

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FORMER SECOND DIVISION

CE LUZON GEOTHERMAL
POWER COMPANY, INC.,

Petitioner,

-versus-

C.T.A. CASE NO. 7558

Members:

CASTAÑEDA, JR., Chairperson
UY, and
PALANCA-ENRIQUEZ, JJ.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

Promulgated:

JAN 19 2010

4:05 p.m.

X ----- X

AMENDED DECISION

PALANCA-ENRIQUEZ, J.:

This resolves:

1) a) petitioner 's CE Luzon Geothermal Power Company, Inc.'s

“Motion for Partial Reconsideration (Re: Decision Dated 24

June 2009)” filed on July 16, 2009;

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- b) respondent Commissioner of Internal Revenue's "Opposition (Re: Motion for Partial Reconsideration)" filed on August 7, 2009;
 - c) Petitioner CE Luzon Geothermal Power Company, Inc.'s "Motion to Admit Reply" and "Reply (To Respondent's Opposition dated 7 August 2009)" both filed on August 20, 2009; and
- 2) a) respondent Commissioner of Internal Revenue's "Motion for Partial Reconsideration" filed on July 14, 2009; and
- b) petitioner's "Comment/Opposition (Re: Motion for Partial Reconsideration dated 14 July 2009)" filed on August 20, 2009.

Petitioner CE Luzon Geothermal Power Company, Inc.'s "Motion for Partial Reconsideration"

Petitioner argues that the official receipts and invoices supporting its unutilized input VAT comply with the invoicing requirements of the law; that the official receipts and invoices supporting its claimed input VAT contained all the information required by the Tax Code and relevant rules and regulations; that this Court erroneously disallowed twice petitioner's input VAT in the amounts of P48,727.27, P11,169.89 and



P10,067.46, or a total amount of P69,963.62; and that petitioner submitted to this Court the official receipts and invoices supporting its input VAT paid on its purchases of goods and services in the amounts of P10,037.00, P17,500.00 and P21,403.50.

Respondent, on the other hand, counter-argues that petitioner failed to show that its purchases of non-capital goods and services were made in the course of its trade and business and petitioner also failed to show that said purchases were properly supported by VAT invoices and/or official receipts and other documents, such as entries made in its subsidiary purchase journal showing that it actually paid VAT, in accordance with *Sections 110 (A) (2) and 113 of the Tax Code, as amended*, and *Section 4.104-5 (a) and (b) of Revenue Regulations No. 7-95*.

On August 20, 2009, petitioner filed a “Motion to Admit Reply” and “Reply (To Respondent’s Opposition dated 7 August 2009)”. The motion is granted, and the Reply is hereby admitted.

After taking a second hard look at petitioner’s “Motion for Partial Reconsideration”, this Court finds the same to be partly meritorious, hence, we deem it necessary to discuss each and every disallowance in seriatim.



Disallowance Of Input VAT
In The Amounts Of P26,533.05
And P350,944.47

As regards petitioner's allegation that the official receipts and invoices supporting its unutilized input VAT comply with the invoicing requirements of the law, *Section 238 of the NIRC of 1997, as amended*, and *Section 4.108-1 of Revenue Regulations No. 7-95* provide, as follows:

“SEC. 238. Printing of Receipts or Sales or Commercial Invoices. — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner. (*Emphasis supplied*)

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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 output tax. (*Emphasis supplied*)

Invoking the case of *Intel Technology Philippines, Inc. vs Commissioner of Internal Revenue* (522 SCRA 657), petitioner argues that



the indication of the word “TIN-V” on the official receipts and invoices is sufficient for VAT purposes. A careful reading, however, of the Intel case shows that the Supreme Court ruled on the difference between substantiation of zero-rated export sales and substantiation of input tax claim, thus:

“The petitioner truly believes that although the invoicing requirements prescribed under Section 113 (A)(1), in relation to Section 237 of the 1997 Tax Code, should be applied strictly in the use of invoices or receipts for purposes of substantiating input VAT incurred, the same stringent application is not called for when the invoices or receipts are used for purposes of substantiating actual export sales.

While the invoices or receipts being used to substantiate claim for input VAT pertain to domestic sales, the invoices or receipts presented by the petitioner, and which were invalidated by this Honorable Court pertain to export sales. There should be a marked difference because in domestic sales, there results a corresponding input VAT which may be possibly claimed by the purchaser, whereas in export sales, such as those done by the petitioner, the purchaser incurs no input VAT which it may eventually claim. Thus, for purposes of substantiation in the claim for input VAT resulting from domestic sales the stern application of the mentioned invoicing requirements is naturally demanded. But for simple purposes of substantiating export sales, as in the case of petitioner, it should not be as exacting especially considering that the petitioner still has to substantiate its input VAT, which, this time, needs to hurdle the aforesaid invoicing requirements under the 1997 Tax Code.

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xxx As the Court had the occasion to explain since no output VAT was imposed on the zero-rated export sales, what the government reimburses or refunds to the claimant is the input VAT paid—thus, the necessity for the input VAT paid to be substantiated by purchase invoices or official receipts. These sales invoices or receipts issued by the supplier are necessary to substantiate the actual amount or quantity of goods sold and their selling price, and, taken collectively, are the best means to prove the input VAT payments of the claimant.

In a claim for refund or issuance of a tax credit certificate attributable to zero-rated sales, what is to be closely scrutinized is the documentary substantiation of the input VAT paid, as may be proven by other export documents, rather than the supporting documents for the zero-rated export sales. xxx” (Emphasis supplied)

Thus, as the issue raised herein is the documentary substantiation of input VAT, the Intel case does not apply. Hence, the disallowance of petitioner’s input VAT claim in the amounts of P26,533.05 and P350,944.47 is maintained.

Disallowance of Input VAT
In The Amounts Of P14,719.09
And P61,500.00

As regards the input taxes in the amounts of P14,719.09 and P61,500.00 which were disallowed for being supported only by certified true copies of VAT invoices or official receipts, we maintain their disallowance. At the outset, petitioner failed to prove to the Court the reason why the original receipts and invoices are unavailable, in clear



violation of *Section 5, Rule 130 of the Revised Rules of Court*. Mere stamping of “certified true copy” will not suffice, as the Court cannot determine the authenticity of the document being certified. Moreover, petitioner failed to present the certifier named therein to prove that he is the actual and authorized custodian of said documents.

**Disallowance of Input VAT
On Purchases of Services of
Nonresident Suppliers Amounting
To P828,651.30**

As regards the reduced amount of P828,651.30, petitioner submitted BIR Forms No. 1600 to support the input VAT withheld and paid on its purchases of services from nonresident suppliers for the four quarters of 2005 and claims that the monthly remittance returns were properly marked and offered in evidence. This Court maintains the disallowance of the amount of P828,651.30, as the evidence clearly shows that the monthly returns were not formally offered in evidence, nor marked as exhibits for the petitioner. The rule is that the court shall not consider any evidence which has not been formally offered. The purpose for which the evidence is offered must be specified. The offer of evidence is necessary because it is the duty of the court to rest its findings of fact and its judgment only and strictly upon the evidence offered by the



parties. Unless and until admitted by the court in evidence for the purpose or purposes for which such document is offered, the same is merely a scrap of paper barren of probative weight. Mere identification of documents and the markings thereof as exhibits do not confer any evidentiary weight on documents unless formally offered (*Landingin vs. Republic*, 493 SCRA 415, 430).

Disallowance of Input VAT
In The Amounts Of P92,212.69
And P2,795,106.46

With regard to the input taxes in the amounts of P92,212.69 and P2,795,106.46, the independent CPA found them to be supported by VAT invoices and official receipts issued in the name of petitioner, but without petitioner's TIN and/or address. Petitioner avers that the submitted supporting documents contained all the information required by the Tax Code and relevant rules and regulations.

In this regard, *Sections 113 and 237 of the NIRC of 1997, as amended*, provide:

“SEC. 113. Invoicing and Accounting Requirements for VAT-Registered Persons. —

(A) Invoicing Requirements. — A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the



following information shall be indicated in the invoice or receipt:

(1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number; and

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.

(B) Accounting Requirements. — Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance.” (*Emphasis supplied*)

“SEC. 237. Issuance of Receipts or Sales or Commercial Invoices. — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: **Provided, however,** That in the case of sales, receipts or transfers in the amount of One Hundred Pesos (P100.00) or more, or regardless of amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client; **Provided, further,** That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall



further show the **Taxpayer Identification Number (TIN)**
of the purchaser.

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

The Commissioner may, in meritorious cases, exempt any person subject to an internal revenue tax from compliance with the provisions of this Section.” (*Emphasis supplied*)

Pursuant to the above quoted provisions, in addition to the name and business style, if any, the purchaser’s address and TIN should also be indicated in the VAT invoice or official receipt. In this case, the Court-Commissioned ICPA found that several of petitioner’s supporting documents for its claimed input VAT do not bear its address and TIN.

Nevertheless, petitioner asserts that the following documents, which were included in the ICPA’s findings as “Domestic purchases of goods and services supported by a VAT invoice and official receipt issued in the name of the Company but without the Company’s TIN and/or address” in the amounts of P92,212.69 and P2,795,106.46,



respectively, contained all the informations required by the Tax Code and relevant rules and regulations:

<u>Exh.</u>	<u>OR/Inv. #</u>	<u>OR/Inv. Date</u>	<u>Supplier's Name</u>	<u>Input VAT</u>
L-2Q-0300	431	5/19/2005	House of Travel, Inc.	P 545.55
L-2Q-0317	221803	6/17/2005	Innovate Communications	3,414.52
L-2Q-0778	6666	5/26/2005	Joaquin Cunanan & Co.	65,453.57
L-2Q-0387	26362	6/21/2005	Makati Shangri-la Manila	2,684.93
L-2Q-0388	25814	6/21/2005	Makati Shangri-la Manila	4,775.93
L-2Q-0797	49040	6/16/2005	Travel Managers International	1,800.27
L-2Q-0795	48754	5/26/2005	Travel Managers International	609.18
L-3Q-01018	141	8/16/2005	CalEnergy International Services	358,960.74
L-3Q-01022	136	7/22/2005	CalEnergy International Services	320,246.90
L-3Q-01020	145	9/26/2005	CalEnergy International Services	356,576.23
L-3Q-237 & 238	12970002 12970003	8/2/2005	Globe Telecom Inc.	2,241.08
L-3Q-239 & 240	12970691 12970690	9/22/2005	Globe Telecom Inc.	2,044.21
L-3Q-241 & 242	12970881 to 12970883	9/30/2005	Globe Telecom Inc.	2,592.49
L-3Q-01013	222664	8/25/2005	Innovate Communications	2,333.33
L-3Q-281	BM2000000 00000061077	8/2/2005	Innovate Communications	9,648.13
L-3Q-283	BM2000000 00000065790	9/22/2005	Innovate Communications	9,896.85
L-3Q-701	128246	8/25/2005	Makati Shangri-la Hotel and Resorts, Inc.	2,318.97
L-3Q-699	1283	7/28/2005	Makati Shangri-la Hotel and Resorts, Inc.	1,278.73
L-3Q-704	1294	9/29/2005	Makati Shangri-la Hotel and Resorts, Inc.	4,381.82
L-3Q-706	0033	8/4/2005	Metrowide Commodities Corp.	1,318.18
L-3Q-697	2202	5/25/2005	Perkin Elmer Instruments	5,945.64
L-3Q-992	364262	8/11/2005	PLDT	10,968.26
L-3Q-714	1974	7/14/2005	Progress Equipment & Systems Corp.	3,600.00
L-3Q-749	024674	7/28/2005	SGV & Co.	2,960.00
L-3Q-716	50016	8/25/2005	Travel Managers International	1,047.45
L-3Q-719	49651	7/26/2005	Travel Managers International	1,200.18
L-3Q-721	49653	7/28/2005	Travel Managers International	1,236.55
L-3Q-993	50560	9/29/2005	Travel Managers International	2,890.00
L-3Q-285	BM2000000 00000066841	9/30/2005	Innovate Communications	22,635.42
L-3Q-723	11133	8/5/2005	Welltech Services Corporation	1,292.72
L-4Q-303	106423	11/12/2005	Focus Global, Inc.	3,687.27
L-4Q-677	0016	12/9/2005	Edaves Fashion	818.17
L-4Q-678	0013	11/10/2005	Edaves Fashion	3,272.68
L-4Q-680	13572	12/8/2005	FTL Hotels, Inc.	1,030.25
L-4Q-084 & 085	12971289 12971290	10/28/2005	Globe Telecom Inc.	2,615.93
L-4Q-315 to 317	13042291 to 13042293	12/29/2005	Globe Telecom Inc.	3,115.79
L-4Q-089 & 090	BM2000000 00000071076	11/9/2005	Innovate Communications	10,067.46

L-4Q-115	133	10/7/2005	Link Edge, Inc.	20,930.63
L-4Q-113	135	10/7/2005	Link Edge, Inc.	20,930.63
L-4Q-117	140	10/7/2005	Link Edge, Inc.	20,930.63
L-4Q-111	153	10/27/2005	Link Edge, Inc.	20,647.13
L-4Q-109	154	10/27/2005	Link Edge, Inc.	20,647.13
L-4Q-120	159	10/27/2005	Link Edge, Inc.	20,647.13
L-4Q-015	150	10/20/2005	CalEnergy International Services	359,579.64
L-4Q-238	154	11/16/2005	CalEnergy International Services	367,049.68
L-4Q-463	159	12/19/2005	CalEnergy International Services	300,801.09
L-4Q-701	30153	11/10/2005	Makati Shangri-la Manila	3,602.40
L-4Q-703	312458	12/8/2005	The Peninsula Manila	1,040.58
L-4Q-706	372630	10/25/2005	PLDT	5,484.13
L-4Q-708	376714	11/30/2005	PLDT	1,744.64
L-4Q-714	2684	11/24/2005	Protective Systems Technologies	909.09
L-4Q-715	2716	12/1/2005	Protective Systems Technologies	164.94
L-4Q-730	50712	10/13/2005	Travel Managers International	545.55
L-4Q-729	51331	11/24/2005	Travel Managers International	631.00
L-4Q-728	51332	11/24/2005	Travel Managers International	612.82
L-4Q-731	51334	11/24/2005	Travel Managers International	699.18
TOTAL				<u>P 2,399,103.40</u>

However, after a careful examination of the documents, this Court finds that some of said documents do not bear petitioner's address, to wit:

<u>Exh.</u>	<u>OR/Inv. #</u>	<u>OR/Inv. Date</u>	<u>Supplier's Name</u>	<u>Input VAT</u>
L-3Q-237 & 238	12970002 12970003	8/2/2005	Globe Telecom Inc.	P 2,241.08
L-3Q-239 & 240	12970691 12970690	9/22/2005	Globe Telecom Inc.	2,044.21
L-3Q-241 & 242	12970881 to 12970883	9/30/2005	Globe Telecom Inc.	2,592.49
L-3Q-281	BM2000000 00000061077	8/2/2005	Innove Communications	9,648.13
L-3Q-283	BM2000000 00000065790	9/22/2005	Innove Communications	9,896.85
L-3Q-285	BM2000000 00000066841	9/30/2005	Innove Communications	22,635.42
L-4Q-084 & 085	12971289 12971290	10/28/2005	Globe Telecom Inc.	2,615.93
L-4Q-315 to 317	13042291 to 13042293	12/29/2005	Globe Telecom Inc.	3,115.79
L-4Q-089 & 090	BM2000000 00000071076	11/9/2005	Innove Communications	10,067.46
TOTAL				<u>P 64,857.36</u>

Also, as regards petitioner's claim on PLDT official receipt number 364262 dated August 11, 2005, a perusal of the said receipt shows that the valid input VAT amounts only to P5,384.42, instead of P10,968.26

(Exhibit "L-3Q-992"), hence there is an overclaimed input in the amount of P5,583.84.

Disallowance of Input VAT
In The Amounts of P48,727.27,
P11,168.89 And P10,067.46

Petitioner further claims that the Court erroneously disallowed twice the following input VAT:

<u>Exh.</u>	<u>OR No.</u>	<u>OR Date</u>	<u>Supplier's Name</u>		<u>Input VAT</u>
L-1Q-338B	31496	2/3/2005	Nalco Phils., Inc.	P	48,727.27
L-2Q-0312 to 0313	BM2000000 00000057196	6/30/2005	Innove Communications		11,168.89
L-4Q-089 to 090	BM2000000 00000071076	11/9/2005	Innove Communications		10,067.46
TOTAL					<u>P 69,963.62</u>

Petitioner contends that the above input VAT were already included in the ICPA's findings which were disallowed due to the absence of petitioner's TIN and/or address on the VAT invoices and official receipts. However, the same amounts were disallowed again by this Court upon examination and verification of the records of this case.

A perusal of the ICPA Report and annexes shows that the input VAT in the total amount of P69,963.62 was indeed disallowed by the ICPA. Thus, We agree with petitioner's contention that when the Court disallowed them as deductions, the same were disallowed twice. Hence, the same is hereby reconsidered.



Disallowance of Input VAT
In The amounts of P10,037.00,
P17,500.00 and P21,403.50

The input VAT in the amounts of P10,037.00, P17,500.00 and P21,403.50 or a total of P48,940.50, were disallowed for not being supported by official receipts or invoices. Petitioner claims that it submitted the following required supporting documents for the said input VAT:

<u>Exh.</u>	<u>OR/Inv.</u>	<u>Date</u>	<u>Supplier</u>		<u>Input VAT</u>
L-1Q-261A	6002	3/17/2005	Isla Lipana & Co.	P	10,037.00
L-3Q-532B	145	9/29/2005	Trane Philippines		17,500.00
L-3Q-532C	11329	5/16/2005	Trane Philippines		21,403.50
TOTAL				P	48,940.50

However, a perusal of petitioner's formal offer of evidence and supporting documents verified and submitted by the ICPA, shows that "*Exhibit L-1Q-261A*" pertains to official receipt number 6001 of Joaquin Cunanan & Co. dated March 17, 2005 in the amount of P220,000.00, which is contrary to petitioner's claim. The rest of the documents cannot be found in the records of the case.

In sum, petitioner has sufficiently proven its entitlement to additional input VAT in the amount of P2,398,625.82, computed as follows:

Disallowed input VAT sought to be reconsidered		P	4,288,571.18
Less: Disallowances maintained by the Court			
Domestic purchase of goods supported by TIN-V invoice	P	26,533.05	
Domestic purchase of services supported by TIN-V OR		350,944.47	377,477.52



Domestic purchase of goods supported only by a certified true copy of the VAT invoice	P	14,719.09	
Domestic purchase of services supported by a certified true copy VAT OR		61,500.00	76,219.09
Withholding VAT remitted in behalf of non-resident supplier of services with supporting documents not properly marked			828,651.30
Domestic purchase of goods supported by a VAT invoice issued in the Company's name but without the Company's TIN and/or address or with TIN and/or address changed/added on the support but without countersign	P	92,212.69	
Domestic purchase of services supported by a VAT OR issued in the Company's name but without the Company's TIN and/or address or with TIN and/or address changed/added on the support but without countersign		2,795,106.46	
Subtotal	P	2,887,319.15	
Less: Valid input VAT per Petitioner's MR	P	2,399,103.40	
Less: Official receipts without Petitioner's address		64,857.36	
Overclaimed input VAT on PLDT OR # 364262		5,583.84	558,656.95
Purchase of goods/services with no supporting documents		2,328,662.20	48,940.50
Input VAT disallowed twice	P	69,963.62	
Less: Correction of the disallowance		69,963.62	-
Additional Refundable input VAT			P 2,398,625.82

**Respondent Commissioner of
Internal Revenue's "Motion
for Partial Reconsideration"**

Respondent moves for a reconsideration of the Decision alleging that petitioner has not sufficiently proven its entitlement to a refund as it failed to show that its purchases of goods and services were made in the course of its trade or business and that said purchases were properly supported by VAT invoices and/or official receipts and other documents; that this Court has no jurisdiction to act on the instant Petition for Review for failure of petitioner to submit complete documents in support of its administrative claim for refund, thus, the denial by inaction of respondent was proper; and the petition was prematurely filed as it was filed before the expiration of the 120-day period.

On the other hand, petitioner counter-argues that it has proven that its purchases of goods and services were made in the course of trade or business and were properly supported by VAT invoices and official receipts and other documents; that it timely filed its petition with this Court as the Supreme Court has consistently ruled that *Section 112 (D)* should be read in conjunction with *Section 229*; that it complied with the requirements in filing its administrative claim for refund with the BIR; and it has established its right to a refund.

We find no merit in respondent's motion.

At the outset, we find that petitioner's claim for refund filed with the BIR has substantially complied with the law. Settled is the rule that the filing of an administrative claim before the Commissioner is a pre-requisite before this Court can take cognizance of the taxpayer's claim for refund. Petitioner substantially complied with this requirement on November 30, 2006 (*Exhibit "L"*), attaching thereto documents in support of its claim. Respondent's allegation, therefore, that petitioner failed to submit complete documents in support of its claim must necessarily fail, as the administrative claim was already filed and it was respondent's duty to inform and require from petitioner the submission of other evidentiary requirements should he find them insufficient. The allegation that



petitioner failed to submit documents to the satisfaction of respondent should not hinder or otherwise obstruct petitioner's right to claim for a refund of its unutilized input taxes.

It must be further emphasized that both the administrative claim before the Commissioner and the judicial claim before this Court should be filed within two (2) years to protect its interest, otherwise, the taxpayer will lose its claim. To stress, the administrative claim does not toll the running of the two (2) year prescriptive period for filing a judicial claim for refund. Hence, petitioner should not be faulted for filing its claim before this Court on January 3, 2007 considering that the two (2) year prescriptive period was about to expire, failure to do so would be fatal to its claim.

Furthermore, the taxpayer cannot be faulted for taking advantage of the full two-year period set by the law for filing its claim for refund, as the law only limits the maximum period within which a taxpayer may file a claim, which the taxpayer may utilize at its own discretion, as long as it has substantially complied with the rules. This Court has repeatedly ruled that the claim for refund with the Commissioner could be pending simultaneously with a claim for refund filed before this Court.

WHEREFORE, premises considered:



1) As regards petitioner CE Luzon Geothermal Power Company, Inc.'s "Motion For Partial Reconsideration" – the same is hereby **PARTLY GRANTED**. Accordingly, the dispositive portion of our Decision dated June 24, 2009 is hereby **AMENDED** to read, as follows:

"WHEREFORE, premises considered, the present Petition for Review is **PARTLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the reduced amount of **SEVENTEEN MILLION TWO HUNDRED SEVENTY SEVEN THOUSAND NINE HUNDRED THIRTY EIGHT and 47/100 PESOS (P17,277,938.47)**, representing unutilized input VAT paid on its domestic purchases of goods and services which are attributable to zero-rated sales for calendar year 2005.

SO ORDERED."; and

2) As regards respondent Commissioner of Internal Revenue's "Motion For Partial Reconsideration" – the same is hereby **DENIED** for lack of merit.

SO ORDERED.


OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:


JUANITO C. CASTAÑEDA, JR.
Associate Justice


ERLINDA P. UY
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, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.


ERNESTO D. ACOSTA
Presiding Justice