Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

TAGANITO MINING CORPORATION, Petitioner,	**G.R. No. 201195**
	Present:
- versus -	CARPIO, *J., Chairperson*, DEL CASTILLO, MENDOZA, REYES,* and LEONEN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: NOV 2 6 2014

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DECISION

MENDOZA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the October 19, 2011 Decision[1] and the March 22, 2012 Resolution[2] of the Court of Tax Appeals *(CTA)* En Banc, in CTA EB Case No. 656, which affirmed as to result only, the April 8, 2010 Decision[3] and the June 3, 2010 Resolution[4] of the CTA Second Division *(CTA Division)* denying the petitioner's claim for refund.

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* Designated Acting Member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1881, dated November 25, 2014.

[1] *Rollo*, pp. 72-93; penned by Associate Justice Erlinda P. Uy, with Associate Justice Ernesto D. Acosta, Associate Justice Juanito C. Castaneda, Jr., Associate Justice Lovell R. Bautista, Associate Justice Caesar A. Casanova, Associate Justice Esperanza R. Fabon-Victorino, Associate Justice Cielito N. Mindaro-Grulla, and Associate Justice Amelia R. Cotangco-Manalastas, concurring.

[2] Id. at 99-105.

[3] Id. at 106-119.

[4] Id. at 120-121.

The Facts

Petitioner Taganito Mining Corporation *(Taganito),* a value-added tax *(VAT)* and Board of Investments *(BOI)* registered corporation primarily engaged in the business of exploring, extracting, mining, selling, and exporting precious metals and all kinds of ores, metals, and their by-products, filed through the Bureau of Internal Revenue's *(BIR)* computerized filing system, its Original Quarterly VAT Returns for the first to fourth quarters of taxable year 2006 on the following dates:

Taxable Quarter	Date of Filing
First	April 24, 2006
Second	July 19, 2006
Third	October 18, 2006
Fourth	January 25, 2007

Subsequently, Taganito filed its Amended Quarterly VAT Returns on October 18, 2006 for the first and second quarters of 2006, and on March 25, 2008 for the fourth quarter of 2006.

On March 26, 2008, Taganito filed with respondent Commissioner of Internal Revenue (*CIR*), through the Excise Taxpayers' Assistance Division under the Large Taxpayers Division *(LTAID-II)*, a claim for credit/refund of input VAT paid on its domestic purchases of taxable goods and services and importation of goods amounting to □22,421,260.26, for the period covering January 1, 2006 to December 31, 2006.

On April 17, 2008, as respondent CIR had not yet issued a final decision on the administrative claim, Taganito filed a judicial claim before the CTA Division with the intention of tolling the running of the two-year period to judicially claim a tax credit/refund under Section 229 of the National Internal Revenue Code of 1997 *(NIRC).*

On March 17, 2009, Taganito filed a motion for partial withdrawal of petition, to the extent of □17,810,137.26, in view of the approval by the BIR of its application for tax credit/refund in the amount of □15,725,188.58 and the allowance of the previously disallowed amount of □2,084,648.68.

On May 26, 2009, in accordance with the order of the CTA, Taganito filed a supplemental petition for review limiting the issue of the case to the remaining amount of □4,611,123.00, representing alleged excess input VAT paid on the importation of capital goods from January 1, 2006 to December 31, 2006. The following official receipts *(OR)* were submitted in support of its claim:

Month	OR No.	Net Amount	Input
January	0028847	□11,314,310.00	□1,131,431.00
February	014371	28,997,433.33	3,479,692.00
Total			**□4,611,123.00**

On April 8, 2010, the CTA Division denied Taganito's petition for review and its supplemental petiton for review for lack of merit.[5] It held that the official receipts did not prove Taganito's actual payment of the claimed input VAT. Specifically, no year was indicated in OR No. 0028847. It further held that the claim should be denied for failure to meet the substantiation requirements under Section 4.110-8(a)(1) of Revenue Regulation *(R.R.)* No. 16-05, providing that input taxes for the importation of goods must be substantiated by the import entry or other equivalent document showing actual payment of VAT on the imported goods.

It also ruled that Taganito failed to prove that the importations pertaining to the input VAT claim were in the nature of capital goods or properties, and assuming *arguendo* that they were capital goods, the input VAT was not amortized over the estimated useful life of the said goods, all in accordance with Sections 4.110-3 and 4.113-3 of R.R. No. 16-05, as amended by R.R. No. 4-2007.

The CTA Division later denied Taganito's motion for reconsideration.Taganito, thus, appealed to the CTA En Banc.

In the assailed Decision, dated October 19, 2011, the CTA En Banc disposed , as follows:

> **WHEREFORE**, in light of the foregoing considerations, the Petition for Review is hereby **DENIED** for lack of merit. The instant Petition for Review filed thereto is **DISMISSED** for lack of jurisdiction.

[5] Id. at 106-119.

> The Decision dated April 8, 2010 and the Resolution dated June 3, 2010 of the Court in Division in CTA Case No. 7769 are hereby **AFFIRMED** as to result only.
>
> **SO ORDERED.**[6]

In light of the ruling in *CIR v. Aichi Forging Company of Asia, Inc.*[7] (*Aichi*), the CTA En Banc held that in accordance with Section 112(C) of the NIRC, it was incumbent upon the taxpayer to give the CIR a period of 120 days to either partially or fully deny the claim; and it was only upon the denial of the claim or after the expiration of the 120-day period without action, that the taxayer could seek judicial recourse. Considering that Taganito filed its judicial claim before the expiration of the 120-day period, the CTA En Banc ruled that the judicial claim was prematurely filed and, consequently, it had no jurisdiction to entertain the case.

Nonetheless, in the exercise of its judicial prerogative to resolve the merits of the case, the CTA En Banc held that it agreed with the ruling of the CTA Division that Taganito failed to prove that it complied with the substantiation requirements, considering that the burden of proof rested upon the taxpayer to establish by sufficient and competent evidence its entitlement to the refund.

In the assailed Resolution, dated March 22, 2012, the CTA En Banc denied Taganito's motion for reconsideration.[8]

Hence, the present petition where Taganito raises the following:

Grounds for the Petition

I. The Court of Tax Appeals En Banc committed serious error and acted with grave abuse of discretion tantamount to lack or excess of jurisdiction in erroneously applying the *Aichi* doctrine to the instant case for the following reasons:

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[6] Id. at 92.
[7] G.R. No. 184823, October 6, 2010, 632 SCRA 422.
[8] *Rollo*, pp. 99-105.

A. The *Aichi* ruling is issued in violation of Art. VIII, Sec. 4(3)[9] of the 1987 Constitution;
B. The *Aichi* doctrine is an erroneous application of the law; and
C. Even if the *Aichi* doctrine is good law, its application to the instant case will be in violation of petitioner's right to due process and the principles of *stare decisis* and *lex prospicit, non respicit*

II. The Court of Tax Appeals En Banc committed serious error and acted with grave abuse of discretion tantamount to lack or excess of jurisdiction:

A. By failing to consider that the findings of fact of the CTA Division are not in accordance with the evidence on record and with existing laws and jurisprudence
B. By failing to state in the Questioned Decision, the factual and legal bases for its agreement to the CTA Division's finding that Petitioner failed to prove compliance with substantiation requirements
C. By not granting the amount of petitioner's excess VAT input taxes being claimed for refund which are clearly supported by evidence on record.[10]

Taganito basically argues that prior to *Aichi*, it was a well-settled doctrine that a taxpayer need not wait for the decision of the CIR on its administrative claim for refund before filing its judicial claim, in accordance with the period provided in Section 229 of the NIRC stating that no suit for the recovery of erroneously or illegally collected tax shall be filed after the expiration of two years from the date of payment of the tax.

The petitioner also insists that the official receipts issued by the authorized agent banks acting as collection agents of the respondent, constituted more than sufficient proof of payment of the VAT. It further points to the report of the independent certified public accountant *(CPA),* showing that the purchases and input VAT paid/incurred were properly recorded in the books of accounts. It adds that the balance sheet in its 2006 audited financial statements should be considered as it contained a note providing the details of its subsidiary ledger recording the purchase of

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[9] (3) Cases or matters heard by a division shall be decided or resolved with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case without the concurrence of at least three of such Members. When the required number is not obtained, the case shall be decided *en banc*: *Provided*, that no doctrine or principle of law laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the court sitting *en banc.*

[10] *Rollo*, pp. 15-17.

capital goods. Taganito explains that it is not difficult to understand that a dump truck is capital equipment in a mining operation, as contained in the import entry internal revenue declaration *(IEIRD)* and testified to by its Vice-President for Finance. Lastly, the petitioner argues that because the CTA found that the purchases were not capital goods, the rule on the amortization of input tax cannot, thus, be applied to it.

In the Comment[11] to the petition, the CIR counters that *Aichi* is a sound decision and that pursuant thereto, the petitioner's judicial claim for refund was prematurely filed. The CIR further argues that Taganito failed to comply with the necessary substantiation requirements to prove actual payment of the claimed input VAT.

In its Reply,[12] Taganito concedes that the issue on the prescriptive periods for filing of tax credit/refund of unutilized input tax has been finally put to rest in the Court's En Banc decision in the consolidated cases of *Commission of Internal Revenue vs. San Roque Power Corporation* (G.R. No. 187485), *Taganito Mining Corporation vs. Commissioner of Internal Revenue* (G.R. No. 196113), and *Philex Mining Corporation vs. Commissioner of Internal Revenue* (G.R. No. 197156).[13]

Taganito, in accordance with the said decision, now argues that since it filed its judicial claim after the issuance of BIR Ruling No. DA-489-03, but before the adoption of the *Aichi* doctrine, it can invoke the said BIR ruling which provided that the "taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review." Taganito avers that its petition for review was, therefore, not prematurely filed before the CTA.

As to the issue of substantiation, the petitioner points out that respondent CIR directed that the amount of □4,611,123.00 be indorsed to the Bureau of Customs, which it insists is further proof that it actually paid the input taxes claimed.

Ruling of the Court

Judicial claim timely filed

The Court agrees with petitioner that the prevailing doctrine pertinent to the issue at hand is *CIR v. San Roque Power Corporation (San Roque).*[14]

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[11] Id. at 162-184.
[12] Id. at 199-203.
[13] February 12, 2013, 690 SCRA 336.
[14] G.R. No. 187485, February 12, 2013, 690 SCRA 336.

It was conclusively settled therein that it is Section 112 of the NIRC which is applicable specifically to claims for tax credit certificates and tax refunds for unutilized creditable input VAT, and not Section 229. The recent case of *Visayas Geothermal Power Company vs. Commissioner of Internal Revenue* encapsulates the relevant ruling in *San Roque*:

> Two sections of the NIRC are pertinent to the issue at hand, namely Section 112 (A) and (D) and Section 229, to wit:
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> **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 of 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.
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> x x x
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> **(D) 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 Subsections (A) and (B) hereof.
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> **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.**
>
> **SEC. 229. Recovery of Tax Erroneously or Illegally Collected. - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected**, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, **until a claim for refund or credit has been duly filed with the Commissioner**; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

> In any case, **no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty** regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.
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> (Emphases supplied)

It has been definitively settled in the recent En Banc case of *CIR v. San Roque Power Corporation* (*San Roque*), that it is Section 112 of the NIRC which applies to claims for tax credit certificates and tax refunds arising from sales of VAT-registered persons that are zero-rated or effectively zero-rated, which are, simply put, claims for unutilized creditable input VAT.

Thus, under Section 112(A), the taxpayer may, within 2 years after the close of the taxable quarter when the sales were made, via an administrative claim with the CIR, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Under Section 112(D), the CIR must then act on the claim within 120 days from the submission of the taxpayer's complete documents. In case of (a) a full or partial denial by the CIR of the claim, or (b) the CIR's failure to act on the claim within 120 days, the taxpayer may file a judicial claim via an appeal with the CTA of the CIR decision or unacted claim, within 30 days (a) from receipt of the decision; or (b) after the expiration of the 120-day period.

The 2-year period under Section 229 does not apply to appeals before the CTA in relation to claims for a refund or tax credit for unutilized creditable input VAT. Section 229 pertains to the recovery of taxes erroneously, illegally, or excessively collected. *San Roque* stressed that "input VAT is not 'excessively' collected as understood under Section 229 because, at the time the input VAT is collected, the amount paid is correct and proper." It is, therefore, Section 112 which applies specifically with regard to claiming a refund or tax credit for unutilized creditable input VAT.

Upholding the ruling in *Aichi*, *San Roque* held that the 120+30 day period prescribed under Section 112(D) mandatory and jurisdictional. The jurisdiction of the CTA over decisions or inaction of the CIR is only appellate in nature and, thus, necessarily requires the prior filing of an administrative case before the CIR under Section 112. The CTA can only acquire jurisdiction over a case after the CIR has rendered its decision, or after the lapse of the period for the CIR to act, in which case such inaction is considered a denial. A petition filed prior to the lapse of the 120-day period prescribed under said Section would be premature for violating the doctrine on the exhaustion of administrative remedies.

> There is, however, an exception to the mandatory and jurisdictional nature of the 120+30 day period. The Court in *San Roque* noted that BIR Ruling No. DA-489-03, dated December 10, 2003, expressly stated that the "taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review." This BIR Ruling was recognized as a general interpretative rule issued by the CIR under Section 4 of the NIRC and, thus, applicable to all taxpayers. Since the CIR has exclusive and original jurisdiction to interpret tax laws, it was held that taxpayers acting in good faith should not be made to suffer for adhering to such interpretations. Section 246 of the Tax Code, in consonance with equitable estoppel, expressly provides that a reversal of a BIR regulation or ruling cannot adversely prejudice a taxpayer who in good faith relied on the BIR regulation or ruling prior to its reversal. Hence, taxpayers can rely on BIR Ruling No. DA-489-03 from the time of its issuance on December 10, 2003 up to its reversal by this Court in *Aichi* on October 6, 2010, where it was held that the 120+30 day period was mandatory and jurisdictional.
>
> Accordingly, the **general rule** is that the 120+30 day period is mandatory and jurisdictional from the effectivity of the 1997 NIRC on January 1, 1998, up to the present. As an **exception**, judicial claims filed from December 10, 2003 to October 6, 2010 need not wait for the exhaustion of the 120-day period.[15]
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> (Emphases supplied)

From the foregoing, it is clear that the two-year period under Section 229 does not apply to appeals before the CTA with respect to claims for a refund or tax credit for unutilized creditable input VAT since input VAT is not considered "excessively" collected. Instead, it was settled that it is Section 112 which applies, thereby making the 120+30 day period prescribed therein mandatory and jurisdictional in nature.

As an *exception* to the mandatory and jurisdictional nature of the 120+30 day period, judicial claims filed from the issuance of BIR Ruling No. DA-489-03 on December 10, 2003 up to its reversal in *Aichi* on October 6, 2010, need not wait for the lapse of the 120+30 day period, in consonance with the principle of equitable estoppel.

In the present case, Taganito filed its judicial claim with the CTA on April 17, 2008, clearly within the period of exception of December 10, 2003 to October 6, 2010. Its judicial claim was, therefore, not prematurely filed.

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[15] *Visayas Geothermal Power Company v. Commissioner of Internal Revenue*, G.R. No. 197525, June 4, 2014.

Failure to comply with substantiation requirements

It is apparent from the petitioner's assertions that it calls on the Court to review the evidence it submitted before the CTA in order to determine whether the input taxes being claimed were paid and duly substantiated. This clearly constitutes a question of fact that is beyond the Court's ambit of review under Rule 45 of the Rules of Court, especially considering that the findings of fact of the CTA Division were affirmed by the CTA En Banc.

In any case, the Court finds no reason to deviate from the factual findings of the CTA. The Court agrees with the finding of the CTA Division that petitioner failed to duly substantiate its claim.

Taganito insists that the official receipts issued by the bank authorized to collect import duties and taxes are the best evidence to prove its payment of the input tax being claimed. Two official receipts were presented in support of its claim, namely, OR No. 0028847 and OR No. 014371. As noted by the CTA, there was no year indicated in OR No. 0028847, in support of the claim of □1,131,431.00. It is plain that this claim cannot be deemed to have been properly substantiated.

Even assuming that the proper year was indicated, these official receipts would still not comply with the substantiation requirements provided by law. Indeed, under Sections 110(A) and 113(A) of the NIRC, any input tax that is subject of a claim for refund must be evidenced by a VAT invoice or official receipt. With regard to the importation of goods or properties, however, Section 4.110-8 of R.R. No. 16-05, as amended, further requires that an import entry or other equivalent document showing actual payment of VAT on the imported goods must also be submitted, to wit:

> SECTION 4.110-8. Substantiation of Input Tax Credits. –
> (a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents and must be reported in the information returns required to be submitted to the Bureau:
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> > **(1) For the importation of goods – import entry or other equivalent document showing actual payment of VAT on the imported goods.**
>
> (Emphasis supplied)

In relation to this requirement, Customs Administrative Order No. 2-95 provides:

> 2.3 The Bureau of Customs Official Receipt (BCOR) will no longer be issued by the AABs (Authorized Agent Banks) for the duties and taxes collected. In lieu thereof, the amount of duty and tax collected including other required information must be machine validated directly on the following import documents and signed by the duly authorized bank official:
>
> > 2.3.1 Import Entry and Internal Revenue Declaration (IEIRD) for final payment of duties and taxes.
>
> x x x

From the foregoing, it is apparent that an IEIRD is required to properly substantiate the payment of the duties and taxes on imported goods. Considering that the petitioner failed to submit the import entries relevant to its claim, the CTA did not err in ruling that the petitioner's claim was not sufficiently proven.

Assuming *arguendo* that Taganito had submitted the valid import entries, its claim would still fail. Its claim of refund of input VAT relates to its importation of dump trucks, allegedly a purchase of capital goods. In this regard, Sections 4.110-3 and 4.113-3 of R.R. No. 16-05, as amended by R.R. No. 4-2007, provide:

> SECTION 4.110-3. Claim for Input Tax on Depreciable Goods. – Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds one million pesos (□1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:
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> (a) If the estimated useful life of a capital good is five (5) years or more – The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.
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> (b) If the estimated useful life of a capital good is less than five (5) years – The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising

> the estimated useful life of a capital good. The claim for input tax credit shall commence in the month that the capital goods were acquired.
>
> Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed one million pesos (□1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.
>
> **Capital goods or properties refers to goods or properties with estimated useful life greater than 1 year and which are treated as depreciable assets under Sec. 34(F) of the tax Code, used directly or indirectly in the production or sale of taxable goods or services.**
>
> The aggregate acquisition cost of depreciable assets in any calendar month refers to the total price, excluding VAT, agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired on installment for an acquisition cost of more than □1,000,000.00, excluding the VAT, will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed □1,000,000.00.
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> SECTION 4.113-3. Accounting Requirements. – Notwithstanding the provisions of Sec. 233, all persons subject to VAT under Sec. 106 and 108 of the Tax Code shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which every sale or purchase on any given day is recorded. The subsidiary journal shall contain such information as may be required by the Commissioner of Internal Revenue.
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> **A subsidiary record in ledger form shall be maintained for the acquisition, purchase or importation of depreciable assets or capital goods which shall contain, among others, information on the total input tax thereon as well as the monthly input tax claimed in VAT declaration or return.**
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> (Emphases supplied)

Taganito argues that the report of the independent CPA shows that purchases and input VAT paid/incurred were properly recorded in its books of accounts. In addition, it avers that the Balance Sheet in its 2006 Audited Financial Statements showing an account item for property and equipment under its non-current assets indicates that details are found on Note 7 on page 19 of the Notes to Financial Statements, which provide the complete details of its subsidiary ledger. It also alleges that the pertinent IERIDs were reviewed by the independent CPA and they clearly state that the items

imported were dump trucks, and that its Vice-President for Finance testified what consists of its purchases of capital goods.

These arguments cannot be given credence.

First, Taganito failed to prove that the importations pertaining to the input VAT are in the nature of capital goods and properties as defined in the abovequoted section. It points to the report of the independent CPA which allegedly reviewed the IERIDs and subsidiary ledger containing the description of the dump trucks. Nonetheless, the petitioner failed to present the actual IERIDs and subsidiary ledger, which would constitute the best evidence rather than a report merely citing them. It did not give any reason either to explain its failure to present these documents. The testimony of its Vice-President for Finance would be insufficient to prove the nature of the importation without these supporting documents.

Second, even assuming that the importations were duly proven to be capital goods, Taganito's claim still would not prosper because it failed to present evidence to show that it properly amortized the related input VAT over the estimated useful life of the capital goods in its subsidiary ledger, as required by the abovequoted sections. This is made apparent by the fact that Taganito's claim for refund is for the full amount of the input VAT on the importation, rather than for an amortized amount, and by its failure to present its subsidiary ledger.

In sum, the CTA indeed erred in dismissing the case for having been prematurely filed. The petitioner, nonetheless, failed to properly substantiate its claim for refund of the input VAT on its importations.

WHEREFORE, the petition is **DENIED**. The October 19, 2011 Decision of the Court of Tax Appeals En Banc, and its March 22, 2012 Resolution, in CTA EB Case No. 656, are **SET ASIDE**. The April 8, 2010 Decision and June 3, 2010 Resolution of the CTA Former Second Division in CTA Case No. 7769 are **REINSTATED**.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

BIENVENIDO L. REYES
Associate Justice

Concur subject to two points in my dissent in Sanlakas v. AR

MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice