Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

TAGANITO MINING CORPORATION, Petitioner,	**CTA Case No. 8680**
	Members: CASTAÑEDA, JR., *Chairperson, and* CASANOVA, *JJ*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** APR 2 4 2017 11:30 a.m.

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AMENDED DECISION

CASANOVA, *J.*:

For resolution of this Court are the following:

1. Respondent's Motion for Partial Reconsideration (Re: Decision promulgated 28 March 2016)[1] filed, on April 7, 2016, sans petitioner's comment per Records Verification[2] dated May 11, 2016; and,

2. Petitioner's Motion for Partial Reconsideration and/or New Trial[3] filed, via registered mail, on April 13, 2016, with respondent's Comment/Opposition (Re: Motion for Partial Reconsideration and/or New Trial[4] filed on May 6, 2016.

Both parties pray for reconsideration of the Decision[5] promulgated by this Court on March 28, 2016, the dispositive portion of which reads:

"**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED.**

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[1] Docket (Vol. I), pp. 447-462.
[2] Docket (Vol. II), p. 818.
[3] Id., pp. 465-472.
[4] Id., pp. 797-817.
[5] Docket (Vol. I), pp. 421-446.

Respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the reduced amount of ONE MILLION NINE HUNDRED NINETY SEVEN THOUSAND THREE HUNDRED EIGHTY ONE AND 93/100 (₱1,997,381.93), representing its excess input VAT amortization on capital goods purchases exceeding ₱1Million in the year 2011.

SO ORDERED."

In a Resolution[6] dated May 24, 2016, the Court granted petitioner's Motion for New Trial and allowed petitioner to present additional evidence.

After completion of the testimony of petitioner's recalled witnesses, Ms. Lennie A. Terre and Ms. Maria Gracia L. Morfe[7], petitioner's Supplemental Formal Offer of Evidence (with Motion to Modify the Marking of Exhibit P-31 to P-31.B)[8] was filed on August 8, 2016, with respondent's Comment (Re: Petitioner's Supplemental Formal Offer of Evidence)[9] filed on August 9, 2016.

In a Resolution[10] promulgated on September 13, 2016, this Court, except for Exhibit "P-32.2", admitted Exhibit "P-31", "P-31-A", "P-31.B", "P-31.1" to "P-31.402", "P-31.403" to "P-31.416", "P-31.417" to "P-31.420", "P-32", "P-32-A", "P-32.1", "P-32.3" to "P-32.10", "P-33" and "P-33-A". The Court, likewise, granted petitioner's Motion to Modify the Marking of Exhibit "P-31" to "P-31.B".

On October 3, 2016, petitioner filed a Motion for Reconsideration (Re: Supplemental Formal Offer of Evidence) and Extension of Time to File Memorandum[11], with respondent's Comment/opposition (Re: Motion for Reconsideration)[12] filed on October 5, 2016. However, petitioner's Motion for Reconsideration (Re: Supplemental Formal Offer of Evidence) was denied by the Court in its Resolution[13] dated November 28, 2016. In the same Resolution, the Court granted petitioner's Motion for Extension of Time to File Memorandum and gave both parties a period of thirty (30) days to file their memoranda.

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[6] Docket (Vol. II), pp. 820-825.
[7] Minutes of the Hearing dated July 27, 2016, Id., p. 864.
[8] Ibid., pp. 866-871.
[9] Id., pp. 903-908.
[10] Id., pp. 910-911.
[11] Id., pp. 912-916.
[12] Id., pp. 919-924.
[13] Id., pp. 926-930.

However, per Records Verification dated January 24, 2017, both parties failed to file their respective memorandum.

Hence, this Amended Decision.

Respondent moves for the reconsideration of the foregoing Decision on the sole ground that:

> "THE HONORABLE COURT ERRED WHEN IT PARTIALLY GRANTED PETITIONER'S CLAIM FOR REFUND IN THE AMOUNT OF P1,997,381.93 ALLEGEDLY REPRESENTING EXCESS INPUT VAT AMORTIZATION ON CAPITAL GOODS PURCHASES EXCEEDING P1MILLION IN THE YEAR 2011."

In support of the foregoing issue, respondent argues that petitioner failed to submit complete documents to substantiate its administrative claim for refund as required under Revenue Memorandum Order (RMO) No. 53-98.

Respondent also contends that petitioner failed to show that its purchases of non-capital goods and services were made in the course of its trade and business; that it failed to show that the said purchases were properly supported by VAT invoices and/or official receipts and other documents in accordance with Sections 110 (A)(2) and 113 of the Tax Code, as amended, and in pursuance to Section 4.104-5(a) & (b) of Revenue Regulations No. 7-95 (Re: Substantiation of Claims for Input Tax Credit); and that it also failed to prove that the input taxes of P21,818,041.36 allegedly paid on its purchases of goods and services, were attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over in the succeeding taxable quarter/s.

Anent respondent's allegation that petitioner failed to submit complete documents required under RMO No. 53-98, the same has been thoroughly considered and discussed by this Court when it resolved the matter in its assailed Decision dated March 28, 2016. We quote:

> "The issue on respondent's reliance on Revenue Memorandum Order (RMO) No. 53-98, as regards the submission of complete documents, has already been settled by the Supreme

Court in the case of *Commissioner of Internal Revenue vs. Team Sual Corporation (formerly Mirant Sual Corporation)*, in this wise:

> 'The CIR's reliance on RMO 53-98 is misplaced. **There is nothing in Section 112 of the NIRC**, RR 3-88 or **RMO 53-98 itself that requires submission of the complete documents enumerated in RMO 53-98 for a grant of a refund or credit of input VAT**. The subject of RMO 53-98 states that it is a 'Checklist of Documents to be Submitted by a Taxpayer upon **Audit** of his Tax Liabilities x x x' In this case, TSC was applying for a grant of refund or credit of its input tax. There was no allegation of an audit being conducted by the CIR. Even assuming that RMO 53-98 applies, it specifically states that some documents are required to be submitted by the taxpayer 'if applicable'.' (Emphasis supplied)

It should, likewise, be stressed that the term 'complete documents' should pertain to those documents that are necessary to support the application for refund or tax credit certificate, as determined by the taxpayer. The BIR examiner can require the taxpayer to submit additional documents but the examiner cannot demand what type of supporting documents should be submitted. Otherwise, the taxpayer will be at the mercy of the examiner, who may require the production of documents that the taxpayer cannot submit. In addition, the BIR ought to know the tax records of all taxpayers.

Moreover, it is well-settled that in claims for VAT refund, the non-submission of complete supporting documents in the administrative level is not fatal to petitioner's judicial claim. This Court is not barred from receiving, evaluating and appreciating evidence submitted before it. Once the claim for refund has been elevated to the Court, the admissibility, materiality, relevancy, probative value and weight of evidence presented therein become subject to the Rules of Court. The question of whether or not the evidence submitted by a party is sufficient to warrant the granting of a claim for refund lies within the sound discretion and judgment of the Court.

Thus, applying Section 112 (C) of the NIRC of 1997, as amended, to the instant petition, respondent should have acted on petitioner's application for refund/tax credit certificate until June 30, 2013, the end of the 120-day period reckoned from March 2, 2013, the date when petitioner is deemed to have completed the submission of its supporting documents to respondent. Now, counting from June 30, 2013, petitioner had 30 days or until July 30, 2013, within which to appeal its claim for refund before this Court. Thus, the instant Petition was timely filed on July 30, 2013."

Being interrelated, the other issues raised by respondent shall be discussed jointly with petitioner's Motion for Partial Reconsideration.

In its Motion, petitioner raised the following grounds for the consideration of the Court:

1. The advance deduction of petitioner's input taxes from its 2008 purchases prior to the year of claim does not disqualify the same from being refunded;

2. The evidence it has submitted to this Court are adequate to support its claims; and

3. Failure to exact full payment does not disqualify the sale as a zero-rated sale.

After careful scrutiny of the evidence submitted to the Court, the Court resolves to partially grant petitioner's Motion for Reconsideration and deny respondent's Motion for Partial Reconsideration.

A. <u>Petitioner's Zero-Rated Sales in 2012</u>

Prefatorily, the Court only granted the refund of the amortized input VAT attributable to zero-rated sales in 2011, but not in 2012, on account of petitioner's failure to substantiate its zero-rated sales for the year 2012.

Thus, when it was given another opportunity to present additional evidence, petitioner offered the following documents to substantiate its 2012 zero-rated sales: sales invoices, bills of lading, airway bills and proof of receipt of foreign currency payments.

For the taxable year 2012, petitioner reported total zero-rated sales of ₱3,125,030,692.01 in its Quarterly VAT Returns.[14] However, as found by the Court-commissioned Independent Certified Public Accountant, only ₱3,093,865,540.54 was supported by proper documents.[15] Thus, the amount of ₱31,165,151.47 shall be denied of VAT zero-rating.

In addition, the following reported zero-rated sales in 2012 amounting to ₱58,053,773.38 shall be disallowed for the reasons stated as follows:

Customer	Amount per Invoice (in USD)	Exhibit No.	Amount per Inward Remittance (in USD)	Exhibit No.	Difference (in USD)	Exchange Rate Used	Amount Disallowed in Peso
Sales with valid zero-rated VAT invoice and bill of lading but with insufficient bank credit advice							
Minecore Resources, Inc.	1,262,250.00	P-31.392	1,262,179.00	P-31.393 to 394	71.00	₱42.655	3,028.51
Minecore Resources, Inc.	140,250.00	P-31.395	140,250.00[16]	P-31.396	-	-	-
Minecore Resources, Inc.	140,250.00	P-31.366	107,580.98[17]	P-31.370	32,669.02	42.955	1,403,297.75
Minecore Resources, Inc.	1,262,250.00	P-31.365	1,262,130.00	P-31.367 to 369	120.00	42.955	5,154.60
Mount Eastern Holdings Co. Ltd.	135,408.00	P-31.359	135,408.00[18]		-	-	-
Mount Eastern Holdings Co. Ltd.	274,388.40	P-31.298	204,614.29[19]	P-31.381 to 386	69,774.11	43.270	3,019,125.74
Mount Eastern Holdings Co. Ltd.	68,714.60	P-31.380			68,714.60	43.070	2,959,537.82
Mount Eastern Holdings Co. Ltd.	225,230.00	P-31.272			225,230.00	41.495	9,345,918.85
Baosteel Resources International Co. Ltd.	392,832.00	P-31.323	392,807.00	P-31.324	25.00	42.925	1,073.13
Baosteel Resources International Co. Ltd.	427,856.00	P-31-315	427,831.00	P-31.316	25.00	43.755	1,093.88
				Subtotal	***$396,628.73***		***16,738,230.28***
Sales with valid zero-rated VAT invoice and bill of lading but with Inward Remittance Certificate which has no bank logo)							
DH Kingstone Holding Co. Ltd.	962,617.50	P-31.304	962,617.50	P-31.305		42.920	***41,315,543.10***
						TOTAL	**58,053,773.38**

In sum, out of the total reported sales in the 2012 Quarterly VAT Returns amounting to ₱3,125,030,692.01, only the amount of ₱3,035,811,767.16 represents petitioner's valid zero-rated sales which shall be considered for the claim for refund, computed as follows:

[14] Exhibit P-20-D.

[15] Exhibit P-31.B.

[16] Application of the amount of US$247,830.98 per Remittance Advice (Exhibit P-31.370 or P-31.396) was based on the sequence of the serial nos. of the invoices covered by the said remittance.

[17] Part of the remittance of US$247,830.98.

[18] Application of the amount of US$340,022.29 per Remittance Advice (Exhibit P-31.382) was based on the sequence of the serial nos. of the invoices covered by the said remittance.

[19] Part of the remittance of US$340,022.29.

2012 Zero-Rated Sales Per VAT Return			₱ 3,125,030,692.01
Less: Unsubstantiated Sales			
Zero-Rated Sales Per VAT Return	₱3,125,030,692.01		
Zero-Rated Sales Per Schedule	(3,093,865,540.54)	₱31,165,151.47	
Additional Disallowances Per This Court's Verification		58,053,773.38	89,218,924.85
2012 Valid Zero-Rated Sales			**₱3,035,811,767.16**

B. Disallowed Zero-Rated Sales Due to Failure to Exact Full Payment

In its Motion, petitioner submits that a reduction in the payment for the goods exported due to charges made against such payment, such as in the case of the sale made to DH Kingstone, does not warrant the disallowance of the entire transaction as a zero-rated transaction; that there is nothing in our Value Added Tax law which says that failure to exact full payment for a zero-rated transaction disqualifies the same from being treated as zero-rated; that there is no benefit to the taxpayer if it reports the sale in its invoice as if full payment was made thereon and be liable to pay corresponding income tax even on the uncollected portion of the sale; and, that there is no indication that petitioner received any other payment other than foreign currency on its export sales.[20]

We cannot subscribe to petitioner's foregoing contentions.

Section 106(A)(2)(a)(1) of the 1997 National Internal Revenue Code, as amended, and implemented by Sec. 4.106-5(a)(1) of Revenue Regulations No. 16-05[21], expressly provides that the sale and actual shipment of goods from the Philippines to a foreign country is "paid for" in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP). The term "paid for" connotes "collection". Thus, there is a necessity to go through the supporting Bank Credit Advice/Inward Remittance Certificates of the alleged export sales to ascertain foreign currency remittances from foreign customers.

Further, contrary to petitioner's argument, the Court did not disallow the "entire transaction" with DH Kingstone as a zero-rated sale. The amount disallowed in DH Kingstone transaction was only to the extent which was not properly substantiated with inward remittances.

[20] Pars. 19 to 21, Motion for Partial Reconsideration and/or New Trial, Docket (Vol. II), pp.469- 470.
[21] Consolidated Value-Added Tax Regulations of 2005.

Nevertheless, even granting that insufficient inward remittances from the DH Kingstone transaction "can already constitute full payment", petitioner should still provide evidence that could convince the Court that the unpaid balance pertains to alleged charges made against such payment, or that the same was already waived, or that efforts made to collect the same was indeed unfruitful.

As such, the disallowed zero-rated sales from the exportation to DH Kingstone in 2011 amounting to ₱14,611.333.48 ($336,899.55) must be sustained. The above rationale also served as the basis for the disallowance of zero-rated sales in 2012 amounting to ₱16,738,230.28 ($396,628.73), as discussed earlier.

C. The Advance Deduction of Petitioner's Input Taxes From Its 2008 Purchases Prior to the Year of Claim Should Disqualify the Same From Being Refunded

Records show that the claimed input VAT on purchases of capital goods exceeding ₱1M in the year 2008 amounted to ₱34,131,592.29. The said amount was already included in the amount of ₱42,038,669.54[22] deducted as VAT Refund/TCC Claimed (Line 23D) in the 2009 4th Quarterly VAT Return of petitioner.[23] However, our examination of the documents results to a total disallowance of ₱6,097,710.99, which comprised of the following:

Exhibit No.	Supplier	Invoice Date/Period Claimed	Amount of Input VAT
Importations with IEIRD and proof of VAT payment but OR shows INSUFFICIENT amount			
P-17-B; P-17-B-1	Volvo Truck Corporation	5/9/2008	₱ 4,577,952.00[24]

[22] Annex A of Letter Claim for Refund, Exhibit P-1, Docket (Vol. I), p. 225.
[23] Exhibit P-31.403 to 404.
[24]

Final Duties and Taxes per OR	₱ 3,533,066.00
Less: Customs Duties per IEIRD	1,580,375.00
Import Processing Fees per IEIRD	1,000.00
Considered VAT payment per OR	₱ 1,951,691.00
Less: VAT due per IEIRD	6,529,643.00
VAT claimed without proof of payment	₱(4,577,952.00)

a

P-17-D to P-17-D-2	Marubeni Corporation	7/02/2008	806,980.00[25]
		Subtotal	***5,384,932.00***
Local purchases with valid VAT invoice but NOT NAMED under petitioner			
P-18-C	Union Motor Corporation	2/07/2008	***133,671.43***
Local purchases with VAT invoice but WITHOUT authority to print			
P-18-F-2	Isuzu Philippines Corporation	6/11/2008	***242,142.86***
Local purchases with VAT invoice but NOT dated			
P-18-D-1	Alpha Philmotor Sales Corporation	6/11/2008	160,714.29
P-18-E-2; P-18-E-3	Alpha Philmotor Sales Corporation	6/26/2008	175,714.28
		Subtotal	***336,428.57***
Discrepancy between input VAT per claim vs input VAT per schedule (₱34,131,592.29[26] less ₱34,131,056.16[27]			***536.13***
TOTAL DISALLOWED INPUT VAT			**₱ 6,097,710.99**

Thus, only a net total of ₱28,033,881.30 shall be considered by this Court as valid input VAT incurred by petitioner for the year 2008:

Total input VAT claim on purchases of capital goods exceeding P1M in 2008	₱ 34,131,592.29
Less: Disallowances per this Court's verification	6,097,710.99
Input VAT properly substantiated	**₱ 28,033,881.30**

However, even if petitioner was able to substantiate its domestic purchases of capital goods exceeding ₱1 Million, the corresponding amortized input VAT of ₱147,655.19 and ₱214,435.54 in 2011 and 2012,[28] respectively, should still not be considered as allowable input tax credit for reasons that will be explained below.

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Final Duties and Taxes per OR	₱ 10,835,904.00
Less: Customs Duties per IEIRD	884,872.00
Import Processing Fees per IEIRD	1,000.00
Considered VAT payment per OR	₱ 9,950,032.00
Less: VAT due per IEIRD	10,757,012.00
VAT claimed without proof of payment	₱ (806,980.00)

26 Annex A of Letter Claim for Refund, Exhibit "P-1".
27 Exhibit "P-26".
28 2008 Amortized Input VAT from Domestic Purchases plus the allowable Amortized Input VAT from Domestic Purchases as laid down in the Decision p. 23 to 24.

					2011		2012	
Supplier	**Date**	**Input VAT (in PhP)**	**Useful Life**	**Monthly Amortization (in PhP)**	**No. of Mos.**	**Amortization (in PhP)**	**No. of Mos.**	**Amortization (in PhP)**
2008 Domestic Purchases:								
Toyota Shaw Inc.	1/22/2008	₱ 210,000.00	60	₱ 3,500.00	12	₱ 42,000.00	12	₱ 42,000.00
Honda Cars	2/22/2008	136,071.43	60	2,267.85	12	27,214.20	12	27,214.20
Honda Cars	2/22/2008	136,071.43	60	2,267.85	12	27,214.20	12	27,214.20
		₱482,142.86				**₱ 96,428.40**		**₱ 96,428.40**
2011 Domestic Purchases:								
Diamond Motor Corp.	4/1/11	₱ 131,250.00	60	2,187.50	9	₱ 19,687.50	12	₱ 26,250.00
Car & Recreational Vehicles Inc.	6/9/11	111,321.43	60	1,855.36	7	12,987.50	12	22,264.29
		17,678.57	60	294.64	7	2,062.48	12	3,535.71
Toyota Otis Inc.	10/13/11	146,678.57	60	2,444.64	3	7,333.92	12	29,335.71
Toyota Otis Inc.	10/17/11	183,107.14	60	3,051.79	3	9,155.37	12	36,621.48
Subtotal		**₱590,035.71**				**₱ 51,226.79**		**₱118,007.14**
Total		**₱1,072,178.57**				**₱ 147,655.19**		**₱214,435.54**

In Section 3 of Revenue Memorandum Order No. 9-00[29] (RMO No. 9-00) dated February 2, 2000, the Bureau of Internal Revenue enumerated the requirements for the zero-rating of sales by a VAT taxpayer to a BOI registered exporter, thus:

> "**SECTION.3.** *Sales of goods, properties or services made by a VAT registered supplier to a BOI registered exporter shall be accorded automatic zero-rating, i.e., without necessity of applying for and securing approval of the application for zero-rating as provided in Revenue Regulations No.7-95, subject to the following conditions:*
>
> (1) The supplier must be VAT-registered;
>
> (2) The BOI-registered buyer must likewise be VAT-registered;
>
> (3) The buyer must be a BOI-registered manufacturer/producer whose products are 100% exported. For this purpose, a Certification to this effect must be issued by the Board of Investments (BOI) and which certification shall be good for one year unless subsequently re-issued by the BOI;

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[29] Tax Treatment of Sales of Goods, Properties and Services Made by VAT-registered Suppliers to BOI-registered Manufacturers-Exporters With 100% Export Sales

(4) The BOI-registered buyer shall furnish each of its suppliers with a copy of the aforementioned BOI Certification which shall serve as authority for the supplier to avail of the benefits of zero-rating for its sales to said BOI-registered buyers; and

(5) The VAT-registered supplier shall issue for each sale to BOI-registered manufacturer/exporters a duly registered VAT invoice with the words "zero-rated" stamped thereon in compliance with Sec.4.108-1(5) of Revenue Regulations No.7-95. The supplier must likewise indicate in the VAT-invoice the name and BOI-registry number of the buyer."

In the present case, petitioner was able to present two Certifications[30] issued by the BOI dated January 21, 2011 and January 20, 2012, respectively' both attesting to the fact that petitioner is a BOI registered entity; and, that the latter "exported 100% of its total sales volume/value" in the calendar years 2008 and 2009. The said Certifications, likewise, state that the same are valid only for the periods of January 1 to December 31, 2011 and January 1 to December 31, 2012.

Following Section 3(4) of RMO No. 9-00, the subject BOI Certifications shall serve as authority for the local suppliers of petitioner "to avail of the benefits of zero-rating" on their sales to petitioner covering the years 2011 and 2012. Thus, no output tax should, therefore, be shifted by the local suppliers to petitioner.

But in this case, petitioner's supplier shifted the output tax to petitioner. Thus, petitioner may seek reimbursement of the input VAT paid from its seller (who shifted the output VAT), and not from the government, following the ruling of the CTA Court *En Banc* in *Coral Bay Nickel Corp. vs. Commissioner of Internal Revenue*[31], to wit:

> **"To allow petitioner a refund or issuance of tax credit certificate of input VAT on its domestic purchases of goods and services, where there is no right to demand it against the government, since its purchases are zero-rated, would unduly enrich petitioner at the expense of the government.** Under the law, no one shall unjustly enriched himself at the expense of another. *'Niguno non deue enriquecerse tortizamente*

[30] Exhibits "P-9" to "P-10".
[31] CTA EB Case No. 403 (CTA Case No. 7022), May 29, 2009.

condano de otr' (Ong Yong, et. al. vs. David S. Tiu, et. al., 375 SCRA 640). Said ruling is equally true in the field of taxation, particularly in cases involving claims for refunds.

In instances when petitioner paid input VAT, notwithstanding that under the law it is subject to VAT at zero percent rate, petitioner's recourse is not against the government, but against the seller who shifted to it the output VAT. *Revenue Memorandum Circular No. 42-03* is clearly instructive on this matter:

> 'In the meantime, the claim for input tax credit by the exporter-buyer should be denied without prejudice to the claimant's right to seek reimbursement of the VAT paid, if any, from its supplier.'

Pursuant to *Revenue Memorandum Circular No. 42-03,* petitioner's recourse for those purchases of goods and services where it paid VAT is not a claim for refund against the government, or the issuance of a tax credit certificate; but to seek reimbursement of the input VAT paid from its suppliers of goods and services."

The afore-quoted ruling was affirmed in the case of *Coral Bay Nickel Corp. vs. Commissioner of Internal Revenue,*[32] where the Supreme Court ruled that the proper party to seek the tax refund or credit should be the suppliers not the petitioner (Coral Bay).

Thus, only the amortized input VAT from importations in the amount of ₱9,295,167.30 and ₱10,123,097.32 in 2011 and 2012, respectively, represent petitioner's valid input VAT. [33] A table below is provided for ease of reference:

Supplier	Date	Input VAT	Less: Disallowance	Input VAT Allowed	Monthly Amort.	2011	2012
2008:							
Marubeni Corporation	3/1/2008	₱2,264,799.44	₱ -	₱ 2,264,799.44	₱47,183.32	₱ 566,199.84	₱ 566,199.84
Volvo Truck Corporation	6/1/2008	6,529,643.40	4,577,952.00	1,951,691.00	40,660.23	487,922.76	487,922.76
Marubeni Corporation	9/1/2008	10,757,012.00	806,980.00	9,950,032.00	207,292.33	2,487,508.00	2,487,508.00
Volvo Truck Corporation	9/1/2008	6,772,398.00	-	6,772,398.00	141,091.63	1,693,099.56	1,693,099.56

[32] G.R No. 190506, June 13, 2016.
[33] 2008 Amortized Input VAT from Importations plus the allowable Amortized Input VAT Amortization from Importations as laid down in the Decision p. 23.

Volvo Truck Corporation	12/1/2008	2,916,035.00	-	2,916,035.00	60,750.73	729,008.76	729,008.76
Volvo Truck Corporation	12/1/2008	3,696,783.00	-	3,696,783.00	77,016.31	924,195.72	924,195.72
			Subtotal	***₱27,551,738.44***		***₱6,887,934.64***	***₱ 6,887,934.64***
2011:							
Volvo Truck Corporation	4/19/2011	12,021,962.00	-	₱ 12,021,962.00	250,457.54	₱ 2,254,117.86	₱ 3,005,490.48
Volvo do Brasi Veiculos Ltda.	5/10/2011	918,689.00	-	918,689.00	19,139.35	153,114.80	229,672.20
			Subtotal	***₱12,940,651.00***		***₱2,407,232.66***	***₱ 3,235,162.68***
			Total	**₱40,492,389.44**		**₱9,295,167.30**	**₱10,123,097.32**

However, other than its mere allegation that the subject input VAT are all directly attributable to its zero-rated sales, petitioner did not present documentary evidence in order for this Court to ascertain that no part of the claimed input VAT can be attributed to its reported VATable and exempt sales in 2011 and 2012. Thus, the input VAT of ₱9,295,167.30 and ₱10,123,097.32 in 2011 and 2012, respectively, shall be proportionately allocated among its reported zero-rated, VATable and exempt sales in 2011 and 2012 in the aggregate amount of ₱2,888,696,985.55 and ₱3,261,427,312.19, respectively:

2011	**1st Quarter**	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**Total**
	(Exh. P-20-C-3)	*(Exh. P-20-C-6)*	*(Exh. P-20-C-9)*	*(Exh. P-20-C-12)*	
Vatable Sales	28,571.42	29,285.71	782,149.66	703,928.58	1,543,935.37
Zero Rated Sales	535,757,978.45	604,186,364.87	1,255,721,066.18	381,442,752.68	2,777,108,162.18
Exempt Sales	14,886,220.00	30,571,796.61	32,605,821.22	31,981,050.17	110,044,888.00
Total	**550,672,769.87**	**634,787,447.19**	**1,289,109,037.06**	**414,127,731.43**	**2,888,696,985.55**

2012	**1st Quarter**	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**Total**
	(Exh. P-20-D-3.1)	*(Exh. P-20-D-6.1)*	*(Exh. P-20-D-9)*	*(Exh. P-20-D-12)*	
Vatable Sales	462,924.75	11,707,585.25	52,857.14	351,804.08	12,575,171.22
Zero Rated Sales	452,656,359.97	972,612,866.40	1,141,987,611.33	557,773,854.31	3,125,030,692.01
Exempt Sales	31,673,606.88	31,629,893.41	30,949,719.85	29,568,228.82	123,821,448.96
Total	**484,792,891.60**	**1,015,950,345.06**	**1,172,990,188.32**	**587,693,887.21**	**3,261,427,312.19**

	Allocation Factor		**Allocated Input VAT**	
	2011	**2012**	**2011**	**2012**
Vatable Sales	0.0534475%	0.3855726%	₱ 4,968.03	₱ 39,031.89
Zero Rated Sales	96.1370534%	95.8178856%	8,936,099.95	9,699,737.82
Exempt Sales	3.8094992%	3.7965417%	354,099.32	384,327.61
Total	**100.0000000%**	**100.0000000%**	**₱9,295,167.30**	**₱10,123,097.32**

Since petitioner did not submit VAT invoices/receipts proving the existence of its reported input VAT from Domestic Purchases of Goods not Exceeding ₱1Million, Purchases of Goods (other than Capital Goods), Importation of Goods (other than Capital Goods) and Domestic Purchases of Services for the first to fourth quarters of 2011 and 2012, its output VAT liability for respective period in the amounts of ₱185,272.24 and ₱1,509,020.55 shall be offset against the input VAT amortization allocated to its VATable and zero-rated sales, as shown below:

	2011	2012
Output VAT Due	₱ 185,272.24	₱ 1,509,020.55
Less: Input VAT Amortization Allocated to VATable Sales	4,968.03	39,031.89
Net Output VAT Payable	₱ 180,304.21	₱ 1,469,988.66
Less: Input VAT Amortization Allocated to Zero-Rated Sales	8,936,099.95	9,699,737.82
Excess Input VAT Amortization Allocated to Zero-Rated Sales	₱ 8,755,795.74	₱ 8,229,749.16

Consequently, only the input VAT of ₱8,002,592.80 and ₱7,994,791.66 is attributable to the valid zero-rated sales of ₱2,538,211,995.90[34] and ₱3,035,811,767.16 in 2011 and 2012, respectively, as computed below:

	2011	2012
Excess Input VAT Amortization Allocated to Total Declared Zero-Rated Sales	₱ 8,755,795.74	₱ 8,229,749.16
Multiply by:		
Valid Zero-Rated Sales	₱2,538,211,995.90	₱3,035,811,767.16
Divided by: Total Zero-Rated Sales Per Return	₱2,777,108,162.18	₱3,125,030,692.01
Ratio of valid 0-rated sales to total 0-rated sales	91.3976643%	97.1450224%
Excess input VAT for refund	**₱ 8,002,592.80**	**₱ 7,994,791.66**

In sum, petitioner proved that it is entitled to a refund or issuance of tax credit certificate in the modified amount of ₱15,997,384.46, representing the sum of its excess input VAT amortization on capital goods purchases exceeding ₱1Million attributable to its zero-rated sales for the years 2011 and 2012 in the amounts of ₱8,002,592.80 and ₱7,994,791.66, respectively.

WHEREFORE, in view thereof, respondent's Motion for Partial Reconsideration (Re: Decision promulgated 28 March 2016) is **DENIED** while petitioner's Motion for Partial Reconsideration is **PARTIALLY**

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[34] Decision, p. 20, Docket (Vol. I), p. 440.

GRANTED. Accordingly, the dispositive portion of the Decision dated March 28, 2016 is **AMENDED**, as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the increased amount of **FIFTEEN MILLION NINE HUNDRED NINETY SEVEN THOUSAND THREE HUNDRED EIGHTY FOUR AND 46/100 (₱15,997,384.46)**, representing the sum of its excess input VAT amortization on capital goods purchases exceeding P1Million attributable to its zero-rated sales for the years 2011 and 2012."
>
> **SO ORDERED."**

CAESAR A. CASANOVA
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended 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.
Associate Justice
Chairperson, Second Division

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