REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

MACQUARIE OFFSHORE SERVICES PTY LTD – PHILIPPINE BRANCH,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 8580 & 8660

Members:

BAUTISTA, *Chairperson*
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

MAY 18 2018
9:12 a.m.

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DECISION

***Fabon-Victorino, J.*:**

In these consolidated Petitions for Review, petitioner prays for the refund or issuance of a tax credit certificate (TCC) in the aggregate amount of ₱20,595,138.98, allegedly representing excess and unutilized input value-added tax (VAT) for the four quarters of fiscal year (FY) ended March 31, 2011, broken down as follows:

CTA Case No.	FY 2011 ended March 31, 2011	Period Covered	Input VAT Claim
8580	1st Quarter	Apr. 1 to Jun. 30, 2010	₱ 3,406,989.90
8660	2nd Quarter	Jul. 1 to Sep. 30, 2010	17,188,149.08
	3rd Quarter	Oct. 1 to Dec. 31, 2010	
	4th Quarter	Jan. 1 to Mar. 31, 2011	
Total			**₱ 20,595,138.98**

Petitioner Macquarie Offshore Services Pty Ltd. is a foreign corporation registered with the Securities and Exchange Commission (SEC) on April 10, 2008 to operate as a Regional Operating Headquarters (ROHQ), pursuant to the Omnibus Investments Code of 1987, as amended by Republic Act No. 8756, and its implementing rules and regulations.

It is authorized to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services, research and development services and product development; technical support and maintenance; data processing and communication and business development,[1] with principal place of business at the 30th Floor, Tower I, The Enterprise Center, Ayala Avenue, Makati City.

Petitioner is also registered as VAT-registered entity with the Bureau of Internal Revenue (BIR) with Certificate of Registration (COR) No. OCN 9RC0000266681.[2]

Respondent, on the other hand, is the Commissioner of Internal Revenue (CIR), with authority to act on claims for refund or tax credit. He who holds office at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City. He is represented by the Legal Division of Revenue Region No. 8 (South Makati), with office address at the 2nd Floor, BIR Regional Office Building, 313 Sen. Gil Puyat Avenue, Makati City, where he may be served with court processes.[3]

As an ROHQ, petitioner provides qualifying services to its affiliates and related parties in the Asia-Pacific Region and other foreign markets. These qualifying services include application testing and monitoring, technology infrastructure, application development and support, and financial administration. As an ROHQ with a limited business

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[1] Exhibit "P-1", docket, Volume (vol.) III, p. 1401.
[2] Exhibit "P-2", docket, vol. III, p. 1418.
[3] Paragraph (par.) 2, Stipulation of Facts, Consolidated Joint Stipulation of Facts and Issue (JSFI), docket, vol. I, p. 472.

purpose, petitioner generally does not generate VAT taxable and VAT-exempt sales. [4]

Petitioner states that for FY 2011, it only had one non-resident foreign client, namely, Macquarie Financial Holdings Limited (MFHL), to whom it rendered VAT zero-rated sales of service. [5]

MFHL is an entity incorporated, registered, and operating under the laws of Australia.[6] It is not registered with the Securities and Exchange Commission (SEC) to do business in the Philippines either as a corporation or partnership.[7] The services rendered by petitioner to MFHL were pursuant to a Services Agreement dated April 1, 2009, duly signed by the representatives of the parties.[8] The services were rendered by petitioner in the Philippines, paid for in Australian Dollars (AUD), inwardly remitted to the Philippines and duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).[9]

For the 1st Quarter of FY 2011, petitioner rendered services and issued corresponding invoices to MFHL.[10] However, they were allegedly not paid during the said quarter. Thus, petitioner's quarterly VAT return for the 1st quarter of FY2011 shows zero-entry for its VATable sales/receipts, sales to government, zero-rated sales and exempt sales/receipts.[11]

In the course of its operations during the same period, petitioner incurred and paid input VAT arising from its domestic purchases of goods and services. The amounts of its domestic purchases and the corresponding amounts of input VAT were recorded in the quarterly[12] and monthly[13] summaries.

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[4] Par 2.1, Petitioner's Memorandum, docket, vol. IV, p. 2087.
[5] Par 4, *ibid.*
[6] Exhibit "P-24-a" to "P-24-d", docket, vol. III, pp. 1630-1654.
[7] Exhibit "P-23-d", docket, vol. III, p. 1629.
[8] Exhibit "P-20-a", docket, vol. III, pp. 1606-1620.
[9] Exhibits "P-25-a" to "P-25-e" and "P-26", docket, vol. III, pp. 1655-1660.
[10] Exhibit "P-15", docket, vol. III, p. 1551.
[11] Exhibit "P-3", docket, vol. III, pp. 1419-1423.
[12] Exhibit "P-14", docket, vol. III, pp. 1535-1536.
[13] Exhibits "P-14-a" to "P-14-c", docket, vol. III, pp. 1537-1550.

Since petitioner did not generate any VATable sales in the 1st quarter, there was no output VAT with which to offset the input VAT it incurred in the same period. Hence, this amount of input VAT was carried over to the succeeding periods and remained unutilized. Petitioner further claims that this same amount of input VAT is wholly attributable to its VAT zero-rated sales in the same period.[14]

For the 2nd to 4th quarters of FY 2011, petitioner's quarterly VAT returns show the following VAT zero-rated sales:

Quarter	VAT Zero-Rated Sales in Pesos
2nd	110,837,771.93[15]
3rd	298,552,653.50[16]
4th	231,931,332.30[17]

During these quarters, petitioner also incurred and paid input VAT arising from its domestic purchases of goods and services. The amounts of its domestic purchases and the corresponding amounts of input VAT were recorded in its quarterly[18] and monthly[19] summaries.

No VATable sales were generated during the said 2nd to 4th quarters and there was no output VAT with which to offset the input VAT it incurred in the same period. This amount of input VAT was carried over to the succeeding periods and remained unutilized. This same amount of input VAT is also directly attributable to its zero-rated sales for the same period.[20]

Petitioner filed its original quarterly VAT returns for the four quarters of FY 2011 on the following dates:

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[14] Par. 7, Petitioner's Memorandum, *supra*, p. 2088.
[15] Exhibit "P-4", docket, vol. III, p. 1424.
[16] Exhibit "P-5", docket, vol. III, p. 1431.
[17] Exhibit "P-6", docket, vol. III, p. 1438.
[18] Exhibits "P-34", "P-35" and "P-36", docket, vol. III, pp. 1713, 1737 and 1762.
[19] Exhibits "P-34-a" to "P-34-c", "P-35-a" to "P-35-c" and "P-36-a" to "P-36-c", docket, vol. III, pp. 1714-1736, 1738-1761 and 1763-1783.
[20] Par. 12, Petitioner's Memorandum, *supra*, p. 2090.

Exhibit	Quarter	Period	Date Filed
"P-3"	1st	April to June 2010	July 26, 2010
"P-4"	2nd	July to September 2010	October 26, 2010
"P-5"	3rd	October to December 2010	January 25, 2011
"P-6"	4th	January to March 2011	April 25, 2011

Petitioner filed its administrative claim for refund with the BIR Revenue District Office (RDO) No. 47 on the following dates:

Exhibit	Quarter	Period	Date Filed
"P-13"[21]	1st	April to June 2010	June 29, 2012
"P-30"[22]	2nd to 4th	July 2010 to March 2011	September 28, 2012

For the 1st quarter, petitioner filed an administrative claim for refund/TCC in the amount of ₱3,406,989.90, while for the 2nd to 4th quarters, in the amount of ₱17,188,149.08, or a total of ₱20,595,138.98.

On November 27, 2012, petitioner received from RDO No. 47 a Letter of Authority (LOA) dated October 29, 2012 for the period of July 1, 2010 to March 31, 2011[23], with attached formal request for the submission and presentation of additional documents.[24] Petitioner complied and transmitted the requested additional document on January 16, 2013.[25]

On February 27, 2013, petitioner wrote a letter to the BIR indicating that the documents submitted on September 28, 2012 and January 16, 2013 constitute complete documents for purposes of its claim for refund/TCC.

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[21] Docket, vol. III, pp. 1528-1534.
[22] Docket, vol. III, pp. 1698-1704.
[23] Exhibit "P-31", docket, vol. III, p. 1705.
[24] *Ibid.*, pp. 1706-1707.
[25] Exhibit "P-32", docket, vol. III, pp. 1708-1709.

However, insofar as petitioner's claim for refund for the 1st quarter of FY 2011, no additional documents were required by the BIR.

On November 26, 2012 and June 14, 2013, petitioner filed the instant Petitions for Review, docketed as CTA Case Nos. 8580 and 8660, respectively.[26]

In his Answers,[27] filed on January 18 and August 8, 2013, respondent avers that petitioner has to prove its entitlement to refund/TCC. Moreover, the claims for refund/TCC were not fully substantiated by proper documents and that petitioner failed to comply with the requirements under Sections 112(A)(B) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended. Lastly, the claims for refund/TCC are strictly construed against petitioner as it partakes the nature of an exemption.

At the instance of petitioner, the two Petitions for Review were consolidated[28]. A Pre-Trial Conference for the consolidated cases was conducted[29] after the parties filed their respective Pre-Trial Briefs.

On March 10, 2014, the parties filed their Consolidated Joint Stipulation of Facts and Issues[30] on March 10, 2014, and the Court issued a Pre-Trial Order[31] on March 19, 2014.

To substantiate its allegations, petitioner presented as witnesses its resident agents Garry Taylor[32] and Timothy John Mulvihill[33], its Head of Finance Ailyn B. Perocho,[34] and the Independent Certified Public Accountant (ICPA), Katherine O. Constantino[35] commissioned by the Court.

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[26] Pars. 8 and 9, Stipulation of Facts, JSFI, *supra*, p. 473.
[27] Docket of CTA Case No. 8580, vol. I, pp. 92-93, and Docket of CTA Case No. 8660, vol. I, pp. 177-178.
[28] Resolution dated October 31, 2013, docket of CTA Case No. 8660, vol. I, p. 214.
[29] Minutes of the Hearing dated January 20, 2014, docket, vol. I, p. 446.
[30] Docket, Vol. I, pp. 472-477.
[31] Docket, Vol. I, pp. 492-500.
[32] Minutes of the Hearing dated August 28, 2013, docket, vol. I, p. 421.
[33] Minutes of the Hearing dated August 11, 2014, docket, vol. III, p. 1358.
[34] Minutes of the Hearing dated April 21, 2014, docket, vol. II, p. 857; Minutes of the Hearing dated November 23, 2015, docket, vol. IV, p. 1948.
[35] Minutes of the Hearings dated June 19, 2014, docket, vol. III, p. 1274.

Witness **Garry Taylor** testified[36] that petitioner is registered and licensed by the SEC to operate as an ROHQ. For the 1st quarter of FY 2011, petitioner rendered services only to one non-resident foreign client and no domestic clients, thus, generating zero-rated sales, which were paid for in AUD inwardly remitted in accordance with the rules and regulations of the BSP. Petitioner likewise generated excess input VAT from its domestic purchases, which were directly attributable to its zero-rated sales. For the 1st quarter of FY 2011, petitioner invoiced MFHL for zero-rated sales of services, however, these sales were not reported for tax purposes for said quarter because MFHL paid the invoices only in the subsequent quarters.

Witness **Ailyn Perocho** declared[37] that petitioner is an ROHQ, registered with the SEC and the BIR and licensed to provide services to affiliates and related parties in the Asia-Pacific Region and other foreign markets.

Petitioner generated zero-rated sales for the services it rendered for MFHL, which is a non-resident entity registered and doing business in Australia. For such services, petitioner was paid in AUD inwardly remitted in accordance with the rules and regulations of the BSP. All of petitioner's sales of services were made exclusively to MFHL, rendering the said sales of services subject to VAT zero-rating.

For FY 2011, petitioner incurred and paid input VAT on its domestic purchases of goods, services, and capital goods in connection with its delivery of services to MFHL. These input VAT for the four quarters of FY 2011 were carried-over to the succeeding quarters but such remained unutilized. After petitioner filed a claim for refund/TCC, the said amount was removed from the category of "VAT carried over". Petitioner thereafter filed claims for refund of unutilized input VAT for FY 2011 with respondent, who failed to act on them, prompting it to elevate the matter to the Court.

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[36] Sworn Witness Statement of Garry Taylor, docket, vol. III, pp. 1666-1690; with cross and re-direct examination see TSN dated August 28, 2013.
[37] Sworn Witness Statement of Ailyn Perocho, docket, vols. III and IV, pp. 1845-1876 and 1996-2000; with cross and re-direct examination see TSN dated April 21, 2014.

ICPA **Katherine O. Constantino** intimated[38] that she audited and evaluated petitioner's documents and records in support of its claim for VAT refund/TCC for FY 2011, the result of which is contained in the ICPA Report[39] which was submitted to the Court on June 11, 2014.

Witness **Timothy John Mulvihill**, part of the Macquarie Group, and resident agent of petitioner, who replaced witness Garry Taylor, testified[40] that petitioner is licensed by the SEC as a ROHQ providing qualifying services to its affiliates and related parties in the Asia-Pacific Region and other foreign markets.

Petitioner has only one client, MFHL, an Australian corporation domiciled in New South Wales, Australia. Petitioner provides various services to its lone client MFHL, such as application testing, monitoring, development, support, as well as technology infrastructure support, financial administration and other services as required. MFHL and petitioner are two separate and distinct entities.

Petitioner made rental payments in FY 2011 for its office premises, for which official receipts were issued. Such rental payments formed part of the input VAT subject of refund in this case.

Petitioner rested per Resolution dated July 20, 2015[41] and January 27, 2016[42].

Respondent for his part, presented Revenue Officers Marcvermon Vileo L. Dela Cruz[43] and Pamela B. Tianco[44] for his defense.

Witness **Marcvermon Vileo L. Dela Cruz** testified[45] that he was part of the group of BIR RDO 47 East Makati

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[38] Sworn Witness Statement of Katherine O. Constantino, docket, vol. III, pp. 1266-1272; with cross examination, see TSN dated June 19, 2014.
[39] Exhibit "P-54", docket, vol. II, pp. 883-1262.
[40] Sworn Witness Statement of Timothy John Mulvihill, docket, vols. III, pp. 1288-1297; with cross examination, see TSN dated August 11, 2014.
[41] Docket, vol. IV, pp. 1915-1916.
[42] Docket, vol. IV, p. 2007.
[43] Minutes of the Hearing dated July 18, 2016, docket, vol. IV, p. 2040.
[44] Minutes of the Hearing dated October 10, 2016, docket, vol. IV, p. 2041.

which conducted the examination and evaluation of petitioner's claim for refund/TCC of input VAT for the second to fourth quarters of FY ended March 31, 2011. After audit, the group concluded that petitioner is not entitled to the refund sought, for failure to deduct from the available input VAT in the VAT Returns for the subject period the amount sought for refund. This was however rectified in the subsequent VAT Return filed by petitioner in which the amount for refund for the said period was already indicated.

Witness **Pamela B. Tianco** was also part of the group that examined and evaluated petitioner's claim for refund of input VAT but only for the 1st quarter of FY ended March 31, 2011[46]. Their examination revealed that petitioner is not entitled to refund/TCC for the same reason that it failed to deduct from the available input VAT in the VAT Returns for the subject period the amount subject of the claim for refund.

DISCUSSION/RULING

The sole issue submitted by the parties for the determination of the Court is as follows:

> Whether petitioner is entitled to the refund/TCC for its input VAT payments for the 1st to 4th quarters of FY 2011 in the amount of ₱20,595,138.98.[47]

Sections 112(A) and (C) of the NIRC of 1997, as amended, relevantly provides:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* —
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> (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,

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[45] Judicial Affidavit dated July 12, 2016, docket, vol. IV, pp. 2016-2020; with cross and re-direct examination, see TSN dated July 18, 2016.
[46] Judicial Affidavit dated July 12, 2016, docket, vol. IV, pp.2028-2032; with cross examination, see TSN dated October 10, 2016.
[47] Par. 10, Stipulation of Issue, *supra*, pp. 473-474.

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 sales 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: *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 nonzero-rated sales."

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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.

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.

Thus, to be entitled to a refund/TCC of unutilized input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied, to wit:

1) the taxpayer is VAT-registered;

2) there must be zero-rated or effectively zero-rated sales;

3) input taxes were incurred or paid;

4) such input taxes are attributable to zero-rated or effectively zero-rated sales;

5) said input taxes were not applied against any output VAT liability; and

6) the claim was filed within the prescribed periods both in the administrative and judicial levels.

To determine the competence of this Court to determine the cases, the timeliness of the administrative and judicial claims for refund/TCC must first be determined.

As mandated under Section 112(A) of NIRC of 1997, as amended, the administrative claim for refund of input VAT must be filed with the BIR within two years after the close of the taxable quarter when the relevant zero-rated or effectively zero-rated sales were made.

The present claims pertain to the alleged input VAT incurred by petitioner for the four quarters of FY ended March 30, 2011 which are allegedly attributable to its reported zero-rated sales for the four quarters of FY 2011. Hence, counting from the close of the taxable quarters on June 30, 2010, September 30, 2010, December 31, 2010, and March 31, 2011, petitioner had until June 30, 2012, September 30, 2012, December 31, 2012 and March 31, 2013 within which to file its administrative claim for refund for the four quarters of FY 2011.

Thus, petitioner's administrative claims for the 1st quarter of FY 2011 and 2nd to fourth quarters of FY 2011 were seasonably filed on June 29, 2012[48] and September 28, 2012[49], respectively.

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended speaks of

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[48] Exhibit "P-13", docket, vol. III, pp. 1528-1534.
[49] Exhibit "P-30", *supra*.

two periods for filing judicial claim for refund, namely: (1) the period of 120 days for respondent to act on the administrative claim for refund/TCC; and (2) the 30-day period from notice of respondent's adverse ruling or the lapse of the 120 period without any action from respondent within which to file a judicial claim with the Court of Tax Appeals.[50]

In the landmark case of *Commissioner of Internal Revenue vs. San Roque Power Corporation*[51](San Roque Case), the Supreme Court held that the taxpayer can seek judicial review of its claim for refund/TCC in either of the following ways: (1) file the judicial claim within 30 days after the respondent denies the claim within the 120-day waiting period, or (2) file the judicial claim within 30 days from the expiration of the 120-day period if respondent does not act within that period. [52]

Note that the 120-day period begins to run from the date of submission of complete documents supporting the administrative claim.[53] As to when should the submission of supporting documents be deemed "completed" for purposes of determining the running of the 120-day period, the Supreme Court held as follows:

> Thus, taking the foregoing changes to the law altogether, it becomes apparent that, for purposes of determining *when* the supporting documents have been completed — *it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period.* **After all, he may have already completed the necessary documents the moment he filed his administrative claim, in which case, the 120-day period is reckoned from the date of filing.**
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> The taxpayer may have also filed the complete documents on the 30th day from filing of his

[50] *ROHM Apollo Semiconductor Philippines v. Commissioner of Internal Revenue,* G.R. No. 168950, January 14, 2015.
[51] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.
[52] *ROHM Apollo Semiconductor Philippines v. Commissioner of Internal Revenue, supra.*
[53] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,* G.R. No. 182737, March 2, 2016.

application, pursuant to RMC No. 49-2003. He may very well have filed his supporting documents on the first day he was notified by the BIR of the lack of the necessary documents. In such cases, the 120-day period is computed from the date the taxpayer is able to submit the complete documents in support of his application.

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Lest it be misunderstood, the benefit given to the taxpayer to determine when it should complete its submission of documents is not unbridled. Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.

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To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition[al] documents to complete his administrative claim, the 120[-]day period allowed to the CIR begins to run from the date of filing.

In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112 (A) of the NIRC. The 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the denial or inaction of the CIR to the CTA must also be respected.

It bears mentioning at this point that the foregoing summation of the rules *should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014*, such as the claim at bench. As it now stands, RMC 54-2014 dated June 11, 2014 mandates that:

> The application for VAT refund/tax credit must be accompanied by complete supporting documents as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that the said documents are the only documents which the taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.
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> Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/claimant.

Thus, under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to complete his supporting documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim." (emphasis ours) [54]

A fortiori, for claims filed before June 11, 2014, as in the present cases, the taxpayer has 30 days from the time of filing of its administrative claim for refund/TCC within which it should submit all supporting documents. If in the course of the investigation, the BIR requires additional documents, it must notify the taxpayer who has 30 days from notice to comply. Upon submission of additional supporting documents, the 120-day period shall commence, but in all cases, all additional supporting documents must be filed within the two-year period for filing an administrative claim as provided under Section 112(A) of the NIRC of 1997, as amended.

In the present consolidated cases, upon the filing of its administrative claim for the first quarter of FY 2011 on June 29, 2012, petitioner simultaneously submitted the documents in support thereof[55]. Since no written notice was sent by respondent requiring petitioner to submit additional documents, the 120-day period commenced from the filing of the administrative claim on June 29, 2012, giving respondent 120 days or until October 27, 2012 to act on the said claim.

For its part, petitioner had 30 days from October 27, 2012 or until November 26, 2012, to appeal the inaction of the respondent to the Court. Hence, the Petition for Review for the first quarter of FY 2011 docketed as CTA Case No. 8580 was seasonably filed on November 26, 2012.

On the other hand, the administrative claim for the 2nd, 3rd, and 4th quarters of FY 2011 was filed on September 28, 2012. But in this case, respondent requested for submission of additional supporting documents through the LOA dated October 29, 2012 with attached letter dated November 12, 2012[56] requesting for the presentation/submission of petitioner's records covering the period July 1, 2010 to

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[54] Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue, G.R. No. 207112, December 8, 2015.
[55] Exhibit "P-13", *supra*.
[56] Docket, vol. III, pp. 1706-1707.

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March 31, 2011. Petitioner received the same on November 27, 2012.[57]

Evidently, respondent's request for additional documents pertaining to the claim for refund/TCC for 2nd quarter of FY 2011 received by petitioner only on November 27, 2012, was belatedly issued, hence, invalid following the ruling of the Supreme Court that "In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112 (A) of the NIRC."

To elaborate, since the 2nd quarter closed on September 30, 2010, petitioner had 2 years from the close of the taxable quarter or until September 30, 2012 to file its administrative claim, respondent could no longer issue a request for additional documents beyond September 30, 2012. Note that the request for additional documents was received by petitioner on November 27, 2012, or clearly beyond the 2-year prescriptive period for the filing of the administrative claim. Thus, the 120-day period for the 2nd quarter of FY 2011 shall be reckoned from the filing of the administrative claim on September 28, 2012. The same is true for the 3rd and 4th quarters of FY 2011.

In relation to the foregoing, note that from receipt of the LOA with attached request for additional documents on November 27, 2012, petitioner had only 30 days or until December 27, 2012 to comply. However, petitioner submitted additional supporting documents only on January 16, 2013[58], or 50 days from November 27, 2012, which is obviously beyond the prescribed 30-day period to comply with respondent's request. As such, such submission of additional documents on January 16, 2013, could not be the reckoning point of the 120-day period as it was made beyond the 30-day period from the date of receipt of respondent's request to submit documents.

Further, the submission of additional supporting documents for the claim pertaining to the 2nd and 3rd

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[57] Exhibit "P-31", *supra*.
[58] Exhibit "P-32", *supra*.

quarters of FY 2011 on January 16, 2013, was also made beyond the prescribed two-year period for filing an administrative claim under Section 112(A) of the NIRC of 1997, as amended because the 2-year prescriptive period for the administrative claim for refund/TCC for the 2nd and 3rd quarters of FY 2011 were only until September 30, 2012, and December 31, 2012. To repeat the Supreme Court ruling - "In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112 (A) of the NIRC."

Thus, when a taxpayer failed to comply with respondent's request for the submission of additional documents within the prescribed 30-day period, documents submitted upon the filing of the administrative claim shall be deemed complete for purposes of counting the 120-day period for respondent to act.

Under the circumstances, respondent had 120 days from September 28, 2012 or until January 26, 2013 to act on the claim at his level.

With respondent's inaction, petitioner had 30 days from January 26, 2013 or until February 26, 2013 (February 25, 2013, being a holiday) to appeal to the Court.

As such, the Petition for Review covering petitioner's claim for the 2nd, 3rd, and 4th quarters of FY 2011 filed on June 14, 2013 before this Court and docketed as CTA Case No. 8660 was instituted beyond the 30-day prescriptive period[59] thereby depriving this Court of jurisdiction to determine the same.

It has been held the one hundred twenty (120) and thirty (30)-day periods under Section 112(C) are mandatory and jurisdictional, such that judicial claims filed before the denial of the taxpayer's administrative claim or the lapse of the one hundred twenty (120)-day period in case of the CIR's inaction would be deemed premature, while judicial

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[59] Procter & Gamble Asia Pte Ltd. vs. Commissioner of Internal Revenue, G.R. No. 205652, September 6, 2017.

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claims filed beyond the thirty (30)-day period after such denial or lapse would be deemed filed out of time.[60]

Since only the claim for the first quarter of FY 2011 was timely filed both in the administrative and judicial levels, the Court shall determine petitioner's compliance with the remaining requisites for refund only for said period.

Petitioner is a VAT-registered entity and had zero-rated sales

Petitioner complied with the first requisite as it is registered with the BIR as a VAT entity under its COR dated June 06, 2008 with Tax Identification No. 261-474-856-000.[61]

On the second requisite, *i.e.*, the existence of petitioner's zero-rated or effectively zero-rated sales, Section 108(B)(2) of the NIRC of 1997, as amended, states:

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

[60] Mindanao I Geothermal Partnership vs. Commissioner of Internal Revenue, G.R. No. 197519, November 8, 2017.
[61] Par. 5, Stipulation of Facts, JSFI, *supra*; Exhibit P-2", docket, vol. III, p. 1418.

In order for the supply of services to be deemed VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following elements must be satisfied: [62]

1. the services must be other than processing, manufacturing or repacking of goods;

2. the recipient of such services is doing business outside the Philippines, and

3. payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations.

Evidence show that the first condition exists. Petitioner is licensed by the SEC per Company Reg. No. FS200805155 dated April 10, 2008, to transact business in the Philippines as an ROHQ to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication; and business development. [63]

Further, pursuant to the Services Agreement[64] between the petitioner and MFHL dated April 1, 2009, petitioner shall provide the services set out in Schedule 1 of the agreement such as: (a) Application testing; (b) Application monitoring; (c) Technology infrastructure support; (d) Application development; (e) Application support; (f) Financial administration; and (g) Such other services as MFHL may require from time to time and that the petitioner is willing and able to provide. These services clearly fall within the scope of "services other than processing, manufacturing or repacking of goods" contemplated by the aforementioned provision.

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[62] Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc., G.R. No. 153205, January 22, 2007.
[63] Exhibit "P-1", *supra*.
[64] Exhibits "P-20" and "P-20-a", docket, vol. III, pp. 1594-1605 and 1606-1620.

Anent the second requisite, petitioner presented the following documents proving that MFHL is a non-resident foreign corporation doing business outside the Philippines:

1. Certification of Non-Registration of Company issued by the Philippine SEC;[65]

2. Services Agreement between petitioner and MFHL;[66]

3. Certificate of Registration on Change of Name from Macquarie Group Holdings No. 2 Ltd to MFHL;[67]

4. Certificate of Registration of a Company in the name of Macquarie Group Holdings No. 2 Ltd;[68]

5. Constitution of MFHL;[69]

6. Australian Securities and Investments Commission (ASIC) Company Extract of MFHL;[70]

In relation to the third requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), B(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, provide that a VAT taxpayer, like herein petitioner, shall, for every lease of goods or properties and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.

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[65] Exhibit "P-23", *supra*.
[66] Exhibits "P-20" and "P-20-a", *supra*.
[67] Exhibit "P-24a", *supra*.
[68] Exhibit "P-24b", *supra*.
[69] Exhibit "P-24c", *supra*.
[70] Exhibit "P-24d", *supra*.

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and xxx" (*Emphasis supplied*)

"SEC. 4.113-1. *Invoicing Requirements.* —

(A) VAT-registered person shall issue: —

xxx xxx xxx

(2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.

Only VAT-registered persons are required to print their **TIN followed by the word 'VAT' in their** invoice or **official receipts**. Said documents shall be considered as a 'VAT Invoice' or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) *Information contained in VAT invoice or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) VAT, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt; (*Emphasis supplied*)

Pursuant to the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must likewise be supported by VAT zero-rated official receipts.

In its quarterly VAT returns for the 2nd, 3rd and 4th quarters of FY 2011, petitioner declared a total amount of ₱641,321,757.73 zero-rated sales, broken down as follows:

Exhibit	FY 2011	Zero-Rated Sales
"P-3"[71]	1st Quarter	-
"P-4"[72]	2nd Quarter	₱ 110,837,771.93
"P-5"[73]	3rd Quarter	298,552,653.50
"P-6"[74]	4th Quarter	231,931,332.30
	Total	**₱ 641,321,757.73**

In support thereof, petitioner submitted various documents such as summaries of zero-rated sales[75], service invoices[76], official receipts[77], schedule of remittances[78], certifications of inward remittances from Hongkong and Shanghai Banking Corporation (HSBC) [79] and the report[80] of the Court-commissioned ICPA.

[71] Docket, vol. III, p. 1419.
[72] Docket, vol. III, p. 1424.
[73] Docket, vol. III, p. 1431.
[74] Docket, vol. III, p. 1438.
[75] Exhibits "P-15", "P-38" to "P-40", docket, vol. III, pp. 1551, 1799-1801.
[76] Exhibits "P-22a" to "P-22d", "P-41e" to "P-41hh", "P-55", "P-56" "P-58", and "P-59", docket, vol. III, pp. 1622-1625, 1806-1835.
[77] Exhibits "P-22e" to "P-22g", "P-41a" to "P-41d" and "P-41ii", docket, vol. III, pp. 1626-1628, 1802-1805, and 1836.
[78] Exhibit "P-26", *supra*.
[79] Exhibits "P-25a" to "P-25e", *supra*.
[80] Exhibit "P-54", *supra*.

A scrutiny of the aforementioned documents shows that while there is a discrepancy amounting to ₱62,109,500.95 (AUD2,083,248.85)[81] between the zero-rated sales reflected per petitioner's Quarterly VAT Returns and that shown in petitioner's VAT zero-rated ORs, the ICPA was able to account for such discrepancy as pertaining to the following: (1) debit notes, which represents billings by MFHL for the recoveries of ISD, human resources, business services, insurance, financial operations and other recoveries from the petitioner, including cross border interest relative to advances made by the petitioner to MFHL, and reimbursement of expenses paid by MFHL in behalf of the petitioner, which are net of the general expenses also paid by petitioner in behalf of MFHL; and (2) revaluation of intercompany balances, which pertains to foreign currency differential from the invoice date and estimated settlement date based on the internal rate being used by the group and the petitioner[82].

In fine, petitioner was able to prove that it had zero-rated sales for the second, third, and fourth quarters of FY 2011 in the total amount of ₱641,321,757.73. This is in relation to the allegation of petitioner that it had sales of services and billed MFHL in the first quarter but declared the same only in subsequent quarters because MFHL only paid in subsequent quarters. In fine, petitioner proved that it incurred input taxes in the first quarter attributable to zero-rated sales as seen in the second, third, and fourth quarters of FY 2011. This is allowed under the prevailing VAT system.

Petitioner incurred/paid input taxes for the first quarter of FY 2011

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	In AUD	**In PHP**
Zero-Rated Sales per Quarterly VAT Returns	15,455,513.02	641,321,757.75
Zero-Rated Sales per Official Receipts	13,372,264.17	579,212,256.80
Discrepancy	**2,083,248.85**	**62,109,500.95**

82 Exhibit "P-54", *supra*, pp. 892-894.

The Court will now determine whether input taxes were incurred or paid for the first quarter of FY 2011.

As reflected in petitioner's quarterly VAT return[83] for the 1st quarter of FY 2011, the input VAT claim of ₱3,406,989.90 arose from the amortization of input VAT on purchases of capital goods exceeding ₱1Million, purchase of capital goods not exceeding ₱1Million, domestic purchases of goods other than capital goods, domestic purchases of services, and services rendered by non-residents, detailed as follows:

	1st Quarter FY 2011
Input Tax Deferred on Capital Goods Exceeding ₱1Million from Previous Quarter	₱ 8,389,326.83
Add: Input Tax on Capital Goods Exceeding ₱1Million Purchased this Quarter	993,912.36
Total Unamortized Input Tax on Capital Goods Exceeding ₱1Million	₱ 9,383,239.19
Less: Input Tax on Purchases of Capital Goods Exceeding ₱1Million Deferred for the Succeeding Period	8,583,699.24
Amortization of Input Tax on Capital Goods Exceeding ₱1Million	₱ 799,539.95
Add: Input Tax on -	
Domestic Purchases of Capital Goods Not Exceeding ₱1Million	184,189.80
Domestic Purchases of Goods Other than Capital Goods	398,472.32
Domestic Purchases of Services	2,005,050.84
Services Rendered by Non-Residents	19,736.99
Input VAT Claim	**₱ 3,406,989.90**

In support thereto, petitioner presented its Summary of Domestic Purchases with Input VAT[84], and the corresponding suppliers' VAT invoices, VAT official receipts, and other documents[85], which were all examined by the ICPA.

A review of the ICPA Report together with the documents supporting the ₱2,607,449.95[86] input VAT claim

[83] Exhibit "P-3", *supra*.
[84] Exhibits "P-14a" to "P-14c", *supra*.
[85] Exhibits P-78 to P-301.
[86]

Domestic Purchases of Capital Goods not exceeding ₱1M	₱ 184,189.80

on domestic purchases of capital goods not exceeding ₱1M, domestic purchases of goods other than capital goods, domestic purchases of services and services rendered by non-residents reveals that input taxes amounting to ₱731,374.99 is not properly substantiated by VAT invoices or official receipts as prescribed under Sections 110(A) and 113(A) and (B) and 237 and 238 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of RR No. 16-05, as amended, hence, should be disallowed. The amount of ₱731,374.99 is detailed as follows:

FINDING	**Reference to ICPA Report *(Exhibit "P-54")***	**INPUT VAT**
Purchase of Goods other than Capital Goods		
Domestic purchase of goods supported by TIN VAT/VAT REG TIN Invoice not dated within the year of claim.	Annex 5-1Q-q	₱ 197,854.53
Domestic purchase of goods supported by TIN VAT Invoice with incomplete Petitioner's name (i.e. Macquarie Offshore Services) and with inserted Petitioner's address without countersign.	Annex 5-1Q-r	2,098.80
Domestic purchase of goods supported by photocopied TIN VAT Invoice.	Annex 5-1Q-u	412.50
Domestic purchase of goods supported by VAT REG TIN Invoice with inserted Petitioner's name in a computer printed invoice without countersign.	Annex 5-1Q-s	2,043.91
Domestic purchase of goods with supports other than VAT invoice.	Annex 5-1Q-t	11,145.40
Domestic purchase of goods without supporting documents at the time of verification		5,696.79
Subtotal		*₱ 219,251.93*
Purchase of Services		
Domestic purchase of services supported by TIN VAT/VAT REG TIN OR not dated within the year of claim.	Annex 5-1Q-v	₱ 5,388.18
Domestic purchase of services supported by	Annex 5-1Q-w	20,783.55

Domestic Purchases of Goods Other than Capital Goods	398,472.32
Domestic Purchase of Services	2,005,050.84
Services Rendered by Non-Residents	19,736.99
Total	**₱2,607,449.95**

photocopied TIN VAT OR with incomplete Petitioner's name and address (i.e. Macquarie Offshore Services Pty, Makati City) and without VAT breakdown.		
Domestic purchase of services supported by TIN VAT OR with inserted Petitioner's address without countersign.	Annex 5-1Q-x	4,050.00
Domestic purchase of services supported by VAT REG TIN OR not dated within the quarter but within the year of claim issued to Macquarie Offshore Services Pty Ltd (Phils.) Inc.	Annex 5-1Q-y	141.06
Domestic purchase of services supported by VAT REG TIN OR with incomplete Petitioner's name (i.e. Macquarie Offshore) and/or inserted TIN without countersign.	Annex 5-1Q-z	35,635.98
Domestic purchase of services supported by computer printed VAT REG TIN OR without Petitioner's address.	Annex 5-1Q-aa	48,756.00
Domestic purchase of services supported by TIN VAT tape receipt not dated within the quarter but within the year of claim with incomplete Petitioner's name (Macquarie Offshore Services) without Petitioner's address.	Annex 5-1Q-bb	21,109.20
Domestic purchase of services supported by TIN VAT tape receipt with incomplete Petitioner's name (i.e. Macquarie Offshore Services Pty. Ltd, Macquarie Offshore Services Pty.) without Petitioner's address.	Annex 5-1Q-cc	10,609.31
Domestic purchase of services supported by TIN VAT/VAT REG TIN tape receipt.	Annex 5-1Q-dd	4,687.84
Domestic purchase of services with supports other than VAT OR.	Annex 5-1Q-ee	51,191.51
Domestic purchase of services without supporting documents at the time of verification.		220,714.89
Subtotal		*₱ 423,067.52*
Purchase of Capital Goods not Exceeding 1 million		
Domestic purchase of capital goods not exceeding ₱1 million supported by photocopied VAT REG TIN invoice.	Annex 5-1Q-gg	₱ 810.00
Domestic purchase of capital goods (services) not exceeding 1 million by photocopied VAT REG TIN OR with altered Petitioner's name with countersign and with inserted TIN without countersign.	Annex 5-1Q-hh	41,630.36
Domestic purchase of capital goods (services) not exceeding 1 million by photocopied VAT REG TIN OR with	Annex 5-1Q-ii	16,588.39

Petitioner's TIN in different writing.		
Domestic purchase of capital goods not exceeding 1 million without supporting documents at the time of verification		30,026.79
Subtotal		*₱ 89,055.54*
Total		**₱ 731,374.99**

Hence, out of the ₱2,607,449.95 input VAT claim on domestic purchases of capital goods not exceeding ₱1M, domestic purchases of goods other than capital goods, domestic purchases of services and services rendered by non-residents, only the amount of ₱1,876,074.96 represents petitioner's valid input VAT, computed as follows:

	Domestic Purchases of Capital Goods not exceeding ₱1M	**Domestic Purchases of Goods Other than Capital Goods**	**Domestic Purchases of Services**	**Services Rendered by Non-Residents**	**Total**
Input VAT Declared per Return	₱184,189.80	₱ 398,472.32	₱ 2,005,050.84	₱ 19,736.99	₱ 2,607,449.95
Less: Disallowances	89,055.54	219,251.93	423,067.52	-	731,374.99
Properly Substantiated Input VAT on Domestic Purchases of Capital Goods Not Exceeding ₱1M, Domestic Purchases of Goods Other Than Capital Goods, Domestic Purchases of Services and Services Rendered by Non-Residents	**₱95,134.26**	**₱179,220.39**	**₱1,581,983.32**	**₱19,736.99**	**₱1,876,074.96**

We proceed to the substantiation of the ₱799,539.95 amortization of input VAT on capital goods purchases exceeding ₱1Million which originated from the ₱8,389,326.83 input tax deferred on capital goods exceeding ₱1M from previous quarter and ₱993,912.36 input VAT from purchases during the first quarter of FY 2011, as shown below:

	1st Quarter
Input Tax Deferred on Capital Goods exceeding ₱1M from Previous Quarter	₱8,389,326.83
Add: Input Tax on Capital Goods exceeding ₱1M Purchased this Quarter	993,912.36
Total Unamortized Input Tax on Capital Goods exceeding ₱1M	₱9,383,239.19
Less: Input Tax on Purchases of Capital Goods exceeding ₱1M	8,583,699.24

deferred for the succeeding period	
Amortization of Input Tax on Capital Goods exceeding ₱1M	**₱799,539.95**

As correctly found by the ICPA, the input VAT of ₱85,369.01 related to purchases during the first quarter of FY 2011 and the input VAT in the amount of ₱1,627,705.43 related to purchases from previous quarter should be disallowed for failure to meet the substantiation requirements prescribed under the VAT law and regulations cited earlier:

FINDING	**REFERENCE TO ICPA REPORT** ***(Exh. "P-54")***	**INPUT VAT**
Purchases during the First Quarter of FY 2011		
a. Without supporting documents	Annex 6-1Q	*₱ 85,369.01*
Purchases from Previous Periods		
a. Input VAT on purchases of capital goods exceeding ₱1 million supported by "TIN VAT" invoice but not an original copy	Annex 7-l	₱ 188,588.20
b. Input VAT on purchases of capital services exceeding ₱1 million supported by "VAT REG TIN" OR but not an original copy	Annex 7-m	73,200.00
c. Input VAT on domestic purchases of capital goods exceeding ₱1 Million supported by Invoices not registered with the BIR	Annex 7-n	115,082.14
d. Input tax on domestic purchase of capital goods exceeding ₱1 million supported by VAT OR dated in the FY ended March 31, 2010	Annex 7-o	30,427.87
e. Input tax on domestic purchase of capital goods exceeding ₱1 million supported by VAT OR dated outside the period of claim (FY March 2011)	Annex 7-p	30,427.87
f. Without supporting documents	-	1,189,979.35[87]
Subtotal		*₱ 1,627,705.43*
Total		**₱ 1,713,074.44**

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Input Tax Deferred on Capital Goods Exceeding ₱1Million from Previous Quarter	₱8,389,326.83
Less: Properly supported Input VAT	6,761,621.40
With supporting documents but not compliant with the invoicing requirements (disallowances under letters a to e)	437,726.08
Without supporting documents	₱1,189,979.35

w/

Hence, out of the ₱9,383,239.19 reported input VAT on purchases of capital goods exceeding ₱1Million, only the amount of ₱7,670,164.75 (₱9,383,239.19 minus ₱1,713,074.44) is validly supported by VAT invoices/official receipts and only the amount of ₱485,026.65 is creditable/allowable for the first quarter of FY 2011, computed as follows[88]:

Exhibit	Name of Supplier	Date of Invoice	Date of O.R.	Allowable Input VAT	Monthly Allowable Input VAT	Estimated Life (in months)	Total
PURCHASES FROM PREVIOUS PERIODS							
P-1786	Hbo Emtb Construction	20-Jun-08	24-Jul-08	₱ 136,758.21	₱ 4,715.80	29	₱ 14,147.40
P-1787	Hbo Emtb Construction	20-Jun-08	22-Jul-08	191,461.50	6,602.12	29	19,806.36
P-1788	Hbo Emtb Construction	-	04-Nov-08	157,957.39	5,446.81	29	16,340.42
P-1789	Cornersteel Syst. Corp.	8/14/2009	8/26/2009	96,428.57	1,607.14	60	4,821.43
P-1790	Cornersteel Syst. Corp.	10-Jul-09	11-May-09	209,046.65	3,484.11	60	10,452.33
P-1791	Cornersteel Syst. Corp.	10-Jul-09	11-May-09	97,480.29	1,624.67	60	4,874.01
P-1792	Cornersteel Syst. Corp.	10-Jul-09	11-May-09	181,314.82	3,021.91	60	9,065.74
P-1793	Cornersteel Syst. Corp.	10-Jul-09	11-Dec-09	360,720.00	6,012.00	60	18,036.00
P-1794	Cornersteel Syst. Corp.	11/20/2009	01-Aug-10	60,067.29	1,716.21	60	3,003.36
P-1795	Cornersteel Syst. Corp.	11-Nov-09	12-Oct-09	145,051.86	2,417.53	60	7,252.59
P-1796	Cornersteel Syst. Corp.	11/20/2009	01-Aug-10	41,809.32	696.82	60	2,090.47
P-1797	Cornersteel Syst. Corp.	11/20/2009	01-Aug-10	36,262.97	604.38	60	1,813.15
P-1798	Cornersteel Syst. Corp.	11/20/2009	01-Aug-10	19,496.06	324.93	60	974.80
P-1799	Cornersteel Syst. Corp.	11-Nov-09	01-Aug-10	77,984.23	1,299.74	60	3,899.21
P-1800	Cornersteel Syst. Corp.	11-Nov-09	01-Aug-10	288,576.00	4,809.60	60	14,428.80
P-1801	Cornersteel Syst. Corp.	10/27/2009	01-Aug-10	167,237.28	2,787.29	60	8,361.86
P-1802	Cornersteel Syst. Corp.	11/20/2009	01-Aug-10	19,285.71	321.43	60	964.29
P-1803	Emerson Network Power (Philippines) Inc.	10/30/2009	12-Nov-09	102,180.00	2,919.43	35	8,758.29
P-1804	Emerson Network Power (Philippines) Inc.	10/13/2009	12-Nov-09	251,853.43	7,195.81	35	21,587.44
P-1805	Emerson Network Power (Philippines) Inc.	10/13/2009	12-Nov-09	25,285.72	722.45	35	2,167.35
P-1806	Cornersteel System	11/20/2009	1/22/2009	72,144.00	1,202.40	60	3,607.20
P-1807	Functionsmith Sales & Services	1/18/2010	02-Sep-10	1,022.40	17.04	60	51.12
P-1808	Walls In Motion	04-Sep-09	9/25/2009	16,607.14	474.49	35	1,423.47
P-1809	Barrington Carpets, Inc.	8/24/2009	9/25/2009	428.40	281.08	35	843.24
P-1810	Automatic Fire Sprinkler System Co. Ltd.	8/17/2009	9/17/2009	12,000.00	342.86	35	1,028.57
P-1811	Walls In Motion	-	12-Dec-09	13,285.71	379.59	35	1,138.78
P-1812	Automatic Fire Sprinkler System Co. Ltd.	11-May-09	12-Feb-09	33,000.00	942.86	35	2,828.57
P-1813	Walls In Motion	10/15/2009	10-Dec-09	3,321.43	94.90	35	284.69
P-1814	Lantro (Phil) Inc.	1/22/2010	11-Feb-10	10,092.65	305.84	33	917.51
P-1815	Rcw Construction & Development Corp.	9/29/2009	10/23/2009	117,857.14	1,122.45	35	3,367.35
P-1816	Alecto General	9/29/2009	10/23/2009	156,428.57	1,489.80	35	4,469.40

[88] Exhibit "P-54", Annex 8, *supra*, pp. 1243-1250.

	Technology Corporation						
P-1817	Alecto General Technology Corporation	9/29/2009	10/23/2009	109,741.06	1,045.15	35	3,135.45
P-1818	Alecto General Technology Corporation	10/22/2009	11-Nov-09	69,717.86	663.98	35	1,991.94
P-1819	Lantro (Phil) Inc.	10/14/2009	11-Nov-09	16,352.32	155.74	35	467.22
P-1820	Lantro (Phil) Inc.	10/14/2009	11-Nov-09	2,094.64	19.95	35	59.85
P-1821	Alecto General Technology Corporation	10-Dec-09	12-Mar-09	547,500.00	5,214.29	35	15,642.87
P-1822	Lantro (Phil) Inc.	10/14/2009	11/13/2009	242,221.52	2,306.87	35	6,920.61
P-1823	Lantro (Phil) Inc.	8/26/2009	11/13/2009	242,221.52	2,306.87	35	6,920.61
P-1824	Lantro (Phil) Inc.	9/28/2009	11/13/2009	242,221.52	2,306.87	35	6,920.61
P-1825	Lantro (Phil) Inc.	11/16/2009	10-Dec-09	1,816.92	17.30	35	51.90
P-1826	Emerson Network Power (Philippines) Inc.	9/28/2009	12-Nov-09	3,750.00	35.71	35	107.13
P-1827	Powergear Electrical Sales (Pges) Corp.	02-Oct-09	09-Oct-09	128,571.43	3,673.47	35	11,020.41
P-1828	Rcw Construction & Development Corp.	10/30/2009	02-Dec-09	187,687.50	1,787.50	35	5,362.50
P-1829	Rcw Construction &	11-Dec-09	11-Jan-10	38,775.00	285.11	34	855.33
P-1830	Rcw Construction &	05-Jan-10	1/29/2010	13,392.85	98.48	34	295.44
P-1831	Barrington Carpets, Inc.	8/24/2009	9/25/2009	9,409.50	281.08	35	843.24
P-1832	Barrington Carpets, Inc.	10/13/2009	11/23/2009	7,527.60	224.87	35	674.61
P-1833	Barrington Carpets, Inc.	10/29/2009	1/15/2010	1,881.90	56.22	35	168.66
P-1834	Salemaire Industries Corp.	12/14/2009	12-Jan-10	442,500.00	13,014.71	34	39,044.12
P-1835	Salemaire Industries Corp.	12/14/2009	12-Jan-10	281,437.50	8,277.57	34	24,832.72
P-1836	Alecto General Technology Corporation	11/27/2009	01-Nov-10	384,093.71	11,296.87	34	33,890.62
P-1837	Alecto General Technology Corporation	12-Nov-09	02-Aug-10	78,214.29	2,370.13	33	7,110.39
P-1838	Alecto General Technology Corporation	12-Nov-09	02-Aug-10	54,870.53	1,662.74	33	4,988.23
P-1839	Salemaire Industries Corp.	03-Feb-10	3/25/2010	14,812.50	462.89	32	1,388.67
P-1840	Salemaire Industries Corp.	03-Feb-10	3/25/2010	63,214.29	1,975.45	32	5,926.34
P-1841	Salemaire Industries Corp.	03-Feb-10	3/25/2010	42,321.43	1,322.55	32	3,967.63
P-1842	Lantro (Phil) Inc.	1/22/2010	11-Feb-10	7,878.92	238.75	33	716.27
P-1843	Salemaire Industries Corp.	8/27/2009	02-Oct-09	84,642.86	2,417.53	35	7,252.59
P-1844	Salemaire Industries Corp.	8/27/2009	02-Oct-09	126,428.57	3,612.24	35	10,836.73
P-1845	Emerson Network Power (Philippines) Inc.	9/28/2009	01-Dec-10	33,750.00	964.29	35	2,892.87
P-1846	Barrington Carpets, Inc.	10/29/2009	1/15/2010	85.68	56.22	35	168.66
P-1847	Cornersteel Syst. Corp.	09-Jan-09	11-May-09	75,084.12	2,145.26	60	3,754.21
P-1848	Cornersteel Syst. Corp.	12/15/2009	1/29/2010	15,016.82	250.28	60	750.84
P-1849	Functionsmith Sale	12/17/2009	1/22/2010	9,201.60	153.36	60	460.08
P-1850	Lantro (Phil) Inc.	11/16/2009	06-Jan-10	80,740.51	2,306.87	35	6,920.62
Input VAT Allowable for the First Quarter of FY 2011from Purchases from Previous Periods				**₱ 6,761,621.20**			**₱409,145.18**
P-1689	Integrated Computer System, Inc.	12-Apr-10	30-Apr-10	₱ 168,107.14	₱ 4,669.64	36	₱ 14,008.93
P-1690	Integrated Computer System, Inc.	27-Apr-10	06-Jul-10	84,053.57	2,334.82	36	7,004.46
P-1691	Integrated Computer System, Inc.	24-May-10	17-Jun-10	50,552.68	1,404.24	36	4,212.72
P-1692	Integrated Computer System, Inc.	19-Apr-10	17-Jun-10	20,785.71	577.38	36	1,732.14
P-1693	Integrated Computer System, Inc.	19-Apr-10	17-Jun-10	16,810.71	466.96	36	1,400.89
P-1693	Integrated Computer			8,405.36	233.48	36	700.45

	System, Inc.						
P-1694	Integrated Computer System, Inc.	21-May-10	17-Jun-10	65,158.93	1,809.97	36	5,429.91
P-1695	Integrated Computer System, Inc.	05-Dec-10	17-Jun-10	2,375.36	65.98	36	197.95
P-1696	Integrated Computer System, Inc.	05-Dec-10	28-Jun-10	1,187.68	32.99	36	98.97
P-1697	Integrated Computer System, Inc.	30-Apr-10	17-Jun-10	10,392.86	288.69	36	866.07
P-1698	Integrated Computer System, Inc.	13-May-10	17-Jun-10	18,996.43	527.68	36	1,583.04
P-1699	Integrated Computer System, Inc.	22-Apr-10	28-Jun-10	33,621.43	933.93	36	2,801.79
P-1699	Integrated Computer System, Inc.			33,621.43	933.93	36	2,801.79
P-1699	Integrated Computer System, Inc.			16,810.71	466.96	36	1,400.89
P-1700	Integrated Computer System, Inc.	13-May-10	28-Jun-10	9,692.68	269.24	36	807.72
P-1700	Integrated Computer System, Inc.			9,692.68	269.24	36	807.72
P-1700	Integrated Computer System, Inc.			9,692.68	269.24	36	807.72
P-1700	Integrated Computer System, Inc.			19,385.36	538.48	36	1,615.45
P-1701	Functionsmith Sales & Services	26-May-10	25-Jun-10	20,089.29	334.82	60	1,004.46
P-1702	Alecto General Technology Corporation	26-May-10	07-Jul-10	71,785.71	2,563.78	28	7,691.33
P-1703	Rcw Construction & Development Corp.	27-May-10	17-Jun-10	123,214.29	4,400.51	28	13,201.53
P-1704	Cornersteel Systems Corporation	17-May-10	18-Jun-10	69,514.29	1,158.57	60	3,475.71
P-1705	Functionsmith Sales & Services	18-May-10	15-Jun-10	18,882.08	314.70	60	944.10
P-1706	Functionsmith Sales & Services	18-May-10	15-Jun-10	25,714.29	428.57	60	1,285.71
Input VAT Allowable for the First Quarter of FY 2011 from Purchases during the same period				**₱ 908,543.35**			**₱ 75,881.47**
TOTAL				**₱7,670,164.55[89]**			**₱485,026.65**

In sum, petitioner's total allowable input VAT amounted only to ₱2,361,101.61 as computed below:

Input VAT on Domestic Purchases of Capital Goods Not Exceeding ₱1M, Domestic Purchases of Goods other than Capital Goods, Domestic Purchases of Services and Services Rendered by Non-Residents	₱ 1,876,074.96
Amortization of Input VAT on Purchases of Capital Goods Exceeding ₱1M	485,026.65
Total Substantiated Input VAT	**₱2,361,101.61**

Petitioner's input taxes were entirely attributable to zero-rated sales and were not applied against

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[89] Difference of ₱0.20 is due to rounding-off.

any output VAT liability

With reference to the fourth and fifth requisites - that such input taxes are attributable to zero-rated or effectively zero-rated sales, and that they were not applied against any output VAT liability, respectively, evidence show that petitioner's reported sales for the 2nd, 3rd, and 4th quarters of FY 2011 were all zero-rated, the net substantiated input VAT in the amount of ₱2,361,101.61 is entirely attributable thereto and was not applied against any output tax. Even though the claimed input VAT was carried over by petitioner in its succeeding quarterly VAT returns[90], they remained unutilized until it was deducted as "VAT Refund/TCC Claimed"[91] in the quarterly VAT return for the first quarter of FY 2013, thus, preventing the carry-over or application of the claimed input VAT in the next taxable periods.

In sum, petitioner has sufficiently established its entitlement to refund or issuance of a TCC in the reduced amount of ₱2,361,101.61, representing unutilized excess input VAT for the first quarter of FY 2011 attributable to its zero-rated sales for the second, third, and fourth quarters of FY 2011.

WHEREFORE, the Petition for Review in CTA Case No. 8660 is **DENIED** for lack of jurisdiction, while the Petition for Review in CTA Case No. 8580 is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to refund or issue a TCC in favor of petitioner in the amount of **₱2,361,101.61,** representing its unutilized input VAT for the first quarter of FY 2011 attributable to its zero-rated sales for the second, third, and fourth quarters of FY 2011.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

[90] Exhibits "P-7a", "P-8a", "P-9", and "P10" , "P-11", docket, vol. III, pp. 1454-1456, 1467-1469, 1470-1472, 1473-1477 and 1478-1479.
[91] Exhibit "P-11", Line 23D, *supra*, p. 1479.

We Concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

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

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice