REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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AT & T COMMUNICATIONS SERVICES PHILIPPINES, INC.,
Petitioner,

C.T.A. CASE NO. 6907

Members:

- versus -

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
FEB 23 2007; 3:30 PM

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DECISION

CASANOVA, C., J.:

Before Us is a Petition for Review seeking a refund or an issuance of tax credit certificate in the amount of P1,801,826.82 allegedly representing excess and/or unutilized input VAT of petitioner attributable to zero-rated sales of services for the period covering January 1, 2002 to December 31, 2002.

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal place of business at the 18th

Floor, BA-Lepanto Building, 8747 Paseo de Roxas, Makati City.[1] It is principally engaged in the business of rendering information, promotional, supportive and liaison services, particularly to AT&T Communications Services International, Inc. (AT&T-US), AT&T Solutions, Inc. (AT&T-SI), and to its other affiliates, all of which are non-resident foreign corporations and are not engaged in trade or business in the Philippines, as well as to Subic Bay Freeport Enterprises.[2] It is duly registered with the Bureau of Internal Revenue as a value-added tax (VAT) Taxpayer with Taxpayer Identification No. 050-004-519-384 as shown in its BIR Certificate of Registration dated January 1, 1996.[3]

Respondent, on the other hand, is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), vested by law to decide, approve and grant claims for refund or tax credit of erroneously or excessively paid taxes, including excess or unutilized input VAT payments, with office address at 4th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City.[4]

On January 1, 1999, petitioner entered into a Service Agreement *(Exhibit "N")* with AT&T-US whereby compensation for such services is paid in US Dollars *(Exhibit "N-1")*.

Likewise, on July 21, 1999, petitioner entered into an Assignment Agreement *(Exhibit "O")* with AT&T-SI wherein services are also paid in US dollars. As part of such agreement, petitioner is required to render services to Acer Information Products (Philippines), Inc., a Subic Bay Freeport Enterprise, which services shall be paid for in US Dollars to be inwardly remitted to the Philippines by AT&T Singapore acting as collecting agent.

Subsequently, petitioner filed its Quarterly VAT Returns and its Amended Quarterly Returns with the BIR for the period January 1, 2002 to December 31, 2002, within the period prescribed by law on the following dates:[5]

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[1] Paragraph 1, Stipulation of Facts.
[2] Paragraph 4, Petition for Review.
[3] Paragraph 3, Stipulation of Facts.
[4] Paragraph 2, Stipulation of Facts.
[5] Paragraphs 5 & 6, Stipulation of Facts.

Period	Exhibit	Date of Filing
1st Quarter	"D"	April 17, 2002
2nd Quarter	"G"	July 9, 2002
3rd Quarter	"J"	October 24, 2002
4th Quarter	"L"	January 27, 2003

Amended Quarterly VAT Returns

Period	Exhibit	Date of Filing
1st Quarter	"E" & "F"	October 24, 2002; April 22, 2003
2nd Quarter	"H" & "I"	October 24, 2002; April 22, 2003
3rd Quarter	"K"	April 22, 2003
4th Quarter	"M"	April 22, 2003

According to petitioner, for the period January 1, 2002 to December 31, 2002, it paid VAT input taxes of P2,836,770.71 on its domestic purchases of capital goods and other taxable goods and services, and importation of capital goods, which amounted to P28,367,712.52. During the same year, petitioner likewise claimed that it generated and recorded zero-rated sales from the above-described services in the aggregate amount of P56,898,744.05, which was paid to petitioner in US Dollars inwardly remitted in accordance with existing rules and regulations of the Bangko Sentral ng Pilipinas (BSP). On the other hand, the VAT input taxes of P2,836,770.71, which have been incurred for the purchases of capital goods and other taxable goods and services, as well as importation of capital goods used in the business operations of petitioner, have been applied against the VAT output tax payable in the amount of P786,034.02, resulting in an excess and unutilized VAT input tax of P2,050,736.69, which have not been applied nor carried over to any succeeding quarter(s), and are duly supported by VAT invoices and/or official receipts.[6] The following are the details:

[6] Paragraphs 12 & 13, Petition for Review.

Taxable Quarters	Total Domestic Purchases	Input VAT Payments	Zero-rated Sales	Domestic Sales of Taxable Services	VAT Output Tax Due
1st Exhs. "E" & "F"	P11,828,776.24	P1,182,877.71	P19,613,455.23	P3,351,504.85	P335,153.29
2nd Exhs. "H" & "I"	5,042,780.90	504,278.14	9,120,971.54	1,030,147.98	103,025.36
3rd Exh. "K"	4,325,645.55	432,561.67	12,351,060.35	1,406,553.58	140,656.23
4th Exh. "M"	7,170,509.82	717,053.19	15,813,256.93	2,071,960.22	207,199.14
	P28,367,712.51	P2,836,770.71	P56,898,744.05	P7,860,166.63	P786,034.02

Total Input VAT Tax Payments	P2,836,770.71
Total Output VAT Due	(786,034.02)
Excess and unutilized VAT Input Tax	P2,050,736.69

Going further, petitioner explained that since the entire amount of unutilized VAT input taxes for calendar year ending December 31, 2002 could not be directly and exclusively attributed to either of its zero-rated sales or its domestic sales, an allocation of the said VAT input taxes were made, resulting in the amount of P1,801,826.82 as the VAT input taxes allocable to its zero-rated sales,[7] computed as follows:

Domestic Sales
------------------ x Total unutilized Vat input taxes = VAT input taxes allocated to Total Sales
domestic sales

Thus,

P7,860,166.62
------------------ x P2,050,736.69 = P248,909.87

P64,758,910.67

Then,

Total unutilized VAT input taxes	P2,050,736.69
Less: VAT input taxes allocated to domestic sales	248,909.87
Allowable VAT input taxes attributable to zero-rated sales	P1,801,826.82

On March 26, 2004, petitioner filed with the BIR an application for refund and/or tax credit of its unutilized VAT input taxes paid in calendar year ending December 31, 2002

[7] Paragraph 14, Petition for Review.

amounting to P1,801,826.82, in the light of Section 110(B) in relation to Section 112(A) and (B) of the National Internal Revenue Code (NIRC) of 1997, as amended.

In order to suspend the running of the prescriptive period prescribed by Section 229 of the NIRC of 1997, as amended, and Section 4.106-2(c) of Revenue Regulations (RR) No. 7-95, as amended, petitioner filed this Petition for Review on March 31, 2004.

For his part, respondent filed, through registered mail, an Answer on May 20, 2004 raising the following Special and Affirmative Defenses:

> "4. Petitioner failed to show compliance with the substantiation requirements under the provision of Section 16(c)(3) of Revenue Regulations No. 5-87, as amended by Revenue Regulations No. 3-88;
>
> 5. Petitioner failed to show that the alleged creditable VAT was not carried over and utilized against the value-added tax liability of the petitioner in the succeeding quarters or year;
>
> 6. Amendment of the return is allowed only when no notice for audit or investigation of such return has been actually served to the taxpayer;
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> 7. Petitioner has not shown proof that portion of the input tax is attributable to zero-rated sales;
>
> 8. Input VAT from zero-rated sales cannot be refunded in the absence of zero-rated sales in VAT returns;
>
> 10. Claims for refund are construed strictly against the claimants, the same being in the nature of exemption from taxes (Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95; Manila Electric Co. vs. Commissioner of Internal Revenue, 67 SCRA 35);
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> 11. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to the refund and failure to sustain the burden is fatal to the action for tax refund;
>
> 12. It is presumed that taxes paid and collected are made in accordance with law and regulations, hence, no longer refundable."[8]

During trial, petitioner presented testimonial and documentary evidence in support of its claim. Likewise, Mr. Ruben R. Rubio was commissioned by the court, upon motion of

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[8] Records, pp. 59-60.

petitioner, as Independent Certified Public Accountant pursuant to C.T.A. Circular No. 1-95, as amended.

On the other hand, the Resolution dated May 16, 2006 confirmed this Court's order considering the respondent to have waived his right to present evidence due to his failure to appear during the scheduled presentation of his evidence despite warnings being given. Thereafter, the Court directed the petitioner to file its Memorandum until June 8, 2006 and respondent was given 15 days from receipt of the said Resolution to file his Memorandum.

Respondent failed to file his Memorandum. Thus, in a Resolution of this Court dated July 6, 2006, this case was submitted for decision taking into consideration petitioner's Memorandum filed within the extension period on June 28, 2006.

Petitioner and respondent jointly stipulated on the following issues:

1. Whether or not petitioner's sale of services to AT&T-US and AT&T-SI for the period January 1, 2002 to December 31, 2002 are zero-rated for VAT purposes from which it generated revenue in the amount of P56,898,744.05;

2. Whether or not petitioner's zero-rated sales for the period January 1, 2002 to December 31, 2002 were paid for in acceptable foreign currency inwardly remitted and duly accounted for in accordance with the regulations of the BSP;

3. Whether or not the amount P1,801,826.82 representing unutilized/excess input VAT paid by petitioner for the period January 1, 2002 to December 31, 2002 is attributable to its zero-rated sales;

4. Whether or not the amount P1,801,826.82 representing unutilized/excess input VAT paid by petitioner for the period January 1, 2002 to December 31, 2002 was not utilized nor applied against its output VAT liabilities for the subsequent taxable quarters;

5. Whether or not petitioner is entitled to refund or issuance of a tax credit certificate in the amount of P1,801,826.82 representing unutilized/excess input VAT paid by petitioner for the period January 1, 2002 to December 31, 2002;

6. Whether or not petitioner satisfactorily complied with the substantiation requirements under Section 16 (c) (3) of RR No. 5-87, as amended;

7. Whether or not the invoices issued by petitioner to PEZA enterprises are duly registered with the BIR and stamp marked with the word "zero-rated"; and

8. Whether or not the amendment of the petitioner's VAT returns for the 1st to 4th quarters of 2002 is proper.

The above issues boil down to the principal issue of whether or not petitioner is entitled to a refund or issuance of tax credit certificate for its unutilized/excess input VAT tax attributable to its zero-rated sales.

The first and second issues presented herein, being interrelated, shall be discussed jointly.

Petitioner maintains that the services it rendered to AT&T-US, AT&T-SI, Subic Bay Freeport Enterprises and other non-resident foreign corporations qualified as VAT zero-rated transaction under Section 108 (B)(2) and (3) of the NIRC of 1997; Section 4.102-2(b)(2) and (3) of Revenue Regulations (RR) No. 7-95, as amended, otherwise known as the Consolidated Value-Added Tax Regulations; and Section 12(b) and (c) of Republic Act (RA) No. 7227, otherwise known as the Bases Conversion and Development Act of 1992, with respect to the services rendered to Subic Bay Freeport Enterprises.

In support of its allegations, petitioner presented various documents to prove its reported 2002 zero-rated sales of services in the amount of P56,898,744.05 such as its Summary of Zero-Rated Sales for the four quarters of 2002 *(Exhibit "DD")*, sales invoices stamped "zero-rated" and bank credit advices *(Exhibits "EE-1" to "EE-56")*, service agreements *(Exhibits "N" to "Q")* and report of the commissioned certified public accountant *(Exhibit "AA" to "AA-22")*.

An examination of the said documents shows that the amount of P56,898,744.05 treated by petitioner as zero-rated sales consisted of the following:

Sales of Services to:	in Php	in US$
Non-resident Foreign Corporations		
AT&T Communication Services, Int'l	8,875,678.42	167,970.55
AT&T Int'l Inc.	36,188,022.57	704,520.66
AT&T-ISTEL	171,220.45	3,294.12
Mastercard International	10,756,217.55	209,021.67
Sub-total	**55,991,138.99**	**1,084,807.00**
Subic Bay Freeport Enterprises		
Acer Information Products Philippines, Inc.	774,325.17	14,944.30
Wistron Infocom Philippines Corp.	133,279.92	2,564.18
Sub-total	**907,605.09**	**17,508.48**
Rounding-off difference	(.03)	-
TOTAL	**56,898,744.05**	**1,102,315.48**

Clearly therefore, after an examination of all the evidence presented, petitioner's sales of services to non-resident foreign corporations in the amount of P55,991,138.99 which was paid for in US dollars of 1,084,807.00 and accounted for in accordance with the rules and regulations of the BSP falls within those zero-rated transactions referred to under Section 108(B)(2) of the NIRC of 1997, as amended. Likewise, petitioner's sales of services in the amount of P907,605.09 to Subic Bay Freeport Enterprises may also be classified as zero-rated transactions under Section 108(B)(3) of the NIRC of 1997, as amended. Thus, We will now proceed to the principal issue of, whether or not petitioner is entitled to a refund or an issuance of tax credit certificate.

Petitioner believes that it is entitled to a refund of its input value-added payments attributable to its zero-rated sales pursuant to Section 110(B) in relation to Section 112(A) and (B) of the NIRC of 1997, as amended. The pertinent provisions of the above-mentioned laws are quoted hereunder:

> "SEC. 110. *Tax Credits.*-
>
> xxx xxx xxx
>
> (B) *Excess output or input tax.* – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112."

"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)(1)(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.

(B) *Capital Goods.* – A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made."

There is no question that Section 112 of the NIRC, as amended, allows the issuance of tax credit certificate or refund of creditable input tax due or paid attributable to zero-rated sales. However, there are certain invoicing and substantiation requirements that must first be complied with before the issuance of tax credit or refund may be allowed. Sections 113 and 237 of the NIRC of 1997, as amended, provide for the invoicing and substantiation requirements. And a reading of these laws reveals that they are mandatory because of the use of the word "shall". To quote:

"SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –

(A) Invoicing Requirements. – A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:

(1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and

(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."

> "SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* – All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service. xxx"

It is a well-settled doctrine in statutory construction that the use of the word "shall" in a statute is mandatory. It means ought to, must and when used in a statute or regulation, expresses what is mandatory. In common parlance and in its ordinary signification, the term "shall" is a word of command, and one which has or which must be given compulsory meaning, and it is generally imperative or mandatory.[9]

Furthermore, Section 4.108-1 of Revenue Regulations No. 7-95 enumerates the information that must appear on the face of the receipts or invoices issued for sales of goods by all VAT-registered persons. The pertinent portion thereof is quoted hereunder:

> "**SEC. 4.108-1. Invoicing Requirements**. — All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:
>
> 1. the name, TIN and address of seller;
> 2. date of transaction;
> 3. quantity, unit cost and description of merchandise or nature of service;
> 4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
> 5. the word "zero-rated" imprinted on the invoice covering zero-rated sales; and
> 6. the invoice value or consideration.
>
> xxx xxx xxx
>
> Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoices or receipts and this shall be considered as 'VAT Invoice'. All purchases covered by invoices other than 'VAT Invoice' shall not give rise to any input tax."

As can be gleaned above, the mentioned revenue regulations likewise use the word "shall".

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[9] Statutory Construction by Ruben Agpalo, 3rd edition 1995, page 262.

In short, both the law and regulations require mandatory compliance with the invoicing requirements. In this case, not only should petitioner establish that it is entitled to the claim but it must most importantly show proof of compliance with the substantiation requirements as mandated by law or regulations. Besides, Revenue Memorandum Circular No. 42-2003 has already clarified the issue relative to the failure of a claimant to comply with certain invoicing requirements. Under said memorandum, failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of the claim for input tax by the purchaser-claimant, to wit:

> "If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (*e.g.* failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer."

Thus, if the claim for refund/issuance of tax credit certificate is based on the existence of zero-rated sales by the taxpayer but said taxpayer fails to comply with the invoicing requirements in the issuance of sales invoices (*e.g.* failure to indicate the TIN), the claim for tax credit/refund of VAT on its purchases shall be denied since the invoice issued to the customers failed to depict that he is a VAT-registered taxpayer whose sales are classified as zero-rated sales.[10]

As already discussed, petitioner has zero-rated sales and in order to support its existence and in an effort to comply with the invoicing requirement of the law and regulation, petitioner submitted, among others, its sales invoices stamped with the words "zero-rated".

[10] INTEL PHILIPPINES MANUFACTURING, INC vs. COMMISSIONER OF INTERNAL REVENUE, C.T.A. E.B. NO. 23, September 30, 2005 (C.T.A. Case No. 6212).

The question now is whether the sales invoices submitted by petitioner satisfy the requirements of the law and regulations regarding substantiation and invoicing.

We rule in the negative.

It must be noted that before a refund or issuance of tax credit certificate is allowed, the law requires compliance with the substantiation requirement not only for input taxes but also for output taxes especially if the claim for refund or issuance of tax credit certificate is based on zero-rated sales or exemptions. The reason for this is that, if petitioner has zero-rated sales it is subject to VAT at 0%, thus, the output tax would be zero. If the output tax is zero then there would also be creditable or unutilized input taxes that are available for refund.

In order to know whether there is compliance with the invoicing and substantiation requirement of the law, We have to go back to Sections 113 and 237 of the NIRC of 1997, as amended, and SEC. 4-108-1 of Revenue Regulations No. 7-95.

A reading of the previously quoted laws discloses that these laws use "invoice and receipt" without distinction. Nevertheless, there are still two laws that are pertinent at this point and should be read in relation to them, Sections 106 (A) and (D) and Sections 108 (A) and (C) of the NIRC of 1997, as amended.

Sections 106 (A) and (D)(1) provide the manner of determining the output VAT due on the sale of goods and properties while Sections 108 (A) and (C) pertains to the sale of services. The foregoing laws are quoted for clarity:

> "SEC. 106. *Value-added Tax on Sale of Goods or Properties.* –
> (A) *Rate and Base of Tax.* – There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
> xxx xxx xxx
> (D) *Determination of the Tax.* –
> (1) The tax shall be computed by multiplying the total amount in the **invoice** by one-eleventh (1/11)."

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> (A) *Rate and Base of Tax.* – There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties.
>
> xxx xxx xxx
>
> (C) *Determination of the Tax.* – The tax shall be computed by multiplying the total amount indicated indicated in the **official receipt** by one-eleventh (1/11)." *(Emphasis supplied)*

Based on the above laws, when We speak of computing the output tax on the sale of goods or properties, the basis would be the amount appearing in the *invoice* whereas when we are computing the output tax on the sale of services, the basis would be the amount appearing in the *official receipts.*

Therefore, the sales invoices must support the sale of goods or properties whereas official receipts must support the sale of services.

Noteworthy of emphasis is that a claim for tax refund is in the nature of tax exemption. Laws granting tax exemption are construed *stricticissimi juris* against the taxpayer and liberally in favor of the taxing authority. Taxation is the rule and exemption is the exception. The law does not look with favor on tax exemptions and he who thus seek to be privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.[11] Petitioner has the burden of proof to establish the factual basis of its claim for tax refund.[12] This, the petitioner failed to do.

An examination of the documents presented in this case shows that petitioner really incurred zero-rated sales. However, they were not supported by official receipts as required by law.

In reiteration, considering that the subject revenues pertain to gross receipts from services rendered by petitioner, valid VAT official receipts and not mere sales invoices should have been submitted in support thereof. Without proper VAT official receipts, the foreign

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[11] Sea-Land Services, Inc. vs. Court of Appeals, 223 SCRA 316.
[12] Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332.

currency payments received by petitioner from services rendered for the four (4) quarters of taxable year 2002 in the sum of US$1,102,315.48 with the peso equivalent of P56,898,744.05 cannot qualify for zero-rating for VAT purposes. Consequently, the claimed input VAT payments allegedly attributable thereto in the amount of P1,801,826.82 cannot be granted. It is clear from the provisions of Section 112(A) of the NIRC of 1997 that there must be zero-rated or effectively zero-rated sales in order that a refund of input VAT could prosper.

Therefore, petitioner is not entitled to a refund or issuance of tax credit certificate for its unutilized input VAT attributable to its zero-rated sales in view of its failure to comply with the mandatory substantiation requirement prescribed under the law with respect to its zero-rated sales.

Having arrived at this conclusion, We find it unnecessary to pass upon the other incidental issues raised in this petition for being moot and academic.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of substantiation.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(With Concurring and Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division