REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LAZI BAY RESOURCES DEVELOPMENT, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5822

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
NOV 20 2001

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DECISION

This Petition for Review is seeking for the refund of alleged unutilized input value-added tax (VAT, for brevity) on domestic purchases of goods and services and importation of goods attributable to zero-rated export sales in the total amount of P27,371,391.28 (originally in the amount of P48,047,134.56) for the calendar year ended December 31, 1997.

Petitioner is a corporation duly existing under and by virtue of the laws of the Philippines with principal office address located at Rm. 107, FCC Building, 119 Rada Street, Makati City. It is engaged in the mining business which includes the exploration, development and operation of mining properties for purposes of commercial production of limestone and the subsequent export sale thereof. It is registered with the Bureau of Internal Revenue as a VAT taxpayer with Certificate of Registration bearing RDO Control No. 96-047-005989 dated February 1, 1996 (Exhibit "I"). It is likewise registered with the Board of Investments in accordance with the provisions of the

Omnibus Investments Code of 1987 enjoying a four-year income tax holiday from the start of its commercial operation (Exhibits "N" and "N-1").

For the four calendar quarters of the year 1997, Petitioner filed its quarterly Value-Added Tax Returns stating therein that it had not yet started its commercial operations (Exhibits "A", "C", "E", and "G"). These VAT returns were simultaneously amended on October 26, 1998 reflecting a nil output VAT but with an aggregate input VAT in the amount of P27,371,391.28, detailed as follows:

Period Covered	Exhibit	Output VAT	Input VAT Domestic	Input VAT Importation
1st Qtr. 1997	B,B-1,B-2	P 0.00	P12,565,362.61	P2,475,616.70
2nd Qtr. 1997	D,D-1,D-2	0.00	5,134,094.38	4,511,713.99
3rd Qtr. 1997	F,F-1,F-2	0.00	1,461,042.52	506,951.00
4th Qtr. 1997	H, H-1,H-2	0.00	629,372.08	87,238.00
Total		P 0.00	P19,789,871.59	P7,581,519.69

Pursuant to BIR Revenue Audit Memorandum Order No. 2-93, Petitioner simultaneously filed on November 27, 1998, with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance, four separate Applications for Tax Credit/Refund of Value-Added Tax Paid covering the aforementioned input taxes per their respective quarters (Exhibits "J", "J-1", "J-2", "K", "K-1", "K-2", "K-3", "L", "L-1", "L-2", "L-3","K", "K-1", "K-2", and "K-3").

Petitioner waited for more than sixty (60) days for the Respondent to act on said applications as ruled under Section 106(d) of the Tax Code, as amended. Since no action was forthcoming, Petitioner was compelled to file on April 20, 1999 the instant petition for review in order to preserve its right to judicially claim the refund of unutilized input VAT payments.

During the proceedings of the case, the Department of Finance processed, approved and recommended the issuance of two tax credit certificates. The first tax credit certificate was issued by the Bureau of Internal Revenue on May 25, 2000 in the total amount of P22,496,039.39 representing input taxes on domestic purchases of goods and services for the calendar years 1996 and 1997. This was evidenced by Tax Credit Certificate SN 023132 (CTA records, p. 138-a). The second tax credit certificate was issued by the Bureau of Customs on December 22, 2000 in the aggregate amount of P14,793,122.00 representing input VAT payments on importation of goods for the calendar years 1996 and 1997 as evidenced by Tax Credit Certificate SN 00170107 (CTA records, p. 186). The details of the above certificates are as follows:

	1997	1996	Total
Domestic Input VAT (SN 023132)	P13,995,967.06	P 8,500,072.33	P22,496,039.39
VAT on Importation (SN 00170107)	6,828,141.00	7,964,981.00	14,793,122.00
Total Amount Granted	P20,824,108.06	P16,465,053.33	P37,289,161.39

The issuance of the aforementioned tax credit certificates settled the issue of Petitioner's entitlement to the input taxes sought.

What remains to be resolved is the issue of the remaining amount of P6,547,283.22 representing the balance of the input taxes on domestic purchases of goods and services and on importation of goods for the year 1997 which was not covered by the tax credit certificates issued by the Bureau of Internal Revenue and the Bureau of Customs. The breakdown of said balance is presented in the table below:

	Input VAT		
	Domestic	Importation	Total
Per Petitioner's Claim	P19,789,871.59	P7,581,519.69	P27,371,391.28
Less: TCC Granted			
a) SN 023132	13,995,967.06		13,995,967.06
b) SN 00170107		6,828,141.00	6,828,141.00
Unrefunded Balance of the claim	P 5,793,904.53	P 753,378.69	P 6,547,283.22

Now the issue to be resolved is whether or not Petitioner is still entitled to the remaining amount of P6,547,283.22.

Due to the voluminous nature of the documents to be presented, the Court commissioned SGV & Company pursuant to CTA Circular 1-95, as amended, to conduct a special audit and examination of various receipts, invoices and other long accounts relative to the present case (TSN, September 16, 1999, pp. 2 to 5).

In a report dated January 27, 2000 and prepared by Mr. Ruben R. Rubio, Audit Partner of SGV & Company, the following findings were presented to the Court: (Exhibits "R" and "R-1")

(In Pesos)	1st qtr.	2nd qtr.	3rd qtr.	4th qtr.	Total
Input Taxes on Importation *(Annex A)*	2,475,616.64	4,511,713.99	506,951.00	87,238.00	7,581,519.63
Input taxes on purchases of:					
Services without VAT Ors *(Annex B-1 to B-4)*	6,530,825.18	884,494.33	393,020.20	72,797.57	7,881,137.28
Services without VAT Ors due to offseting of accounts *(Annex C)*	53,051.82	41,601.82	17,523.64	-	112,177.28

Goods without VAT Invoices *(Annex D)*	35,832.73	132,628.80	29,874.71	9,321.90	207,658.14
Goods supported by Invoice issued not in Company's *name (Annex E)*	41,150.45	-	-	-	41,150.45
Goods supported by Invoices without BIR Permit *(Annex F)*	10,475.70	419,110.41	-	-	429,586.11
Goods supported by Photo-copied Invoice *(Annex G)*	309.40	-	-	-	309.40
Goods supported by Invoices with Stamped TIN/TIN-V *(Annex H)*	676.18	5,750.78	3,760.30	24,639.55	34,826.81
Subtotal	6,672,321.46	1,483,586.14	444,178.85	106,759.02	8,706,845.47
TOTAL	9,147,938.10	5,995,300.13	951,129.85	193,997.02	16,288,365.10

Out of the total amount of P27,371,392.28 input taxes claimed by Petitioner, the independent CPA recommended the deduction of P8,706,845.48 (should be P8,706,845.47) representing the input taxes on local purchases of goods and services but made a reservation with respect to the input taxes on importation of goods.

The independent CPA noted that the import entry declarations were supported only by photocopied documents, but the original copies thereof bearing the full payments were verified and seen. Hence, only the exceptions on local purchases of goods and services in the amount of P8,706,845.48 were the ones recommended to be deducted from the total amount of the claim for refund of P27,371,392.28. This will leave a balance of P18,664,546.80 as the recommended allowable refund (TSN, January 31, 2000, pp. 20 to 22).

If we compare the amount of P18,664,546.80 recommended by the commissioned independent CPA with the total amount of P20,824,108.06 granted by the Bureau of Internal Revenue and the Bureau of Customs, we will have a bigger figure already given to Petitioner. Since it is very clear that the total amount of P20,824,108.06 awarded to Petitioner is greater than the amount recommended by the auditor of P18,664,546.80, there seems to be no balance that can still be granted to Petitioner. Note that the audit conducted by the independent CPA covered the full amount of the claim – P27,371,392.28 without deducting the amounts already granted via the tax credit certificates earlier mentioned.

It also bears stressing that the invoices and offici ıl receipts pertaining to the input taxes in question were already examined by both the revenue examiners and the commissioned independent CPA, hence, their findings are afforded great weight and hereby adopted in arriving at the final conclusion of this case.

WHEREFORE, in view of the foregoing, the further issuance of a tax credit certificate representing the remaining balance of the claim for refund is hereby **DENIED** for lack of merit.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

JUANITO C. CASTAÑEDA, JR.
Associate Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge