REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

KEPCO ILIJAN CORPORATION,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 6966

Members:

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

Promulgated:

SEP 22 2020
3:30 p.m.

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AMENDED DECISION

CASTAÑEDA, JR., *J.:*

THE CASE

This case was remanded by the Supreme Court (First Division) to this Court in Division for further proceedings on petitioner's claim for refund of its unutilized excess input value-added tax (VAT) for the 2nd, 3rd, and 4th quarters of taxable year 2002, pursuant to *Kepco Ilijan Corporation vs. Commissioner of Internal Revenue* (hereinafter referred to as the "*Kepco Ilijan* case"),[1] the dispositive portion of which reads:

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[1] G.R. No. 205185, September 26, 2018.

"**WHEREFORE**, the Court **PARTLY GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the decision promulgated on September 6, 2012 by the Court of Tax Appeals *En Banc* in CTA EB Case No. 733; and **ORDERS** the remand of the case to the Court of Tax Appeals in Division for further proceedings on the petitioner's claim for refund of its unutilized excess input Value-Added Tax for the second, third and fourth quarters of taxable year 2002.

No pronouncement on costs of suit.

SO ORDERED."

The *Kepco Ilijan* case lays down the antecedents and the previous judgments or decisions of this Court, in Division and in *En Banc*, respectively, for the instant case, to wit:

"**Antecedents**

The petitioner, a duly registered domestic corporation engaged in the production of electricity as an independent power producer (IPP) and in the sale of electricity solely to the National Power Corporation (NPC), claimed the refund or issuance of the tax credit certificate for ₱74,658,481.68 for the VAT incurred in taxable year 2002.

It appears that the petitioner filed its quarterly VAT returns for the four quarters of taxable year 2002, thereby showing the incurred expenses representing the importation and domestic purchases of goods and services, including the input VAT thereon. On April 13, 2004, it brought its administrative claim for refund with Revenue District Office (RDO) No. 43 of the Bureau of Internal Revenue (BIR), claiming excess input VAT amounting to ₱74,658,481.68 for taxable year 2002.

On April 22, 2004, nine days after filing the administrative claim, the petitioner filed its petition for review (CTA Case No. 6966), which was assigned to the Second Division of the CTA (CTA in Division).

Judgment of the CTA in Division

On April 14, 2009, the CTA in Division rendered judgment in CTA Case No. 6966 partly granting the petition for review, and ordering the respondent to refund or to issue a tax credit certificate in the reduced amount of ₱23,389,050.05 representing the petitioner's unutilized excess input VAT attributable to its zero-rated sales to NPC for the second, third and fourth quarters of taxable year 2002, but denying the petitioner's input VAT claim for the first quarter of taxable year 2002 on the ground of prescription, and the other input VAT claims for lack of the required documentary evidence.

On April 30, 2009, the petitioner moved for partial reconsideration with prayer to admit attached additional supporting documents. It argued that its claim for the first quarter of taxable year 2002 should not be denied because the rules and jurisprudence then prevailing stated that the reckoning point of the two-year period for filing the claim for refund of unutilized input taxes was the date of filing of the return and payment of the tax due pursuant to the two-year rule under *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue (Atlas)*.[2]

Acting on the petitioner's motion for partial reconsideration, the CTA in Division promulgated the amended decision dated February 18, 2011 denying the entire claim on the ground of prematurity. It opined that it did not acquire jurisdiction over the petition for review because of the petitioner's non-observance of the periods provided under the NIRC, citing the rulings in *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (Mirant)*[3] and *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc. (Aichi)*.[4] It decreed thusly:

> **WHEREFORE**, premises considered, the **Motion for Partial Reconsideration** is hereby **DENIED** for lack of merit. On the other hand, the assailed Decision promulgated on April 14,

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[2] G.R. Nos. 141104 & 148763, June 8, 2007.
[3] G.R. No. 172129, September 12, 2008.
[4] G.R. No. 184823, October 6, 2010.

> 2009 is hereby **SET ASIDE** and the instant Petition for Review is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

Decision of CTA *En Banc*

The petitioner elevated the case to the CTA *En Banc*, contending that it had seasonably filed its administrative and judicial claims; and that the CTA had properly acquired jurisdiction over the judicial claim.

Through the now assailed decision promulgated on September 6, 2012, the CTA *En Banc* denied the petition for review, disposing:

> **WHEREFORE**, premises considered, the Petition for Review docketed as CTA EB NO. 733 is **DISMISSED**. The Amended Decision dated February 18, 2011 of the Former Second Division of this Court in CTA Case No. 6966, is hereby **affirmed**. No pronouncement as to cost.
>
> **SO ORDERED.**

On December 13, 2012, the CTA *En Banc* denied the petitioner's motion for reconsideration."

Not satisfied with the disposition of this Court *En Banc* (in CTA EB Case No. 733), petitioner elevated the matter to the Supreme Court on March 1, 2013, via a *Petition for Review on Certiorari*, which became the *Kepco Ilijan* case (G.R. No. 205185). As already stated, in the *Kepco Ilijan* case, the High Court reversed and set aside the decision promulgated on September 6, 2012 by this Court *En Banc*; and remanded the instant case to this Court for further proceedings on petitioner's claim for refund of its unutilized excess input value-added tax (VAT) for 2nd, 3rd, and 4th quarters of taxable year 2002.

Thereafter, this Court received, on May 20, 2019, the Supreme Court's *Entry of Judgment* for the *Kepco Ilijan* case,[5] certifying, *inter alia*, that on December 4, 2018, the decision therein became final and executory.

[5] Docket – Vol. 2, pp. 890 to 891.

In the Resolution dated July 5, 2019 of this Court *En Banc*,[6] the present case was remanded to the former Second Division of this Court for further proceedings.

Correspondingly, in the Resolution dated July 24, 2019,[7] this Court in Division gave both parties a period of fifteen (15) days from receipt thereof, to file a written *Manifestation*, alleging any supervening event that may have transpired which they would want to present before this Court for consideration.

On August 8, 2019, petitioner filed a *Manifestation (with Motion to Reconsider Supplemental Evidence)*,[8] manifesting that there is no supervening event that have transpired which it would want to present to this Court for its consideration; that petitioner prays that this Court duly consider the pieces of supplemental evidence previously submitted, marked, and admitted,[9] as the consideration of the same is not moot; that petitioner has not abandoned its position that its pieces of evidence in support of its claim for refund conform with the substantiation requirements under the law, albeit the filing of the 1st quarter refund out of time; and that taking into consideration Exhibits "FFF" to "SSS"[10] and "CCC" to "EEE"[11], petitioner maintains its stand and now prays for the refund and/or issuance of tax credit certificates in the aggregate amount of ₱72,917,840.75 (₱74,658,481.68 less ₱1,740,640.93), pertaining to input VAT for the 1st quarter of taxable year 2002 which was rendered barred by prescription by the Supreme Court.

Respondent, however, failed to file any written *Manifestation*.[12]

In the Resolution dated October 3, 2019,[13] this case was deemed submitted anew for decision.

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[6] Docket – Vol. 2, pp. 893 to 894.
[7] Docket – Vol. 2, pp. 896 to 890.
[8] Docket – Vol. 2, pp. 904 to 907.
[9] As per the Resolutions dated December 16, 2009 and March 2, 2010, Docket – Vol. 1, pp. 485 to 486 and 503 to 504, respectively.
[10] Docket – Vol. 1, pp. 460 to 482.
[11] *Id.*, pp. 457 to 459.
[12] Records Verification dated August 27, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. 2, p. 912.
[13] Docket – Vol. 2, pp. 913 to 914.

THE COURT'S RULING

After taking a second hard look on the instant case, this Court maintains its Decision dated April 14, 2009, [14] pertinent portions of which read:

> "In sum, petitioner has sufficiently proven that it is entitled to a refund or issuance of tax credit certificate corresponding to its unutilized input VAT for the second, third, and fourth quarters of taxable year 2002 in the amount of P23,389,050.05, computed as follows:
>
> | | | | |
> |---|---|---|---|
> | Amount of claim | | | P 74,658,481.68 |
> | Less: | Barred by prescription – 1st Quarter | P1,740,640.93 | |
> | | Disallowances per CPA Report – 2nd to 4th Quarters | 1,106,701.67 | |
> | | Disallowances per Court's verification – 2nd to 4th Quarters | 48,422,089.03 | 51,269,431.63 |
> | **Refundable Input VAT** | | | **P 23,389,050.05** |
>
> **WHEREFORE**, with the foregoing disquisitions, the Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED** to **REFUND** or to **ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of P23,389,050.05, representing unutilized excess input VAT attributable to its zero-rated sales of electricity to NPC for the second, third, and fourth quarters of taxable year 2002.
>
> **SO ORDERED.**"

Records show that petitioner questioned the foregoing ruling in its *Motion for Partial Reconsideration with Prayer To Admit Attached Additional Supporting Documents* filed on April 30, 2009; [15] that certain additional supporting documents were allowed and admitted by the Court; [16] and that on May 7, 2010, petitioner submitted its *Memorandum*, [17] relative to the resolution of the said *Motion for Partial Reconsideration*.

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[14] Docket – Vol. 1, pp. 352 to 370.
[15] Docket – Vol. 1, pp. 376 to 396.
[16] Resolution dated August 11, 2009, Docket – Vol. 1, pp. 418 to 420; Resolution dated December 16, 2009, Docket – Vol. 1, pp. 485 to 486; and Resolution dated March 2, 2010, Docket – Vol. 1, pp. 503 to 504.
[17] Docket – Vol. 1, pp. 509 to 548.

In the said *Memorandum*, petitioner prays that this Court's Decision dated April 14, 2009 be reconsidered and amended insofar as its partially denied the claim of petitioner due to: (1) not being supported with the required documentary evidence in the amount of ₱47,559,061.24, and (2) prescription in the amount of ₱1,740,640.93, covering the input VAT claim of petitioner for the 1st quarter of calendar year 2002. Petitioner claims therein that the *Mirant* doctrine should not be applied to cases filed or pending before its promulgation; that the case of *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue* ("*Intel Technology* case")[18] ruled that there is no outright denial of input VAT on purchases of goods and services supported by invoices which do not comply with the invoicing requirements; that this Court inadvertently failed to consider the official receipts (ORs) and invoices issued in the name of Kepco as issued in the name of petitioner; that the input VAT claim of petitioner is substantiated with supporting documents as examined by the Independent Certified Public Accountant (ICPA); and that the input VAT claim worth ₱14,476,468.00 are within the period of taxable year 2002.

In the *Kepco Ilijan* case, the Supreme Court has already addressed the issue of prescription, to wit:

> "The records show that the petitioner herein filed its administrative claims for refund for the first, second, third, and fourth quarters of taxable year 2002 on April 13, 2004. Such claims were covered by Section 112(A) of the NIRC that was the rule applicable prior to *Atlas* and *Mirant*. As such, the proper reckoning date in this case, pursuant to Section 112(A) of the NIRC, was the close of the taxable quarter when the relevant sales were made. Specifically, the close of the taxable quarter of taxable year 2002 took place on March 31, 2002, June 30, 2002, September 30, 2002 and December 31, 2002, giving to the petitioner until March 31, 2004, June 30, 2004, September 30, 2004 and December 31, 2004 within which to file its administrative claims for the first, second, third and fourth quarters, respectively. **Under these circumstances, <u>the petitioner had belatedly filed its administrative claim corresponding for the first quarter of taxable year 2002, which was thereby already barred</u>. But the claims for the refund of**

[18] G.R. No. 166732, April 27, 2007.

> **the input taxes corresponding to the second, third and fourth quarters were timely and not barred.**
>
> We next determine the timeliness of the filing of the judicial claim in the CTA.
>
> xxx xxx xxx
>
> The petitioner filed its administrative and judicial claims for refund on April 13, 2004 and April 22, 2004, respectively. Both claims were filed after BIR Ruling No. DA-589-03 was issued on December 10, 2003, but before the promulgation of the *Aichi* pronouncement on October 06, 2010. **Thus, notwithstanding the petitioner's having filed its judicial claim without waiting for the decision of the respondent or for the expiration of the 120-day mandatory period, the CTA could still take cognizance of the claims because they were filed within the period exempted from the mandatory and jurisdictional 120-30 period rule.**" *(Emphases and underscoring added)*

Thus, to be clear, this Court's disallowance amounting to ₱1,740,640.93, which pertains to input VAT claimed for the 1st quarter of taxable year 2002, has, in effect, been affirmed by the High Court. Consequently, this Court shall no longer consider the same as a refundable amount.

The Court correctly disallowed the invoices and receipts for failing to comply with the invoicing requirements.

In its *Motion for Partial Reconsideration with Prayer to Admit Attached Additional Supporting Documents,*[19] petitioner claims that this Court erred in disallowing its purchases of goods and services supported by invoices and official receipts with "TIN-V" instead of "TIN-VAT" in the total amount of ₱856,222.14, broken down as follows: *gr*

[19] Docket – Vol. 1, pp. 376 to 396.

Exhibit No.	Date[20]	Registered Name	Input VAT
Purchases of goods supported by invoices with TIN-V instead of TIN-VAT			
"U-75"	06/05/2002	Quiet Stream Waters & Trade	₱ 1,515.00
"V-75"	07/11/2002	Sta. Rita Machine Shop	545.45
"W-23"	07/10/2002	General Electric Phils Inc.	145,595.63
"X-103"	09/02/2002	Standphil Corporation	44,118.18
"X-147"	09/30/2002	Ono Hardware & Lumber	375.91
"X-148"	09/30/2002	Ono Hardware & Lumber	179.64
"Y-24"	10/08/2002	Citimart Shop-On	1,466.78
"Z-50"	12/19/2002	Citimart Shop-On	450.23
"Z-85"	11/14/2002	Quiet Stream Waters & Trade	3,250.00
"Y-54" & "Y-55"	08/31/2002 & 09/15/2002	General Electric Phils Inc.	265,799.31
Total			**₱463,296.13**
Purchases of services supported by official receipts with TIN-V instead of TIN-VAT			
"S-55"	04/18/2002	Red Eight Trading & Gen. Services	₱ 6,500.00
"T-13"	05/08/2002	Red Eight Trading & Gen. Services	2,500.00
"U-4"	06/04/2002	Typo Grafika, Inc.	222.73
"U-52"	06/18/2002	Typo Grafika, Inc.	231.82
"U-95"	06/27/2002	Typo Grafika, Inc.	3,122.73
"V-85"	07/29/2002	Balisong Intelligence & Security Agency	56,073.13
"W-7"	08/15/2002	Premier Chemical Enterprise	545.45
"W-7"	08/15/2002	Premier Chemical Enterprise	545.45
"W-38"	08/12/2002	MCC Printers & Enterprises	1,227.27
"W-40"	08/12/2002	MCC Printers & Enterprises	477.27
"W-99"	08/23/2002	Typo Grafika, Inc.	95.45
"W-103"	08/23/2002	Typo Grafika, Inc.	159.09
"W-103"	08/23/2002	Typo Grafika, Inc.	159.09
"X-70"	09/11/2002	Typo Grafika, Inc.	527.27
"X-118"	09/20/2002	Bullion Construction & Dev't Corp.	43,553.00
"Y-18"	10/13/2002	Balisong Intelligence & Security Agency	63,842.48
"Y-43"	10/03/2002	Typo Grafika, Inc.	1,500.00
"Y-133"	10/17/2002	Typo Grafika, Inc.	587.27
"Z-19"	10/30/2002	Typo Grafika, Inc.	181.82
"Z-38"	11/11/2002	Grandoise Food Services, Inc.	2,072.73
"Z-144"	11/22/2002	Balisong Intelligence & Security Agency	66,791.32
"Z-145"	11/22/2002	Mof Company (Subic) Inc.	21,436.80
"Z-161"	11/22/2002	Red Eight Trading & Gen. Services	3,090.91
"Z-220"	12/03/2002	Bullion Construction & Dev't Corp.	38,083.36
"Z-237"	11/29/2002	L. Armani Trading & General Services	9,217.05
"AA-26"	12/05/2002	Balisong Intelligence &	70,182.52

[20] Expressed in month/day/year.

		Security Agency	
Total			**₱392,926.01**
GRAND TOTAL			**₱856,222.14**

Petitioner further insists that Section 4.108-1 of RR No. 07-95 does not require the word "TIN-VAT" to be imprinted on a VAT-registered person's supporting invoices and official receipts. Thus, petitioner opines that there is no reason for the denial of the amount ₱856,222.14, representing its purchases of goods and services which it claims as input VAT.

However, this Court does not agree.

The matter has already been settled in *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*,[21] wherein the Supreme Court held as follows:

> "...Kepco insists that Section 4.108.1 of Revenue Regulation 07-95 does not require the word 'TIN-VAT' to be imprinted on a VAT-registered person's supporting invoices and official receipts and so there is no reason for the denial of its ₱4,720,725.63 claim of input tax.
>
> In this regard, Internal Revenue Regulation 7-95 (Consolidated Value-Added Tax Regulations) is clear. Section 4.108-1 thereof reads:
>
>> **Only VAT registered persons are required to print their TIN followed by the word 'VAT' in their invoice or receipts and this shall be considered as a 'VAT' Invoice. All purchases covered by invoices other than 'VAT Invoice' shall not give rise to any input tax.**
>
> Contrary to Kepco's allegation, the regulation specifically requires the VAT registered person to imprint TIN-VAT on its invoices or receipts. Thus, the Court agrees with the CTA when it wrote: **'[T]o be considered a 'VAT invoice,' the <u>TIN-VAT</u> must be printed,** and not merely stamped. Consequently, **purchases** ℛ

[21] G.R. No. 181858, November 24, 2010.

> **supported by invoices or official receipts, wherein the TIN-VAT is not printed thereon, shall not give rise to any input VAT. Likewise, input VAT on purchases supported by invoices or official receipts which are NON-VAT are disallowed because these invoices or official receipts are not considered as 'VAT Invoices.**" *(Emphases and underscoring added)*

The foregoing ruling was reinforced and reiterated in *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) vs. Commissioner of Internal Revenue,*[22] to wit:

> "The CTA Division also did not err when it denied the amount of ₱2,668,852.55, allegedly representing input taxes claimed on Sitel's domestic purchases of goods and services which are supported by invoices/receipts with pre-printed TIN-V. In *Western Mindanao Power Corp. v. Commissioner of Internal Revenue,*[23] the Court ruled that in a claim for tax refund or tax, the applicant must prove not only entitlement to the grant of the claim under substantive law, he must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit and compliance with the invoicing and accounting requirements mandated by the NIRC, as well as by revenue regulations implementing them. **The NIRC requires that the creditable input VAT should be evidenced by a VAT invoice or official receipt, which may only be considered as such when the TIN-VAT is printed thereon, as required by Section 4.108-1 of RR 7-95.**
>
> The Court's pronouncement in *Kepco Philippines Corp. v. Commissioner of Internal Revenue* is instructive:
>
>> Furthermore, Kepco insists that Section 4.108.1 of Revenue Regulation 07-95 does not require the word 'TIN-VAT' to be imprinted on a VAT-registered person's supporting invoices and official receipts and so there is no reason for the denial of its ₱4,720,725.63 claim of input tax. *9r*

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[22] G.R. No. 201326, February 8, 2017.

[23] 687 Phil. 328, 340 (2012) [G.R. No. 181136, 13 June 2012].

> In this regard, Internal Revenue Regulation 7-95 (Consolidated Value-Added Tax Regulations) is clear. Section 4.108-1 thereof reads:
>
> > Only VAT registered persons are required to print their TIN followed by the word 'VAT' in their invoice or receipts and this shall be considered as a 'VAT' Invoice. All purchases covered by invoices other than 'VAT Invoice' shall not give rise to any input tax.
>
> Contrary to Kepco's allegation, the regulation specifically requires the VAT registered person to imprint TIN-VAT on its invoices or receipts. Thus, the Court agrees with the CTA when it wrote: '[T]o be considered a 'VAT invoice,' the TIN-VAT must be printed, and not merely stamped. Consequently, purchases supported by invoices or official receipts, wherein the TIN-VAT is not printed thereon, shall not give rise to any input VAT. Likewise, input VAT on purchases supported by invoices or official receipts which are NON-VAT are disallowed because these invoices or official receipts are not considered as 'VAT Invoices.'
>
> In the same vein, **considering that the subject invoice/official receipts are not imprinted with the taxpayer's TIN followed by the word VAT, these would not be considered as VAT invoices/official receipts and would not give rise to any creditable input VAT in favor of Sitel.**"

Based on the foregoing doctrinal pronouncements, it is clear that to be considered as a VAT invoice or official receipt, the word "TIN-VAT", inter alia, must be stated. Otherwise, the same will not be considered as such, and will not give rise to any creditable input VAT.

Thus, this Court did not err when it denied the amount of ₱856,222.14, representing the input tax on petitioner's domestic purchases of goods and services supported by invoices/receipts with pre-printed "TIN-V". Considering that the subject invoice/ receipts are not imprinted with the taxpayer's TIN followed by the word VAT, these would not be considered as VAT invoices/official receipts and would not give rise to any creditable input VAT in favor of the petitioner. *gr*

As to the invocation *Intel Technology* case by petitioner, suffice it to state that the same is not applicable since the issue therein concerns the taxpayer's authority to print (ATP) and not whether the word "TIN-VAT" is indicated in the invoice or official receipt, thus:

> "The appellate court's reliance on RMC No. 42-2003 is misplaced. The said Circular clarified, inter alia, that failure to comply with the invoicing requirements on the documents supporting the sale of goods and services would result in the disallowance of the claim for refund or issuance of a tax credit certificate of creditable input taxes. The said Circular mentioned as an example the failure to state the TIN of the taxpayer in the invoice or receipt. **However, in petitioner's case, the principal ground for the denial of its claim for refund or issuance of a tax credit certificate is its failure to reflect or indicate in its invoices the BIR authority to print. As earlier discussed, the BIR authority to print is not one of the items required by law to be reflected or indicated in the invoices or receipts**. x x x.
>
> It bears reiterating that while the pertinent provisions of the Tax Code and the rules and regulations implementing them require entities engaged in business to secure a BIR authority to print invoices or receipts and to issue duly registered invoices or receipts, it is not specifically required that the BIR authority to print be reflected or indicated therein. Indeed, what is important with respect to the BIR authority to print is that it has been secured or obtained by the taxpayer, and that invoices or receipts are duly registered."

Having settled the foregoing issue, this Court shall now proceed to reconsider and discuss the other disallowed input VAT claim. ge

The supplemental Exhibits "CCC" to "SSS" offered to substantiate the remaining disallowed input VAT are insufficient.

Again, in the assailed Decision, petitioner's claim on its purchases of services from Marsh Philippines, Inc. were disallowed by this Court on the ground that the official receipts presented are not issued in petitioner's name, to wit:[24]

Exhibit No.	Date[25]	Registered Name	Input VAT
"T-1"	05/07/2002	Marsh Phils.	₱ 4,307,658.27
"V-79"	07/24/2002	Marsh Phils.	10,841,961.12
"V-79"	07/24/2002	Marsh Phils.	(2,158,670.07)
Total			**₱12,990,949.32**

In disputing the disallowance, petitioner attached in its *Motion for Reconsideration* copies of invoices issued by Marsh Philippines, Inc., and check vouchers issued by petitioner to Marsh Philippines, Inc. to prove that the amount of ₱12,990,949.32 pertains to purchases of the petitioner, thus:

Invoices of Marsh Philippines, Inc.			
Exhibit	**Date**	**Invoice No.**	**Amount (Inclusive of VAT)**
"CCC"[26]	April 19, 2002	DP/044740/02	US$ 921,440.30
"DDD"[27]	April 9, 2002	DP/043735/02	19,432.60
"EEE"[28]	July 16, 2002	DP/049119/02	1,888,679.80

Check Vouchers issued by petitioner			
Exhibit	**Date**	**Check Voucher No.**	**Amount (Inclusive of VAT)**
"FFF"[29]	May 2, 2002	006667	US$ 940,872.90
"GGG"[30]	July 23, 2002	007098	1,888,679.80

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[24] At page 12 of the Decision dated April 14, 2009, Docket – Vol. 1, p. 363
[25] Expressed in month/day/year.
[26] Docket – Vol. 1, p. 457.
[27] Docket – Vol. 1, p. 458.
[28] Docket – Vol. 1, p. 459.
[29] Docket – Vol. 1, p. 460.
[30] Docket – Vol. 1, p. 461.

Petitioner asserts that it was only through mere inadvertence that photocopies of the supporting documents relating to purchases from Marsh Philippines, Inc. and Raytheon Ebasco Overseas Ltd., in the amounts of ₱12,156,847.69 and ₱7,078,574.09, respectively, were examined but were not however submitted by the court-commissioned ICPA. Hence, petitioner presented the additional documentary evidence to support its assertion, *viz.*:

Exhibit	Date	Official Receipt No.	Issuing entity	Amount (Inclusive of VAT)
"III"[31]	April 1, 2002	22271	Marsh Philippines, Inc.	US$2,617,138.84
"KKK"[32]	June 2, 2002	0519	Raytheon Ebasco Overseas, Ltd.	1,524,763.64

Petitioner's Vouchers			
Exhibit	Date	(Journal / Check) Voucher No.	Amount (Inclusive of VAT)
"HHH"[33]	April 30, 2002	GJ-0000000001146	US$ 237,921.71
"JJJ"[34]	March 27, 2002	006482	2,617,138.84

Petitioner also recalled its witness, Ms. Jane T. Pagkalinawan, petitioner's Finance Supervisor, who testified on direct by way of Judicial Affidavit[35], that the above input VAT, including its purchases from Marsh Philippines, Inc., in the total amount of ₱19,235,421.78[36] were properly supported by official receipts and invoices issued under the name of the petitioner.

Furthermore, in the assailed Decision, this Court likewise denied petitioner's input VAT on importations amounting to ₱14,476,468.00 on the ground that these were dated outside the period of claim.

In explaining its side, petitioner maintains that although the Bureau of Customs (BOC) Import Entry and Internal Revenue Declarations are dated January 2, 2003, the input VAT were paid and recorded in the books of the petitioner on December 27, 2002 when it issued checks payable to the BOC for a total amount of ₱14,476,468.00. To corroborate his explanation, petitioner submitted

[31] Docket – Vol. 1, p. 464.
[32] Docket – Vol. 1, p. 466.
[33] Docket – Vol. 1, p. 462.
[34] Docket – Vol. 1, p. 465.
[35] *Judicial Affidavit of Jane T. Pagkalinawan* dated October 16, 2009, marked as Exhibit "RRR", Docket – Vol. 1, pp. 473 to 480.
[36] ₱12,156,847.69 plus ₱7,078,574.09.

check vouchers to show that on December 27, 2002, petitioner has already issued check payments to the BOC thereby recording the corresponding input VAT payments made thereon in the aggregate amount of ₱14,476,468.00, listed as follows:

Exhibit No.	Date	Check Voucher No.	Input VAT
"LLL"[37]	December 27, 2002	008098	₱ 8,146,683.00
"MMM"[38]	December 27, 2002	008100	1,246,331.00
"NNN"[39]	December 27, 2002	008101	735,353.00
"OOO"[40]	December 27, 2002	008102	348,899.00
"PPP"[41]	December 27, 2002	008103	3,999,202.00
		Total	**₱14,476,468.00**

Unfortunately, this Court finds petitioner's contentions untenable. After careful re-examination of the pieces of evidence presented by petitioner, the following are noted by this Court:

i. As to the input VAT claim amounting to ₱12,990,949.32, the official receipts issued by Marsh Philippines, Inc. to petitioner do not bear the latter's registered name, address, and TIN. Thus, on this basis alone, the said official receipts are not compliant with the invoicing requirements under the law.

   Furthermore, it must be stressed that invoices and official receipts are not used interchangeably for purposes of substantiating input VAT.[42] Thus, We must confine Our determination to the official receipts representing the local purchase of services. But even granting that this Court can refer to the sales invoices issued by Marsh Philippines, Inc. to the petitioner, the same also do not bear the latter's TIN, and are thus not considered as proper supporting documents for local purchases of services;

ii. As to the input VAT claim in the aggregate amount of ₱19,235,421.78, the official receipts issued by Marsh

[37] Docket – Vol. 1, p. 467.
[38] Docket – Vol. 1, p. 468.
[39] Docket – Vol. 1, p. 469.
[40] Docket – Vol. 1, p. 470.
[41] Docket – Vol. 1, p. 471.
[42] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

Philippines, Inc. and Raytheon Ebasco Overseas Ltd. in the amounts of US$2,617,138.84 and US$1,524,763.64, respectively, to the petitioner do not likewise bear the latter's address and TIN; and

iii. As to the input VAT claim in the total amount of ₱14,476,468.00, the check vouchers presented and prepared by petitioner itself, and being an internal document, is self-serving. The VAT indicated therein cannot be considered as sufficient proof that the VAT were actually paid and remitted to the BOC during taxable year 2002.

Thus, this Court still finds that the input VAT in the amount of ₱47,559,061.24 must be disallowed for petitioner's failure to meet the substantiation and invoicing requirements under Sections 113(A), 237, and 238 of the NIRC of 1997, as amended, and as implemented by Sections 4.104-1, 4.104-5, and 4.108-1 of RR No. 7-95, as this Court has held in its Decision dated April 14, 2009.

It must be emphasized that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[43] Moreover, the invoicing requirement is reasonable and must be strictly complied with, as it is the only way to determine the veracity of the claim.[44]

Time and again, this Court recognizes, as it always has, that the burden of proof to establish entitlement to refund is on the taxpayer claimant. Being in the nature of a claim for exemption, refund is construed in *strictissimi juris* against the entity claiming the refund and in favor of the taxing power. This is the reason why the taxpayer claimant must positively show compliance with the statutory requirements provided for under the NIRC in order to successfully pursue its claim.

WHEREFORE, premises considered, We maintain and reiterate the ruling in this Court's Decision dated April 14, 2009, entitling petitioner only to the reduced amount of ₱23,389,050.05, representing unutilized excess input VAT attributable to its zero-rated

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[43] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

[44] *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011.

sales of electricity to NPC for the 2nd, 3rd, and 4th quarters of taxable year 2002.

Accordingly, petitioner's *Motion for Partial Motion for Reconsideration (Re: Decision dated April 14, 2009)* filed on April 30, 2009 is **DENIED** for lack of merit.

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

I CONCUR:

ERLINDA P. UY
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.
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 Amended 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