

Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

**PROCTER & GAMBLE ASIA,
PTE. LTD.,**

Petitioner,

CTA CASE NO. 8192

For: Tax Refund

-versus-

Members:

CASTANEDA, JR., Chairperson

CASANOVA, and

MINDARO-GRULLA, JJ.

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated on:

APR 17 2013

x - - - - - x

✓ 4:20 p.m.

D E C I S I O N

MINDARO-GRULLA, J.:

This is a Petition for Review filed on November 19, 2010 by Procter & Gamble Asia, Pte. Ltd. as petitioner, against the Commissioner of Internal Revenue as respondent for the Court in Division, pursuant to Rule 4, Section 3(a)(2), in relation to Rule 8, Section 4(a)¹ of the C

¹ Rule 4, Sec. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

- (a) Exclusive original over or appellate jurisdiction to review by appeal the following:

x x x

x x x

- (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred

Revised Rules of the Court of Tax Appeals, as amended, (RRCTA). Petitioner seeks the refund or issuance of tax credit certificate (TCC) in the aggregate amount of ₱57,759,533.68, representing its alleged unutilized input value-added tax (VAT) attributable to zero-rated sales covering the taxable period January 1, 2009 to June 30, 2009.

Petitioner is a foreign corporation duly organized and existing under the laws of Singapore and is maintaining Regional Operating Headquarters in the Philippines at the 18th Floor, Petron Megaplaza, 358 Sen. Gil Puyat Avenue, Makati City, in accordance with the Certificate of Registration and License S.E.C. Reg. No. A199913443 issued by the Securities and Exchange Commission (SEC) on January 23, 2001. It is authorized by the SEC to provide management, marketing, technical and financial advisory, and other qualified services to its related companies or affiliates.² It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, with Taxpayer's

eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further,* that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules;

x x x x x x

Rule 8. Sec. 4. *Where to appeal; mode of appeal.* -

(a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.

x x x x x x

² Par. 1, Admitted Facts by Petitioner and Respondent, Joint Stipulation of Facts and Issues (JSFI), docket, pp. 185-186; Exhibit "A"; Exhibit "W".

Identification Number (TIN) 203-684-973-000 as evidenced by its Certificate of Registration OCN 9RC0000071787.³

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue, with the authority to act as such, including the power to decide, approve and grant claims for issuance of a tax credit certificate or refund of overpaid internal revenue taxes as provided by law. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner renders services to its affiliates in the Philippines and abroad pursuant to Service Agreements⁴ with said affiliates. Under these Service Agreements, petitioner provides the Service Recipients (petitioner's affiliates) accounting and financial reporting services, employee services, purchases, business intelligence services, information technology business solution, workplace services, and other services. The affiliates to whom petitioner rendered services for the period January 1, 2009 to June 30, 2009 are engaged in business conducted outside the Philippines and are not engaged in any trade or business within the Philippines;⁵ and remitted the corresponding foreign currency payment for all services rendered as stipulated in the Service Agreements.⁶

Petitioner filed its original and amended Monthly and Quarterly VAT Returns for the taxable period January 2009 to June 2009 on the following dates:⁷

Exhibit	Period Covered	Date of Filing
"C"	January 2009	February 19, 2009
"D"	February 2009	March 20, 2009

³ Exhibit "B"; Par. 3, Admitted Facts by Petitioner and Respondent, JSFI, docket, p. 186.

⁴ Exhibits "X-1" to "X-28" and "X-31"; Exhibit "PPP".

⁵ Exhibit "PPP"; Exhibits "Y" to "NN" and "PP" to "OOO"; "JJJJ", and "JJJJ 1-1" to "JJJJ 1-34".

⁶ Exhibit "PPP"; Exhibit "QQQ"; and Exhibits "V" to "V-5".

⁷ Pars. 4 to 12, Admitted Facts by Petitioner and Respondent, JSFI, docket, pp. 186-187.

"E"	January to March 2009	April 21, 2009
"F"	April 2009	May 20, 2009
"G"	May 2009	June 17, 2009
"H"	April to June 2009	July 23, 2009
"I"	April to June 2009 (1 st Amended Return)	August 20, 2009
"J"	April to June 2009 (2nd Amended Return)	April 26, 2010
"K"	July 2009	August 20, 2009
"L"	August 2009	September 19, 2009
"M"	July to September 2009	October 22, 2009
"N"	July to September 2009 (Amended Return)	April 26, 2010

On June 24, 2010, petitioner filed an administrative claim dated June 21, 2010 with the BIR Revenue District Office No. 49-North Makati for the refund or issuance of a tax credit certificate in the aggregate amount of ₱57,759,533.68, representing unutilized input VAT attributable to its zero-rated sales covering the period of January to June 2009.⁸

Due to respondent's inaction, petitioner filed with this Court a Petition for Review on November 19, 2010, praying for the refund or issuance of a tax credit certificate in the aggregate amount of ₱57,759,533.68 representing its alleged unutilized input VAT for the period of January to June 2009.

Respondent interposed the following Special and Affirmative Defenses in her Answer⁹ to the Petition for Review:

- "3. She reiterates and repleads the preceding paragraphs of this answer as part of her Special and Affirmative Defenses; ❷

⁸ Par. 13, Admitted Facts by Petitioner and Respondent, JSFI, docket, p. 137; Exhibit "U"; Exhibit "W".

⁹ Docket, pp. 152-153.

DECISION

4. Petitioner's alleged claim for issuance of a tax credit certificate is still subject to administrative routinary investigation/examination by the respondent's Bureau;
5. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable;
6. Petitioner's claim for refund or issuance of tax credit certificate in the amount of P57,759,533.68, as alleged unutilized input VAT attributable to its zero-rated sales of goods and services for the period covering January 1, 2009 to June 30, 2009 were not fully substantiated by proper documents, such sales invoices, official receipts and others;
7. In an action for refund/credit, the burden of proof is upon petitioner to establish its right to the claimed refund and failure to adduce sufficient proof is fatal to its claim;
8. Petitioner's sales of goods and services to various alleged clients/affiliates do not qualify as zero-rated VAT;
9. The amount subject of the claim for refund of petitioner does not pertain in full to its input VAT attributable to its zero-rated sales of goods and services for the period covering January 1, 2009 to June 30, 2009;
10. Petitioner failed to comply with the substantiation requirements under Revenue Regulations No. 7-95 in relation to Section 113 and 237 of the 1997 Tax Code;
11. Petitioner failed to comply with the conditions/requirements under Section 112(A)(B)(C) of the 1997 Tax Code;
12. It is incumbent upon petitioner to show that it has complied with the provisions under Section 204 (c) in relation to Section 229 of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund; and
13. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation (***Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95***) and as such, they are looked upon with disfavor (***Western Minolco Corp. vs. L***


Commissioner of Internal Revenue, 124 SCRA 1211)."

On August 31, 2011, this Court, upon petitioner's Motion for Commissioning of Independent Certified Public Accountant (CPA)¹⁰, appointed Czarina R. Miranda, Tax Partner in the Tax Services Group of SGV and Co., as the duly commissioned Independent CPA.¹¹

During trial, petitioner presented the following witnesses: Maria Nora Manalo, Tax Manager in one of petitioner's affiliate companies and one of the persons authorized by petitioner to review tax returns;¹² Jonathan Ng, its Associate Director, Financial Services and Solutions, Manila Service Center;¹³ Teresita O. Sugay, Director, CitiService and Client Delivery Head, Global Transaction Services Group, Citibank, N.A., Philippine Branch;¹⁴ and Czarina R. Miranda, the Independent CPA duly commissioned by this Court¹⁵.

Thereafter, petitioner filed its Formal Offer of Evidence (For the Petitioner)¹⁶ on December 14, 2011, submitting Exhibits "A" to "NN" and "PP" to "OOOO", inclusive of sub-markings; which this Court admitted in the Resolution¹⁷ dated February 2, 2012.


The documentary evidence formally offered and admitted are as follows:

Exhibits	Description
A	Certificate of Registration and Licensed issued to petitioner by the Securities and Exchange Commission (SEC) on January 23, 2001. 

¹⁰ Docket, pp. 355-356.
¹¹ Minutes, Docket, p. 364.
¹² Minutes, Docket, p. 266.
¹³ Minutes, Docket, p. 334.
¹⁴ Minutes, Docket, p. 349.
¹⁵ Minutes, Docket, pp. 364 and 388.
¹⁶ Docket, pp. 394-429.
¹⁷ Docket, pp. 433-434.

DECISION

- B Certificate of Registration issued by the Bureau of Internal Revenue to petitioner on October 8, 1999.
- C Monthly VAT Declaration (BIR Form 2550-M) for the month of January 2009
- D Monthly VAT Declaration (BIR Form 2550-M) for the month of February 2009.
- E Quarterly VAT Return (BIR Form 2550Q) for the quarter ending March 31, 2009
- F Monthly VAT Declaration (BIR Form 2550-M) for the month of April 2009.
- G Monthly VAT Declaration (BIR Form 2550-M) for the month of May 2009.
- H Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2009
- I First Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2009
- J Second Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending June 30, 2009
- K Monthly VAT Declaration (BIR Form 2550-M) for the month of July 2009.
- L Monthly VAT Declaration (BIR Form 2550-M) for the month of August 2009.
- M Quarterly VAT Return (BIR Form 2550Q) for the quarter ending September 30, 2009
- N Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending September 30, 2009
- O Monthly VAT Declaration (BIR Form 2550-M) for the month of October 2009.
- P Monthly VAT Declaration (BIR Form 2550-M) for the month of November 2009.
- Q Quarterly VAT Return (BIR Form 2550Q) for the quarter ending December 31, 2009
- R Amended Quarterly VAT Return (BIR Form 2550Q) for the quarter ending December 31, 2009⁴

S	Application for Tax Credits/Refunds (BIR Form 1914) for the period January 1 to March 31, 2009
T	Application for Tax Credits/Refunds (BIR Form 1914) for the period April 1 to June 30, 2009
U	Letter dated June 21, 2010 addressed to the BIR in support of petitioner's claim for refund or issuance of TCC
V to V-5	Citibank Certification of inward remittances dated September 29, 2009 for the period January 1 to June 30, 2009
W	Judicial Affidavit of Maria Nora Manalo with documentary stamp tax affixed
W-1	Signature of Maria Nora Manalo
X-1	Service agreement with Detergent Products AG
X-2	Service agreement with Gillette Diversified Operations Private Limited
X-3	Service agreement with Gillette India Ltd
X-4	Service agreement with Procter & Gamble Hygiene and Health Care Limited
X-5	Service agreement with Procter & Gamble Indochina
X-6	Service agreement with P&G K.K.
X-7	Service agreement with Max Factor Kabushiki Kaisha
X-8	Service agreement with Procter & Gamble Vietnam Ltd
X-9	Service agreement with Procter & Gamble Korea Inc.
X-10	Service agreement with Procter & Gamble Malaysia SDN BHD
X-11	Service agreement with Procter & Gamble Singapore Pte Ltd.
X-12	Service agreement with Procter & Gamble Australia Pty Ltd 

DECISION

X-13	Service agreement with Procter & Gamble Japan K.K
X-14	Service agreement with Procter & Gamble Gulf FZE
X-15	Service agreement with Procter & Gamble Home Products Limited
X-16	Service agreement with Procter & Gamble Hong Kong Ltd
X-17	Service agreement with Procter & Gamble International Operations SA
X-18	Service agreement with Procter & Gamble International Operations Pte Ltd
X-19	Service agreement with Procter & Gamble Korea IE. Co
X-20	Service agreement with Procter & Gamble Korea S&D Co.
X-21	Service agreement with Procter & Gamble Manufacturing (Thailand) Limited
X-22	Service agreement with Procter & Gamble Pakistan (Private) Limited
X-23	Service agreement with Procter & Gamble South Africa Pty Ltd
X-24	Service agreement with Procter & Gamble Taiwan Ltd
X-25	Service agreement with Procter & Gamble Trading (Thailand) Limited
X-26	Service agreement with Procter & Gamble Distributing New Zealand
X-27	Service agreement with Procter & Gamble Home Products Indonesia
X-28	Service agreement with The Procter & Gamble Company
X-29	Service agreement with Procter & Gamble Distributing (Philippines), Inc.
X-30	Service agreement with Procter & Gamble Philippines, Inc. 

- X-31 Service agreement with Procter & Gamble Technical Centres Limited
- Y and Z Joint Affidavit of Laurent Philippe and Thomas Gorham, legal representatives of Detergent Products AG with Certificate of Authentication issued by Margarita S. Ibayan, First Secretary and Consul of the Republic of the Philippines in Switzerland Certified with copy of the License of Detergent Products AG with Certificate of Authentication issued by Margarita S. Ibayan, First Secretary and Consul of the Republic of the Philippines in Switzerland.
- AA Memorandum and Articles of Association of Gillette Diversified Operations Private Limited with Certificate of Authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India and the affidavit of Prashant Bhatnagar, Director of Gillette Diversified Operations Private Limited
- BB Memorandum and Articles of Association of with Certificate of Authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India and the affidavit of Deepak Acharya, Company Secretary of Gillette India Limited
- CC Certificates of Tax Withheld at source issued to Petitioner by Gillette India Limited and Gillette Diversified Operations Private Limited and affidavit of Prshant Bhatnagar, Country Tax Manager of Gillette India Limited with authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India
- DD Memorandum and Articles of Association of Procter & Gamble Hygiene and Health Care Limited with Certificate of Authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India and the affidavit of Amit Vyas, Company Secretary of Procter & Gamble Hygiene and Health Care Limited
- EE Affidavit of Ori BenShai Associate Marketing Director of Procter & Gamble Israel M.D.O. Ltd with Authentication issued by Thaddeus T. Hamoy, Vice Consul of the Republic of the Philippines in Tel Aviv, Israel

DECISION

- FF Certification of Translation (Form No. 7650) bearing the signature and seal of Michal Orphir, Advocate and Notary at 67 A'Blalik St. Ramat Gan Israel and attached Company details data
- GG Authentication issued by Ana Marie L. Hernando, Vice Consul of the Republic of the Philippines in Japan, and affidavit of Hatsunori Kiriya, Representative Director of P&G K.K.
- HH Company Register of P&G K.K. with Authentication issued by Ana Marie L. Hernando, Vice Consul of the Republic of the Philippines in Japan
- II Affidavit of Mari Nogami, Officer for Representative Member of P&G Max Factor Godo Kaisha with Authentication issued by Ana Marie L. Hernando, Vice Consul of the Republic of the Philippines in and for Osaka, Japan
- JJ Certificate of All Current Registered Matters for Max Factor Godo Kaisha with authentication likewise issued by Vice Consul Ana Marie L. Hernando
- KK Affidavit of Andrew Charles MacCarthy, Director of Procter & Gamble Technical Centres Limited, with annexed Certificate of Good Standing for the Company, sworn at Weybridge before Solicitor Gwyne M P Jarvis
- LL Affidavit of LE THI THANH HA, Country Finance Manager of Procter & Gamble Vietnam Ltd, with Authentication issued by Gerry T. Paglinawan, Consul General, a.h. of the Consulate General of the Republic of the Philippines Ho Chi Minh City, Vietnam.
- MM Certificate of Incorporation with Certificate of Authentication issued by Abraham R. Estavillo, Consul General in Seoul, Korea with attached Affidavit of Okuyama Shinji, Director of Procter & Gamble Korea Incorporation and annexes thereto
- NN Certificate of Incorporation with Authentication issued by Shirlene C. Mananquil, Vice Consul of the Republic of the Philippines in Kuala Lumpur, Malaysia and affidavit of Zulhaimi bin Abdul Hamid, External Relations Leader of Procter & Gamble (Malaysia) Sdn. Bhd, and annexes thereto

DECISION

PP	Certified copy of its Certificate of Incorporation with Certificate of Authentication issued by Nathaniel G. Imperial, Consul of the Republic of the Philippines in Singapore and affidavit of Ashok Kumar Chhabra, Director of Procter & Gamble (Singapore) Pte. Ltd
QQ	Certificate of Incorporation with Affidavit of Nimalan Rutnam, Company Secretary of Procter & Gamble Australia Pty. Ltd., bearing the Seal of Philippine Consulate General in Sydney
RR	Affidavit executed by XIONG Qing Yun, Director of Procter & Gamble Distributing (HK) Limited, attached to the certification issued by Victorio Mario Dimagiba
SS	Certificate of Change of Name of Procter & Gamble Distributing (HK) Limited attached to the certification issued by Victorio Mario Dimagiba
TT	Certificates of Tax Withheld at Source with Certificate of Authentication issued by Resurrecion M. Fernando of the Manila Economic and Cultural Office in Taiwan and affidavit of Max Rangel, Branch Manager of Procter & Gamble Export Operations SARL and annexes thereto
UU	Affidavit executed by Al Abdul Malek Rajwani, General Manager of Procter & Gamble Gulf FZE, with authentication of Vicente Vivencio T. Bandillo of the Consulate General of the Republic of the Philippines, Dubai – UAE
VV	Certified copy of the Memorandum and Articles of Association of Procter & Gamble Home Products Limited with Certificate of Authentication issued by Rajashree Birla, Consul General of the Republic of the Philippines in India and affidavit of Sachin Harlalka, Company Secretary of Procter & Gamble Home Products Limited
WW	Certificate of Incorporation on change of Name of Procter & Gamble Hong Kong Limited with Certification issued by Victorio Mario M. Dimagiba, Jr., Consul of the Republic of the Philippines in and for Hong Kong SAR
XX	Affidavit executed by XIONG Qing Yun, Director of Procter & Gamble Hong Kong Limited, with Certification issued by Victorio Mario M. Dimagiba, Jr.

DECISION

YY	Affidavit of Klaus Lindner, member of the Board of Directors of Procter & Gamble International Operations SA, with Certificate of Authentication issued by Margarita S. Ibayán
ZZ	Certified extract of the Commercial Register, Geneva, of Procter & Gamble International Operations SA with Certificate of Authentication issued by Margarita S. Ibayán, First Secretary and Consul of the Republic of the Philippines in Switzerland
AAA	Certified Copy of its Certificate of Incorporation with Certificate of Authentication issued by Nathaniel G. Imperial, Consul of the Republic of the Philippines in Singapore, and affidavit of Ashok Kumar Chhabra, Director of Procter & Gamble International Operations Pte. Ltd.
BBB	Certified copy of license and affidavit of Hatsunori Kiriya, Representative Director of Procter & Gamble Japan K.K. with Authentication issued by Ana Marie L. Hernando Vice Consul of the Republic of the Philippines in Osaka, Japan
CCC	Company Register of Procter & Gamble Japan K.K. with Authentication issued by Ana Marie L. Hernando Vice Consul of the Republic of the Philippines in Osaka, Japan
DDD	Certificate of Incorporation with Authentication issued by Abraham R. Estavillo, Consul General in Seoul, Korea, and affidavit of Okuyama Shinji, Director of Procter & Gamble Korea IE Company and annexes thereto
EEE	Certificate of Incorporation with Certificate of Authentication issued by Abraham R. Estavillo, Consul General in Seoul, Korea, and affidavit of Okuyama Shinji, Director of Procter & Gamble Korea S&D Company
FFF	Affidavit of Mrs. Sunee Kirdnityom, Legal Counselor of Procter & Gamble Manufacturing (Thailand) Ltd. with Authentication issued by Edgar B. Badajos, Consul at the Philippine Embassy in Thailand
GGG	Certification issued by Miss Kannika Achariyasakulchai of the Bangkok Metropolis Partnership and Company Registration Office (with translations) certifying that Procter & Gamble Manufacturing (Thailand) Ltd has been

registered under the Civil and Commercial Code with Authentication issued by Consul Edgar B. Badajos

- HHH Certificate of Registration on Change of Name of Procter & Gamble Pet Care (Australia) Pty. Ltd with the Seal of the Philippine Consulate General and signed by Vice Consul J. Anthony A. Reyes, and the affidavit of Nimalan Rutnam, Company Secretary of Procter & Gamble Pet Care (Australia) Pty. Ltd
- III Certificates of Tax Withheld at Source with Certificate of Authentication issued by Resurrecion M. Fernando of the Manila Economic and Cultural Office in Taiwan and affidavit of Max Rangel, General Manager of Procter & Gamble Taiwan, Ltd, and annexes thereto
- JJJ Affidavit of Mrs. Sunee Kirdniyom, Legal Counselor of Procter & Gamble Trading (Thailand) Ltd. with Authentication issued by Edgar B. Badajos, Consul at the Philippine Embassy in Thailand
- KKK Affidavit issued by Miss Kannikar Achariyasakulchai of the Bangkok Metropolis Partnership and Company Registration Office (with translations) certifying that Procter & Gamble Trading (Thailand) Ltd has been registered under the Civil and Commercial Code with Authentication issued by Consul Edgar B. Badajos
- LLL Certificate of Incorporation and Affidavit of Nimalan Rutnam, Company Secretary of Procter & Gamble Distributing New Zealand bearing the Seal of Philippine Consulate General in Sydney
- MMM Certificate of Incorporation with Authentication issued by Germinia V. Aguilar-Usudan, First Secretary and Consul of the Republic of the Philippines in and for the Consular District of Jakarta, Indonesia and affidavit of Mohamed Ahmed Ismail, President Director of P.T. Procter & Gamble Home Products Indonesia
- NNN Certificate of Authentication issued by Domingo P. Nolasco, Consul General of the Republic of the Philippines in the United States and affidavit of Susan S. Felder, Assistant Secretary of The Procter & Gamble Company

DECISION

000	Exhibit 21 of the Procter and Gamble Company and Subsidiaries Report to the U.S. Securities and Exchange Commission. This report may be accessed by any interested party or the public at U.S. SEC website address at "http://www.sec.gov/Archives/-edgar/data/80424/000095015207007152/127490aexv21.hm"
PPP	Judicial Affidavit of Mr. Jonathan Ng with documentary stamp affixed thereto
PPP-1	Signature of Mr. Jonathan Ng
QQQ	Judicial Affidavit of Teresita O. Sugay with documentary stamp affixed thereto
QQQ-1	Signature of Teresita O. Sugay
RRR	Partial Independent CPA Report
SSS	Quarterly Summary List of Sales for the Period ended March 31,
SSS 1-1 to SSS 1-3	2009
TTT	Quarterly Summary List of Sales for the Period ended June 30,
TTT 1-1 to TTT 1-3	2009
UUU	Schedule of zero-rated sales of services
UUU 1-1 to UUU 1-22	
VVV	BIR-registered Debit/Credit Memos for Zero-rated Sales of
VVV 1-1 to VVV 1-313	Services for the period January 1 to June 30, 2009
VVV 2-314 to VVV 2-620;	
VVV 3-621 to VVV 3-933	
VVV 4-1	
WWW	VAT Official Receipts issued for Zero-rated Sales of Services for
WWW 1-1 to WWW 1-172	the period January 1 to June 30, 2009
XXX	Bank Statements issued by Citibank N.A. Philippine Branches

DECISION

XXX 1-1 to
XXX 1-37

YYY Schedule of Local Sales of Services for the period
January 1 to
YYY 1-1 to June 30, 2009
YYY 1-4

ZZZ BIR-registered Debit/Credit Memos for Local
Sales of Services
ZZZ 1-1 to for the period January 1 to June 30, 2009
ZZZ 1-139

AAAA VAT Official Receipts issued for Local Sales of
Services for the
AAAA 1-1 to period January 1 to June 30, 2009
AAAA 1-34

BBBB Quarterly Summary Lists of Purchases for the
quarter ended
BBBB 1-1 to March 31, 2009
BBBB 1-4

CCCC Quarterly Summary Lists of Purchases for the
quarter ended
CCCC 1-1 to June 30, 2009
CCCC 1-5

DDDD Schedule of Domestic Purchases of Goods for the
period
DDDD 1-1 to January 1 to June 30, 2009
DDDD 1-6

EEEE Schedule of Domestic Purchases of Services for
the period
EEEE 1-1 to January 1 to June 30, 2009
EEEE 1-19

FFFF Schedule of Capital Goods Purchased for the
period January
FFFF 1-1 1 to June 30, 2009
FFFF 1-3

GGGG Schedule of Purchases of Services Rendered by
Non-residents
GGGG 1-1 for the period January 1 to June 30, 2009

HHHH Various VAT Invoices, VAT Official Receipts, and
Other
HHHH 1-1 to Documents Supporting the Company's Purchases
from January 2

HHHH 1-241 1 to June 30, 2009 (Domestic Purchases of Goods
Supported
HHHH 2-1 to by Original Copies of VAT Invoices)
HHHH 2-413
HHHH 3-1 to
HHHH 3-18
HHHH 4-1 to
HHHH 4-36

IIII Various VAT Invoices, VAT Official Receipts, and
Other
IIII 1-1 to Documents Supporting the Company’s Purchases
from
IIII 1-3 January 1 to June 30, 2009 (Domestic Purchases
of
IIII 2-1; Goods Supported by Original Copies of VAT
Invoices)
IIII 3-1 to
IIII 3-4;
IIII 4-1;
IIII 5-1 to
IIII 5-2;
IIII 6-1 to
IIII 6-311;
IIII 7-1;
IIII 8-1;
IIII 9-1 to
IIII 9-7;
IIII 10-1 to
IIII 10-3;
IIII 11-1 to
IIII 11-7;
IIII 12-1;
IIII 13-1 to
IIII 13-5;
IIII 14-1 to
IIII 14-7;
IIII 15-1 to
IIII 15-5;
IIII 16-1 to
IIII 16-11; and
IIII 17-1 to IIII 17-7

JJJJ Certificates of Non-registration of Corporation or
Partnership
JJJJ 1-1 issued by the Securities and Exchange
Commission
JJJJ 1-34

KKKK Certificates of Inward Remittances issued by
Citibank
KKKK 1-1 to
KKKK 1-6

LLLL	Quarterly VAT Return for the quarter ended December 31,
LLLL 1-1 to	2008
LLLL 1-3	
MMMM	BIR Authority to Print Invoices or Receipts
MMMM 1-1 to	
MMMM 1-3	
NNNN	Final Independent CPA Report
NNNN 1 to	
NNNN 17	
NNNN-18	Signature of Ms. Czarina R. Miranda in her Final Independent CPA Report
OOOO	Judicial Affidavit of Ms. Czarina R. Miranda with documentary stamp affixed thereto
OOOO-1	Signature of Ms. Czarina R. Miranda

On the other hand, during the April 30, 2012 hearing, counsel for respondent manifested that he would not be presenting any evidence considering the lack of final report of investigation on petitioner's administrative claim for refund and that respondent will be submitting this case for decision.¹⁸

In the Resolution¹⁹ dated June 19, 2012, the case was submitted for decision taking into consideration the Memorandum (for the Petitioner) filed on May 30, 2012 and the Report dated June 8, 2012 of the Records Division that no memorandum has been filed for respondent. However, on July 6, 2012, respondent filed her Memorandum for the Respondent; which this Court admitted in the Resolution dated July 30, 2012.

The following are the parties' jointly stipulated issues²⁰ submitted for this Court's resolution:☞

¹⁸ Minutes, Docket, p. 439.

¹⁹ Docket, p. 456.

²⁰ Issues to be Resolved, JSFI, Docket, pp. 187-188.

- "1. Whether or not petitioner's sales of services to affiliates abroad which are paid for in acceptable foreign currency and accounted for in accordance with the rules of the Bangko Sentral ng Pilipinas (BSP) are zero-rated for VAT purposes under Section 108(B)(2) of the 1997 Tax Code;
2. Whether or not the refundable input VAT in the amount of **P57,759,533.68** for the period January 1 to June 30, 2009 was carried over or applied to any output tax liability for the said period or in the succeeding taxable months or quarters;
3. Whether or not the refundable input VAT in the amount of **P57,759,533.68** for the period January 1 to June 30, 2009 being claimed by the petitioner as unutilized input VAT for said period pertains in full to its zero-rated sales of services for the said period;
4. Whether or not petitioner complied with the substantiation requirements prescribed under the 1997 Tax Code, as amended and pertinent Revenue Regulations; and
5. Whether or not petitioner is entitled to its claim for refund or tax credit in the amount of **P57,759,533.68** for the period January 1 to June 30, 2009 as alleged unutilized input VAT paid on goods and services attributable to its zero-rated sales for the said period."

The principal issue is **whether petitioner is entitled to a refund or tax credit in the aggregate amount of P57,759,533.68, representing unutilized input VAT payments attributable to its zero-rated sales, for the taxable period January 2009 to June 2009."**

Petitioner anchors its claim on Sections 110(B) and 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, which provide that:

"SEC. 110. Tax Credits. -

(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 **4**

carried over to the succeeding quarter or quarters: *Provided*, That the input tax inclusive of input VAT carried over from the previous quarter that may be credited in every quarter shall not exceed seventy percent (70%) of the output VAT: *Provided, however*, That any input tax attributable 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)(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: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales."

Based on the above-quoted provision of Section 112(A), petitioner must comply with the following requisites to be entitled to a refund or tax credit of unutilized input taxes attributable to zero-rated or effectively zero-rated sales:

1. that there must be zero-rated or effectively zero-rated sales;
2. input taxes were incurred or paid; **✓**

3. that such input taxes are attributable to zero-rated sales or effectively zero-rated sales;
4. that the input taxes were not applied against any output VAT liability; and
5. that the claim for refund was filed within the two-year prescriptive period.

At the outset, we will discuss petitioner's compliance with the fifth requirement pertaining to prescription.

Section 112(A) of the NIRC of 1997, as amended, requires that the taxpayer's application for a refund or issuance of a tax credit certificate for unutilized or excess creditable input VAT which are attributable to its zero-rated or effectively zero-rated sales, must be made within two (2) years after the close of the taxable quarter when such sales were made.

In the case of ***Commissioner of Internal Revenue vs. Mirant Pagbilao Corporation (formerly Southern Energy Quezon, Inc.)***²¹, the Supreme Court aptly stated that:

"The claim for refund or tax credit for the creditable input VAT payment made by MPC embodied in OR No. 0189 was filed beyond the period provided by law for such claim. Sec. 112(A) of the NIRC pertinently reads:

(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:...(Emphasis ours.)

The above proviso clearly provides in no uncertain terms that unutilized input VAT payments not otherwise used for

²¹ G.R. No. 172129, September 12, 2008.

any internal revenue tax due the taxpayer must be claimed within two years **reckoned from the close of the taxable quarter when the relevant sales were made pertaining to the input VAT regardless of whether said tax was paid or not.** As the CA aptly puts it, albeit it erroneously applied the aforequoted Sec. 112(A), '[P]rescriptive period commences from the close of the taxable quarter when the sales were made and not from the time the input VAT was paid nor from the time the official receipt was issued.' Thus, when a zero-rated VAT taxpayer pays its input VAT a year after the pertinent transaction, said taxpayer only has a year to file a claim for refund or tax credit of the unutilized creditable input VAT. The reckoning frame would always be the end of the quarter when the pertinent sales or transaction was made, regardless when the input VAT was paid. Be that as it may, and given that the last creditable input VAT due for the period covering the progress billing of September 6, 1996 is the third quarter of 1996 ending on September 30, 1996, any claim for unutilized creditable input VAT refund or tax credit for said quarter prescribed two years after September 30, 1996 or, to be precise, on September 30, 1998. Consequently, MPC's claim for refund or tax credit filed on December 10, 1999 had already prescribed."

Based on the afore-quoted provision of law and jurisprudence, the reckoning of the two-year prescriptive period for the filing of a claim for refund/tax credit of input VAT on zero-rated sales is reckoned not from the date of filing of the corresponding Quarterly VAT Return and payment of the tax but from the close of the taxable quarter when the pertinent sale or transaction was made.

The instant claim involves input VAT on zero-rated sales incurred from January 1, 2009 to June 30, 2009, which closed on March 31, 2009 and June 30, 2009. Counting from said dates, petitioner had until March 31, 2011 and June 30, 2011, respectively, to file its administrative claim for refund or tax credit. Records show that petitioner filed its administrative claim for refund or issuance of tax credit certificate on June 24, 2010. Clearly, petitioner's administrative claim for the period covering January 1, 2009 to June 30, 2009 was filed well within the two-year prescriptive period.⚡

The question that arises is whether petitioner's judicial claim for tax refund was filed pursuant to Section 112(C) of the NIRC of 1997, as amended, which states:

"SEC. 112. *Refunds or Tax Credits of Input Tax.* –

xxx xxx xxx

(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes **within one hundred twenty (120) days from the date of submission of complete documents** in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the **taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.**"
(*Emphasis supplied*)

Based on the foregoing, the taxpayer has thirty (30) days from its receipt of the decision denying the claim for refund or issuance of tax credit certificate or after the expiration of the one-hundred twenty (120) day period from the date of submission of complete documents to appeal the decision or the inaction of the Revenue Commissioner with this Court.

In applying the provision of Section 112(C) of the NIRC of 1997, which was formerly Section 112(D) prior to its amendment by Republic Act (R.A.) No. 9337, the Supreme Court in the more recent case of *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia Inc.*²² (*Aichi case*) held in this wise: ¶

²² G.R. No. 184823, October 6, 2010

"Section 112(D) of the NIRC clearly provides that the CIR has '120 days, from the date of the submission of the complete documents in support of the application [for tax refund/credit], within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the decision of the CIR. However, **if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to CTA within 30 days.**

In this case, the administrative and the judicial claims were simultaneously filed on September 30, 2004. Obviously, respondent did not wait for the decision of the CIR or the lapse of the 120-day period. For this reason, we find the filing of the judicial claim with the CTA premature.

Respondent's assertion that the non-observance of the 120-day period is not fatal to the filing of a judicial claim as long as both the administrative and the judicial claims are filed within the two-year prescriptive period has no legal basis.

There is nothing in Section 112 of the NIRC to support respondent's view. Subsection (A) of the said provision states that 'any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two 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.' The phrase 'within two (2) years x x x apply for the issuance of a tax credit certificate or refund' refers to applications for refund/credit filed with the CIR and not to appeals made to the CTA. This is apparent in the first paragraph of subsection (D) of the same provision, which states that the CIR has '120 days from the submission of complete documents in support of the application filed in accordance with Subsections (A) and (B)' within which to decide on the claim.

In fact, applying the two-year period to judicial claims would render nugatory Section 112(D) of the NIRC, which already provides for a specific period within which a taxpayer should appeal the decision or inaction of the CIR. **The second paragraph of Section 112(D) of the NIRC envisions two scenarios: (1) when a decision is issued by the CIR before the lapse of the 120-day,**

period; and (2) when no decision is made after the 120-day period. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA. As we see it then, the 120-day period is crucial in filing an appeal with the CTA.” (*Emphasis supplied*)

Based on the *Aichi* case, the second paragraph of Section 112(C)²³ envisions two scenarios: (1) when a decision is issued by the BIR Commissioner before the lapse of the 120-day period; and (2) when no decision is made after the 120-day period. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA.

Moreover, Revenue Memorandum Circular No. 029-09 provides that:

“III. Period within which Refund or a Tax Credit of Input Taxes shall be Made.

Section 112(C) of the Tax Code of 1997, as amended by Republic Act No. 9337, provides among others, that in proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate (TCC) for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents.** For the purpose of defining ‘proper cases’ in the said provision, the taxpayer/claimant must have complied with the following conditions/requirements upon audit/verification of his/its claim:


- a. **Submission of complete documents** necessary to determine and/or ascertain the correctness of the return and the amount to be refunded;
- b. That all books of accounts and accounting records pertaining to the claim are immediately available to the concerned Revenue Office (RO) for audit/verification;
- c. Any discrepancies/findings upon audit/verification shall be reconciled/explained in writing by the taxpayer/claimant within five (5) days from receipt of the notification from the RO; and
- d. The taxpayer/claimant has signified his concurrence to the outcome of the audit/verification, which shall be evidenced by an Agreement Form.⚡

²³ Formerly 112(D) of the NIRC of 1997, as amended.

In cases where taxpayer failed to comply with the above conditions/requirements, i.e., failure to present accounting books and records for audit/verification, additional documents to explain discrepancies/findings are not submitted, taxpayer refuses or incurs delay in the submission of the Agreement Form, the running of the 120-day period shall stop from the date of notification to the taxpayer. Likewise, the running of the 120-day period shall be suspended in case a question of law arises during the conduct of audit/verification and/or review of the claim for tax refund/credit, and the issue is referred to the Legal Division or the Legal Service, as the case may be, for resolution and issuance of legal opinion, which should be rendered within thirty (30) working days from receipt of the request." (*Emphasis supplied*)

In the instant case, records reveal that upon the filing of its administrative claim on June 24, 2010, petitioner simultaneously submitted the documents in support thereof.²⁴ The records do not show that a written notice was sent by the BIR informing petitioner that the aforesaid documents are incomplete or requiring petitioner to submit additional documents in support of its claim. Consequently, the 120-day period started and continued to run from June 24, 2010, the date when petitioner filed its administrative claim together with its supporting documents, until October 22, 2010, the date when the 120-day period for the BIR Commissioner to decide the claim expired.

Petitioner filed the judicial claim for refund or tax credit on November 19, 2010 or after the lapse of twenty-eight (28) days from October 22, 2010, which is the last day for respondent to decide on the administrative claim. Clearly, the instant Petition for Review filed on November 19, 2010 was filed within the prescribed 30-day period from the lapse of the 120-day period to decide on the administrative claim.

As to petitioner's compliance with the other requisites, for the period covering January 1, 2009 to June 30, 2009, 

²⁴ Exhibit "U".

petitioner duly filed with the Bureau of Internal Revenue its Quarterly VAT Returns declaring the following:

	January 1, 2009 to March 31, 2009	April 1, 2009 to June 30, 2009	Total
	(Exhibit "E")	(Exhibit "J")	
Zero-Rated Sales/Receipts	P 280,780,971.88	P 254,023,769.83	P 534,804,741.71
Exempt Sales/Receipts	618,552,369.95	745,864,854.95	1,364,417,224.90
Total Sales/Receipts	P 899,333,341.83	P 999,888,624.78	P 1,899,221,966.61
Output Tax Due	P 33,693,716.63	P 30,482,852.38	P 64,176,569.00
Less: Allowable Input Tax			
Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter	P 2,728,815.84	P 2,321,430.63	P 2,728,815.84
Current transactions:			
Purchase of Capital Goods exceeding P1Million	269,189.98	-	269,189.98
Domestic Purchases of Goods Other than Capital Goods	904,568.81	1,910,984.17	2,815,552.98
Domestic Purchase of Services	58,392,337.07	56,515,943.79	114,908,280.86
Others	1,828,000.00	1,048,056.53	2,876,056.53
Total	P 61,394,095.86	P 59,474,984.49	P 120,869,080.35
Total Available Input Tax	P 64,122,911.70	P 61,796,415.12	P 123,597,896.19
Less: Deductions from Input Tax			
Input Tax on Purchases of Capital Goods exceeding P1Million deferred for the succeeding period	P 2,321,430.63	1,661,793.51	P 1,661,793.51
VAT Refund/TCC claimed	28,107,764.45	29,651,769.23	57,759,533.68
Total	P 30,429,195.08	P 31,313,562.74	P 59,421,327.19
Total Allowable Input Tax	P 33,693,716.62	P 30,482,852.38	P 64,176,569.00
Net VAT Payable	P 0.00	P 0.00	P 0.00

As reflected in the Returns, petitioner’s input VAT for the two quarters that ended March 31, 2009 and June 30, 2009 amounted to P121,936,102.68, broken down as follows:

Quarter Ended	Amount of Deferred Input VAT on Capital Goods Exceeding P 1M from the Previous Quarter Per Return	Amount of Input VAT on Current Purchases Per Return	Amount of Deferred Input VAT on Capital Goods Exceeding P-1M to be Carried-over to Succeeding Period Per	Amount of Input VAT Per Return
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			Return	
March 31, 2009	(A)	(B)	(C)	(A)+ (B)-(C)
June 30, 2009	₱ 2,728,815.84	₱ 61,394,095.86	₱ 2,321,430.63	₱ 61,801,481.07
	2,321,430.63	59,474,984.49	1,661,793.51	60,134,621.61
Total	₱ 5,050,246.47	₱ 120,869,080.35	₱ 3,983,224.14	₱ 121,936,102.68

Out of the reported input VAT of ₱121,936,102.68, petitioner is claiming the refund of ₱57,759,533.68²⁵ allegedly attributable to its zero-rated sales for the same period, computed as follows:

Quarter Ended	Amount of Local Sales Per Returns	Amount of Zero-rated Sales Per Returns	Total Sales Per Returns	Percentage of Zero-rated Sales to Total Sales	Amount of Input VAT Per Returns	Amount of Input VAT Attributable to Zero-rated Sales
Mar. 31, 2009	₱280,780,971.88	₱ 618,552,369.95	₱ 899,333,341.83	68.7790%	₱ 61,801,481.07	₱ 42,506,433.16
June 30, 2009	254,023,769.83	745,864,854.95	999,888,624.78	74.5948%	60,134,621.61	44,857,296.82
	₱ 534,804,741.71	₱ 1,364,417,224.90	₱ 1,899,221,966.61		₱ 121,936,102.68	₱ 87,363,729.98
Less:	Amount of Input VAT Attributable to Zero-rated Sales Applied Against Remaining Output VAT Liability on Local Sales					
	Amount of Output VAT Liability on Local Sales (₱ 534,804,741.71 x 12%)				₱ 64,176,569.00	
	Less: Amount of Input VAT Attributable to Local Sales (₱ 121,936,102.68 less ₱ 87,363,729.98)				34,572,372.70	29,604,196.30
Difference-Amount of Unutilized and/or Unapplied Input VAT Claimed for Refund or for the issuance of TCC						₱ 57,759,533.68

Anent the first requisite, petitioner alleges that its sale of services to its affiliates abroad is subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which states that:

"SEC. 108. - Value-added Tax on Sale of Services and Use or Lease of Properties. -

xxx xxx xxx

(B) *Transactions Subject to Zero Percent (0%) Rate.*-- The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the

²⁵ Exhibit "NNNN-16", Findings and Observation, Item IV.6.

services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*²⁶, the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. The services must be other than processing, manufacturing or repacking of goods;
2. Payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. The recipient of such services is doing business outside the Philippines.

This Court finds that petitioner has complied with all of the above requisites.

Petitioner is duly registered with the BIR as a VAT taxpayer²⁷ and the services it performs in the Philippines, through its Regional Operating Headquarters, like accounting and financial reporting services, employee services, purchasing services, business intelligence services, information technology business solution, workplace services and other services,²⁸ are not in the same category as "processing, manufacturing or repacking of goods".

²⁶ G.R. No.153205, January 22, 2007.

²⁷ Par. 3, JSFI, Admitted Facts by Petitioner and Respondent, docket, p. 186.

²⁸ Exhibit "PPP", A10, p. 3.

For the said services, petitioner received payments in the amount of US\$27,833,666.04 with the peso equivalent of ₱1,364,417,224.90²⁹, which was duly accounted for in accordance with the rules and regulations of the BSP as evidenced by the Certifications of Inward Remittances³⁰ and the Bank Statements³¹ issued by Citibank, N.A., Philippine Branch, and duly affirmed by the testimony³² of Citibank's representative, Ms. Teresita Sugay, the BIR-registered Debit/Credit Memos³³ and the VAT zero-rated official receipts.³⁴

This Court also finds that petitioner has sufficiently established that it rendered services to its non-resident foreign affiliates which were not registered corporations in the Philippines and were not doing business in the country as evidenced by the SEC Certificates of Non-Registration³⁵, Service Agreements³⁶, affidavits³⁷ executed by the respective officers of petitioner's affiliates abroad with attached proof of business registrations of the affiliates duly authenticated by consuls of the Republic of the Philippines, and Exhibit (21)³⁸ of The Procter & Gamble Company and Subsidiaries Report, which can be accessed at the United States Securities and Exchange Commission website.

Based on the foregoing, petitioner has sufficiently proven that it had VAT zero-rated sales in the amount of ₱1,364,417,224.90 for the period covering January 1, 2009 to June 30, 2009. **4**

²⁹ Exhibits "NNNN-7" to "NNNN-8", Findings and Observation, items II.4 and II.5 and UUU 1-22.

³⁰ Exhibits "V" to "V-5" or Exhibits "KKKK 1-1" to "KKKK 1-6".

³¹ Exhibits "XXX 1-1" to "XXX 1-37".

³² Exhibit "QQQ".

³³ Exhibits "VVV 1-1" to "VVV 1-313", "VVV 2-314" to "VVV 2-620", "VVV 3-621" to "VVV 3-933" and "VVV 4-1".

³⁴ Exhibits "WWW 1-1" to "WWW 1-172".

³⁵ Exhibits "JJJJ-1" to "JJJJ 1-34".

³⁶ Exhibits "X-1" to "X-28" and "X-31".

³⁷ Exhibits "Y" to "NNN".

³⁸ Exhibit "OOO".

Consequently, this Court will discuss the amount of excess input VAT attributable thereto.

In support of its reported input VAT of ₱121,936,102.68, petitioner presented various invoices, official receipts and other documents³⁹ that were all examined by the Court-commissioned Independent CPA. In her Report dated October 28, 2011, the Independent CPA noted that the following input taxes amounting to ₱11,263,057.40⁴⁰ may be disallowed from petitioner's claim:

Nature of Exception	Exhibit "NNNN" Annex	Jan. 1, 2009 to Mar. 31, 2009	Apr. 1, 2009 to June 30, 2009	Total
Domestic Purchase of goods supported by original copies of VAT invoices not in the name of the Company	15	P 25,136.88	-	P 25,136.88
Domestic purchase of goods supported by Non-VAT invoices	16	7,564.29	-	7,564.29
Domestic purchase of goods supported by original copies of Payment Request Form	17	-	P 24,176.48	24,176.48
Domestic purchase of goods supported by original copy of Payment Request Form not in the name of the Company	18	-	1,193.14	1,193.14
Domestic purchase of goods supported by VAT invoices without TIN	19	4,757.14	4,100.31	8,857.45
Domestic purchase of goods supported by original copies of Statement of Accounts	20	32,322.86	16,297.03	48,619.89
Domestic purchase of goods supported by original copy of Tax invoice	21	-	12,758.68	12,758.68
Domestic purchase of services supported by original copy of VAT OR with "Not Valid for Input Tax" stamp	22	4,203.97	-	4,203.97
Domestic purchase of services supported by original copies of VAT ORs with improper VAT bases	23	135,326.16	-	135,326.16
Domestic purchase of services supported by original copies of VAT ORs not in the Company's name	24	99,247.84	-	99,247.84
Domestic purchase of services supported by original copies of VAT ORs not in the Company's address	25	255,359.57	109,540.49	364,900.06
Domestic purchase of services supported by Provisional OR in the name of the Company	26	-	14,773.72	14,773.72

³⁹ Exhibits "HHHH 1-1" to "HHHH 1-241", "HHHH 2-1" to "2-413", "HHHH 3-1" to "HHHH 3-18", and "HHHH 4-1" to "HHHH 4-36", "Exhibits IIII 1-1" to "IIII 1-3", "IIII 2-1", "IIII 3-1" to "IIII 3-4", "IIII 4-1", "IIII 5-1" to "IIII 5-2", "IIII 6-1" to "IIII 6-311", "IIII 7-1", "IIII 8-1", "IIII 9-1" to "IIII 9-7", "IIII 10-1" to "IIII 10-3", "IIII 11-1" to "IIII 11-7", "IIII 12-1", "IIII 13-1" to "IIII 13-5", "IIII 14-1" to "IIII 14-7", "IIII 15-1" to "IIII 15-5", "IIII 16-1" to "IIII 16-11", and "IIII 17-1" to "IIII 17-7".

⁴⁰ Exhibits "NNNN-14" to "NNNN-15" and "NNNN-18".

Domestic purchase of services supported by Provisional OR not in the Company's name	27	167,545.48	-	167,545.48
Overstatement in input VAT claimed on domestic purchases of capital goods with aggregate acquisition cost of more than P1Million in a calendar month	28	20,471.72	20,471.72	40,943.43
Domestic purchase of goods supported by original copies of VAT invoices not dated within the period of claim	29	3,828.06	3,828.06	7,656.12
Domestic purchase of services supported by original copies of VAT ORs dated within 7 days after the period of claim	30	-	6,066,240.59	6,066,240.59
Domestic purchase of services supported by original copies of VAT ORs dated beyond 7 days after the period of claim	31	-	111,035.31	111,035.31
Domestic purchase of goods without supporting documents	32	1,928.63	368,803.32	370,731.95
Domestic purchase of goods not dated within the period of claim and without supporting documents	33	1,597.11	-	1,597.11
Domestic purchase of services without VAT ORs	34	3,680,526.81	70,022.04	3,750,548.85
Total		P4,439,815.52	P6,823,240.89	P11,263,057.40

This Court finds the disallowance of the P11,263,057.40 input VAT to be in order because the corresponding invoices, receipts and other documents did not meet the substantiation requirements under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations (RR) No. 16-05.

Aside from the Independent CPA's recommended disallowance of P11,263,057.40, the following input VAT in the amount of P98,298,633.06⁴¹ should be denied for reasons stated below:

Nature of Exception	Jan. 1, 2009 to Mar. 31, 2009	Apr. 1, 2009 to June 30, 2009	Total
Domestic purchases of services supported by VAT Invoices instead of VAT ORs as required under Section 113(A)(2) of the NIRC of 1997, as amended	P 8,160.00	P 300,779.89	P 308,939.89
Domestic purchases of goods/services supported by Invoices/OR but VAT not separately shown in violation of Section 113(B)(2)(a) of the NIRC of 1997, as amended	51,605,406.27	43,508,230.35	95,113,636.62
Purchases of services supported by	1,828,000.02	1,048,056.53	2,876,056.55

⁴¹ See details per Annex A of this Report.

printed BIR Form No. 1600 without corresponding proof of payment in violation of Section 4.114-2(b)(3) of RR No. 16-05			
Total	P53,441,566.29	P44,857,066.77	P98,298,633.06

Considering all the aforesaid disallowances, out of the total reported input VAT of P121,936,102.68, only the amount of P12,374,412.22 is properly substantiated by VAT invoices or official receipts, as computed below:

	Jan. 1, 2009 to Mar. 31, 2009	Apr. 1, 2009 to June 30, 2009	Total
Total input VAT per return	P 61,801,481.07	P 60,134,621.61	P121,936,102.68
Less: Disallowances			
Per ICPA's findings	P 4,439,816.52	P 6,823,240.89	P 11,263,057.40
Per this Court's findings	53,441,566.29	44,857,066.77	98,298,633.06
Total Disallowances	P 57,881,382.81	P 51,680,307.65	P109,561,690.46
Valid Input VAT	P 3,920,098.26	P 8,454,313.96	P 12,374,412.22

Since petitioner's output tax liability in the amount of P64,176,569.00 as reflected in its Quarterly VAT Returns for January 1, 2009 to June 30, 2009 is much higher than the properly substantiated input VAT of P12,374,412.22, there is no excess input VAT that may be the subject of a claim for refund/tax credit under Section 112(A) of the NIRC of 1997, as amended.

WHEREFORE, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice


WE CONCUR:


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CAESAR A. CASANOVA
Associate Justice

ATTESTATION

I attest 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.


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 case was assigned to the writer of the opinion of the Court’s Division.


ROMAN G. DEL ROSARIO
Presiding Justice 

PROCTER AND GAMBLE ASIA, PTE. LTD.
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8192
ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Date	Input VAT
Domestic purchases of services supported by VAT invoices instead of VAT ORs			
as required under Section 113(A)(2) of the NIRC of 1997, as amended			
HHHH 1-22	Cebu Praedia Development Corp.	5/22/2009	271,260.00
HHHH 1-201	Semantics Ace for Verbal Excellence Int'l Languages Inc.	3/23/2009	5,760.00
HHHH 1-203	Semantics Ace for Verbal Excellence Int'l Languages Inc.	6/3/2009	696.43
HHHH 1-205	Techserv Enterprises	6/9/2009	28,823.46
HHHH 1-208	The 8th Design and Prints	4/26/2009	2,040.00
HHHH 1-209	The 8th Design and Prints	4/26/2009	360.00
Subtotal			308,939.89
Domestic purchases of goods/services supported by VAT invoices/ORs but VAT not			
separately shown in violation of Section 113(B)(2)(a) of the NIRC of 1997, as amended			
HHHH 1-216	Walter Mart	6/29/2009	2,790.60
HHHH 2-18	Accent Micro Technologies, Inc.	1/8/2009	75,974.46
HHHH 2-55	BTI Philippines Marsman Travel	1/8/2009	42,050.95
HHHH 2-175	Hewlett-Packard Phils. Corp.	1/8/2009	28,643.24
HHHH 2-269	Karen International, Inc.	1/8/2009	7,861.69
HHHH 2-47	Argent Business Consultants & Stores Specialist, Inc.	1/9/2009	3,388.34
HHHH 2-61	BPO International, Inc.	1/9/2009	17,868.26
HHHH 2-168	Guilly's Flowers and Fruits	1/9/2009	750.00
HHHH 2-207	Infolink Placement & Computer Services Corp.	1/9/2009	3,214.29
HHHH 2-280	Master Key and Lock Service	1/9/2009	101.78
HHHH 2-26	Airfreight 2100, Inc.	1/14/2009	6,862.12
HHHH 2-176	Hewlett-Packard Phils. Corp.	1/14/2009	6,750,923.02
HHHH 2-103	Computer Profesionals, Inc.	1/15/2009	63,432.00
HHHH 2-118	Crown Worldwide Movers, Inc.	1/15/2009	5,522.76
HHHH 2-155	Evercrest Golf Club Resort, Inc.	1/15/2009	13,541.89
HHHH 2-177	Hewlett-Packard Phils. Corp.	1/15/2009	1,863.11
HHHH 2-62	BPO International, Inc.	1/16/2009	2,579.31
HHHH 2-83	Carlito's Lechon Cebu	1/16/2009	28,266.00
HHHH 2-397	Veterans Philippines Scout Security Agency	1/16/2009	11.63
HHHH 2-320	Pixografx, Inc.	1/19/2009	218.05
HHHH 2-159	Globe Telecom	1/22/2009	4,332.12
HHHH 2-178	Hewlett-Packard Phils. Corp.	1/22/2009	2,052,169.10
HHHH 2-224	Jones Lang Lasalle Philippines, Inc.	1/22/2009	6,287.85
HHHH 2-225	Jones Lang Lasalle Philippines, Inc.	1/22/2009	3,249.45
HHHH 2-11	8008 Tours and Transport Services	1/23/2009	4,023.60
HHHH 2-63	BPO International, Inc.	1/23/2009	40,970.81
HHHH 2-27	Airfreight 2100, Inc.	1/25/2009	1,968.96
HHHH 2-179	Hewlett-Packard Phils. Corp.	1/25/2009	7,980.84
HHHH 2-150	Edgework Creative and Production	1/26/2009	32,076.00
HHHH 2-226	Jones Lang Lasalle Philippines, Inc.	1/26/2009	14,534.31
HHHH 2-227	Jones Lang Lasalle Philippines, Inc.	1/26/2009	26,992.29
HHHH 2-228	Jones Lang Lasalle Philippines, Inc.	1/26/2009	123,969.90
HHHH 2-229	Jones Lang Lasalle Philippines, Inc.	1/26/2009	13,532.85
HHHH 2-230	Jones Lang Lasalle Philippines, Inc.	1/26/2009	87,153.60
HHHH 2-64	BPO International, Inc.	1/28/2009	7,200.00
HHHH 2-231	Jones Lang Lasalle Philippines, Inc.	1/29/2009	18,868.05
HHHH 2-232	Jones Lang Lasalle Philippines, Inc.	1/29/2009	10,159.72
HHHH 2-282	Maxibuild, Inc.	1/30/2009	211,739.33
HHHH 2-383	Telecommunications & Computer Tech, Inc.	2/2/2009	10,200.00
HHHH 2-98	CN Network Specialist	2/4/2009	10,080.00

PROCTER AND GAMBLE ASIA, PTE. LTD.

-versus- COMMISSIONER OF INTERNAL REVENUE

CTA CASE NO. 8192

ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Date	Input VAT
HHHH 2-105	Computer Profesionals, Inc.	2/4/2009	2,772.00
HHHH 2-270	Karen International, Inc.	2/4/2009	2,100.00
HHHH 2-65	BPO International, Inc.	2/5/2009	53,657.87
HHHH 2-104	Computer Profesionals, Inc.	2/5/2009	98,745.25
HHHH 2-119	Crown Worldwide Movers, Inc.	2/5/2009	190.08
HHHH 2-233	Jones Lang Lasalle Philippines, Inc.	2/5/2009	2,220.00
HHHH 2-234	Jones Lang Lasalle Philippines, Inc.	2/5/2009	45,476.63
HHHH 2-235	Jones Lang Lasalle Philippines, Inc.	2/5/2009	22,659.95
HHHH 2-84	Carlito's Lechon Cebu	2/6/2009	35,112.30
HHHH 2-283	Maxibuild, Inc.	2/6/2009	30,867.00
HHHH 2-96	Center For Leadership and Change, Inc.	2/10/2009	9,000.00
HHHH 2-321	Pixografx, Inc.	2/10/2009	37.92
HHHH 2-146	DNS Shuttle Service, Inc.	2/12/2009	1,620.00
HHHH 2-160	Globe Telecom	2/12/2009	3,577.22
HHHH 2-291	Microbase, Inc.	2/12/2009	4,832.14
HHHH 2-296	Mount Sea Resort Hotel & Restaurant	2/12/2009	6,713.04
HHHH 2-398	Veterans Philippines Scout Security Agency	2/12/2009	1,331.85
HHHH 2-85	Carlito's Lechon Cebu	2/13/2009	16,314.00
HHHH 2-166	Goudie Assoc. Manila Limited Company	2/13/2009	71,064.00
HHHH 2-28	Airfreight 2100, Inc.	2/15/2009	131.57
HHHH 2-29	Airfreight 2100, Inc.	2/18/2009	1,569.18
HHHH 2-135	Delta Rent-a-Car Corp.	2/18/2009	2,014.80
HHHH 2-180	Hewlett-Packard Phils. Corp.	2/18/2009	6,774,692.64
HHHH 2-214	Information Professionals, Inc.	2/18/2009	137,797.70
HHHH 2-181	Hewlett-Packard Phils. Corp.	2/19/2009	2,010,691.63
HHHH 2-284	Maxibuild, Inc.	2/19/2009	1,069,391.46
HHHH 2-365	Summit Furnishings, Inc.	2/19/2009	73,358.27
HHHH 2-66	BPO International, Inc.	2/20/2009	28,077.25
HHHH 2-165	Goodream Printers Corp.	2/20/2009	1,205.37
HHHH 2-30	Airfreight 2100, Inc.	2/23/2009	2,708.34
HHHH 2-31	Airfreight 2100, Inc.	2/25/2009	9,802.33
HHHH 2-56	BTI Philippines Marsman Travel	2/25/2009	36,827.07
HHHH 2-182	Hewlett-Packard Phils. Corp.	2/25/2009	1,234,165.44
HHHH 2-322	Pixografx, Inc.	2/25/2009	119.91
HHHH 2-12	8008 Tours and Transport Services	2/26/2009	3,829.80
HHHH 2-133	CTV Corp. Television, Inc.	2/26/2009	26,785.71
HHHH 2-183	Hewlett-Packard Phils. Corp.	2/26/2009	637,051.06
HHHH 2-236	Jones Lang Lasalle Philippines, Inc.	2/26/2009	6,287.85
HHHH 2-237	Jones Lang Lasalle Philippines, Inc.	2/26/2009	3,249.45
HHHH 2-276	LTS Luggage Trading & Services, Inc.	2/26/2009	1,560.00
HHHH 2-53	BMI Slimmers World Int'l	2/27/2009	3,750.00
HHHH 2-274	Link Worth Internation, Inc.	2/27/2009	64.29
HHHH 2-32	Airfreight 2100, Inc.	3/2/2009	5,684.53
HHHH 2-81	Caritas Health Shield, Inc.	3/2/2009	193,946.66
HHHH 2-120	Crown Worldwide Movers, Inc.	3/3/2009	5,531.16
HHHH 2-185	Hewlett-Packard Phils. Corp.	3/3/2009	108,186.36
HHHH 2-33	Airfreight 2100, Inc.	3/5/2009	4,651.16
HHHH 2-86	Carlito's Lechon Cebu	3/5/2009	23,568.00
HHHH 2-99	CN Network Specialist	3/5/2009	10,080.00
HHHH 2-106	Computer Profesionals, Inc.	3/5/2009	123,906.54
HHHH 2-184	Hewlett-Packard Phils. Corp.	3/5/2009	1,747,196.54
HHHH 2-208	Infolink Placement & Computer Services Corp.	3/5/2009	7,554.63
HHHH 2-219	Jets Trophy, Inc.	3/5/2009	18,000.00
HHHH 2-238	Jones Lang Lasalle Philippines, Inc.	3/5/2009	14,109.18

PROCTER AND GAMBLE ASIA, PTE. LTD.

-versus- COMMISSIONER OF INTERNAL REVENUE

CTA CASE NO. 8192

ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Date	Input VAT
HHHH 2-239	Jones Lang Lasalle Philippines, Inc.	3/5/2009	26,202.76
HHHH 2-285	Maxibuild, Inc.	3/5/2009	547,436.98
HHHH 2-48	Argent Business Consultants & Stores Specialist, Inc.	3/6/2009	2,283.54
HHHH 2-67	BPO International, Inc.	3/6/2009	15,781.37
HHHH 2-152	Ever Printing Press	3/6/2009	393.02
HHHH 2-385	The Peninsula Manila Hotel, Inc.	3/6/2009	17,238.60
HHHH 2-117	Cornersteel System Corporation	3/11/2009	301,671.74
HHHH 2-22	Advan Integrated Services, Inc.	3/12/2009	4,306.50
HHHH 2-34	Airfreight 2100, Inc.	3/12/2009	3,037.63
HHHH 2-161	Globe Telecom	3/12/2009	3,329.54
HHHH 2-186	Hewlett-Packard Phils. Corp.	3/12/2009	16,138,415.64
HHHH 2-292	Microbase, Inc.	3/12/2009	46,017.86
HHHH 2-295	Motrade, Inc.	3/12/2009	1,242.36
HHHH 2-68	BPO International, Inc.	3/13/2009	49,051.21
HHHH 2-69	BPO International, Inc.	3/13/2009	48,212.15
HHHH 2-215	Information Professionals, Inc.	3/13/2009	140,484.85
HHHH 2-386	The Peninsula Manila Hotel, Inc.	3/13/2009	1,957.59
HHHH 2-389	Tyco Integrated Systems Phils., Inc.	3/13/2009	169,579.12
HHHH 2-390	U-bix Corporation	3/13/2009	13,769.24
HHHH 2-391	U-bix Corporation	3/13/2009	6,745.26
HHHH 2-399	Veterans Philippines Scout Security Agency	3/13/2009	933.58
HHHH 2-35	Airfreight 2100, Inc.	3/16/2009	616.80
HHHH 2-87	Carlito's Lechon Cebu	3/16/2009	2,100.00
HHHH 2-187	Hewlett-Packard Phils. Corp.	3/16/2009	40,599.96
HHHH 2-169	Guilly's Flowers and Fruits	3/17/2009	621.43
HHHH 2-240	Jones Lang Lasalle Philippines, Inc.	3/17/2009	11,279.45
HHHH 2-241	Jones Lang Lasalle Philippines, Inc.	3/17/2009	3,066.13
HHHH 2-242	Jones Lang Lasalle Philippines, Inc.	3/17/2009	207,312.74
HHHH 2-243	Jones Lang Lasalle Philippines, Inc.	3/17/2009	136,093.36
HHHH 2-244	Jones Lang Lasalle Philippines, Inc.	3/17/2009	27,259.72
HHHH 2-297	Nippon Housiung Philippines, Inc.	3/17/2009	8,883.67
HHHH 2-121	Crown Worldwide Movers, Inc.	3/18/2009	66.00
HHHH 2-245	Jones Lang Lasalle Philippines, Inc.	3/18/2009	27,578.10
HHHH 2-406	Walter Mart Supermarket, Inc.	3/18/2009	694,299.09
HHHH 2-13	8008 Tours and Transport Services	3/19/2009	3,805.80
HHHH 2-45	American Bearing Marketing Corp	3/19/2009	2,287.20
HHHH 2-136	Delta Rent-a-Car Corp.	3/19/2009	828.00
HHHH 2-147	DNS Shuttle Service, Inc.	3/19/2009	4,089.60
HHHH 2-410	Watson Wyatt Philippines, Inc.	3/19/2009	42,000.00
HHHH 2-167	Goudie Assoc. Manila Limited Company	3/20/2009	7,896.00
HHHH 2-286	Maxibuild, Inc.	3/20/2009	82,173.78
HHHH 2-36	Airfreight 2100, Inc.	3/23/2009	2,365.21
HHHH 2-140	Destiny Cable Incorporated	3/23/2009	2,742.32
HHHH 2-246	Jones Lang Lasalle Philippines, Inc.	3/23/2009	147,368.16
HHHH 2-380	TechServ Enterprises	3/23/2009	9,500.00
HHHH 2-122	Crown Worldwide Movers, Inc.	3/25/2009	4,873.56
HHHH 2-137	Delta Rent-a-Car Corp.	3/26/2009	360.00
HHHH 2-188	Hewlett-Packard Phils. Corp.	3/26/2009	8,041,072.80
HHHH 2-271	Karen International, Inc.	3/26/2009	1,180.80
HHHH 2-301	Nobility Collection Agency, Inc.	3/26/2009	2,400.00
HHHH 2-411	Yutivo Corporation	3/26/2009	2,587.50
HHHH 2-70	BPO International, Inc.	3/27/2009	19,059.80
HHHH 2-209	Infolink Placement & Computer Services Corp.	3/27/2009	3,367.69
HHHH 2-404	VJ Graphic Arts, Inc.	3/27/2009	964.29

PROCTER AND GAMBLE ASIA, PTE. LTD.
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8192
ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Date	Input VAT
HHHH 2-71	BPO International, Inc.	3/31/2009	48,004.49
HHHH 2-88	Carlito's Lechon Cebu	3/31/2009	2,213.47
HHHH 2-100	CN Network Specialist	4/1/2009	10,080.00
HHHH 2-123	Crown Worldwide Movers, Inc.	4/1/2009	673.70
HHHH 2-124	Crown Worldwide Movers, Inc.	4/1/2009	180.84
HHHH 2-189	Hewlett-Packard Phils. Corp.	4/1/2009	157,719.50
HHHH 2-340	Pronto Express Distribution, Inc.	4/1/2009	956.16
HHHH 2-37	Airfreight 2100, Inc.	4/2/2009	8,348.12
HHHH 2-90	Carlito's Lechon Cebu	4/2/2009	9,204.00
HHHH 2-202	IBM Philippines, Inc.	4/2/2009	112,239.96
HHHH 2-341	Pronto Express Distribution, Inc.	4/2/2009	1,285.71
HHHH 2-362	Sogo Home & Office Center	4/2/2009	3,739.29
HHHH 2-49	Argent Business Consultants & Stores Specialist, Inc.	4/3/2009	1,311.93
HHHH 2-57	BTI Philippines Marsman Travel	4/3/2009	21,766.38
HHHH 2-72	BPO International, Inc.	4/3/2009	10,181.75
HHHH 2-351	Schenker Philippines, Inc.	4/3/2009	101.90
HHHH 2-387	Tri Alpha Corporation	4/3/2009	535.71
HHHH 2-405	VJ Graphic Arts, Inc.	4/3/2009	4,285.71
HHHH 2-407	Walter Mart Supermarket, Inc.	4/3/2009	964.29
HHHH 2-409	Washington Jewelry Emporium	4/5/2009	10,140.00
HHHH 2-162	Globe Telecom	4/7/2009	4,457.99
HHHH 2-170	Guilly's Flowers and Fruits	4/7/2009	396.43
HHHH 2-289	Met Holdings, Inc.	4/7/2009	160,429.56
HHHH 2-293	Microbase, Inc.	4/7/2009	2,316.00
HHHH 2-298	Nippon Housiung Philippines, Inc	4/7/2009	4,294.01
HHHH 2-38	Airfreight 2100, Inc.	4/8/2009	7.26
HHHH 2-107	Computer Profesionals, Inc.	4/8/2009	93,527.71
HHHH 2-116	Conglow-Trailads Marketing Services, Inc.	4/8/2009	8,109.94
HHHH 2-125	Crown Worldwide Movers, Inc.	4/8/2009	498.96
HHHH 2-126	Crown Worldwide Movers, Inc.	4/8/2009	180.84
HHHH 2-151	Electronic Security Systems Corp.	4/8/2009	30,857.14
HHHH 2-203	IBM Philippines, Inc.	4/8/2009	26,893.48
HHHH 2-216	Information Professionals, Inc.	4/8/2009	140,132.34
HHHH 2-222	John Clements Consultants, Inc.	4/8/2009	22,830.24
HHHH 2-247	Jones Lang Lasalle Philippines, Inc.	4/8/2009	2,540.40
HHHH 2-248	Jones Lang Lasalle Philippines, Inc.	4/8/2009	4,915.80
HHHH 2-249	Jones Lang Lasalle Philippines, Inc.	4/8/2009	28,727.13
HHHH 2-250	Jones Lang Lasalle Philippines, Inc.	4/8/2009	15,468.45
HHHH 2-378	Technicom Electronics Trading	4/8/2009	7,875.00
HHHH 2-381	TechServ Enterprises	4/8/2009	4,162.00
HHHH 2-21	Accurate Relocation Specialist, Inc	4/13/2009	37,409.92
HHHH 2-190	Hewlett-Packard Phils. Corp.	4/13/2009	6,790,611.36
HHHH 2-305	Philippine Long Distance Telephone Company	4/13/2009	44,381.73
HHHH 2-306	Philippine Long Distance Telephone Company	4/13/2009	59,761.45
HHHH 2-307	Philippine Long Distance Telephone Company	4/13/2009	13,625.17
HHHH 2-308	Philippine Long Distance Telephone Company	4/13/2009	7,843.13
HHHH 2-309	Philippine Long Distance Telephone Company	4/13/2009	1,062.88
HHHH 2-310	Philippine Long Distance Telephone Company	4/13/2009	12,977.64
HHHH 2-311	Philippine Long Distance Telephone Company	4/13/2009	8,538.65
HHHH 2-312	Philippine Long Distance Telephone Company	4/13/2009	132,989.92
HHHH 2-313	Philippine Long Distance Telephone Company	4/13/2009	1,800.00
HHHH 2-314	Philippine Long Distance Telephone Company	4/13/2009	10,199.48
HHHH 2-315	Philippine Long Distance Telephone Company	4/13/2009	8,542.14
HHHH 2-316	Philippine Long Distance Telephone Company	4/13/2009	2,640.00

PROCTER AND GAMBLE ASIA, PTE. LTD.
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8192
ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Date	Input VAT
HHHH 2-317	Philippine Long Distance Telephone Company	4/13/2009	38,532.28
HHHH 2-318	Philippine Long Distance Telephone Company	4/13/2009	71,100.73
HHHH 2-319	Philippine Long Distance Telephone Company	4/13/2009	9,229.54
HHHH 2-342	Pronto Express Distribution, Inc.	4/14/2009	1,767.85
HHHH 2-347	Quartz Business Products Corp.	4/14/2009	3,080.36
HHHH 2-395	Vanguard Interiors (Phils.) Inc.	4/14/2009	8,207.14
HHHH 2-171	Guilly's Flowers and Fruits	4/15/2009	214.29
HHHH 2-388	Tri Alpha Corporation	4/15/2009	478.00
HHHH 2-39	Airfreight 2100, Inc.	4/16/2009	452.63
HHHH 2-58	BTI Philippines Marsman Travel	4/16/2009	26,108.42
HHHH 2-89	Carlito's Lechon Cebu	4/16/2009	6,213.43
HHHH 2-127	Crown Worldwide Movers, Inc.	4/16/2009	5,097.36
HHHH 2-210	Infolink Placement & Computer Services Corp.	4/16/2009	2,142.86
HHHH 2-343	Pronto Express Distribution, Inc.	4/16/2009	7,863.48
HHHH 2-352	Schenker Philippines, Inc.	4/16/2009	12,240.00
HHHH 2-392	U-bix Corporation	4/16/2009	7,195.49
HHHH 2-400	Veterans Philippines Scout Security Agency	4/16/2009	121.25
HHHH 2-412	Yutivo Corporation	4/16/2009	3,510.00
HHHH 2-17	Abenson, Inc.	4/17/2009	1,167.86
HHHH 2-73	BPO International, Inc.	4/17/2009	27,629.54
HHHH 2-108	Computer Professionals, Inc.	4/17/2009	40,800.00
HHHH 2-251	Jones Lang Lasalle Philippines, Inc.	4/20/2009	6,210.50
HHHH 2-252	Jones Lang Lasalle Philippines, Inc.	4/20/2009	61,143.17
HHHH 2-253	Jones Lang Lasalle Philippines, Inc.	4/20/2009	91,058.56
HHHH 2-275	Link Worth International, Inc.	4/20/2009	64.29
HHHH 2-360	Sodexo Pass Inc.	4/20/2009	9.60
HHHH 2-384	The Brain Computer Corp.	4/21/2009	194,313.12
HHHH 2-191	Hewlett-Packard Phils. Corp.	4/22/2009	1,410,949.44
HHHH 2-14	8008 Tours and Transport Services	4/23/2009	3,923.40
HHHH 2-40	Airfreight 2100, Inc.	4/23/2009	5,843.86
HHHH 2-46	American Bearing Marketing Corp	4/23/2009	427.80
HHHH 2-109	Computer Professionals, Inc.	4/23/2009	20,958.87
HHHH 2-148	DNS Shuttle Service, Inc.	4/23/2009	828.00
HHHH 2-192	Hewlett-Packard Phils. Corp.	4/23/2009	1,002,387.24
HHHH 2-272	Karen International, Inc.	4/23/2009	7,728.00
HHHH 2-401	Veterans Philippines Scout Security Agency	4/23/2009	351.22
HHHH 2-23	Advan Integrated Services, Inc.	4/24/2009	1,319.42
HHHH 2-74	BPO International, Inc.	4/24/2009	51,921.45
HHHH 2-91	Carlito's Lechon Cebu	4/24/2009	10,205.36
HHHH 2-156	Facilities Managers, Inc.	4/24/2009	1,749.16
HHHH 2-138	Delta Rent-a-Car Corp.	4/26/2009	888.00
HHHH 2-19	Accent Micro Technologies, Inc.	4/27/2009	937.50
HHHH 2-41	Airfreight 2100, Inc.	4/27/2009	3,041.81
HHHH 2-82	Caritas Health Shield, Inc.	4/29/2009	193,946.66
HHHH 2-299	Nippon Housiung Philippines, Inc	4/29/2009	27,966.87
HHHH 2-42	Airfreight 2100, Inc.	4/30/2009	18,764.54
HHHH 2-75	BPO International, Inc.	4/30/2009	21,406.36
HHHH 2-348	Quartz Business Products Corp.	4/30/2009	616.07
HHHH 2-101	CN Network Specialist	5/4/2009	10,080.00
HHHH 2-110	Computer Professionals, Inc.	5/4/2009	92,653.03
HHHH 2-158	GG & A Club Shares Brokers, Inc.	5/5/2009	2,142.86
HHHH 2-344	Pronto Express Distribution, Inc.	5/5/2009	1,977.84
HHHH 2-54	BMI Slimmers World Int'l	5/6/2009	2,049.15
HHHH 2-92	Carlito's Lechon Cebu	5/6/2009	20,065.30

PROCTER AND GAMBLE ASIA, PTE. LTD.

-versus- COMMISSIONER OF INTERNAL REVENUE

CTA CASE NO. 8192

ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Date	Input VAT
HHHH 2-174	Headstrong Philippines, Inc.	5/6/2009	9,855.32
HHHH 2-349	Quorum International, Inc.	5/6/2009	6,556.07
HHHH 2-43	Airfreight 2100, Inc.	5/7/2009	19,999.78
HHHH 2-172	Guilly's Flowers and Fruits	5/7/2009	642.86
HHHH 2-193	Hewlett-Packard Phils. Corp.	5/7/2009	7,597.32
HHHH 2-323	Pixografx, Inc.	5/7/2009	117.44
HHHH 2-353	Schenker Philippines, Inc.	5/7/2009	135.22
HHHH 2-50	Argent Business Consultants & Stores Specialist, Inc.	5/8/2009	1,595.31
HHHH 2-95	Cebu Praedia Decelopment Corp.	5/8/2009	290,160.00
HHHH 2-254	Jones Lang Lasalle Philippines, Inc.	5/8/2009	4,662.72
HHHH 2-255	Jones Lang Lasalle Philippines, Inc.	5/8/2009	2,409.40
HHHH 2-211	Infolink Placement & Computer Services Corp.	5/13/2009	1,593.73
HHHH 2-76	BPO International, Inc.	5/14/2009	172,793.90
HHHH 2-77	BPO International, Inc.	5/14/2009	8,125.31
HHHH 2-111	Computer Profesionals, Inc.	5/14/2009	5,044.00
HHHH 2-149	DNS Shuttle Service, Inc.	5/14/2009	1,080.00
HHHH 2-217	Information Professionals, Inc.	5/14/2009	149,282.07
HHHH 2-359	Shellsoft Technology Corporation	5/14/2009	57,455.28
HHHH 2-44	Airfreight 2100, Inc.	5/15/2009	17,919.17
HHHH 2-128	Crown Worldwide Movers, Inc.	5/15/2009	4,882.56
HHHH 2-402	Veterans Philippines Scout Security Agency	5/15/2009	466.79
HHHH 2-194	Hewlett-Packard Phils. Corp.	5/21/2009	6,838,167.48
HHHH 2-273	Karen International, Inc.	5/21/2009	411.60
HHHH 2-403	Veterans Philippines Scout Security Agency	5/21/2009	3,610.80
HHHH 2-15	8008 Tours and Transport Services	5/22/2009	3,927.60
HHHH 2-112	Computer Profesionals, Inc.	5/22/2009	26,183.74
HHHH 2-256	Jones Lang Lasalle Philippines, Inc.	5/25/2009	28,020.63
HHHH 2-257	Jones Lang Lasalle Philippines, Inc.	5/25/2009	15,088.03
HHHH 2-258	Jones Lang Lasalle Philippines, Inc.	5/25/2009	79,744.74
HHHH 2-259	Jones Lang Lasalle Philippines, Inc.	5/25/2009	115,275.13
HHHH 2-260	Jones Lang Lasalle Philippines, Inc.	5/25/2009	7,745.13
HHHH 2-129	Crown Worldwide Movers, Inc.	5/26/2009	318.12
HHHH 2-287	Maxibuild, Inc.	5/27/2009	55,815.72
HHHH 2-78	BPO International, Inc.	5/28/2009	51,181.70
HHHH 2-130	Crown Worldwide Movers, Inc.	5/28/2009	2,343.60
HHHH 2-141	Destiny Cable Incorporated	5/28/2009	2,199.75
HHHH 2-163	Globe Telecom	5/28/2009	7,313.39
HHHH 2-294	Microbase, Inc.	5/28/2009	3,362.14
HHHH 2-52	Barrington Carpets, Inc.	5/29/2009	18,736.62
HHHH 2-59	BTI Philippines Marsman Travel	5/29/2009	24,507.44
HHHH 2-157	Files System Mfg. and Supply Corp.	5/29/2009	3,568.32
HHHH 2-220	Jets Trophy, Inc.	5/29/2009	8,016.00
HHHH 2-212	Infolink Placement & Computer Services Corp.	6/1/2009	3,321.43
HHHH 2-261	Jones Lang Lasalle Philippines, Inc.	6/1/2009	28,161.38
HHHH 2-262	Jones Lang Lasalle Philippines, Inc.	6/1/2009	15,163.82
HHHH 2-51	Argent Business Consultants & Stores Specialist, Inc.	6/3/2009	2,247.17
HHHH 2-102	CN Network Specialist	6/3/2009	10,080.00
HHHH 2-134	CTV Corp. Television, Inc.	6/3/2009	36,000.00
HHHH 2-93	Carlito's Lechon Cebu	6/4/2009	15,296.16
HHHH 2-113	Computer Profesionals, Inc.	6/4/2009	99,391.50
HHHH 2-195	Hewlett-Packard Phils. Corp.	6/4/2009	1,489,249.48
HHHH 2-345	Pronto Express Distribution, Inc.	6/4/2009	1,399.06
HHHH 2-413	Yutivo Corporation	6/4/2009	4,320.00
HHHH 2-153	Ever Printing Press	6/5/2009	1,392.06

PROCTER AND GAMBLE ASIA, PTE. LTD.**-versus- COMMISSIONER OF INTERNAL REVENUE****CTA CASE NO. 8192****ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS**

Exhibit	Supplier	Date	Input VAT
HHHH 2-408	Walter Mart Supermarket, Inc.	6/5/2009	1,962.59
HHHH 2-24	Advan Integrated Services, Inc.	6/8/2009	1,319.42
HHHH 2-300	Nippon Housiung Philippines, Inc	6/8/2009	18,795.50
HHHH 2-324	Pixografx, Inc.	6/8/2009	504.00
HHHH 2-361	Sodexho Pass Inc.	6/9/2009	307.20
HHHH 2-94	Carlito's Lechon Cebu	6/10/2009	14,658.00
HHHH 2-173	Guilly's Flowers and Fruits	6/10/2009	289.29
HHHH 2-213	Infolink Placement & Computer Services Corp.	6/10/2009	11,357.14
HHHH 2-356	Semantics Ace For Verbal Excellence	6/10/2009	1,392.86
HHHH 2-196	Hewlett-Packard Phils. Corp.	6/11/2009	52,200.00
HHHH 2-288	Maxibuild, Inc.	6/11/2009	150,516.84
HHHH 2-393	U-bix Corporation	6/11/2009	6,120.09
HHHH 2-164	Globe Telecom	6/15/2009	3,693.12
HHHH 2-20	Accent Micro Technologies, Inc.	6/18/2009	658.93
HHHH 2-132	Crown Worldwide Movers, Inc.	6/18/2009	4,881.36
HHHH 2-139	Delta Rent-a-Car Corp.	6/18/2009	408.00
HHHH 2-197	Hewlett-Packard Phils. Corp.	6/18/2009	19,499,019.17
HHHH 2-218	Information Professionals, Inc.	6/18/2009	132,532.35
HHHH 2-263	Jones Lang Lasalle Philippines, Inc.	6/18/2009	4,798.53
HHHH 2-264	Jones Lang Lasalle Philippines, Inc.	6/18/2009	270,245.06
HHHH 2-265	Jones Lang Lasalle Philippines, Inc.	6/18/2009	131,990.82
HHHH 2-266	Jones Lang Lasalle Philippines, Inc.	6/18/2009	4,230.29
HHHH 2-267	Jones Lang Lasalle Philippines, Inc.	6/18/2009	2,204.78
HHHH 2-268	Jones Lang Lasalle Philippines, Inc.	6/18/2009	213.25
HHHH 2-382	TechServ Enterprises	6/18/2009	23,811.30
HHHH 2-60	BTI Philippines Marsman Travel	6/19/2009	29,667.56
HHHH 2-97	Center For Leadership and Change, Inc.	6/19/2009	16,200.00
HHHH 2-114	Computer Profesionals, Inc.	6/19/2009	39,602.48
HHHH 2-221	Jets Trophy, Inc.	6/19/2009	1,725.43
HHHH 2-281	Master Key and Lock Service	6/19/2009	32.14
HHHH 2-396	Vanguard Interiors (Phils.) Inc.	6/23/2009	23,488.20
HHHH 2-223	John Clements Consultants, Inc.	6/24/2009	3,392.18
HHHH 2-357	Semantics Ace For Verbal Excellence	6/24/2009	40,070.40
HHHH 2-198	Hewlett-Packard Phils. Corp.	6/25/2009	1,335,445.08
HHHH 2-304	Philamcare Health System, Inc.	6/25/2009	7,973.64
HHHH 2-325	Pixografx, Inc.	6/25/2009	100.31
HHHH 2-394	U-bix Corporation	6/25/2009	8,654.65
HHHH 2-16	8008 Tours and Transport Services	6/26/2009	3,930.00
HHHH 2-25	Advan Integrated Services, Inc.	6/26/2009	1,319.42
HHHH 2-115	Computer Profesionals, Inc.	6/26/2009	2,772.00
HHHH 2-154	Ever Printing Press	6/26/2009	187.50
HHHH 2-279	Marsman Drydale Travel, Inc.	6/26/2009	36.60
HHHH 2-302	Nobility Collection Agency, Inc.	6/26/2009	2,400.00
HHHH 2-358	Semantics Ace For Verbal Excellence	6/26/2009	720.00
HHHH 2-278	Mandarin Oriental Manila	6/29/2009	19,399.22
HHHH 2-346	Pure Play Sports Management, Inc.	6/29/2009	79,807.20
HHHH 2-142	Destiny Cable Incorporated	6/30/2009	2,199.75
HHHH 2-131	Crown Worldwide Movers, Inc.	6/30/2009	137.28
HHHH 2-303	Ove Arup & Partners Hongkong Ltd.	6/1/2012	86,148.00
HHHH 4-12	Accent Micro Tech Inc	5/3/2006	41,520.00
HHHH 4-14	HP Phils Corp	5/26/2010	15,608.36
HHHH 4-19	Accent Micro Tech Inc	1/13/2006	19,596.46
HHHH 4-21	Accent Micro Tech Inc	1/13/2006	35,369.23
HHHH 4-24	Medical Gallery Trading Co	12/15/2006	92.73

PROCTER AND GAMBLE ASIA, PTE. LTD.
-versus- COMMISSIONER OF INTERNAL REVENUE
CTA CASE NO. 8192
ADDITIONAL INPUT VAT DISALLOWANCES PER THIS COURT'S FINDINGS

Exhibit	Supplier	Date	Input VAT
Subtotal			95,113,636.62
Purchases of services supported by printed BIR Form No. 1600 without corresponding proof of payment in violation of Section 4.114-2(b)(3) of RR No. 16-05			
HHHH 1-22	Procter & Gamble Business Services Co.	January 2009	408,260.83
HHHH 1-201	Procter & Gamble Business Service Canada	February 2009	979,591.19
HHHH 1-203	Procter & Gamble Business Service Canada	March 2009	440,148.00
HHHH 1-205	Procter & Gamble Business Services Co.	April 2009	437,591.48
HHHH 1-208	Procter & Gamble Business Services Co.	May 2009	437,168.28
HHHH 1-209	Procter & Gamble Business Services Co.	June 2009	173,296.77
Subtotal			2,876,056.55
Total			98,298,633.06