996.00	1,582.00	25,766.00
3.	Supported by certified true copies of IEDs (by customs brokers) without input tax amount	(Annex 7-3)	10,464.00	2,254.00	170,529.00	183,247.00
4.	Supported only by BOC and/or bank Ors	(Annex 7-4)	2,532,498.00	700,785.15	1,662,761.00	4,896,044.15
5.	Supported by photocopied IEDs	(Annex 7-5)	-	-	23,382.00	23,382.00
6.	Supported by certified true copies of IEDs (by custom brokers) issued not in the name of the company	(Annex 7-6)	28,132.00	50,518.00	-	78,650.00
7.	Without supporting documents	(Annex 7-7)	123,502.00	446,505.00	69,649.00	639,656.00
	subtotal		***2,699,784.00***	***1,257,393.24***	***1,927,903.00***	***5,885,080.24***
	Total		**3,418,171.96**	**1,683,417.02**	**3,225,093.84**	**8,326,682.82**

The claimed input taxes of P272,545.18[15] and P307,898.32[16] on domestic purchases of goods and services, respectively, shall be denied for failure to meet the substantiation requirements under Sections 110(A) and 113(A) of the NIRC of 1997, as implemented by Sections 4.104-1, 4.104-5, and 4.108-1 of Revenue Regulations No. 7-95.

[15] No. I of the ICPA's Findings, detailed in Exhibit "Z", Annexes 4-1 to 4-9
[16] No. II of the ICPA's Findings, detailed in Exhibit "Z", Annexes 5-1 to 5-7

As regards the input taxes in the amount of P1,861,159.08, excepted by the Independent CPA for lack of supporting documents,[17] petitioner presented the following documents to rebut the said findings:

Supplier	Exhibit	1st Qtr	3rd Qtr	4th Qtr	Total
Casipit Trading & Const	TT, ZZ			49,314.86	
	TT, AAA			97,732.40	
	TT, BBB			16,589.10	163,636.36
Victron UPS Philippines, Inc.	DDD			13,636.36	13,636.36
Meralco Ind'l Eng'g Serv Corp	FFF			27,296.29	27,296.29
Meralco Ind'l Eng'g Serv Corp	HHH			225,696.59	225,696.59
Meralco Ind'l Eng'g Serv Corp	III			200,290.95	200,290.95
Meralco Ind'l Eng'g Serv Corp	III			128,209.84	128,209.84
Maunsell Phils. Inc.	FFFFF		105,320.49		105,320.49
Best Hotel Mgt inc.	GGGGG	91,879.43			91,879.43
Total		**91,879.43**	**105,320.49**	**758,766.39**	**955,966.31**

This Court finds the aforesaid documents valid, except for the official receipts marked as Exhibits "BBB" and "DDD" supporting the input taxes of P16,589.10 and P13,636.36.

The official receipt marked as Exhibit "BBB" bears the pre-printed TAN and VAT numbers of the supplier instead of the prescribed TIN-VAT number under Section 4.104-5(b) of Revenue Regulations No. 7-95, in relation to Section 113(A) of the NIRC of 1997.

On the other hand, in Exhibit "DDD", the information contained therein is insufficient for this Court to ascertain if the input tax claim of P13,636.36 actually pertains to petitioner's purchase of services.

Consequently, petitioner's input taxes on purchases of goods and services without supporting documents, as found by the Independent CPA, will now be reduced from P1,861,159.08 to P935,418.23.

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[17] No. III of the ICPA's Findings, detailed in Exhibit "Z", Annex 5-6

As regards the P5,885,080.24 input VAT claim on importations,[18] the Court finds the amount of P4,709,152.09[19] valid because the supporting BOC and/or bank statements clearly reflect the VAT amount paid by petitioner. The rest of the claimed input taxes in the amount of P1,175,928.15[20] shall be denied for not being properly substantiated. The IEIRDs submitted by petitioner in support of the input taxes of P1,175,928.15 cannot be given credence and probative value as they were merely stamped as "certified true copy" or "certified photocopy" and the Court cannot ascertain whether the certifier named therein is actually the custodian of the said documents. Moreover, some of the IEIRDs for the third and fourth quarters of 2001 were issued under petitioner's former name, Southern Energy Pangasinan, Inc. It must be noted that petitioner's name was changed from Southern Energy Pangasinan, Inc. to Mirant Sual Corporation on June 28, 2001[21]; hence, all documents in support of its claimed input VAT for the third and fourth quarters of taxable year 2001 should be under its new name "Mirant Sual Corporation".[22] Also, some of the IEIRDs do not show any machine validation as to the payment of the customs duties and taxes indicated therein. While petitioner submitted BOC or bank ORs and bank debit advises, the same were either dated outside the period of claim or issued under petitioner's former name.

In its Reports dated June 3, 2004[23] and July 12, 2004[24], the Independent CPA likewise made the following additional observations on petitioner's claimed input taxes:

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[18] No. IV of the ICPA's Findings, detailed in Exhibit "Z", Annexes 7-1 to 7-7
[19] See Annex "A" for details
[20] See Annex "A" for detailed breakdown
[21] Par. 5, Stipulation of Facts, JSFI, *Rollo*, (CTA Case No. 6630), p. 110
[22] However, pursuant to petitioner's Motion to Change Caption and the Resolution dated March 10, 2009, petitioner's name was changed from "MIRANT SUAL CORPORATION (Formerly: SOUTHERN ENERGY PANGASINAN, INC.)" to "TEAM SUAL CORPORATION (Formerly: MIRANT SUAL CORPORATION)".
[23] Exhibit "Z", pages 7 and 8
[24] Exhibit "RR", pages 2 and 3

	Findings	Reference	1st Qtr	3rd Qtr	4th Qtr	Total
1.	Input taxes on local purchases of goods which are supported by VAT invoices issued in the name of Southern Energy Pangasinan, Inc., former name of petitioner	Annex 8, Exhibit "Z"	42,290.74	5,367,192.88	915,006.22	6,324,489.84
2.	Input taxes on local purchases of services which are supported by VAT ORs issued in the name of Southern Energy Pangasinan, Inc., former name of petitioner	Annex 9, Exhibit "Z"	-	1,089,900.60	264,679.65	1,354,580.25
3.	Input taxes on local purchases of goods which are supported by undated VAT invoices	Annex 10, Exhibit "Z"	2,500.00	3,650.00	-	6,150.00
4.	Input taxes on local purchases of services which are supported by undated VAT ORs	Annex 11, Exhibit "Z"	33,776.59	5,066.80	-	38,843.39
5.	Input taxes on local purchases of goods which are supported by VAT invoices with different TIN as compared with the TIN indicated in the "Schedule of VAT-Input Tax"	Annex 12, Exhibit "Z"	13,6 30.41	134,970.70	228,311.70	376,912.81
6.	Input taxes on local purchases of services which are supported by VAT ORs with different TIN as compared with the TIN indicated in the "Schedule of VAT-Input Tax"	Annex 13, Exhibit "Z"	13,201.10	-	4,993.10	18,194.20
7.	Input taxes on local purchases of goods which are supported by certified true copies of VAT invoices	Annex 14, Exhibit ""	45,143.65	2,186.70	-	47,330.35
8.	Input taxes on local purchases of services which are supported by ORs with different supplier's name as compared with the name indicated in the "Schedule of VAT-Input Tax"	Annex 15, Exhibit "Z"	13,132.00	28,728.00	768.00	42,628.00
9.	Input taxes on local purchases of goods which are supported by invoices dated outside the period of claim	Annex 16, Exhibit "Z"	2,784,631.68	19,229.58	242,727.28	3,046,588.54
10.	Input taxes on local purchases of services which are supported by ORs dated outside the period of claim	Annex 17, Exhibit "Z"	111,902.79	-	15,600.00	127,502.79
11.	Input taxes on purchases from non-residents which are supported by BIR Form 1600 and ORs dated outside the period of claim	Annex 18, Exhibit "Z"	-	-	103,249.75	103,249.75
12.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by Bureau of Customs) and Bureau of Customs ORs and Bank Debit Advice issued in the name of Southern Energy Pangasinan, Inc.	Annex 19A, Exhibit "RR"		7,681,635.00	573,145.00	8,254,780.00
13.	Input taxes on importation of goods which are supported by Certified					

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	True Copies of IEDs (by Customs Broker) and Bureau of Customs ORs and Bank Debit Advice issued in the name of Southern Energy Pangasinan, Inc., former name of the petitioner	Annex 19B, Exhibit "RR"			4,711.00	4,711.00
14.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by Bureau of Customs) and Bank ORs and Debit Memos issued in the name of Southern Energy Pangasinan, Inc., former name of the petitioner	Annex 19C, Exhibit "RR"		1,504,103.00	638,420.00	2,142,523.00
15.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by Customs Broker) and Bank ORs and Debit Memos issued in the name of Southern Energy Pangasinan, Inc., former name of the petitioner	Annex 19D, Exhibit "RR"		9,130.00	8,325.00	27,455.00
16.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by Bureau of Customs) and original Bank ORs issued outside the period of claim	Annex 20A, Exhibit "RR"	4,525,424.00			4,525,424.00
17.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by Bureau of Customs) and original Bank ORs issued outside the period of claim	Annex 20B, Exhibit "RR"	22,039.00			22,039.00
18.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by the Bureau of Customs and/or Customs Broker and/or COA Auditor)	Annex 21A, Exhibit "RR"	177,453.00	1,905,261.00	1,155,268.00	3,237,982.00
19.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by the Customs Broker)	Annex 21B, Exhibit "RR"	68,476.00	7,095.00		75,571.00
20.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by the Bureau of Customs) and BOC ORs and Bank Debit Memos	Annex 22A, Exhibit "RR"	405.00	1,197,215.00	285,020.00	1,482,640.00
21.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by the Customs Broker) and BOC ORs and Bank Debit Memos	Annex 22B, Exhibit "RR"	129,060.00			129,060.00
22.	Input taxes on importation of goods which are supported by Certified True Copies of IEDs (by the Bureau of Customs and/or Customs Broker and/or COA Auditor) and Bank ORs and Bank Debit Memos	Annex 22C, Exhibit "RR"	3,689.00	120,168.00		123,857.00
	Total		**7,986,754.96**	**19,075,532.26**	**4,450,224.70**	**31,512,511.92**

The claimed input taxes of P6,324,489.84[25] on local purchases of goods and input taxes of P1,354,580.25[26] on local purchases of services which are supported by invoices and official receipts issued under petitioner's former name, Southern Energy Pangasinan, Inc., respectively, shall be disallowed except for the input VAT of P42,290.74 on local purchases of goods for the first quarter of 2001. The invoices covering the amount of P42,290.74, though issued under petitioner's former name, Southern Energy Pangasinan, Inc., may still be allowed because petitioner's change of name took effect only on June 28, 2001, as stated earlier.

The claimed input taxes of P6,150.00[27] and P38,834.39[28] pertaining to petitioner's local purchases of goods and services which are supported by undated invoices and official receipts, respectively, shall be denied pursuant to Section 4.108-1(2) of RR 7-95 in relation to Sections 113(A) and 237 of the NIRC of 1997, which requires that the date of the transactions must be indicated in the invoices/receipts.

The input taxes in the amounts of P376,912.81[29] and P18,194.20[30] which are supported by invoices or official receipts with different TIN as compared with the TIN indicated in the "Schedule of VAT-Input Tax" as well as the input taxes of P42,628.00[31] supported by official receipts with different supplier's name as compared with the name indicated in the "Schedule of VAT-Input Tax" represent petitioner's valid claims notwithstanding such discrepancies because the serial numbers of the invoices or official receipts and the amounts indicated therein are the same as those appearing in the "Schedule of VAT-Input Tax".

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[25] No. 1 of the ICPA's Findings, detailed in Exhibit "Z", Annex 8
[26] No. 2 of the ICPA's Findings, detailed in Exhibit "Z", Annex 9
[27] No. 3 of the ICPA's Findings, detailed in Exhibit "Z", Annex 10
[28] No. 4 of the ICPA's Findings, detailed in Exhibit "Z". Annex 11
[29] No. 5 of the ICPA's Findings, detailed in Exhibit "Z", Annex 12
[30] No. 6 of the ICPA's Findings, detailed in Exhibit "Z", Annex 13
[31] No. 8 of the ICPA's Findings, detailed in Exhibit "Z", Annex 15

The input taxes in the amounts of P3,046,588.54[32] and P127,502.79[33] pertaining to petitioner's local purchases of goods and services which are supported by invoices and receipts, respectively, dated outside the period of claim as well as the input taxes of P103,249.75[34] on petitioner's purchases from non-residents which are supported by BIR Forms 1600 and ORs dated outside the period of claim shall be disallowed. In a Resolution dated July 28, 2004 in the case of **Telecommunications Technologies Phil., Inc. vs. Commissioner of Internal Revenue, C.T.A. Case No. 6168,** this Court had the occasion to rule that the input VAT on domestic purchases of goods or properties shall be allowed as tax credit to the purchaser only **upon consummation of sale**, which means upon issuance by the seller of the VAT sales invoice evidencing the sale of goods/properties. On the other hand, the input VAT on purchases of services shall be available as tax credit to the purchaser only **upon payment of the compensation or fee** *i.e.,* upon issuance by the seller of the VAT official receipt of the payment for services performed or yet to be performed. Section 110(A) of the NIRC of 1997, is clear that the input tax shall be allowed as tax credit to the purchaser only upon consummation of sale or upon payment of the compensation, as the case may be. Accordingly, it is imperative for petitioner to **declare the input value added taxes on domestic purchases of goods and services at the end of the corresponding taxable quarter where purchases of goods were consummated, as evidenced by VAT invoices and where purchases of services were paid, as evidenced by VAT official receipts**. It must be noted that the claimed input taxes of P3,046,588.54 and P127,502.79 pertain to the first, third and fourth quarters of 2001. Thus, the input

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[32] No. 9 of the ICPA's Findings, detailed in Exhibit "Z", Annex 16
[33] No. 10 of the ICPA's Findings, detailed in Exhibit "Z", Annex 17
[34] No. 11 of the ICPA's Findings, detailed in Exhibit "Z", Annex 18

taxes on purchases of goods which are supported by VAT invoices and the input taxes on purchases of services which are supported by VAT official receipts bearing dates outside of the said taxable quarters cannot be considered as valid supports for petitioner's claimed tax credits of P3,046,588.54 and P127,502.79.

The claimed input taxes of P47,330.35[35] on local purchases of goods which are supported by certified true copies of VAT invoices shall be denied because it cannot be ascertained whether the certifiers named therein are actually the custodians of the said documents.

As to the claimed input taxes on importations under nos. 12 to 22 of the ICPA's Findings totaling P20,026,042.00[36], the Court finds that the input taxes in the amount of P13,633,015.00[37] represents petitioner's valid claim as this is duly supported by BOC or bank official receipts and/or bank debit advises issued in the name of petitioner and within the period of claim. The remaining amount of P6,393,027.00 shall be denied for not being properly substantiated.

To recapitulate, out of the P137,421,811.67 excess input VAT claim for the first, third and fourth quarters of 2001, only the amount of P117,330,550.62 is duly substantiated, computed as follows:

Amount of Input VAT Claim for the year 2001			P166,720,367.79
Less: Prescribed Claim – 2nd Qtr			29,298,556.12
Unprescribed Claim – 1st, 3rd & 4th Qtrs			P137,421,811.67
Less: Not Properly Substantiated Claim –1st, 3rd & 4th Qtrs			
Input taxes on local purchases of goods per Annexes 4-1 to 4-9, Exhibit "Z"		P 272,545.18	
Input taxes on local purchases of services per Annexes 5-1 to 5-7, Exhibit "Z"		307,898.32	
Input taxes on local puchases of goods and services without supporting docs per Annex 6, Exhibit "Z"	P 1,861,159.08		
Less: valid additional docs. presented	(925,740.85)	935,418.23	

[35] No. 7 of the ICPA's Findings, detailed in Exhibit "Z", Annex 14
[36] Exhibit "RR", Annexes 19A to 22C
[37] See Annex "A" for details

Input claimed on importations per Annexes 7-1 to 7-7, Exhibit "Z"	P 5,885,080.24	
Less: valid claim per this Court's verification	(4,709,152.09)	1,175,928.15
Input taxes on local purchases of goods which are supported by invoices issued in the name of Sourthern Energy Pangasinan, Inc. per Annex 8, Exhibit "Z"	P 6,324,489.84	
Less: valid claim per this Court's verification	(42,290.74)	6,282,199.10
Input taxes on local purchases of services which are supported by ORs issued in the name of Southern Energy Pangasinan, inc. per Annex 9, Exhibit "Z"		1,354,580.25
Input taxes on local purchases of goods which are supported by undated VAT invoices per Annex 10, Exhibit "Z"		6,150.00
Input taxes on local purchases of services which are supported by undated VAT ORs per Annex 11, Exhibit "Z"		38,843.39
Input taxes on local purchases of goods which are supported by VAT invoices with different TIN as compared with the TIN indicated in the "Schedule of VAT-Input Tax" per Annex 12, Exhibit "Z"	P 376,912.81	
Less: valid claim per this Court's verification	(376,912.81)	-
Input taxes on local purchases of services which are supported by VAT ORs with different TIN as compared with the TIN indicated in the "Schedule of VAT-Input Tax" per Annex 13, Exhibit "Z"	P 18,194.20	
Less: valid claim per this Court's verification	(18,194.20)	-
Input taxes on local purchases of goods which are supported by certified true copies of VAT invoices per Annex 14, Exhibit "Z"		47,330.35
Input taxes on local purchases of services which are supported by ORs with different supplier's name as compared with the name indicated in the "Schedule of VAT-Input Tax", per Annex 15, Exhibit "Z"	P 42,628.00	
Less: valid claim per this Court's verification	(42,628.00)	-
Input taxes on local purchases of goods which are supported by invoices dated outside the period of claim per Annex 16, Exhibit "Z"		3,046,588.54
Input taxes on local purchases of services which are supported by ORs dated outside the period of claim per Annex 17, Exhibit "Z"		127,502.79
Input taxes on purchases from non-residents which are supported by BIR Form 1600 and ORs dated outside the period of claim per Annex 18, Exhibit "Z"		103,249.75
Input taxes on importation of goods :		
Annex 19A, Exhibit "RR"	P 8,254,780.00	
Annex 19B, Exhibit "RR"	4,711.00	
Annex 19C, Exhibit "RR"	2,142,523.00	
Annex 19D, Exhibit "RR"	27,455.00	
Annex 20A, Exhibit "RR"	4,525,424.00	
Annex 20B, Exhibit "RR"	22,039.00	

Annex 21A, Exhibit "RR"	3,237,982.00		
Annex 21B, Exhibit "RR"	75,571.00		
Annex 22A, Exhibit "RR"	1,482,640.00		
Annex 22B, Exhibit "RR"	129,060.00		
Annex 22C, Exhibit "RR"	123,857.00		
Total input taxes on importations	P 20,026,042.00		
Less: valid claim per this Court's verification	(13,633,015.00)	6,393,027.00	
Total Disallowed Input VAT-1st, 3rd & 4th Qtrs			20,091,261.05
Substantiated Claim - 1st, 3rd & 4th Qtrs of 2001			**P117,330,550.62**

Considering that the substantiated input VAT of P117,330,550.62 is net of petitioner's output tax liability for the first, third and fourth quarters of 2001, the same is entirely attributable to petitioner's effectively zero-rated sales for the same period. Further, while petitioner carried-over the substantiated input VAT of P117,330,550.62 to the succeeding quarters until the second quarter of 2003[38], the same was not applied against any output VAT liability and it was fully deducted as "Any VAT Refund/TCC Claimed"[39] in the second quarter of 2003. Therefore, the substantiated claim of P117,330,550.62 was no longer carried-over to the succeeding quarters.

In sum, the Court finds petitioner entitled to a refund or issuance of a tax credit certificate in the amount of P117,330,550.62 representing unutilized excess input VAT incurred in relation to its effectively zero-rated sales to the NPC for the first, third, and fourth quarters of taxable year 2001.

WHEREFORE, the instant Petition for Review is hereby **PARTIALLY GRANTED**. **ACCORDINGLY**, respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in the amount of **ONE HUNDRED SEVENTEEN MILLION THREE HUNDRED THIRTY THOUSAND FIVE HUNDRED FIFTY PESOS AND 62/100 (P117,330,550.62)** to petitioner Mirant Sual Corporation, representing unutilized input VAT from its domestic purchases

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[38] Exhibits "N", "O", "P", "Q", "T", and "U"
[39] Exhibit "U-11"

of goods and services and importation of goods attributable to its effectively zero-rated sales to the National Power Corporation for the first, third, and fourth quarters of taxable year 2001.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

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

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division

MIRANT SUAL CORPORATION
(formerly SOUTHERN ENERGY PANGASINAN, INC.)
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA CASE NOS. 6630 & 6733

Per Summary Annexed to Exhibit Z	Exhibit	Ref. No.	1st Qtr	3rd Qtr	4th Qtr	Total
Allowable Input VAT on Importations *(Annexes 7-1 to 7-7, Exhibit Z)*]						
Annex 7-1	HH-2864 to HH-2866	88561085		4,306.69		4,306.69
Annex 7-1	HH-2869 to HH-2871	88561024		4,140.81		4,140.81
Annex 7-1	HH-2921 to HH-2923	88561103		29,887.59		29,887.59
Annex 7-2	FF-1046	85704674	2,596.00			2,596.00
Annex 7-2	FF-1782	86364826	1,404.00			1,404.00
Annex 7-2	HH-2416 to HH-2418	88237387		2,000.00		2,000.00
Annex 7-2	HH-2421 to HH-2423	88237371		3,614.00		3,614.00
Annex 7-2	HH-2682 to HH-2684	89168021		2,382.00		2,382.00
Annex 7-2	HH-2714 to HH-2719	88866233		3,549.00		3,549.00
Annex 7-2	HH-2726 to HH-2728	88968713		2,229.00		2,229.00
Annex 7-3	FF-287	80264563	349.00			349.00
Annex 7-3	FF-1051	80265333	346.00			346.00
Annex 7-3	FF-1830	85910964	2,535.00			2,535.00
Annex 7-3	HH-2478 to HH-2480	88077972		179.00		179.00
Annex 7-3	HH-2722 to HH-2724	88070735		1,195.00		1,195.00
Annex 7-3	II-2883	88561724			151,778.00	151,778.00
Annex 7-3	II-3106	86120727			522.00	522.00
Annex 7-3	II-3111, II-3112	90264842			2,734.00	2,734.00
Annex 7-4	FF-176	7543437	56,602.00			56,602.00
Annex 7-4	FF-207, FF-208	7544432	30,935.00			30,935.00
Annex 7-4	FF-234, FF-236	7544685	21,444.00			21,444.00
Annex 7-4	FF-290	80265132	660.00			660.00
Annex 7-4	FF-304	80072474	58,203.00			58,203.00
Annex 7-4	FF-933	80072885	184,149.00			184,149.00
Annex 7-4	FF-943, FF-944	80072946	166,625.00			166,625.00
Annex 7-4	FF-951, FF-952	7545605	16,828.00			16,828.00
Annex 7-4	FF-958, FF-959	80072921	39,187.00			39,187.00
Annex 7-4	FF-995	80072833	37,066.00			37,066.00
Annex 7-4	FF-997	80072842	326,422.00			326,422.00
Annex 7-4	FF-1003	80072876	20,367.00			20,367.00
Annex 7-4	FF-1006, FF-1007	80072937	89,041.00			89,041.00
Annex 7-4	FF-1009, FF-1010	80072982	177,343.00			177,343.00
Annex 7-4	FF-1010, FF-1011	80072964	190,342.00			190,342.00
Annex 7-4	FF-1013, FF-1014	80072955	243,420.00			243,420.00
Annex 7-4	FF-1016, FF-1017	80072991	636,981.00			636,981.00
Annex 7-4	FF-1032	80072824	26,086.00			26,086.00
Annex 7-4	FF-1038	80072851	203,446.00			203,446.00
Annex 7-4	FF-1773	7546271	6,720.00			6,720.00
Annex 7-4	HH-2293 to HH-2295	7902553		10,066.00		10,066.00
Annex 7-4	HH-2297 to HH-2299	7902554		18,853.00		18,853.00
Annex 7-4	HH-2301 to HH-2303	7902552		22,763.00		22,763.00
Annex 7-4	HH-2384, HH-2386	7902567		20,133.00		20,133.00
Annex 7-4	HH-2403, HH-2405	83961936		176.00		176.00
Annex 7-4	HH-2407 to HH-2409	85067647		51.00		51.00
Annex 7-4	HH-2411 to HH-2413	80072912		835.00		835.00
Annex 7-4	HH-2465 to HH-2467	85085673		50.00		50.00
Annex 7-4	HH-2468	85085646		60.00		60.00
Annex 7-4	HH-2470 to HH-2472	7902596		11,990.00		11,990.00
Annex 7-4	HH-2474 to HH-2476	85085682		114.00		114.00
Annex 7-4	HH-2647 to HH-2649	85085637		100.00		100.00
Annex 7-4	HH-2788	1104155		151,214.00		151,214.00
Annex 7-4	HH-2911 to HH-2913	88561304		421,196.00		421,196.00
Annex 7-4	HH-2790, HH-2791	90185392		2,471.00		2,471.00
Annex 7-4	II-2485	92009136			3,119.00	3,119.00
Annex 7-4	II-2519	8346885			4,934.00	4,934.00

MIRANT SUAL CORPORATION
(formerly SOUTHERN ENERGY PANGASINAN, INC.)
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA CASE NOS. 6630 & 6733

Per Summary Annexed to Exhibit Z	Exhibit	Ref. No.	1st Qtr	3rd Qtr	4th Qtr	Total
Annex 7-4		86146261			3,921.00	3,921.00
Annex 7-4	II-2569	86137527			58.00	58.00
Annex 7-4	II-2570	88114905			71.00	71.00
Annex 7-4	II-2571	86145674			85.00	85.00
Annex 7-4	II-2643	88562336			97,063.00	97,063.00
Annex 7-4	II-2644	90645676			9,164.00	9,164.00
Annex 7-4	II-2679	8347014			33,223.00	33,223.00
Annex 7-4	II-2680	88562302			74,411.00	74,411.00
Annex 7-4	II-2687	88562293			134,113.00	134,113.00
Annex 7-4	II-2690	88562074			182,492.00	182,492.00
Annex 7-4	II-2754	88561681			123,025.00	123,025.00
Annex 7-4	II-2772	86146812			236.00	236.00
Annex 7-4	II-2803	88115377			3,005.00	3,005.00
Annex 7-4	II-2812	1120063			3,778.00	3,778.00
Annex 7-4	II-2808	8347507			39,253.00	39,253.00
Annex 7-4	Ii-2861	88562381			55,842.00	55,842.00
Annex 7-4	II-2886	8343998			124,598.00	124,598.00
Annex 7-4	II-2894	88561894			65,139.00	65,139.00
Annex 7-4	II-2897	88561916			204,104.00	204,104.00
Annex 7-4	II-2982	88561322			77,248.00	77,248.00
Annex 7-4	II-2984	1105152			6,720.00	6,720.00
Annex 7-4	II-2985	86128174			53.00	53.00
Annex 7-4	II-3065	88560726			7,068.00	7,068.00
Annex 7-4	II-3102, II-3103	8221976			6,768.00	6,768.00
Annex 7-4	II-3123				6,078.00	6,078.00
Annex 7-5	II-2515	1132539			6,080.00	6,080.00
Annex 7-5	II-2517	1132538			4,524.00	4,524.00
Annex 7-5	II-2549	8347664			12,778.00	12,778.00
Annex 7-6	HH-2442 to HH-2443	7896834		5,584.00		5,584.00
Annex 7-7	·35, HH-2438, HH-2439, HH-2440, HH	85059676		12.00		12.00
Annex 7-7	HH-2516 to HH-2518	7900918		6,919.00		6,919.00
Total Allowable Input VAT			**2,539,097.00**	**726,070.09**	**1,443,985.00**	**4,709,152.09**

Disallowed Input VAT on Importations *(Annexes 7-1 to 7-7, Exhibit Z)*

a.) Input taxes supported by BOC ORs dated outside the period of claim

Annex 7-2	FF-221	84852686	1,188.00			1,188.00
Annex 7-3	FF-243	83877771	2,168.00			2,168.00
Annex 7-3	FF-85, FF-87	84704103	4,965.00			4,965.00
Annex 7-3	FF-248	80252532	101.00			101.00
Annex 7-4	FF-273	80258692	95.00			95.00
Annex 7-7	FF-268	6813747	5,298.00			5,298.00

b.) Input taxes supported by undated BOC ORs

7-7	FF-215	85461327	2,944.00			2,944.00
7-7	FF-217	85465037	2,635.00			2,635.00
7-7	FF-219	85465405	1,919.00			1,919.00

c.) Input taxes supported by BOC ORs and/or bank statements issued under the petitioner's former name

Annex 7-2	HH-2498	88485652		1,801.00		1,801.00
Annex 7-2	HH-2503	88583984		1,491.00		1,491.00
Annex 7-2	HH-2849	89739571		1,930.00		1,930.00
Annex 7-2	II-3069	88921043			1,582.00	1,582.00
Annex 7-3	HH-2426	85074211		807.00		807.00
Annex 7-3	HH-2784	86100551		73.00		73.00
Annex 7-3	II-2925	88084927			12,145.00	12,145.00

MIRANT SUAL CORPORATION
(formerly SOUTHERN ENERGY PANGASINAN, INC.)
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA CASE NOS. 6630 & 6733

Per Summary Annexed to Exhibit Z	**Exhibit**	**Ref. No.**	**1st Qtr**	**3rd Qtr**	**4th Qtr**	**Total**
Annex 7-3	II-2945				173.00	173.00
Annex 7-4	HH-2430	1098247		22,736.15		22,736.15
Annex 7-4	HH-2950	86105774		2,165.00		2,165.00
Annex 7-4	HH-2963	88086801		96.00		96.00
Annex 7-4	II-2528	88561121			79,066.00	79,066.00
Annex 7-4	II-2591	88079661			622.00	622.00
Annex 7-4	II-2593	88561934			774.00	774.00
Annex 7-4	II-2678	8340112			33,128.00	33,128.00
Annex 7-6		787373	28,132.00			28,132.00
Annex 7-6	HH-2446, HH-2447	7899739		44,934.00		44,934.00
Annex 7-7	HH-2335 to HH-2336	88560096		36,369.00		36,369.00
Annex 7-7	HH-2335 to HH-2336	88560096		242,335.00		242,335.00
Annex 7-7		80074626		44,784.00		44,784.00
Annex 7-7		80074942		4,783.00		4,783.00
Annex 7-7		86114944		25.00		25.00
c.) Input taxes without supporting documents						
Annex 7-3		88561742			3,177.00	3,177.00
Annex 7-4		80264222	322.00			322.00
Annex 7-4		77513624	173.00			173.00
Annex 7-4		77521385	41.00			41.00
Annex 7-4		79017472		8,114.00		8,114.00
Annex 7-4		7902627		7,602.00		7,602.00
Annex 7-4		88562801			283,429.00	283,429.00
Annex 7-4		86155447			173.00	173.00
Annex 7-7		7517813	5,100.00			5,100.00
Annex 7-7		84684984	7,784.00			7,784.00
Annex 7-7		7544663	27,232.00			27,232.00
Annex 7-7		7545118	37,416.00			37,416.00
Annex 7-7		80072851	21,912.00			21,912.00
Annex 7-7		7889383	6,507.00			6,507.00
Annex 7-7		7547173	4,755.00			4,755.00
Annex 7-7		7900919		7,554.00		7,554.00
Annex 7-7		1102840		28,825.00		28,825.00
Annex 7-7		88560324		48,320.00		48,320.00
Annex 7-7		11042121		26,579.00		26,579.00
Annex 7-7		10505270			28,353.00	28,353.00
Annex 7-7		8347507			40,119.00	40,119.00
Annex 7-7		88561435			844.00	844.00
Annex 7-7		86130931			333.00	333.00
Total Disallowed Input VAT			**160,687.00**	**531,323.15**	**483,918.00**	**1,175,928.15**
GRAND TOTAL			**2,699,784.00**	**1,257,393.24**	**1,927,903.00**	**5,885,080.24**