LIB

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

INTEL PHILIPPINES
MANUFACTURING, INC.,
Petitioner,

- versus -

C.T.A. CASE NOS. 5070 & 5113

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:
OCT 02 1997

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DECISION

This is a consolidated case involving claims for refund of input value-added tax (VAT for brevity) for the periods March 1, 1992 to May 31, 1992 (first quarter) and June 1, 1992 to August 31, 1992 (second quarter) in the respective amounts of P2,089,563.07 and P2,037,631.76.

Petitioner, Intel Philippines Manufacturing, Inc., is a corporation duly organized and existing under and by virtue of the laws of the Philippines. It is principally engaged in the business of designing, developing, manufacturing and exporting advanced and large scale integrated circuit components commonly referred to as "VLSI" or "IC's". As such, it registered itself as a VAT entity and was issued a VAT Registration Certificate No. 32A-3-002649, effective January 1, 1988.[1]

For the periods March 1, 1992 to May 31, 1992 and June 1, 1992 to August 31, 1992, petitioner generated zero-rated export sales in the amounts of

[1]Exh. E, Petitioner, CTA Cases No. 5070 & 5113.

P226,191,485.42[2] and P325,726,148.12[3], respectively. These amounts were paid to petitioner in acceptable foreign currency inwardly remitted to the Philippines in accordance with the rules and regulations of the Central Bank of the Philippines. For the same periods, petitioner paid input taxes on its domestic purchases of taxable goods and services as well as on its importations in the sum of P6,768,697.79[4], itemized as follows:

Period Covered	Domestic	Importation	Total
1st Quarter 1992	₱3,367,313.69	₱20,165.00	₱3,387,478.69
2nd Quarter 1992	3,361,375.80	19,843.30	3,381,219.10
T O T A L	₱6,728,689.49	₱40,008.30	₱6,768,697.79

Out of the total input taxes paid, petitioner alleges that the amounts of P3,359,397.67, for the first quarter, and P3,342,296.59, for the second quarter, were not applied against any of its output tax liabilities.

On November 11, 1992 and January 18, 1993, petitioner filed with the Bureau of Internal Revenue, through the One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance, applications for the issuance of tax credit certificates corresponding to the aforementioned amounts representing

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[2]Exhs. A-3, B to B-3,131, C to C-1,032 and F-1, Petitioner, CTA Case No. 5070.

[3]Exhs. A-3, B to B-3,355, C to C-1,060 and F-1, titioner, CTA Case No. 5113.

[4]Exhs. F, F-3 and F-4, Petitioner, CTA Cases No. & 5113.

input taxes paid on domestic purchases of taxable goods and services and input taxes paid on importations.[5] The breakdown of which are as follows:

Period Covered	Domestic	Importation	Total
1st Quarter 1992	P3,355,799.67	P 3,598.00	P3,359,397.67
2nd Quarter 1992	3,331,966.59	10,330.00	3,342,296.59
T O T A L	P6,687,766.26	P13,928.00	P6,701,694.26

On December 16, 1992, respondent granted a partial refund in the amount of P1,269,834.60, representing input taxes for the first quarter of 1992 as evidenced by Tax Credit Certificate No. SN 002062.[6] On March 2, 1993, another partial refund was granted covering the second quarter of 1992 in the amount of P1,304,664.83 as evidenced by Tax Credit Certificate No. SN 002077.[7] Hence, there still remains a balance of P2,089,563.07 and P2,037,631.76 for said quarters which are now being claimed by the petitioner by way of these petitions for review and docketed as CTA Case Nos. 5070 and 5113, respectively.

The petition for review in CTA Case No. 5070 was filed on March 1, 1994 while the petition for review for CTA Case No. 5113 was filed on May 27, 1994. These cases

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[5]Exhs. H and H-1, Petitioner, CTA Cases No. 5070 & 5113.

[6]Exh. I, Petitioner, CTA Case No. 5070.

[7]Exh. I, Petitioner, CTA Case No. 5113.

were consolidated on December 7, 1995[8] and were tried jointly.

The issue that is presented before this Court is whether or not petitioner is entitled to the refund of the remaining input taxes in the amounts of ₱2,089,563.07 and ₱2,037,631.76 corresponding to the periods of March 1, 1992 to May 31, 1992 and June 1, 1992 to August 31, 1992, respectively.

There is no argument that the sales of petitioner are considered as export sales subject to 0% rate of VAT pursuant to Section 100(a) of the Tax Code. This was even confirmed by the respondent in VAT Ruling No. 102(a)(1)-402-88[9]. In fact, this confirmation was made manifest by respondent's grant of a partial refund of the input taxes claimed, thus, settling the legal issue of petitioner's entitlement to the refund of input taxes in question. The issue that now confronts the Court this time, is the veracity of petitioner's claim of the balance of input taxes in the total amount of ₱4,127,194.83 corresponding to ₱2,089,563.07 for the first quarter of 1992 and ₱2,037,631.76 for the second quarter of 1992.

Before we delve on this factual issue, it is noteworthy to mention that while these cases were pending

[8]See Minute of the Session, dated December 7, 1995, CTA Case No. 5070, p. 192, CTA records.
[9]Exh. G, Petitioner, CTA Cases No. 5070 & 5113.

trial, another investigation was conducted on petitioner's claim for refund. A Letter of Authority No. 0008772B, dated August 6, 1993, was issued on August 13, 1993 authorizing Revenue Officer Norine L. Cruz to examine petitioner's books of accounts and other accounting records for VAT refund purposes.[10]

As a result, Ms. Norine L. Cruz recommended that a tax credit certificate in the total amount of P10,577,574.77 be issued to petitioner representing input taxes on domestic purchases of taxable goods and services as well as on importations for the first to the fourth quarters of taxable year 1992.[11] The computation of which is as follows:

	I N P U T	T A X	
Period Covered	Domestic	Importation	Total
1st quarter	P 3,355,799.67	P 3,598.00	P 3,359,397.67
2nd quarter	3,331,966.59	10,330.00	3,342,296.59
3rd quarter	4,311,676.79	998,242.84	5,309,919.63
4th quarter	6,375,362.63	8,574.65	6,383,937.28
Total	P17,374,805.68	P1,020,745.49	P18,395,551.17

Less deductions made by the examiner:

1. Tax credit issued under RAMO 3-91

Period Covered	Amount	
1st quarter	P1,269,834.60	
2nd quarter	1,304,664.83	
3rd quarter	1,645,680.80	
4th quarter	2,544,594.61	P 6,764,774.84

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[10]Exh. 1, Respondent, p. 426, BIR records.
[11]Exhs. 2 to 3-o, Respondent, pp. 412 to 415, BIR records.

2. Violation of VAT invoicing requirement

Period Covered	Amount	
1st quarter	P 504,184.59	
2nd quarter	27,460.32	
3rd quarter	174,540.71	
4th quarter	25,995.85	732,181.47

3. Output tax on sale of scrap and equipment added back by petitioner

Period Covered	Amount	
1st quarter	P 179,058.36	
2nd quarter	129,338.15	
3rd quarter	656.50	
4th quarter	11,967.08	321,020.09
Total disallowances		P 7,817,976.40

Amount recommended for refund for the first to the fourth quarters of taxable year 1992	P10,577,574.77

A comparative analysis of the present claim for refund for the first and second quarters of the taxable period concerned and the total amount of P10,577,574.77 recommended by Revenue Examiner Norine Cruz, shows that petitioner is no longer entitled to any more refund of input taxes because the amounts originally claimed in these petitions (CTA Case Nos. 5070 and 5113) have already been included in the sum of P10,577,574.77. In line with this recommendation, Tax Credit Certificate No. 002521, dated May 4, 1994, was issued by the respondent in favor of the petitioner in the amount of P9,585,969.70 representing input taxes on domestic purchases of taxable goods and services for the period March 1, 1992 to

February 28, 1993.[12] The remaining balance of P991,605.07 represents input VAT paid on importations so that the issuance of the Tax Credit Certificate for this amount was referred to the Bureau of Customs in view of an agreement executed by and between the Bureau of Internal Revenue and the Bureau of Customs dated April 8, 1988.[13]

A further review of the claim for refund of input taxes on importations pertaining to herein cases revealed that they represent input taxes on freight charges paid to local suppliers which were already granted by the respondent as forming part of the amount of P9,585,969.70 embodied in Tax Credit Certificate No. SN 002521, accounted for as follows:

Qtr. Involved	Domestic[14]	Importation[15]	Total
1st Quarter	P1,402,722.12	P 3,598.00	P1,406,320.12
2nd Quarter	1,870,503.29	10,330.00	1,880,833.29
3rd Quarter	2,490,798.78	6,637.77	2,497,436.55
4th Quarter	3,792,805.09	8,574.65	3,801,379.74
Tax Credit Certificate Issued			P9,585,969.70

Below is a table showing pertinent details of claims for refund of input taxes granted by the respondent covering the periods March 1, 1992 to May 31, 1992 (CTA Case No.

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[12] Exh. 4, Respondent, p. 425, BIR records.
[13] Exhs. 5, 5-a, and 6, pp. 422 to 424, BIR records.
[14] These amounts were based net of the disallowances made by the examiner.
[15] pp. 1 to 125, BIR records.

5070) and June 1, 1992 to August 31, 1992 (CTA Case No. 5113), to wit:

	C.T.A. CASE NO. 5070 Domestic	Importation	C.T.A. CASE NO. 5113 Domestic	Importation
Amount originally claimed	P3,355,799.67	P3,598.00	P3,331,966.59	P10,330.00
Less tax credit certificate issued under RAMO 3-91				
TCC No. 002062	1,269,834.60			
TCC No. 002077			1,304,664.83	
Balance	P2,085,965.07	P3,598.00	P2,027,301.76	P10,330.00
Less disallowances made				
1. Invoicing requirement[16]	P 504,184.59		P 27,460.32	
2. Output tax on scrap and equipment added back by petitioner in the claim[17]	179,058.36		129,338.15	
Total	P 683,242.95	-	P 156,798.47	-
Balance	P1,402,722.12	P3,598.00	P1,870,503.29	P10,330.00
Less amount forming part of TCC No. 002521	1,402,722.12	3,598.00	1,870,503.29	10,330.00
AMOUNT REFUNDABLE	nil	nil	nil	nil

Based on the above table, the claims for refund of input taxes of the petitioner for the first and second quarters included in this petition should necessarily be denied because they have already been included in the said tax credit certificate.

Anent the disallowances made by the examiner in these cases, this Court after circumspect review found the same to be in order.

Thus, the issue posed herein needs no further discussion for being moot and academic. The claims for refund of petitioner for the periods March 1, 1992 to May

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[16]Exhs. 7-a and 7-b, Respondent, p. 400, BIR records. See details on pp. 387 to 398, BIR records.
[17]pp. 341 to 344, BIR records.

31, 1992 and June 1, 1992 to August 31, 1992 in the respective amounts of P2,089,563.07 and P2,037,631.76 having been granted to petitioner, We find no merit to the petition.

WHEREFORE, in view of all the foregoing, the petition for review is hereby DENIED for lack of merit.

Costs against petitioner.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

RAMON O. DE VEYRA
Associate Judge

AMANCIO Q. SAGA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals