REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL SECOND DIVISION

CE LUZON GEOTHERMAL POWER COMPANY, INC., Petitioner,	**C.T.A. CASE NOS. 6792 and 6837**
	Members:
- versus -	**CASTAÑEDA,** *Chairperson, and* **UY,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** SEP 07 2016 9:10 a.m.

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AMENDED DECISION

UY, *J.:*

This is an Amended Decision rendered only in **CTA Case No. 6837** pursuant to the Decision of the Supreme Court in the case of **"Commissioner of Internal Revenue, petitioner, v. CE Luzon Geothermal Power Company, Inc., respondent"** docketed as **G.R. No. 190198** promulgated on September 17, 2014[1], the dispositive portion of which reads as follows:

> "**WHEREFORE**, the petition is **PARTIALLY GRANTED**. The Decision dated September 1, 2009 and the Resolution dated November 6, 2009, of the Court of Tax Appeals (CTA) *En Banc* in C.T.A. EB No. 474 are hereby **AFFIRMED** with **MODIFICATION DENYING** CE Luzon Geothermal Power Company, Inc.'s (CE Luzon)

[1] Docket (CTA Case No. 6792), Vol. II, pp. 1402-1409.

claim for refund in C.T.A. Case No. 6792 on the ground of lack of jurisdiction for being prematurely filed. On the other hand, the instant case is **REMANDED** to the CTA to determine the proper amount of input Value Added Tax refunded/tax credited in favor of CE Luzon in relation to its claim for refund in C.T.A. Case No. 6837.

SO ORDERED."

THE FACTS

The instant consolidated cases involve the claims for refund or issuance of tax credit certificate of petitioner, CE Luzon Geothermal Power Company, Inc. against the Commissioner of Internal Revenue, respondent, as follows:

In **CTA Case No. 6792:** for the amount of ₱2,921,085.31 representing unutilized input value-added tax (VAT) attributable to zero-rated sales for the third quarter of taxable year 2001; and

In **CTA Case No. 6837**: for the amount ₱21,229,990.80 representing unutilized input VAT for the fourth quarter of taxable year 2001 and all the quarters of taxable year 2002.

As mentioned earlier, this Amended Decision pertains only to **CTA Case No. 6837** considering that the Petition for Review in CTA Case No. 6792 was denied by the Supreme Court on the ground of lack of jurisdiction for being prematurely filed.

The pertinent facts relative to CTA Case No. 6837, as narrated in the Court in Division's assailed Decision dated November 25, 2008[2], remain undisturbed. We quote and incorporate the same in this Amended Decision, to wit:

"Petitioner CE Luzon Geothermal Power Company, Inc. is a corporation duly organized and existing under

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[2] Decision dated November 25, 2008, ponencia of former Associate Justice Olga Palanca-Enriquez, member of the former Second Division of the Court of Tax Appeals, and concurred by Associate Justice Juanito C. Castañeda, Jr., Chairperson,.

and by virtue of the laws of the Republic of the Philippines, with principal office at the 24th Floor, 6750 Bldg., 6750 Ayala Avenue, Makati City.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue, vested with authority to act as such, including, among others, the power to grant refunds of unutilized input value added taxes, pursuant to the provisions of the National Internal Revenue Code. He may be served with summons and other legal processes of this Honorable Court at his office located at the Fifth Floor, BIR, National Office Building, Agham Road, Diliman, Quezon City.

Petitioner is engaged in the business of power generation for which it is accredited and certified to as such by the Department of Energy, as evidenced by its DOE Certificate of Accreditation (OSAC91-12) issued on June 15, 1994. Petitioner is a registered value added taxpayer (VAT) with the Bureau of Internal Revenue, as evidenced by its Certificate of Registration with Tax Identification Number 047-003-924- 336-VAT.

On June 26, 2001, *RA 9136*, otherwise known as the Electric Power Industry Reform Act of 2001 (hereafter '*EPIRA Law*') took effect. The EPIRA Law is a legislative act which ordained reforms in the electric power industry, amending for the purpose certain laws and for other purposes. As a consequence of the effectivity of the EPIRA Law, petitioner, as one of the generating companies recognized by the DOE, treated the delivery and supply of electric energy to PNOC-EDC as VAT zero-rated. Prior to the effectivity of the EPIRA Law, such transactions were subject to 10% VAT and petitioner paid the corresponding output tax.

For the third quarter of taxable year 2001, petitioner declared zero-rated sales in its amended quarterly VAT return in the amount of P661,007,570.05 and unutilized input VAT in the amount of P2,921,085.31. Its original quarterly VAT returns for the third and fourth quarters of taxable year 2001 was filed on October 25, 2001 and January 10, 2002, respectively, and its amended quarterly VAT returns for the third quarter of taxable year 2001 was filed on November 12, 2001.

Petitioner likewise filed its original and amended quarterly VAT returns for the first, second, third and fourth quarters of taxable year 2002 on April 10, 2002, May 15, 2003, May 15, 2003 and April 1, 2003, respectively.

On September 26, 2003, petitioner filed its administrative claim for refund of unutilized input VAT for the third quarter of taxable year 2001. While the administrative claim for refund of unutilized input VAT for taxable year 2002 was filed on December 18, 2003.

Alleging inaction of respondent, petitioner filed a Petition For Review with this Court on September 30, 2003 for unutilized input VAT for the third quarter of taxable year 2001, docketed as C.T.A. Case No. 6792. On December 19, 2003, petitioner filed another Petition For Review with this Court, docketed as C.T.A. Case No. 6837 for unutilized input VAT for the fourth quarter of taxable year 2001 and for all the quarters of 2002 for the zero rated sales of petitioner.

In C.T.A. Case No. 6792, in her Answer, respondent alleged by way of special and affirmative defenses:

> '4. Petitioner's claim for refund is subject to administrative investigation/examination by the respondent;
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> 5. 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) 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;
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>> b. The invoicing and accounting requirements for VAT registered persons, as well as the filing and payments of VAT in compliance with the provisions of

Sections 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 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 P1,142,666.32 and P19,070,378.18 allegedly paid by the petitioner on its purchases of goods and services for the third quarter of taxable year 2001 and the fourth quarter of 2001 up to the fourth quarter of 2002, respectively, were attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over in the succeeding taxable 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 were made in the course of its trade or business, properly supported by VAT invoices and/or official receipts 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, in pursuance to Section 4.104-5 (a) & (b) of Revenue Regulations No. 7-95 (Re: Substantiation of Claims of 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);

6. 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. Lanes, 49 Phil. 466 cited in Collector of Internal Revenue vs. Manila Jockey Club, Inc., 98 Phil. 670); and

7. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.'

In C.T.A. Case No. 6837, respondent raised the same special and affirmative defenses.

On January 30, 2004, petitioner orally moved for the consolidation of both cases, which was granted by the First Division in a Resolution dated March 1, 2004.

On July 21, 2004, in view of the consolidation, petitioner and respondent submitted the following Joint Stipulation of Facts:

'JOINT STIPULATION OF FACTS AND ISSUES

PETITIONER and RESPONDENT, through their respective counsels, to this Honorable Court with its order during the pre-trial conference held on June 11, 2004, respectfully submit the following Joint Stipulation of Facts and Issues:

I. STIPULATION OF FACTS

The parties agree to the following stipulation of facts;

1. Respondent is the duly appointed Commissioner of Internal Revenue, vested with the authority to act as such, including, among others, the power to grant refunds of unutilized input value added taxes pursuant to the provisions of the National Internal Revenue Code. He may be served with summons and other legal processes of this Honorable Court at his office located at the Fifth Floor, BIR, National Office Building, Agham Road, Diliman, Quezon City.

2. Section 110 of the Tax Code provides:

'Section 110. Tax Credits –

xxx xxx xxx

(B) Excess output or input tax --- If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter. Any input tax attributable to the purchase of capital goods or to zero rated sales by a VAT registered person may at his option be refunded or credited against other internal revenue taxes subject to the provisions of Section 112.'

4. The Supreme Court, in the case of Commissioner of Internal Revenue vs. Victorias Milling Co., Inc., 22 SCRA 12, held that:

> 'The claim for refund with the Bureau of Internal Revenue and the subsequent appeal to the Court of Tax Appeals must be filed within the two year period. If however, the Commissioner takes time in deciding the claim, and the period of two years is about to end, the suit or proceeding must be started in the Court of Tax Appeals before the end of the two year period without awaiting the decision of said Collector.'

5. Petitioner is a corporation duly organized and existing under and by virtue of Philippine laws;

6. Petitioner is registered as a value-added taxpayer with the Bureau of Internal Revenue;

7. Authenticity and due execution of Petitioner's BIR Certificate of Registration, dated June 25, 2004;

8. For the third quarter of taxable year 2001, Petitioner declared zero-rated sales in its amended quarterly VAT return in the amount of ₱661,007,570.05;

9. For the third quarter of taxable year 2001, petitioner declared unutilized input VAT in the amount of ₱2,921,085.31; and declared the same in its quarterly VAT return for the third quarter of taxable year 2001;

11. Authenticity, due execution and filing with the Bureau of Internal Revenue of the Petitioner's original quarterly VAT returns for third and fourth quarters of taxable year 2001 filed on October 25, 2001 and January 10, 2002, respectively, and Petitioner's amended quarterly VAT returns for the third quarter of taxable year 2001 filed on November 12, 2001;

12. Authenticity, due execution and filing of the Petitioner's original and amended quarterly VAT returns for the first, second, third and fourth quarters of taxable year 2002 filed on April 10, 2002, May 15, 2003, May 15, 2003 and April 1, 2003, respectively;

13. Authenticity and due execution of the Petitioner's administrative claims for refund and/or Tax Credit Certificate (TCC) of unutilized input VAT for the third quarter of taxable year 2001, dated September 25, 2003 which was filed on September 26, 2003;

14. The administrative claim for refund of unutilized input VAT dated December 11, 2003 was filed on December 18, 2003;

15. The present claims for refund with this Honorable Court for unutilized input VAT were both filed on September 30, 2003 and December 19, 2003.

Petitioner presented Ma. Mary Ann C. Capuchino, as witness, and documentary evidence, marked as Exhibits '*A*' to '*JJJ*', inclusive of their submarkings, which were all admitted by the Court.

On the other hand, respondent presented Luzviminda G. Sabile, as witness, and Exhibits '*1*' to '*8*', inclusive of their submarkings, which were all admitted by the Court.

On May 24, 2007, petitioner manifested that he will not present rebuttal evidence, and instead filed a Motion To Present Additional Evidence, which the Court granted. As additional witness, petitioner presented Trinity Gatuz, and after the completion of her testimony, moved for fifteen days until May 31, 2007 to file a Supplemental Offer of Evidence, which the Court granted. Respondent was granted fifteen (15) days from notice to file her comment.

In a Resolution dated July 9, 2007, the Court admitted the additional exhibits, marked as Exhibits '*KKK*' to '*PPP*', inclusive of their submarkings, and both parties were ordered to file their simultaneous memoranda, within thirty (30) days from notice.

Both parties having complied thereto, the consolidated petitions were deemed submitted for decision on November 28, 2007."

On November 25, 2008, the Court in Division promulgated the assailed Decision in CTA Case Nos. 6792 and 6837, the dispositive portion[3] of which reads:

"**WHEREFORE**, premises considered, the present Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the reduced amount of **THIRTEEN MILLION NINE HUNDRED TWENTY-SIX THOUSAND SIX HUNDRED NINETY–SEVEN AND 51/100 PESOS (P13,926,697.51)**, representing the unutilized input VAT attributable to zero-rated sales for the third and fourth quarters of 2001 and all four quarters of 2002.

SO ORDERED."

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[3] Docket (CTA Case No. 6792), Vol. I, p. 858.

On December 12, 2008, petitioner filed a Motion for Partial Reconsideration (Re: Decision dated November 25, 2008)[4]. Subsequently, on January 5, 2009, respondent also filed a Motion for Partial Reconsideration[5]. In the Resolution[6] promulgated on March 9, 2009, the Court denied both petitioner's and respondent's motions for partial reconsideration for lack of merit.

On April 8, 2009, respondent filed a Petition for Review before the Court of Tax Appeals *En Banc,* which was docketed as **CTA EB No. 474.**[7] The CTA *En Banc* promulgated its Decision[8] on September 1, 2009, affirming the assailed Decision and Resolution. The dispositive portion thereof reads:

> "**WHEREFORE**, the instant Petition for Review is hereby **DISMISSED**. Accordingly, the Decision dated November 25, 2008 and the Resolution dated March 9, 2009 are hereby **AFFIRMED**.
>
> **SO ORDERED**."

On September 28, 2009, a Motion for Reconsideration[9] was filed by respondent, but the same was denied by the CTA *En Banc* in the Resolution[10] promulgated on November 6, 2009.

On January 6, 2010, respondent filed a Petition for Review[11] with the Supreme Court, which was docketed as G.R. No. 190198. On September 17, 2014, the Supreme Court promulgated its Decision partially granting said Petition for Review.

Thus, the Decision dated September 1, 2009 and the Resolution dated November 6, 2009, of the Court of Tax Appeals (CTA) *En Banc* in C.T.A. EB No. 474 were affirmed with modification denying CE Luzon Geothermal Power Company, Inc.'s claim for

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[4] Docket (CTA Case No. 6792), Vol. I, pp. 860-876.
[5] Docket (CTA Case No. 6792), Vol. I, pp. 879-885.
[6] Docket (CTA Case No. 6792), vol. I, pp. 904-906.
[7] *Commissioner of Internal Revenue, Petitioner, v. C. E. Geothermal Power Company, Inc., Respondent,* Docket (CTA Case No. 6792), Vol. II, pp. 913-925.
[8] Ponencia of Associate Justice Lovell R. Bautista, of the former CTA *En Banc,* concurred by Associate Justices Juanito C. Castañeda, J.; Erlinda P. Uy, Caesar A. Casanova, Olga Palanca-Enriquez; with Dissenting Opinion of former Presiding Justice, Ernesto D. Acosta; Docket (CTA Case No. 6792), Vol. II, pp. 1069-1091.
[9] Docket (CTA Case No. 6792), Vol. II, pp. 1111-1122.
[10] Docket (CTA Case No. 6792), Vol. II, pp. 1146-1148
[11] *Commissioner of Internal Revenue, Petitioner, v. CE Luzon Geothermal Power Company, Respondent,* Docket (CTA Case No. 6792), Vol. II, pp. 1151-1182.

refund in C.T.A. Case No. 6792 on the ground of lack of jurisdiction for being prematurely filed. On the other hand, CTA Case No. 6837 was remanded to this Court for determination of the proper amount of input Value Added Tax to be refunded/tax credited in favor of CE Luzon Geothermal Power Company, Inc.

On February 3, 2015, the Decision of the Supreme Court promulgated on September 17, 2014 became final and executory.[12] On July 10, 2015, the Special Second Division of this Court received the Entry of Judgment issued by the Supreme Court on May 15, 2015.

In the Resolution[13] promulgated on August 13, 2015, the CTA Special Second Division ordered the parties to file a written Manifestation alleging any supervening event that may have transpired which the parties would want to present for the Court's consideration.

On September 2, 2015, respondent filed a Manifestation, submitting to the sound discretion of the Court the determination of the proper amount of input VAT refund to be credited to petitioner in CTA Case No. 6837; and requesting the Court to issue a Resolution stating that CTA Case No. 6792 has been deemed close and terminated.[14] For its part, petitioner filed its Manifestation (With Motion to Clarify)(Re: Resolution dated August 13, 2005)[15] on September 24, 2015, praying that the amount of ₱12,906,527.15 be refunded.

In the Resolution promulgated on October 5, 2015, CTA Case No. 6837 was submitted anew for decision pursuant to the Decision dated September 17, 2014 of the Supreme Court in G.R. No. 190198, which directed this Court to make a determination of the proper amount of input VAT to be refunded or credited to petitioner.[16]

Hence, this Amended Decision.

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[12] Entry of Judgment, docket (CTA Case No. 6792), Vol. II, pp. 1410-1411.
[13] Docket (CTA Case No. 6792), Vol. II, pp. 1416-1417.
[14] Docket (CTA Case No. 6792), Vol. II, pp. 1421-1423.
[15] Docket (CTA Case No. 6792), Vol. II, pp. 1439-1445.
[16] Docket (CTA Case No. 6792), Vol. II, pp. 1448-1449.

THE ISSUE

The sole issue for determination of this Court pertains to the proper amount of excess and utilized input Value Added Tax that must be refunded/tax credited in favor of petitioner CE Luzon Geothermal Power Company, Inc. for the fourth quarter of taxable year 2001 and all four quarters of taxable year 2002 in CTA Case No. 6837.

THE COURT'S RULING

In the Court in Division's Decision dated November 25, 2008 pertaining to both CTA Case Nos. 6792 and 6837, this Court partially granted petitioner's claim for refund or issuance of tax credit certificate in the amount of ₱13,926,697.51. The amount of ₱13,926,697.51 is computed as follows:[17]

Output VAT			₱ 36,534,775.90
Less:	Tax credits/payment		
	Creditable VAT Withheld	₱ 21,920,865.53	
	VAT payment - July 2001	13,015,106.29	34,935,971.82
Output VAT still due			₱ 1,598,804.08
Less:	Substantiated Input VAT		15,550,088.76
Excess Input VAT Attributable to Zero-Rated Receipts			₱ 13,951,284.68
Multiply by the ratio of:			
	Substantiated Zero-rated Receipts	5,511,688,132.60	
	Divided by: Total Zero-Rated Receipts	÷5,521,418,852.53	0.998237641
Refundable Excess Input VAT Attributable to Zero-Rated Receipts			**₱13,926,697.51**

The substantiated or valid input VAT of ₱15,550,088.76 was broken down as follows:[18]

Findings		Reference (Annexed to Exhibit Y[19])	Valid Input VAT
1.	Input taxes claimed on purchases of goods and services and importation of goods which are properly substantiated for VAT purposes	Annex 4	₱ 14,654,160.66

[17] Docket (CTA Case No. 6792), Vol. I, p. 858.
[18] Decision, November 25, 2008, pp. 21 to 22, Docket (CTA Case No. 6792), Vol. I, pp. 853-854.
[19] Docket (CTA Case No. 6792), Vol. I, pp. 124 to 254.

2.	Input taxes claimed on importation of goods which are supported by the following documents:		
	a. Importation of goods supported by a photocopy of Import Entry Internal Revenue Declaration (IEIRD) and an original BOC OR	Annex 5	614,732.00
	b. Importation of goods supported by original IEIRDs but with no BOC ORs	Annex 6	201,774.00
	c. Importation of goods supported by a photocopy of IEIRD and an original LBP OR	Annex 8	77,231.00
	d. Input tax on brokerage and other service fees paid to brokerage companies supported by a TIN-VAT OR	Annex 32	2,191.10
Total Valid Input VAT			**₱15,550,088.76**

Out of the ₱15,550,088.76 valid input VAT, the amount of ₱1,021,971.46 refers to petitioner's claim covering the third quarter of 2001 in CTA Case No. 6792; while the remaining amount of ₱14,528,117.30 pertains to petitioner's claim covering the fourth quarter of 2001 and all four quarters of 2002 in CTA Case No. 6837, detailed as follows:

Findings		**Reference (Annexed to Exh. Y)**	**Valid Input VAT**		
			3rd Quarter 2001	**4th Quarter 2001 and All Four Quarters of 2002**	
			CTA Case No. 6792	**CTA Case No. 6837**	**Total**
1.	Input taxes claimed on purchases of goods and services and importation of goods which are properly substantiated for VAT purposes				
	a. Domestic purchases of goods which are properly supported by VAT invoices	Annex 4-1	₱ 439,958.97	₱ 3,470,190.77	₱ 3,910,149.74
	b. Domestic purchases of services which are properly supported by VAT Ors	Annex 4-2	562,171.49	8,795,520.26	9,357,691.75
	c. Importation of goods which are properly supported by IEIRDs and BOC ORs	Annex 4-3	19,841.00	39,713.00	59,554.00
	d. Purchases of services from non-residents which are properly	Annex 4-4		1,326,765.17	1,326,765.17

	supported by withholding VAT certificates				
	Subtotal		₱ 1,021,971.46	₱ 13,632,189.20	₱ 14,654,160.66
2.	Input taxes claimed on importation of goods which are supported by the following documents				
	a. Importation of goods supported by a photocopy of Import Entry Internal Revenue Declaration (IEIRD) and original BOC OR	Annex 5		614,732.00	614,732.00
	b. Importation of goods supported by original IEIRDs but with no BOC ORs	Annex 6		201,774.00	201,774.00
	c. Importation of goods supported by a photocopy of IEIRD and an original LBP OR	Annex 8		77,231.00	77,231.00
	d. Input tax on brokerage and other service fees paid to brokerage companies supported by a TIN-VAT OR			2,191.10	2,191.10
Total Valid Input VAT			**₱1,021,971.46**	**₱14,528,117.30**	**₱15,550,088.76**

The Court determined that it was in the third quarter of 2001 that petitioner incurred an output tax liability in the amount of ₱36,534,775.90, which was partially offset against the reported creditable VAT withheld in the amount of ₱21,920,865.53 and VAT payment for July 2001 in the amount of ₱13,015,106.29, resulting in an output tax still due of ₱1,598,804.08, as shown below:[20]

	3rd Quarter 2001	**4th Quarter 2001 and All Four Quarters of 2002**	
	CTA Case No. 6792	**CTA Case No. 6837**	**Total**
Output VAT	₱ 36,534,775.90		₱ 36,534,775.90
Less: Tax Credits/Payment			
Creditable VAT Withheld	₱ 21,920,865.53		₱ 21,920,865.53
VAT payment - July 2001	13,015,106.29		13,015,106.29
Total Tax Credits/Payment	₱ 34,935,971.82		₱ 34,935,971.82
Output VAT Still Due	**₱1,598,804.08**		**₱1,598,804.08**

The Court deducted the ₱1,598,804.08 output VAT still due against the valid input VAT of ₱15,550,088.76, leaving the amount of ₱13,951,284.68 as unutilized net input VAT, as of the fourth quarter of 2002, as shown in the table below:

[20] Decision, November 25, 2008, pp. 22-24, docket (CTA Case No. 6792), vol. I, pp. 854-856.

	3rd Quarter 2001	4th Quarter 2001 and All Four Quarters of 2002	
	CTA Case No. 6792	CTA Case No. 6837	Total
Valid Input VAT	₱1,021,971.46	₱ 14,528,117.30	₱ 15,550,088.76
Less: Output VAT still Due	1,021,971.46	576,832.62	1,598,804.08
Excess Input VAT	-	**₱13,951,284.68**	**₱13,951,284.68**

Out of the ₱1,598,804.08 output VAT due for the third quarter of 2001, the amount of ₱1,021,971.46 input VAT for the same period was deducted from the said output VAT, leaving a ₱576,832.62 output VAT still due. Next, the ₱576,832.62 output VAT still due was deducted from the ₱14,528,117.30 input VAT covering the fourth quarter of 2001 and all four quarters of 2002. Thus, the resulting amount of ₱13,951,284.68 is the excess and unutilized input VAT of petitioner for the fourth quarter of 2001 and all the four quarters of 2002.

While the Court found the excess input VAT of ₱13,951,284.68 to be attributable to the ₱5,521,418,852.53 zero-rated receipts as reflected on petitioner's official receipts (ORs) for the third quarter of 2001 to the fourth quarter of 2002, the same was further reduced by the amount of ₱24,587.17 input VAT attributable to the zero-rated receipts of ₱9,730,719.93, which petitioner failed to declare in its VAT Return for the third quarter of 2001,[21] to wit:

	3rd Quarter 2001	4th Quarter 2001 and All Four Quarters of 2002	
	CTA Case No. 6792	CTA Case No. 6837	Total
Valid Input VAT	₱1,021,971.46	₱ 14,528,117.30	₱ 15,550,088.76
Less: Output VAT Due for the third quarter of 2001	1,021,971.46	576,832.62	1,598,804.08
Excess Input VAT Attributable to Zero-Rated Receipts per ORs	-	**₱13,951,284.68**	₱ 13,951,284.68
Less: Input VAT Attributable to Undeclared Zero-Rated Receipts for the third quarter of 2001		24,587.17	24,587.17

[21] Decision, November 25, 2008, p. 18, docket (CTA Case No. 6792), vol. I, p. 850.

(₱9,730,719.93 ÷ ₱5,521,418,852.53 x ₱13,951,284.68)			
Refundable Excess Input VAT Attributable to Zero-Rated Receipts	-	**₱13,926,697.51**	**₱13,926,697.51**

Inasmuch as the Court's determination of petitioner's refundable claim is limited only to the fourth quarter of 2001 and all four quarters of 2002 under CTA Case No. 6837, the above input VAT of ₱24,587.17 pertaining to the amount of ₱9,730,719.93 undeclared zero-rated receipts for the third quarter of 2001 shall no longer be deducted.

Thus, the Court hereby finds petitioner entitled to a refundable input VAT amounting to ₱13,951,284.68 attributable to its zero-rated receipts in the amount of ₱4,850,680,562.55,[22] covering the fourth quarter of 2001 and all four quarters of 2002 under CTA Case No. 6837.

WHEREFORE, in light of the foregoing considerations, the Petition for Review filed by CE Luzon Geothermal Power Company, Inc. in CTA Case No. 6837 is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **THIRTEEN MILLION NINE HUNDRED FIFTY ONE THOUSAND TWO HUNDRED EIGHTY FOUR PESOS AND SIXTY EIGHT CENTAVOS (₱13,951,284.68)** representing its unutilized input VAT for the fourth quarter of taxable year 2001 and all the quarters of taxable year 2002.

SO ORDERED.

ERLINDA P. UY
Associate Justice

I CONCUR:

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

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[22] Decision, November 25, 2008, pp. 18 and 22, docket (CTA Case No. 6792), Vol. I, pp. 850 and 854.

CERTIFICATION

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

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Chairperson
Acting Presiding Justice