REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION
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CE LUZON GEOTHERMAL POWER COMPANY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 7180

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CE LUZON GEOTHERMAL POWER COMPANY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 7279

Members:

CASTAÑEDA, JR., Chairperson,
and
UY, JJ.

Promulgated:

MAY 16 2019
9:30 a.m.

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AMENDED DECISION

UY, J.:

Before this Court are consolidated cases remanded by the Court of Tax Appeals *En Banc* in its Resolution dated May 28, 2018, pursuant to the Supreme Court's Decision dated July 26, 2017 in G.R. No. 197526, and G.R. Nos. 199676-77 respectively entitled *"CE Luzon Geothermal Power Company, Inc., Petitioner, versus Commissioner of Internal Revenue, Respondent"* and *"Republic of the Philippines, represented by the Bureau of Internal Revenue, Petitioner, versus CE Luzon Geothermal Power Company, Inc., Respondent"*, for the determination and computation of creditable input tax in favor of petitioner.

The facts of these consolidated cases, as stated in the High Court's Decision dated July 26, 2017 in G.R. No. 197526, and G.R. Nos. 199676-77,[1] are hereby deemed incorporated herein.

In the Resolution dated June 28, 2018,[2] this Court gave the parties fifteen (15) days to file a written *Manifestation*, alleging any supervening event that may have transpired which the parties would like to present for the Court's consideration.

Petitioner filed its *Manifestation* on August 13, 2018,[3] stating, *inter alia*, that during the pendency of this case, it underwent the process of dissolution and was able to secure an Order from the Securities and Exchange Commission (SEC) on January 12, 2016, approving the dissolution of petitioner; and that it likewise secured the clearance and approval of the Bureau of Internal Revenue (BIR) on June 25, 2013 for the closure or cessation of its business. Thus, petitioner prays that the Court orders or grants cash refund of unutilized input VAT in the amount of at least ₱23,489,514.64 for the four quarters of TY 2003.

For his part, respondent CIR failed to file any *Manifestation*.[4]

In the Resolution dated September 4, 2018,[5] the Court resolved to submit the consolidated cases anew for decision in accordance with the Supreme Court's directive in G.R. Nos. 197526 and 199676-77.

Hence, this Amended Decision.

THE COURT'S RULING

After a thorough review and re-evaluation of the documentary exhibits presented and the report of the Court-commissioned Independent Certified Public Accountant, the Court upholds the computation arrived at in the Decision dated July 20, 2010 in CTA EB

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[1] Docket – Vol. III, pp. 2268 to 2285.
[2] Docket – Vol. III, pp. 2361 to 2365.
[3] Docket – Vol. III, pp. 2389 to 2394.
[4] Records Verification dated August 28, 2018 issued by the Judicial Records Division of this Court, Docket – Vol. III, p. 2403.
[5] Docket – Vol. III, p. 2404.

Nos. 553 and 554,[6] and hereby finds petitioner entitled to a refund in the reduced amount of ₱23,489,514.64. The said amount pertains to the claim that was duly substantiated by petitioner.

The Court likewise reiterates that the amount of ₱3,084,874.35[7] is disallowed as shown by the following details:

	Findings	Reference (Annex to Exhibit HH)	Input VAT	Total
1.	**Input VAT on domestic purchases of goods supported by pre-printed TIN-V invoice.**			
	1st Qtr	L-1Q-A12	₱ 3,987.81	
	2nd Qtr	L-2Q-A12	11,114.74	
	3rd Qtr	L-3Q-A12	9,705.17	
	4th Qtr	L-4Q-A12	6,932.15	₱ 31,739.87
2.	**Input VAT on domestic purchase of services supported by pre-printed TIN-V OR.**			
	1st Qtr	L-1Q-B12	₱ 47,391.56	
	2nd Qtr	L-2Q-B12	47,128.98	
	3rd Qtr	L-3Q-B12	290,452.45	
	4th Qtr	L-4Q-B12	146,532.34	₱531,505.33
3.	**Input VAT on importation of goods supported by a certified true copy of the IEIRD.**			
	1st Qtr	L-1Q-C18	₱153,610.00	
	2nd Qtr	L-2Q-C18	238,536.00	₱392,146.00
4.	**Input VAT on payments to travel agencies.**			
	1st Qtr	L-1Q-G2	₱ 1,100.18	
	2nd Qtr	L-2Q-G2	531.98	
	3rd Qtr	L-3Q-G2	550.09	
	4th Qtr	L-4Q-G2	1,063.82	₱ 3,246.07
5.	**Input VAT on Overseas Communication Tax included in payments to telecommunications service providers.**			
	3rd Qtr	L-3Q-G3	₱ 201.19	
	4th Qtr	L-4Q-G3	23.54	₱ 224.73
6.	**Input VAT on DST and local taxes included in payments to purchase of services.**			
	1st Qtr	L-1Q-G7	₱ 0.91	
	4th Qtr	L-4Q-G7	210.51	₱ 211.42
7.	**Input VAT on domestic purchases of goods supported by documents other than a VAT invoice.**			
	1st Qtr	L-1Q-A1	₱ 630.31	
	2nd Qtr	L-2Q-A1	76,465.48	
	3rd Qtr	L-3Q-A1	3,572.90	
	4th Qtr	L-4Q-A1	2,004.53	₱ 82,673.22

[6] Docket – Vol. II, pp. 1015 to 1041.
[7] Decision of the CTA Second Division dated April 21, 2009, Docket – Vol. 1, pp. 478 to 481.

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8.	**Input VAT on domestic purchases of goods supported by a VAT invoice but not an original copy.**			
	1st Qtr	L-1Q-A3	₱ 3,533.11	
	2nd Qtr	L-2Q-A3	45,990.26	
	3rd Qtr	L-3Q-A3	77,137.56	
	4th Qtr	L-4Q-A3	12,615.58	₱139,276.51
9.	**Input VAT on domestic purchases of goods supported by a VAT invoice not issued in the name of the Company.**			
	2nd Qtr	L-2Q-A4	₱ 2,187.04	₱ 2,187.04
10.	**Input VAT on domestic purchases of goods supported by a VAT invoice not issued in the name of the Calenergy/ CE Cebu/ CE Luzon.**			
	1st Qtr	L-1Q-A5	₱ 4,759.33	
	2nd Qtr	L-2Q-A5	109.09	
	3rd Qtr	L-3Q-A5	1,354.55	
	4th Qtr	L-4Q-A5	1,074.99	₱7,297.96
11.	**Input VAT on domestic purchases of goods supported by TIN-NV/ NON VAT Invoice but stamped with "VAT"/ "TIN VAT" or the word NON" was erased.**			
	3rd Qtr	L-3Q-A6	₱ 409.09	₱ 409.09
12.	**Input VAT on domestic purchases of goods supported by TIN only: TIN-NV/NON VAT invoice; stamped/handwritten TIN-V/VAT.**			
	1st Qtr	L-1Q-A7	₱ 7,084.64	
	2nd Qtr	L-2Q-A7	10,558.08	
	3rd Qtr	L-3Q-A7	18,127.70	
	4th Qtr	L-4Q-A7	63,668.51	₱ 99,438.93
13.	**Input VAT on domestic purchase of goods supported by tape receipt but without the Company's name and/or TIN.**			
	2nd Qtr	L-2Q-A8	₱ 484.60	₱ 484.60
14.	**Input VAT on domestic purchase of goods supported by a VAT Invoice but without invoice date.**			
	4th Qtr	L-4Q-A10	₱ 43.64	₱ 43.64
15.	**Input VAT on domestic purchases of goods not dated within the VAT taxable year.**			
	1st Qtr	L-1Q-A14	₱ 104,573.81	
	2nd Qtr	L-2Q-A14	13,103.14	₱117,676.95
16.	**Input VAT on domestic purchases of goods supported by a VAT invoice with changes in the name of the Company.**			
	1st Qtr	L-1Q-A15	₱ 190.91	
	2nd Qtr	L-2Q-A15	152.73	
	3rd Qtr	L-3Q-A15	8,035.53	
	4th Qtr	L-4Q-A15	1,995.21	₱ 10,374.38
17.	**Input VAT on domestic purchases of goods supported by TIN only; TIN-V; TIN-NV/NON VAT; stamped/handwritten TIN-V/VAT tape receipt.**			
	4th Qtr	L-4Q-A16	₱ 125.64	₱ 125.64
18.	**Input VAT on domestic purchases of goods supported by a invoice which are not BIR-registered.**			
	2n Qtr	L-2Q-A17	₱ 28,782.47	
	3rd Qtr	L-3Q-A17	62,836.64	
	4th Qtr	L-4Q-A17	21,028.20	₱112,647.31
19.	**Input VAT on domestic purchases of services supported by documents other that a VAT OR.**			
	1st Qtr	L-1Q-B1	₱ 5,589.40	

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	2nd Qtr	L-2Q-B1	89,282.49	
	3rd Qtr	L-3Q-B1	20,105.49	
	4th Qtr	L-4Q-B1	17,333.13	₱132,310.51
20.	**Input VAT on domestic purchases of services supported by a VAT OR but not an original copy.**			
	1st Qtr	L-1Q-B3	₱ 1,939.81	
	2nd Qtr	L-2Q-B3	10,893.40	
	3rd Qtr	L-3Q-B3	1,284.42	
	4th Qtr	L-4Q-B3	19,191.45	₱ 33,309.08
21.	**Input VAT on domestic purchases of services supported by a VAT OR issued in the name of Calenergy/ CE Cebu/ CE Luzon.**			
	4th Qtr	L-4Q-B5	₱ 9,860.00	₱ 9,860.00
22.	**Input VAT on domestic purchases of services supported by TIN-NV/ NON VAT OR but stamped with "VAT"/ "TIN VAT" or the word NON" was erased.**			
	1st Qtr	L-1Q-B6	₱ 38,098.07	
	2nd Qtr	L-2Q-B6	22,426.71	
	3rd Qtr	L-3Q-B6	5,054.71	
	4th Qtr	L-4Q-B6	7,621.82	₱ 73,201.31
23.	**Input VAT on domestic purchases of services supported by a TIN only; TIN-NV/NON VAT OR; stamped/handwritten TIN-V/VAT.**			
	1st Qtr	L-1Q-B7	₱ 3,449.09	
	2nd Qtr	L-2Q-B7	13,942.00	
	3rd Qtr	L-3Q-B7	1,680.85	
	4th Qtr	L-4Q-B7	20,387.09	₱ 39,459.03
24.	**Input VAT on domestic purchases of services supported by a VAT OR but without OR date.**			
	4th Qtr	L-4Q-B10	₱ 136.20	₱ 136.20
25.	**Input VAT on domestic purchases of services not dated within the VAT taxable year.**			
	4th Qtr	L-4Q-B14	₱ 1,471.91	₱ 1,471.91
26.	**Input VAT on domestic purchases of services with changes in the name of the Company.**			
	1st Qtr	L-1Q-B15	₱ 557.45	
	2nd Qtr	L-2Q-B15	4,175.00	
	3rd Qtr	L-3Q-B15	2,558.45	₱ 7,290.90
27.	**Input VAT on domestic purchase of services from previous NON VAT suppliers but which were subjected to VAT under RR 1-2003 supported by TIN NON VAT ORs but not stamped "VAT-registered as of January 2003".**			
	3rd Qtr	L-3Q-B-19	₱ 32,429.95	₱ 32,429.95
28.	**Input VAT on importation of goods supported by an original IRIERD and BOC OR not dated within the year.**			
	1st Qtr	L-1Q-C3	₱235,075.00	₱235,075.00
29.	**Input VAT on importation of goods with supporting documents not in the name of the Company.**			
	1st Qtr	L-1Q-C4	₱30,759.00	₱30,759.00
30.	**Over-claimed input tax on domestic purchases of goods/services due to erroneous computation.**			
	1st Qtr	L-1Q-E1	₱ 3.38	

	2nd Qtr	L-2Q-E1	8.60	
	3rd Qtr	L-3Q-E1	15.36	
	4th Qtr	L-4Q-E1	484.25	₱511.59
31.	**Input VAT on purchase of vehicles with engine displacement of more than 2000cc.**			
	1st Qtr	L-1Q-G1	₱141,272.73	₱141,272.73
32.	**Input VAT on payments for printing services supported with documents other than VAT OR.**			
	1st Qtr	L-1Q-G6	₱ 818.18	
	2nd Qtr	L-2Q-G6	172.73	
	3rd Qtr	L-3Q-G6	2,167.64	₱ 3,158.55
33.	**Over-claimed portion of input tax arising from forex rate used on foreign currency denominated purchases of goods and services.**			
	2nd Qtr	L-2Q-J1	₱ 162.98	
	3rd Qtr	L-3Q-J1	75.05	
	4th Qtr	L-4Q-J1	63.00	₱ 301.03
34.	**Supporting documents not available.**			
	1st Qtr	L-1Q-F	₱232,910.24	
	2nd Qtr	L-2Q-F	187,863.52	
	3rd Qtr	L-3Q-F	83,320.95	
	4th Qtr	L-4Q-F	308,524.16	₱ 812,618.87
TOTAL				**₱3,084,874.35**

In sum, petitioner is entitled to a refund or issuance of tax credit certificate in the amount of ₱23,489,514.64. However, considering the BIR-approved closure or cessation of petitioner's business, the Court finds legal and equitable basis to grant the requested cash refund in favor of petitioner.

WHEREFORE, in light of the foregoing considerations, petitioner's claim for refund is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** the amount of **TWENTY-THREE MILLION FOUR HUNDRED EIGHTY-NINE THOUSAND FIVE HUNDRED FOURTEEN PESOS AND 64/100 (₱23,489,514.64)** to petitioner, representing its unutilized input VAT for the four quarters of taxable year 2003.

SO ORDERED.

ERLINDA P. UY
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ATTESTATION

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

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 cases were assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice