REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MAERSK GLOBAL SERVICES CENTRES (PHILIPPINES), LTD.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8549

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

MAR 13 2015

10:51 a.m.

x- -x

AMENDED DECISION

CASTAÑEDA, JR., J.:

For this Court's resolution is petitioner's **Motion for Reconsideration (of the Decision dated 14 November 2014)** filed on December 1, 2014, without respondent's comment thereto, despite due notice as per Records Verification dated January 9, 2015.

Petitioner moves for the reconsideration of the Decision promulgated on November 14, 2014, the dispositive portion of which reads:

> **WHEREFORE,** premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

In the assailed Decision, the Court found that petitioner's non-resident foreign client, A.P. Moller-Maersk A/S, is actually doing business in the Philippines since the latter is engaged in international shipping that transports container cargoes to and from the Philippines. Petitioner's sales relating to the shipment of A.P. Moller-Maersk A/S to and from the Philippines comprised of 1.5% of petitioner's total sales. The Court, therefore, held that petitioner's sales to A.P. Moller-Maersk A/S cannot qualify for VAT zero-rating, and that the claimed input taxes attributable thereto cannot be refunded.

Petitioner argues that the entire services rendered to its client A.P. Moller-Maersk A/S are VAT zero-rated transactions because the small portion of the services relating to the Philippine business of A.P. Moller-Maersk A/S pertained to international shipping operations for the transport of container cargoes to and from the Philippines which were also expressly subject to VAT at zero rate under Section 108(B)(4) of the National Internal Revenue Code ("NIRC") of 1997, as amended.[1] It contends that its sale of services to A.P. Moller-Maersk A/S is entirely zero-rated pursuant to Sections 108(B)(2) and 108(B)(4) of the NIRC of 1997, as amended.

While petitioner concedes that a minimal portion or 1.5% of the services it rendered to A.P. Moller-Maersk A/S relate to the Philippine portion of the latter's international shipping operations, it contends that such portion is expressly classified as zero-rated under Section 108(B)(4) of the NIRC of 1997, as amended[2].

Likewise, petitioner contends that if the services rendered to a non-resident foreign purchaser of services engaged in international shipping are not covered under Section 108(B)(2) of the NIRC of 1997, as amended, then a direct exporter, which is established and domiciled in the Philippines would be in a better situation.

---

[1] Ground, Motion for Reconsideration dated December 1, 2014, Docket (vol. II).

[2] **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

(4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof;

xxx xxx xxx

This is because the local exporter is required to export only 70% of its total annual production so that its purchases will be zero-rated under Section 106(A)(a)(3)[3] and Section 108(B)(5)[4] of the NIRC of 1997, as amended; whereas, a non-resident foreign purchaser engaged in international shipping is required that 100% of the service purchased from the Philippines be used for a business that is totally unrelated to the Philippines; otherwise, its entire purchase of services from the Philippines will be subjected to VAT. Petitioner contends that this could not have been intended by the government because it will discourage foreign investments and dampen down export of services and local employment.

We resolve to PARTIALLY GRANT petitioner's motion.

After a careful evaluation of the arguments presented by petitioner and re-examination of the records of the case, petitioner is qualified to claim refund under Section 108(B)(4) of the NIRC of 1997, but NOT under Section 108(B)(2) of the said law.

Petitioner's client, A.P. Moller-Maersk A/S, is actually doing business in the Philippines based on the evidence that 1.5% of the total services rendered to it is allocable to the Philippine portion of the latter's international shipping operations.[5] The Court has extensively discussed this in the assailed Decision, the pertinent portion of which reads:

---

[3] **SEC. 106.** ***Value-Added Tax on Sale of Goods or Properties. –***

(A) *Rate and Base of Tax.* -

xxx xxx xxx

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales.* - The term 'export sales' means:

xxx xxx xxx

(3) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;

xxx xxx xxx

[4] **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

(5) Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of total annual production.

[5] Exhibit "BB", Docket (vol. I), pp. 499-500.

As to the third requisite, petitioner submitted the following documents to prove that its client A.P. Moller-Maersk A/S is doing business outside the Philippines:

1. Certificate of Non-Registration of A.P. Moller-Maersk A/S issued by the Security and Exchange Commission (SEC);
2. Certificate of Residency of A.P. Moller-Maersk A/S issued by the Central Customs and Tax Administration of Denmark;
3. Articles of Association for A.P. Moller-Maersk A/S; and
4. Compiled Summary for A.P. Moller-Maersk A/S.

From the foregoing, it appears that A.P. Moller-Maersk A/S is doing business outside the Philippines. However, the fact that it is **actually** doing business in the Philippines is disclosed by Mr. Arthur Araña in the following statements:

Q35. You mentioned that A.P. Moller-Maersk A/S is engaged in international shipping that transports container cargoes to and from the Philippines. Would you know if petitioner rendered services to A.P. Moller-Maersk A/S pertaining to shipments of cargoes to or from the Philippines?

A35. Yes, the petitioner rendered services to A.P. Moller-Maersk A/S pertaining to shipments of cargoes to or from the Philippines.

Q36. Do you know how much of the total sales of services rendered by petitioner in 2009 relate to the shipments of A.P. Moller-Maersk A/S to or from the Philippines?

A36. Yes. The petitioner's sales relating to the shipments of A.P. Moller-Maersk A/S to or from the Philippines would be approximately 1.5% of the total sales. Jr

Q37. How were you able to determine that petitioner's sales relating to the shipments of A.P. Moller-Maersk A/S to or from the Philippines would be approximately 1.5% of the total sales?

A37. The computation (%) is based on 2009 average headcount of employees supporting the shipments to/from the Philippines over the average headcount of all employees in 2009.

Q38. How were you able to determine the 2009 average headcount of employees supporting the shipments to/from the Philippines over the average headcount of all employees in 2009?

A38. We monitor on a monthly basis the number of employees providing services to each and every country.

Petitioner submitted an Average Headcount Distribution Per Country for the year 2009 to support the approximate portion of A.P. Moller-Maersk A/S' business in the Philippines.

Further, the Court-commissioned Independent CPA, Ms. Mary Ann C. Capuchino, noted the following in her report dated April17, 2013:

> The Company disclosed to us that A.P. Moller-Maersk A/S is engaged in international shipping business and other businesses. **A portion of the international shipping business relates to the Philippine business.**
>
> xxx xxx xxx
>
> Based on the above, considering that the export sale of services relating to A.P. Moller-Maersk A/S Philippine portion of its international shipping business is not conducted outside the Philippines, these may

> no longer be entitled to input VAT refund to the extent of the Philippine portion of such export sale.
>
> Therefore, 98.50% or ₱396,459,587.59 (98.50% x ₱402,497,043.24) of the total zero-rated sales of the Company for the month of June, 3rd and 4th quarters of CY 2009 relates to services rendered to non-residents are entitled to an input VAT refund, while 1.50% or ₱6,037,455.65 (1.50% x ₱402,497,043.24) of the total zero-rated sales pertains to the Philippine shipping business of A.P. Moller-Maersk A/S may no longer be entitled to input VAT refund. (*Emphasis supplied*)

Clearly, petitioner was unable to comply with the third requisite because its non-resident foreign client, A.P. Moller-Maersk A/S, is actually doing business in the Philippines.

Consequently, petitioner's sales of services to A.P. Moller-Maersk A/S cannot qualify for VAT zero-rating and the claimed input taxes attributable thereto in the amount of P7,862,002.84 cannot be refunded. Accordingly, it is unnecessary to discuss petitioner's compliance with the remaining requisites previously mentioned.[6]

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[7], the Supreme Court explained why Section 108(B)(2) cannot apply to a VAT taxpayer claiming refund when the recipient of its services does business in the Philippines, to wit:

> xxx In short, services other than processing, manufacturing, or repacking of goods must likewise be performed for persons doing business outside the Philippines.
>
> This can only be the logical interpretation of Section 102(b)(2). If the provider and recipient of the "other services" are both doing business in the Philippines, the

[6] Decision, pp. 18-20, Docket (vol. II).
[7] G.R. No. 153205, January 22, 2007, 512 SCRA 124.

> payment of foreign currency is irrelevant. Otherwise, those subject to the regular VAT under Section 102(a) can avoid paying the VAT by simply stipulating payment in foreign currency inwardly remitted by the recipient of services. **To interpret Section 102(b)(2) to apply to a payer-recipient of services doing business in the Philippines is to make the payment of the regular VAT under Section 102(a) dependent on the generosity of the taxpayer.** The provider of services can choose to pay the regular VAT or avoid it by stipulating payment in foreign currency inwardly remitted by the payer-recipient. Such interpretation removes Section 102(a) as a tax measure in the Tax Code, an interpretation this Court cannot sanction. A tax is a mandatory exaction, not a voluntary contribution.[8] *(Emphasis supplied)*

However, the Court finds that petitioner may claim refund under Section 108(B)(4) of the NIRC of 1997, as amended, which provides:

> 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
>
> (4) **Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof**;" *(Emphasis supplied)*

This provision must be read in connection with Section 4.108-5 (b)(4) of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 4-2007, to wit: Je

[8] Section 102 is now Section 108 of the NIRC of 1997. The renumbering took effect on 1 January 1998 pursuant to Republic Act No. 8424, otherwise known as the Tax Reform Act of 1997.

Sec. 4.108-5. *Zero-Rated Sale of Services.*

xxx xxx xxx

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

xxx xxx xxx

(4) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof; Provided, however, that the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to twelve percent (12%) VAT under Sec. 108 of the Tax Code starting Feb. 1, 2006;"

It was established in the assailed Decision that petitioner's client, A.P. Moller–Maersk A/S, is a non-resident foreign corporation[9] engaged in international shipping that transports container cargoes, including shipments of cargoes to and from the Philippines.[10] Its "main objects are to carry on shipping, chartering and related business, but it shall be a further object to engage in other transport business, commercial and industrial activities at home and abroad within the scope deemed appropriate by the Board of Directors"[11].

Consequently, petitioner's sale of services to A.P. Moller–Maersk A/S qualify for zero-rating under Section 108(B)(4) of the NIRC of 1997, as amended, and the claimed input taxes attributable thereto may be refunded.

Pertinent to petitioner's judicial claim is Section 112 (A) of the NIRC of 1997, as amended, which provides:

---

[9] Exhibits "E", Docket (vol. I), p. 548; and Exhibit "D", Docket (vol. I), pp. 545-547.

[10] Exhibits "B", Docket (vol. I), pp. 525-535; Exhibit "C", Docket (vol. I), pp. 536-544; and Exhibit "BB", Docket (vol. I), pp. 499-500.

[11] Exhibit "B", Docket (vol. I), pp 525-535.

> **SEC. 112.** ***Refunds or Tax Credits of Input Tax***. –
>
> (A) *Zero-rated or Effectively Zero-rated Sales.* - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108 (B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

Thus, in order to be entitled to a refund or tax credit of input VAT payments attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

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

As previously found by the Court, petitioner filed its administrative and judicial claims well within the prescriptive period. We quote the Court's findings:[12]

> Petitioner filed its administrative claim for the four quarters of taxable year 2009 amounting to ₱13,120,701.70 with the DOF-OSS on September 1, 2010, which is well within the two-year prescriptive period.
>
> xxx xxx xxx
>
> The foregoing provision provides that petitioner has 30 days from the receipt of the BIR Commissioner's decision denying the claim to appeal before this Court. On August 30, 2012, petitioner received a letter from the DOF-OSS to that effect. Reckoned from that date, petitioner had until September 29, 2012 within which to file its judicial claim. The instant Petition for Review was filed on September 28, 2012, hence, within the period prescribed by law.

As to the first requisite, the Court found that petitioner satisfied the first requisite as it is a VAT-registered taxpayer as evidenced by its Certificate of Registration No. OCN3RC0000466671.[13]

The Court likewise found that petitioner's client A.P. Moller–Maersk A/S is a non-resident foreign corporation engaged in international shipping that transports container cargoes, including shipments of cargoes to and from the Philippines.[14] Thus, petitioner's sales of services to A.P. Moller–Maersk A/S qualify for VAT zero-rating pursuant to Section 108(B)(4) of the NIRC of 1997, as amended.

For the month of June 2009, and the third (3rd) and fourth (4th) quarters of 2009, petitioner derived zero-rated receipts from services rendered to A.P. Moller–Maersk A/S in the amount of ₱402,497,043.24. The sales were declared in petitioner's VAT Returns for the same period and evidenced by Statements of Accounts (SAs) and VAT zero-rated Official Receipts (ORs), detailed as follows:

[12] Decision, p. 7, Docket (vol. II).
[13] Exhibit "F", Docket (vol. I), p. 549.
[14] Exhibit "E", Docket (vol. I), p. 548; Exhibit "D", Docket (vol. I), pp. 545-547; Exhibit "B", Docket (vol. I), pp. 525-535; Exhibit "C", Docket (vol. I), pp. 536-544; and Exhibit "BB", Docket (vol. I), pp. 499-500.

Period Covered	VAT Returns (Exhibit No.)	Zero-Rated Sales/Receipts	
2nd Quarter 2009	BBB-05 to -06	₱ 198,368,128.99	
Less:			
April 2009	BBB-01 to -02	₱ 49,003,376.60	
May 2009	BBB-03 to -04	99,162,470.39	
Sub-total		₱ 148,165,846.99	
June 2009			₱ 50,202,282.00
3rd Quarter 2009	BBB-11 to -12		161,222,031.00
4th Quarter 2009	BBB-17 to -18		191,072,730.24
TOTAL			**₱ 402,497,043.24**

Exh.	SA No.	SA Date	Amount (in US$)	Amount (in PhP)	Exh.	OR No.	Amount (in US$)
EEE-1	006	6/30/2009	1,026,333.00	50,202,282.00	DDD-1	0010	1,070,570.05
EEE-2	007	7/31/2009	1,153,833.00	55,557,059.00	DDD-2	0011	1,088,988.95
EEE-3	008	8/31/2009	1,058,858.00	50,995,347.00	DDD-3	0012	1,079,465.00
EEE-4	009	9/30/2009	1,135,652.00	54,669,625.00	DDD-4	0013	1,135,652.00
EEE-5	010	10/30/2009	1,249,167.00	60,134,134.00	DDD-5	0014	1,249,167.00
EEE-6	011	11/30/2009	1,358,764.00	63,905,920.00	DDD-6	0015	1,358,764.00
EEE-7	012	12/31/2009	1,451,700.00	67,032,676.00	DDD-7	0016	1,451,700.00
TOTAL			**8,434,307.00**	**402,497,043.00**			**8,434,307.00**

Having resolved that petitioner had VAT zero-rated receipts for the month of June 2009, and the 3rd and 4th quarters of 2009 in the amount of ₱402,497,043.24, We now determine the amount of unutilized excess input VAT attributable thereto.

For the same taxable period, petitioner reported input taxes in the total amount of ₱7,865,681.37, detailed as follows:

Exhibit	Period Covered	Input Taxes	
BBB-05 to -06	2nd Quarter 2009	₱ 2,745,873.94	
BBB-01 to -02	Less: April 2009	₱ 860,739.22	
BBB-03 to -04	May 2009	1,115,127.35	
	June 2009		₱ 770,007.37
BBB-11 to -12	3rd Quarter 2009		2,647,619.89
BBB-17 to -18	4th Quarter 2009		4,448,054.11
	Total		**₱ 7,865,681.37**

However, petitioner's claim only amounts to ₱7,862,002.84. The difference of ₱3,678.53 was accounted for by the Court-commissioned Independent Certified Public Accountant (ICPA)[15] as follows:[16]

Input VAT credited to Output VAT for the period	₱ 2,839.28
Input VAT per VAT Returns not claimed for the period	839.27
Total Input VAT not Claimed per Petition for Review	**₱ 3,678.55***

**(₱0.02 insignificant difference due to rounding-off)*

Upon examination of the documents submitted by petitioner to support its declared input taxes, the ICPA noted the following findings:[17]

Findings	Input Tax	Exhibit HHHH
A. Input taxes on purchases of goods and services properly supported for VAT purposes:		
1. Domestic purchases of goods properly supported with original VAT invoices	₱ 1,622,042.34	Annex I
2. Domestic purchases of services properly supported with original VAT ORs	4,089,816.75	Annex J
3. Purchases of capital goods exceeding P1M properly supported with original VAT invoices (Amortization of Input VAT)	324,167.10	Annex K
Subtotal	₱ 6,036,026.19	
B. Input taxes on purchases of goods and services properly supported by VAT invoices and VAT ORs but with exceptions noted:		
1. Domestic purchases of goods properly supported with original VAT invoices but does not bear the Company's TIN	₱ 78,477.87	Annex L
2. Domestic purchases of services properly supported with original VAT ORs but does not bear the Company's TIN	447,067.15	Annex M
3. Purchases of capital goods exceeding P1M properly supported with original VAT invoices but does not bear the Company's TIN (Amortization of Input VAT)	131,011.50	Annex N
4. Domestic purchases of goods properly supported with original VAT invoices but the amount of input VAT was not separately indicated	15,528.10	Annex O
5. Domestic purchases of services properly supported with original VAT ORs but the amount of input VAT was not separately indicated	4,821.43	Annex P
6. Purchases of capital goods exceeding P1M properly supported with original VAT invoices but does not bear the Company's TIN and the amount of input VAT was not separately indicated (Amortization of input VAT)	140,728.99	Annex Q
7. Domestic purchases of services properly supported with original VAT ORs but the amount of input VAT claimed is less than the input VAT per supporting VAT documents (Amount presented pertains to Input VAT claimed)	31,051.26	Annex R
Subtotal	₱ 848,686.30	
Subtotal of items A and B	**₱6,884,712.49**	
C. Input taxes on purchases of goods and services not properly supported with the required VAT documents:		

fe

[15] Ms. Mary Ann C. Capuchino of SGV & Co.
[16] Exhibit "CC-2", Docket (vol. I), p. 642.
[17] *Ibid*, pp. 26-28.

1. Domestic purchases of services supported with original VAT ORs but the amount of input VAT claimed was overstated (Amount of overstatement)	₱ 642.07	Annex S
2. Domestic purchases of goods and services supported with original VAT invoices and ORs not dated within the covered period	331,127.96	Annex T
3. Domestic purchases of goods supported with Non-VAT invoices	733.93	Annex U
4. Domestic purchases of services supported with Non-VAT ORs	13,349.01	Annex V
5. Domestic purchases of goods and services supported only with photocopies of VAT invoices and ORs	75,034.20	Annex W
6. Domestic purchases of goods not supported with original VAT invoices but supported with original VAT ORs	43,914.76	Annex X
7. Purchases of capital goods exceeding P1M not supported with VAT invoices but supported with original VAT ORs (Amortization of Input VAT)	14,023.33	Annex Y
8. Domestic purchases of goods supported with collection receipts	87,615.00	Annex Z
Subtotal	**₱ 566,440.26**	
D. Input taxes on purchases of goods and services without supporting documents:		
1. Purchases of capital goods exceeding P1M without supporting documents (Amortization of input VAT)	₱ 304,237.76	Annex AA
2. Domestic purchases of services without supporting documents	110,290.92	Annex BB
Subtotal	**₱ 414,528.68**	
Total unutilized input taxes for the month of June, 3rd and 4th quarters of CY 2009 per ICPA verification	**₱7,865,681.43**	

Items under B.1 to B.6, C and D should be disallowed for failure to comply with the invoicing requirements pursuant to Section 113(A) and (B) of the NIRC of 1997, as amended, which provides:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.*—
>
> (A) *Invoicing Requirements.*— A VAT-registered person shall issue:
>
> (1) A <u>VAT invoice for every sale, barter or exchange of goods or properties</u>; and
>
> (2) A <u>VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services</u>.
>
> (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: jr

(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:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term **'VAT-exempt sale'** shall be written or printed prominently on the invoice or receipt;

(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;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer's Identification Number (TIN) of the

purchaser, customer or client. *(Underscoring supplied.)*

The foregoing is implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended, thus:

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

(A) **A VAT-registered person shall issue**: --

(1) A VAT invoice for every sale, barter or exchange of goods or properties; and

(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**:

(a) **The amount of tax shall be shown as a separate item in the invoice or receipt**;

> (b) If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;
>
> (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;
>
> (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.
>
> (3) In the case of **sales in the amount of one thousand pesos (₱1,000) or more** where the sale or transfer is made to a VAT-registered person, the **name, business style, if any, address and TIN of the purchaser, customer or client**, shall be indicated in addition to the information required in (1) and (2) of this Section. *(Emphasis supplied.)*

Out of the ₱31,051.26 input VAT pertaining to petitioner's domestic purchases of services under item B.7 of the ICPA findings, the amount of ₱658.93 supported by OR No. 0187[18] issued by ECK Printing Press on March 26, 2010 shall be disallowed for being outside the period of claim. The remaining input VAT in the amount of ₱30,392.33 which is duly supported by VAT ORs represents petitioner's valid claim.

Thus, the disallowances per the ICPA's findings are adjusted to ₱1,799,262.91, as computed below: *fr*

[18] Exhibit "YYY-18".

	Findings		Disallowed Input Tax
1)	Input taxes on purchases of goods and services properly supported by VAT invoices and VAT ORs but with exceptions noted *(Item B)*	₱ 848,686.30	
	Less: Properly supported but VAT claimed is less (Item B.7)	(31,051.26)	
	Add: OR dated outside the period of claim (*Exh. YYY-18*)	658.93	₱ 818,293.97
2)	Input taxes on purchases of goods and services not properly supported with the required VAT documents *(Item C)*		566,440.26
3)	Input taxes on purchases of goods and services without supporting documents (*Item D*)		414,528.68
	Total		**₱1,799,262.91**

Likewise, the following input VAT in the aggregate amount of ₱233,341.01 shall be disallowed from petitioner's claim for failure to meet the substantiation requirements under the VAT law and regulations:

Exhibit	OR/Invoice Number	OR/Invoice Date	Supplier	Input Tax
1. Input tax on purchase of goods which was claimed twice.				
PPP-094	0671	10/7/2009	Continental Associated Food Products Export Inc.	₱ 816.53
Subtotal				**₱ 816.53**
2. Input taxes on purchases of services supported by official receipts dated outside the period of claim.				
PPP-104	0169	1/8/2010	ECK Printing Press	₱ 1,933.89
PPP-107	0168	1/8/2010	ECK Printing Press	1,518.38
QQQ-1497	67448	10/16/2002	Philscan Travel & Tours Inc.	428.57
Subtotal				**₱ 3,880.84**
3. Input taxes on purchases of services supported by official receipts without the word "VAT" and BIR Authority to Print (ATP) and collection receipts that are "not a valid source of input tax".				
QQQ-0704 to -0705	PKEOR000416908	8/12/2009	PLDT	₱ 390.49
QQQ-708 & -710	PKEOR000416909	8/12/2009	PLDT	213.75
QQQ-712 to -713	PKEOR000416905	8/12/2009	PLDT	22,339.42
QQQ-716 to -717	PKEOR000416906	8/12/2009	PLDT	12,517.10
QQQ-722	PKEOR000416998	8/12/2009	PLDT	160.71
QQQ-724 to -725	PKEOR000416999	8/12/2009	PLDT	160.71
QQQ-728 to -729	PKEOR000416996	8/12/2009	PLDT	2,400.00
QQQ-732 to -733	PKEOR000416997	8/12/2009	PLDT	190.09
QQQ-736 to -737	PKEOR000417340	8/13/2009	PLDT	160.71
QQQ-740 to -741	PKEOR000417341	8/13/2009	PLDT	160.71
QQQ-744 to 745	PKEOR000422669	8/25/2009	PLDT	300.00
QQQ-748 to -749	PKEOR000254327	9/17/2009	PLDT	1,740.00
QQQ-752 to -753	PKEOR000254334	9/17/2009	PLDT	2,400.00
QQQ-756 to -757	PKEOR000254333	9/17/2009	PLDT	13,305.98
QQQ-760 to -761	PKEOR000254331	9/17/2009	PLDT	15,107.20

QQQ-764 to -765	PKEOR000254339	9/17/2009	PLDT	160.71
QQQ-768 to -769	PKEOR000254348	9/17/2009	PLDT	390.49
QQQ-772 to -773	PKEOR000254346	9/17/2009	PLDT	373.52
QQQ-776 to 777	PKEOR000254345	9/17/2009	PLDT	230.59
QQQ-780 to -781	PKEOR000254344	9/17/2009	PLDT	375.02
QQQ-784 to -785	PKEOR000254350	9/17/2009	PLDT	213.75
QQQ-788 to -789	PKEOR000430867	9/25/2009	PLDT	300.00
QQQ-792 to -793	PKEOR000430868	9/25/2009	PLDT	12,723.37
QQQ-1554 to -1555	PKDOR000258152	10/13/2009	PLDT	370.52
QQQ-1558 to -1559	PKDOR000258163	10/13/2009	PLDT	18,250.48
QQQ-1562 to -1563	PKDOR000258154	10/13/2009	PLDT	390.49
QQQ-1566 to -1567	PKDOR000158155	10/13/2009	PLDT	160.71
QQQ-1570 to -1571	PKDOR000158162	10/13/2009	PLDT	1,740.00
QQQ-1574 to -1575	PKDOR000258161	10/13/2009	PLDT	2,400.00
QQQ-1578 to -1579	PKDOR000258164	10/13/2009	PLDT	213.75
QQQ-1582 to -1583	PKDOR000258151	10/13/2009	PLDT	160.71
QQQ-1586 to -1587	PKDOR000437429	10/16/2009	PLDT	160.71
QQQ-1590 to -1591	PKDOR000437432	10/16/2009	PLDT	160.71
QQQ-1594 to -1595	PKDOR000262809	10/17/2009	PLDT	334.52
QQQ-1598 to -1599	PKDOR000449630	10/17/2009	PLDT	13,332.46
QQQ-1602 to -1603	PKDOR000454232	10/17/2009	PLDT	16,588.35
QQQ-1606 to -1607	PKDOR000156375	10/26/2009	PLDT	179.59
QQQ-1610 to -1611	PKDOR000156372	10/26/2009	PLDT	16,730.72
QQQ-1614 to -1615	PKDOR000156376	10/26/2009	PLDT	300.00
QQQ-1618 to -1619	PKDOR000156377	10/26/2009	PLDT	160.71
QQQ-1622 to -1623	PKDOR000262803	11/13/2009	PLDT	2,400.00
QQQ-1626 to -1627	PKDOR000262802	11/13/2009	PLDT	1,740.00
QQQ-1630 to -1631	PKDOR000262813	11/13/2009	PLDT	160.71
QQQ-1634 to -1635	PKDOR000262810	11/13/2009	PLDT	213.75
QQQ-1638 to -1639	PKDOR000262829	11/13/2009	PLDT	160.71
QQQ-1642 to -1643	PKDOR000262825	11/13/2009	PLDT	390.49
QQQ-1646 to -1647	PKDOR000262831	11/13/2009	PLDT	160.71
QQQ-1650 to -1651	PKDOR000267247	12/11/2009	PLDT	319.52
QQQ-1654 to -1655	PKDOR000267245	12/11/2009	PLDT	1,740.00
QQQ-1659 to -1660	PKDOR000267249	12/11/2009	PLDT	213.75
QQQ-1663 to -1664	PKDOR000267246	12/11/2009	PLDT	390.49
QQQ-1667 to -1668	PKDOR000267248	12/11/2009	PLDT	22,697.44
QQQ-1671 to -1672	PKDOR000267251	12/11/2009	PLDT	215.59
QQQ-1675 to -1676	PKDOR000267250	12/11/2009	PLDT	2,400.00
QQQ-1679 to -1680	PKDOR000459231	12/12/2009	PLDT	12,656.18
QQQ-1683 to -1684	PKDOR000459230	12/12/2009	PLDT	160.71
QQQ-1687 to -1688	PKDOR000465828	12/28/2009	PLDT	160.71
QQQ-1691 to -1692	PKDOR000465827	12/28/2009	PLDT	160.71
QQQ-1695 to -1696	PKEOR000465916	12/29/2009	PLDT	14,944.72
QQQ-1699 to -1700	PKEOR000465920	12/29/2009	PLDT	300.00
Subtotal				**₱219,534.94**
4. Input taxes on purchases of services supported by official receipts with no or incomplete date.				
QQQ-974	1459186	12/04	DHL Express	₱ 68.37

ft

QQQ-977	1459187	-	DHL Express	94.23
QQQ-980	1459188	12/4	DHL Express	97.37
Subtotal				**₱ 259.97**
5. Input taxes on purchases of services supported by official receipts but the amount of VAT was not separately indicated.				
QQQ-1130	2105661	11/27/2009	Globe Telecom, Inc.	₱ 1,824.23
QQQ-1142	2105662	11/27/2009	Globe Telecom, Inc.	380.56
QQQ-1145	2105663	11/27/2009	Globe Telecom, Inc.	333.02
QQQ-1156	2105664	11/27/2009	Globe Telecom, Inc.	4,931.55
QQQ-1194	2105665	11/27/2009	Globe Telecom, Inc.	1,293.66
QQQ-1202	2088060	11/27/2009	Globe Telecom, Inc.	85.71
Subtotal				**₱ 8,848.73**
TOTAL				**₱233,341.01**

Thus, petitioner's substantiated input VAT claim amounted to ₱5,832,238.18, computed as follows:

Input VAT per Returns		₱ 7,865,681.37
Less:	Disallowances	
	1) Per ICPA's findings	₱ 1,799,262.91
	2) Per this Court's further verification	233,341.01
	3) Input VAT not claimed per Petition for Review	839.27
	Total Disallowances	₱ 2,033,443.19
Substantiated Input VAT Claim		**₱ 5,832,238.18**

A portion, however, of the ₱5,832,238.18 input VAT shall be applied against petitioner's reported output VAT liability for the subject period of claim in the amount of ₱2,839.28, broken down as follows:

Exhibit	Quarter	VATable Sales	Output Taxes
BBB-05 to -06	2nd Quarter 2009	₱ 2,678.50	₱ 321.42
BBB-01 to -02	Less: April 2009	₱ -	₱ -
BBB-03 to -04	May 2009	1,339.29	160.71
	Sub-total	₱ 1,339.29	₱ 160.71
	June 2009	₱ 1,339.29	₱ 160.71
BBB-11 to -12	3rd Quarter 2009	22,321.43	2,678.57
BBB-17 to -18	4th Quarter 2009	-	-
	Total	**₱ 23,660.72**	**₱ 2,839.28**

ж

Consequently, only the remaining input VAT of ₱5,829,398.90 can be attributed to petitioner's zero-rated sales for the subject period of claim.

Although the substantiated input VAT of ₱5,829,398.90 was included in petitioner's reported excess input VAT amounting to ₱13,120,701.70[19] for the fourth quarter of 2009, which was carried over to the succeeding quarter[20], the same amount remained unutilized since it was deducted as "VAT Refund/TCC claimed" in the first quarter of taxable year 2010.[21]

Thus, petitioner has sufficiently proven its entitlement to a refund or issuance of tax credit certificate in the amount of ₱5,829,398.90 representing unutilized excess input taxes attributable to its zero-rated sales for June 2009 and the 3rd and 4th quarters of 2009.

WHEREFORE, in view of the foregoing, petitioner's Motion for Reconsideration (of the Decision dated 14 November 2014), is **PARTIALLY GRANTED.** Accordingly, respondent is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of ₱5,829,398.90, representing petitioner's unutilized excess input VAT attributable to its zero-rated sales for June 2009 and the 3rd and 4th quarters of 2009.

SO ORDERED.

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

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

[19] Exhibit "BBB-18", Line 27.
[20] Exhibit "BBB.1-1", Line 20A.
[21] *Ibid*, Line 23D.

ATTESTATION

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

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

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice