REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MTI ADVANCED TEST DEVELOPMENT CORPORATION, *Petitioner,*	**CTA Case No. 9494**
	Members:
-versus-	**CASTAÑEDA, JR.**, *Chairperson* **CASANOVA**, *and* **MANAHAN**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 2 6 2018 4:00 p.m.

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DECISION

MANAHAN, *J.:*

This involves a Petition for Review[1] filed by MTI Advanced Test Development Corporation for its claim for refund or issuance of a tax credit certificate (TCC) in the total amount of ₱9,732,065.36, allegedly representing its unutilized input value-added taxes (VAT) paid on its domestic purchases of taxable goods, services and capital goods, and importation of goods and capital goods attributable to its zero-rated sales for the period covering April 1, 2014 to March 31, 2015.

THE PARTIES

Petitioner MTI Advanced Test Development Corporation is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines and duly registered with the Securities and Exchange Commission (SEC), with principal office at 3rd Floor BPI Philam Life Alabang, Alabang-

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[1] Docket, CTA Case No. 9494, pp. 10-20.

Zapote Road corner Acacia Avenue, Madrigal Business Park, Alabang, Muntinlupa City.[2]

Respondent is the duly appointed Commissioner of the BIR who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the 1997 National Internal Revenue Code (NIRC), as amended, or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

THE FACTS

Petitioner is 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.[3] Petitioner is also registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, with Taxpayer Identification No. (TIN) 006-674-191-000.[4]

Being engaged in the above-mentioned business, petitioner was registered as a "New IT Export Service Firm in the Field of Software Development (Test Programs for Semiconductor Industry)" with the Board of Investments (BOI), enjoying the privileges granted by the said agency. It was issued a Certificate of Registration No. 2007-109.[5]

For the period covering April 1, 2014 to March 31, 2015, petitioner generated and recorded zero-rated sales in the amount of ₱284,935,399.08, which was paid for in acceptable foreign currency and inwardly remitted in accordance with the existing regulations of the *Bangko Sentral ng Pilipinas* (BSP), pursuant to Section 106(A)(2)(a)(1), (2) and (3) of the 1997 NIRC, as amended. In the same period, petitioner incurred and paid input taxes amounting to ₱9,732,065.36 from domestic

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[2] Docket, Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Simplification of Issues (JSFSI), pp. 166-167.
[3] *Id.*, Exhibit "ICPA-P9-4", CD; Par. 3, Petition for Review, p. 11.
[4] *Id.*, Exhibit "P-13", p. 319.
[5] *Id.*, Exhibit "P-12", p. 318.

purchases of goods, services and capital goods, and importation of goods and capital goods which were all attributable to petitioner's zero-rated sales.[6]

On June 23, 2016, petitioner filed its Applications for Tax Credits/Refund (BIR Form No. 1914) with the BIR, requesting the refund of its purported unutilized input VAT for the four quarters of fiscal year (FY) 2015, summarized as follows:

PERIOD COVERED (FY 2015)	TAX CREDIT APPLIED
1st Quarter[7]	₱ 2,703,888.05
2nd Quarter[8]	2,127,439.23
3rd Quarter[9]	2,291,267.68
4th Quarter[10]	2,609,470.40
TOTAL	**₱ 9,732,065.36**

Due to respondent's inaction on petitioner's application for refund/tax credit within the period provided under Section 112 of the 1997 NIRC, as amended, petitioner filed the instant Petition for Review[11] before this Court on November 17, 2016.

Respondent filed his Answer via registered mail on January 13, 2017 which was received by the Court on January 19, 2017, interposing the following special and affirmative defenses:[12]

> **"SPECIAL AND AFFIRMATIVE DEFENSES"**
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> 5. He reiterates and repleads the preceding paragraphs of this Answer as part of his Special and Affirmative Defenses;
>
> 6. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable;

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[6] Pars. 6-8, Petitioner's Memorandum, docket, p. 360.
[7] Exhibit "P-5", docket, p. 296.
[8] Exhibit "P-6", docket, p. 297.
[9] Exhibit "P-7", docket, p. 298.
[10] Exhibit "P-8", docket, p. 299.
[11] Docket, pp. 10-18.
[12] Docket, pp. 72-75.

7. Petitioner's claim for refund or issuance of tax credit certificate in the amount of **Php9,732,065.36**, allegedly representing its unutilized input VAT attributable to its zero-rated export sales for the taxable period covering April 1, 2014 to March 31, 2015 evidently failed to comply with the substantiation requirements prescribed under Revenue Regulations No. 16-2005 in relation to Section 113 and 237 of the 1997 Tax Code, as well as, the conditions/requirements prescribed under Section 112(A)(C)(D) of the 1997 Tax Code.

8. Petitioner has the burden of proof to establish its right to the claimed refund and failure to adduce sufficient proof is fatal to its claim. **It is axiomatic that the applicant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefor. *(J.R.A. Philippines, Inc., vs. CIR, G.R. No. 171307, August 28, 2013)***

9. Petitioner failed to comply with the conditions/requirements prescribed under Sections 106(A)(2)(a)(1) and 112(A)(C)(D) of the 1997 Tax Code.

10. The amount subject of the claim for refund/tax credit of petitioner do not pertain in full to its input VAT attributable to its zero-rated export sales for the taxable period covering April 1, 2014 to March 31, 2015, pursuant to Section 106 (A)(2)(a)(1) of the 1997 Tax Code;

11. Claims for refund are construed strictly against herein petitioner for the same partakes 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 1211)*** Following the latin principle, ***Ei incumbit probatio qui dicit, no qui negat*** (He who asserts, not he who denies, must prove), petitioner has the burden to prove with the required quantum of evidence of its entitlement to the claimed refund, and the court will render its decision on the basis of the facts proven and the

> evidence presented applying the law and jurisprudence applicable to the issue under consideration, even if no controverting evidence was ever presented by the respondent."

Petitioner filed its Pre-Trial Brief on January 30, 2017; while respondent submitted his Pre-Trial Brief on January 31, 2017.[13] The parties then submitted their Joint Stipulation of Facts and Simplification of Issues[14] on February 15, 2017.

Petitioner filed a Motion to Commission an Independent Certified Public Accountant[15] on February 20, 2017; which the Court granted by commissioning Ms. Ofelia C. Flores as the Independent Certified Public Accountant (CPA) for the case. The Court-commissioned Independent CPA submitted her report on April 25, 2017.[16]

Petitioner presented Ms. Beverly M. Viray[17], its Accounting Supervisor and Treasurer, and Ms. Maria Eugene M. Ibañez[18], its Accountant, who testified during the hearing on March 15, 2017[19] and identified their judicial affidavits.

Subsequently, petitioner filed its Formal Offer of Evidence[20] on June 19, 2017, consisting of Exhibits "P-1" to "P-18-1" and "ICPA P1-1" to "ICPA P11-32", inclusive of submarkings. On the other hand, respondent filed a Manifestation and Motion manifesting his lack of objection to the admission of petitioner's exhibits.[21]

In the Resolution[22] dated August 11, 2017, the Court admitted all of petitioner's formally offered documentary evidence.

During the hearing on August 14, 2017, respondent, through counsel, manifested that he will not be presenting any

[13] Docket, pp. 140-149 and 160-162, respectively.
[14] Docket, pp. 166-170.
[15] Docket, pp. 171-173.
[16] Exhibit "P-18", ICPA Report.
[17] Exhibit "P-14, Judicial Affidavit, docket, pp. 247-260.
[18] Exhibit "P-15, Judicial Affidavit, docket, pp. 150-157.
[19] Minutes of the Hearing, docket, p. 196.
[20] Docket, pp. 231-246.
[21] Docket, p. 336.
[22] Docket, pp. 340-341

evidence.[23] The Court then directed the parties to submit their respective memoranda within thirty (30) days.[24]

On September 13, 2017, respondent manifested that he is adopting all his factual/legal arguments and affirmative defenses stated in his Answer to the Petition for Review as his Memorandum.[25] On the other hand, the Court received the Memorandum[26] of petitioner on September 27, 2017.

Hence, the Court declared the case submitted for decision as of October 10, 2017.[27]

ISSUES

The parties submitted the following issues for the Court's resolution:[28]

> 1. Whether or not petitioner's alleged export sales for the period April 1, 2014 to March 31, 2015 are zero-rated for VAT purposes under Sections 106 (A)(2)(a)(1) of the 1997 NIRC, as amended.
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> 2. Whether or not petitioner has carried over to the succeeding taxable quarters/years the alleged unutilized input VAT paid on its domestic purchases of goods, services and capital goods, as well as importation of goods and capital goods allegedly attributable to its zero-rated export sales for the period April 1, 2014 to March 31, 2015 and applied the same amount in full to its output VAT liability for the said period, if any.
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> 3. Whether or not the amount of ₱9,732,065.36, being claimed by petitioner as unutilized input VAT paid on its domestic purchases of goods, services and capital goods, as well as importation of goods and capital goods and attributable to its zero-rated

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[23] Docket, Minutes of the Hearing, p. 342.
[24] *Id.*, Order, p. 343.
[25] *Id.*, Manifestation and Motion, pp. 354-355.
[26] *Id.* at pp. 358-382.
[27] *Id.*, Resolution, p. 385.
[28] *Id.*, Issues, JSFSI, pp. 168-169.

export sales for the period April 1, 2014 to March 31, 2015, pertains in full to its zero-rated export sales.

4. Whether or not petitioner has complied with the mandatory substantiation requirements under Section 113 and 237 of the 1997 NIRC, as amended, in relation to Revenue Regulations No. 16-2005.

5. Whether or not petitioner has complied with the requirements under Section 112(A)(C)(D) of the 1997 NIRC, as amended.

6. Whether or not petitioner is entitled to the claim for refund/tax credit in the amount of ₱9,732,065.36, representing its unutilized input VAT arising from its domestic purchases of goods, services and capital goods, as well as importation of goods and capital goods and attributable to its zero-rated export sales for the period April 1, 2014 to March 31, 2015.

The foregoing issues can be summarized as follows:

Whether or not petitioner is entitled to a refund or issuance of TCC in the amount of ₱9,732,065.36, representing its alleged unutilized input VAT arising from its domestic purchases of goods, services and capital goods, as well as importation of goods and capital goods and attributable to its zero-rated export sales for the period covering April 1, 2014 to March 31, 2015.

Petitioner's Arguments[29]

Petitioner argues that it is entitled to a tax credit/refund of input VAT in the total amount of Php9,732,065.36 covering the period from April 1, 2014 to March 31, 2015 and it is a VAT registered entity subject to VAT at zero percent on its export sales.

Petitioner also argues that its claim for refund was timely filed and its export sales of taxable goods and services to persons doing business outside the Philippines are paid for in

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[29] *Supra*. Note 26.

acceptable foreign currency. Further, its input VAT were all attributable to its zero-rated sales and such input taxes have not been applied against any output tax. Also, its documentary and testimonial evidence supports its claim for tax credit/refund unlike that of respondent who did not present any evidence to oppose its claim.

Respondent's Counter-Arguments[30]

Respondent, on the other hand, argues that petitioner has the burden of proof to establish its right to the claimed refund and it failed to comply with the conditions/requirements prescribed under Sections 106(A)(2)(a)(1) and 112(A)(C)(D) of the 1997 NIRC, as amended.

Respondent also argues that the amount subject of the claim for tax refund/credit is not attributable to its zero-rated export sales for taxable period covering April 1, 2014 to March 31, 2015 pursuant to Section 106(A)(2)(a)(1) of the 1997 NIRC, as amended.

RULING OF THE COURT

Pertinent to the resolution of the instant case is Section 112(A) and (C) of the 1997 NIRC, 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 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 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

[30] *Supra.* Note 25.

> 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.
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> xxx xxx xxx
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> (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.
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> 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."

Based on the foregoing provision, 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, the following requisites must be satisfied:

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.

Petitioner's claim for refund was timely filed

The Court shall determine first whether petitioner complied with the first requisite involving the timeliness of the filing of the administrative and judicial claims.

Applying the above-quoted Section 112(A) of the 1997 NIRC, 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 claim for the four taxable quarters of FY ending March 31, 2015 fell on the following dates:

TAXABLE PERIOD		**END OF 2-YEAR PERIOD**
April to June 2014	(1st Quarter)	June 30, 2016
July to September 2014	(2nd Quarter)	September 30, 2016
October to December 2014	(3rd Quarter)	December 31, 2016
January to March 2015	(4th Quarter)	March 31, 2017

Clearly, petitioner timely filed its Applications for Tax Credits/Refund with the BIR on June 23, 2016.[31]

As to the timeliness of petitioner's judicial claim, Section 112(C) of the 1997 NIRC, as amended, provides that the BIR Commissioner has one hundred twenty (120) days from the date of submission of the complete documents in support of the application for refund or tax credit within which to grant or deny the claim.

In case of full or partial denial by the BIR Commissioner, the taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the decision of the BIR Commissioner. However, if after the 120-day period, the BIR Commissioner fails to act on the application for refund/tax credit, the remedy of the taxpayer is to appeal the inaction of the BIR Commissioner to the CTA within 30 days from the expiration of the said period.

Counting from the filing of the administrative claim on June 23, 2016, the 120-day period ended on October 21, 2016. From the said date, petitioner had 30 days, or until November 20, 2016, to appeal with the Court of Tax Appeals. Clearly, the Petition for Review was filed on time on November 17, 2016[32]. Therefore, both the administrative and the judicial claims for refund were timely filed.

[31] Docket, Exhibits "P-5" to "P-8", p. 296.
[32] *Id.*, Petition for Review, p. 10.

Petitioner's sales of service were zero-rated or effectively zero-rated sales

In its Quarterly VAT Returns for the FY ending March 31, 2015, petitioner reported zero-rated sales in the total amount of ₱284,935,399.08, broken down as follows:

REFERENCE	PERIOD COVERED	AMOUNT OF ZERO-RATED SALES
Exhibit "P-1"[33]	1st Quarter	₱ 67,333,600.27
Exhibit "P-2"[34]	2nd Quarter	71,850,795.47
Exhibit "P-3"[35]	3rd Quarter	78,186,927.35
Exhibit "P-4"[36]	4th Quarter	67,564,075.99
TOTAL		**₱284,935,399.08**

Petitioner submits that its sales of services to its various non-resident affiliates, the consideration for which was paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP, are subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the 1997 NIRC, as amended, to wit:

> "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:
>
> (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, the consideration for which is paid for in acceptable foreign

[33] Docket, pp. 261-263.
[34] *Id.* at pp. 270-272.
[35] *Id.* at pp. 279-281.
[36] *Id.* at pp. 288-290.

currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[37], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the 1997 NIRC, as amended, the following requisites must be satisfied:

1. the services must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is 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, petitioner is primarily engaged in providing engineering services in the areas of product validation and qualification, characterization and the development of manufacturing test procedures, and engaged in promoting business opportunities in connection with a variety of CMOS components to support the market for cost-effective embedded control solutions; and in providing sales and technical support services to Microchip sales channel and customers.[38] Clearly, the enumerated services are in no way the same as "processing, manufacturing or repacking of goods".

Second, the services rendered by petitioner to its non-resident foreign affiliates were duly supported by official receipts and billing invoices, denominated in US Dollars, which were inwardly remitted as evidenced by bank credit memos, settlement advices, and Certifications issued by the Bank of the Philippine Islands.[39]

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[37] G.R. No. 153205, January 22, 2007.
[38] Exhibit "ICPA-P9-4".
[39] Exhibits "ICPA-P1-1" to "ICPA-P1-156", CD.

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** SEC 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). Thus, the following clients of petitioner shall be considered as non-resident foreign corporations doing business outside the Philippines:

Customer	**SEC Certification of Non-Registration**	**Certificate of Incorporation/ Memorandum of Association/ Articles of Association**
Microchip Technology Incorporated	"ICPA-P11-1"	"ICPA-P11-2" to "ICPA-P11-11"
Microchip Technology Ireland	"ICPA-P11-12"	"ICPA-P11-13" to "ICPA-P11-29"
Microchip Technology (Thailand) Co., Ltd.	"ICPA-P11-30"	"ICPA-P11-31" to "ICPA-P11-32"

Accordingly, petitioner's sales of services rendered to the afore-mentioned entities for the four quarters of FY ending March 31, 2015 in the total amount of USD6,415,927.07, with peso equivalent of ₱284,935,399.08,[40] qualify for VAT zero-rating pursuant to Section 108(B)(2) of the 1997 NIRC, as amended.

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

With the finding that petitioner had valid zero-rated sales for the period of claim, the Court shall now determine the amount of unutilized excess input VAT attributable thereto.

For the 1st to 4th quarters of FY ending March 31, 2015, petitioner reported input VAT in the total amount of ₱9,732,065.36, which is the subject of the present claim, broken down as follows:

[40] Exhibit "P-18", Annex E.

	1st Quarter Apr to June 2014 Exhibit "P-1"	2nd Quarter July to Sept 2014 Exhibit "P-2"	3rd Quarter Oct to Dec 2014 Exhibit "P-3"	4th Quarter Jan to Mar 2015 Exhibit "P-4"	TOTAL
Input tax on capital goods exceeding ₱1M					
Input Tax Deferred on Capital Goods Exceeding ₱1M	₱ 1,493,332.27	₱ 2,890,730.07	₱ 2,874,781.11	₱ 5,021,704.41	₱ 12,280,547.86
Purchase of Capital Goods Exceeding ₱1M	1,625,890.00	198,238.00	2,479,239.52	1,446,637.38	5,750,004.90
Total	₱ 3,119,222.27	₱ 3,088,968.07	₱ 5,354,020.63	₱ 6,468,341.79	₱ 18,030,552.76
Less: Input Tax on Purchases of Capital Goods exceeding ₱1M deferred for the succeeding period	2,890,730.07	2,874,781.11	5,021,704.41	6,046,573.51	16,833,789.10
Amortization of Input VAT	**₱ 228,492.20**	**₱ 214,186.96**	**₱ 332,316.22**	**₱ 421,768.28**	**₱ 1,196,763.66**
Domestic purchases of goods and services other than capital goods					
Domestic Purchases of Goods Other than Capital Goods	₱ 94,662.46	₱ 244,823.34	₱ 119,962.95	₱ 326,866.47	₱ 786,315.22
Domestic Purchases of Services	1,589,628.39	981,675.93	1,107,306.51	1,077,808.65	4,756,419.48
Sub-total	***₱ 1,684,290.85***	***₱ 1,226,499.27***	***₱ 1,227,269.46***	***₱ 1,404,675.12***	***₱ 5,542,734.70***
Importation of Goods Other than Capital Goods	791,105.00	686,753.00	731,682.00	783,027.00	2,992,567.00
Total Input	**₱ 2,703,888.05**	**₱ 2,127,439.23**	**₱ 2,291,267.68**	**₱ 2,609,470.40**	**₱ 9,732,065.36**

To substantiate the foregoing, petitioner submitted in evidence various official receipts and invoices issued by its local suppliers,[41] importation and declaration documents, invoices, certificate of inward remittances, bank credit memos, and official receipts[42]; which were duly examined by the Court-commissioned Independent CPA. The Independent CPA Report noted the following exceptions:[43]

Finding	Reference	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Disallowed Input VAT
Purchases of local goods not supported by suppliers' sales invoices	Annex A.1		₱ 38,107.65		₱ 55,362.91	₱ 93,470.56
Purchase of local goods: suppliers' sales invoices with incomplete breakdown of VAT	Annex A.2				1,869.64	1,869.64
Purchases of local goods not within the 1st to 4th quarters of 2015	Annex A.3	₱ 35,111.52			480.00	35,591.52
Purchases of services not supported by suppliers' official receipts	Annex A.4			₱ 2,040.74		2,040.74

[41] Exhibits "ICPA-P2-1" to "ICPA-P2-550", "ICPA-P4-1" to "ICPA-P4-2", and "ICPA-P5-1" to "ICPA-P4-20".

[42] Exhibits "ICPA-P3-1" to "ICPA-P3-968".

[43] Exhibit "P-18", Annex G.

Purchases of services not within the 1st to 4th quarters of 2015	Annex A.5	108.56			26,838.70	26,947.26
Purchases of imported goods not within the 1st to 4th quarters of 2015	Annex A.6	14,244.00				14,244.00
Purchase of imported goods not supported by suppliers' commercial invoice	Annex A.7				919.00	919.00
Purchases of imported goods not supported by Statement of Settlement of Duties and Taxes from Bureau of Customs	Annex A.8			6,135.00	27,804.00	33,939.00
Purchase of capital goods not supported by suppliers' sales invoices	Annex A.9				29,560.30	29,560.30
Reclassification of input VAT incorrectly classified as deferred input VAT from CIP - Capital Goods instead of purchase of services	Annex A.10			10,295.75	52,836.45	63,132.20
Disallowed deferred input VAT from CIP – Services treated as capital goods from previous year	Annex A.11	18,545.51	18,545.51	18,545.51	18,545.51	74,182.04
Reclassification of input VAT incorrectly classified as deferred input VAT from aggregate capital goods below ₱1,000,000	Annex A.12			6,035.71	11,801.19	17,836.90
Grand Total		**₱ 68,009.59**	**₱ 56,653.16**	**₱ 43,052.71**	**₱ 226,017.70**	**₱ 393,733.16**

Upon further scrutiny of the supporting documents, the Court finds that in addition to the exceptions noted by the Independent CPA, the following input taxes amounting to ₱65,018.65 should be disallowed for the reasons stated below:

Date	Supplier	Annex D.1 Exhibit	Disallowed Input VAT
1. Input tax on purchases of services not separately indicated in the official receipts			
23-May-14	Golden Reef Food Services, Inc.	"ICPA-P2-42"	₱ 161.57
13-Aug-14	Federal Express Pacific, Inc.	"ICPA-P2-171"	107.57
13-Jan-15	Teradyne Philippines, Ltd.	"ICPA-P2-526"	50,065.05
2. Input tax on purchases of services supported by official receipt dated outside the period of claim			
10-Aug-15	Center for Training & Development, Inc.	"ICPA-P2-157"	10,140.00
3. Input tax on purchase of services supported by official receipt but no year indicated therein			
27-Oct	Cavallino Inc.	"ICPA-P2-300"	296.25
4. Input tax on purchase of goods supported by invoice not duly registered with the BIR			

9-Mar-15	Abenson Ventures, Inc.	"ICPA-P2-409"	4,248.21
Total			**₱ 65,018.65**

Also, the amortizations of the input VAT on purchases of capital goods totaling ₱476,926.60, as presented below, should be disallowed from petitioner's claim for failure to present the supporting documents:

Particulars	**Amortization (Annex D.4)**				**Total Disallowed Input VAT**
	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	
Temperature Forcing System	₱ 8,964.60	₱ 5,976.40	₱ -	₱ -	₱ 14,941.00
Semiconductor System	31,534.95	31,534.95	31,534.95	31,534.95	126,139.80
Thermojet	8,908.71	8,908.71	8,908.71	8,908.71	35,634.84
IQxel Test System and Rack Mount Kit	8,420.52	8,420.52	8,420.52	8,420.52	33,682.08
Base Channel BD / SW Enabled to 4M	41,719.20	-	-	-	41,719.20
Thermojet ES-Precision	9,833.70	9,833.70	9,833.70	9,833.70	39,334.80
Diamond 10 System	32,152.77	32,152.77	32,152.77	32,152.77	128,611.08
PABX Network System	14,215.95	14,215.95	14,215.95	14,215.95	56,863.80
Total	**₱155,750.40**	**₱111,043.00**	**₱105,066.60**	**₱105,066.60**	**₱476,926.60**

In sum, only the amount of ₱8,796,386.95 represents petitioner's valid input VAT attributable to its zero-rated sales for the four quarters of FY ending March 31, 2015, as computed below:

Input VAT Claim		₱ 9,732,065.36
Less: Disallowances		
Per ICPA Findings		393,733.16
Per this Court's Findings		
Input VAT on purchases of goods and services	₱ 65,018.65	
Amortizations of input VAT on purchases of capital goods exceeding ₱1Million	476,926.60	541,945.25
Substantiated Input VAT		**₱ 8,796,386.95**

As to whether or not the said input VAT was applied against any output VAT and/or carried over to the succeeding taxable quarters, petitioner's Quarterly VAT Returns for the subject period of claim showed that petitioner had no output tax liability against which the claimed input VAT may be applied or credited.[44] Moreover, as evidenced by its Quarterly VAT

[44] Docket, Line 19B, Exhibits "P-1" to "P-4", pp. 261, 270, 279, and 288.

Returns[45], the input VAT claim was deducted from petitioner's total available input tax in the second to fourth quarters of FY ending March 31, 2015 and first quarter of the following taxable year. Consequently, the subject claim no longer formed part of the excess input VAT of ₱3,344,544.96 as of the first quarter of FY ending March 31, 2016.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱8,796,386.95**, representing the latter's unutilized input VAT attributable to its zero-rated sales for the four quarters of FY ending March 31, 2015.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
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.

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

[45] *Id.*, Exhibits "P-2" to "P-4" and "P-9", pp. 270, 279, 288, and 300.

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