REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

TULLET PREBON (PHILIPPINES) INC.,
Respondent.

CTA *EB* NO. 2576
(CTA Case No. 9562)

Members:

DEL ROSARIO, *PJ,*
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:
FEB 16 2023 1:15pm

x -x

DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (CIR), praying that the June 17, 2021 Decision[2] (assailed Decision) and the February 24, 2022 Resolution[3] (assailed Resolution) of the Court's First Division (Court in Division) in CTA Case No. 9562 be reversed and set aside, and a new one be rendered denying respondent's claim for refund. The dispositive portion of the assailed Decision and Resolution read:

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[1] *En Banc* (*EB*) Docket, pp. 1-13; Division Docket – Vol. II, pp. 1013-1068, with annexes.
[2] *EB* Docket, pp. 19-50; Division Docket – Vol. II, pp. 940-971.
[3] *EB* Docket, pp. 51-55; Division Docket – Vol. II, pp. 1008-1012.

Decision dated June 17, 2021:

> **WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, in the reduced amount of **₱5,310,177.10**, representing its excess and unutilized CWTs for CY 2014.
>
> **SO ORDERED.**

Resolution dated February 24, 2022:

> **WHEREFORE**, premises considered, respondent's *Motion for Partial Reconsideration (Decision promulgated 17 June 2021)* filed on July 8, 2021, is **DENIED** for lack of merit.
>
> Accordingly, the Decision of the Court in the above-captioned case dated June 17, 2021, is hereby **AFFIRMED**.
>
> **SO ORDERED.**

THE PARTIES

Petitioner is the duly appointed CIR vested with the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the Tax Code or other laws or regulations administered by the Bureau of Internal Revenue (BIR). The CIR holds office at the 5th floor, BIR National Office Building, BIR Road, Diliman, Quezon City.[4]

Respondent Tullet Prebon (Philippines) Inc. is a domestic corporation duly organized and existing under Philippine laws, with principal office at the 25th Floor, Rufino Pacific Tower, 6784 Ayala Avenue, Makati City.[5]

THE FACTS

The facts, as narrated by the Court in Division in the assailed Decision, are as follows:

[4] Parties, Petition for Review, *EB* Docket – p. 2.
[5] Par. 2, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Division Docket – Vol. 1, p. 292.

On February 12, 2016, [respondent] filed with the Bureau of Internal Revenue (BIR) an administrative written claim for refund dated January 27, 2016, and an Application for Tax Credits/Refunds (BIR Form No. 1914), requesting for the issuance of a tax credit certificate in the amount of ₱10,786,046.53, allegedly representing excess CWTs for CY ended December 31, 2014.

Due to the inaction of [petitioner], [respondent] filed the instant Petition for Review on March 31, 2017. The case was initially raffled to the Court's Third Division.

[Petitioner] filed his *Answer* to the Petition for Review on August 4, 2017.

The Pre-Trial Conference was set and held on February 20, 2018. Prior thereto, [respondent] filed its Pre-Trial Brief on February 15, 2018; while [petitioner] filed his Pre-Trial Brief on February 19, 2018.

Thereafter, the parties submitted, on March 14, 2018, their Joint Stipulation of Facts and Issues (JSFI). The Court then issued the Pre-Trial Order on April 11, 2018.

On May 25, 2018, [petitioner] transmitted the BIR Records for the instant case.

During trial, [respondent] presented documentary and testimonial evidence. [Respondent] offered the testimonies of the following individuals, namely: (1) Mr. Philip G. Arabia, petitioner's Finance Manager; and (2) Ms. Katherine O. Constantino, the Court-commissioned Independent Certified Public Accountant (ICPA).

The Report of the ICPA was submitted on June 20, 2018.

[Respondent] filed its Formal Offer of Evidence on August 17, 2018. [Petitioner] submitted his Comment (Re: [Respondent]'s Formal Offer of Evidence) on August 22, 2018.

Pursuant to the Order dated September 25, 2018, this case was transferred to the Court's First Division.

In the Resolution dated November 23, 2018, the Court admitted [respondent]'s Exhibits, except for Exhibits "P-2391" and "P-2657" to "P-2662", for failure to present the originals for comparison.

[Respondent] then filed, on December 20, 2018, an Omnibus Motion (I) For Partial Reconsideration (Re: Resolution dated November 23, 2018); and (II) To Set Commissioner's Hearing. [Petitioner] failed to file his comment

on the said Omnibus Motion. In the Resolution dated May 21, 2019, the Court granted [respondent]'s Omnibus Motion, and admitted Exhibits "P-2391", "P-2657", "P-2659", and "P-2661", as part of [respondent]'s evidence.

At the scheduled hearing on July 23, 2019, for the initial presentation of [petitioner]'s evidence, counsel for [petitioner] manifested that she will no longer present any evidence for [petitioner]. Counsel for [respondent], however, manifested that she intends to present additional evidence in this case. Finding no merit in said manifestation of [respondent] and considering the vehement objection of [petitioner]'s counsel, the Court denied the motion/manifestation.

Undaunted, [respondent] filed, on August 7, 2019, its Omnibus Motion (I) For Reconsideration (Re: Resolution made on July 23, 2019); (II) For Leave of Court to Present Additional Evidence; and (III) To Defer Submission of Memoranda, praying that the Court: (1) reconsider the Order given in open court on July 23, 2019, denying [respondent]'s motion for leave of court to present additional evidence; (2) issue a Resolution allowing [respondent] to present additional evidence and to recall its witness, Ms. Constantino; and (3) defer the filing of the parties' memoranda pending the resolution of this Omnibus Motion and the presentation of additional evidence.

[Petitioner] submitted his *Memorandum* on August 20, 2019.

On August 22, 2019, [respondent] filed a Manifestation (With Motion to Resolve Omnibus Motion dated August 6, 2019), praying for this Court (1) to issue a Resolution on petitioner's Omnibus Motion dated August 6, 2019, and (2) to allow the deferment of the submission of [respondent]'s Memorandum until the Court has resolved [respondent]'s Omnibus Motion dated August 6, 2019 or until [respondent] has completed the presentation of its additional evidence. In the Resolution dated August 22, 2019, the Court granted [respondent]'s Motion to Defer Submission of Memoranda and deferred the submission of the parties' memoranda until further orders. Thereafter, [petitioner] filed on September 9, 2019 his Opposition (Re: Motion for Reconsideration of the Resolution dated 23 July 2019 and for Leave of Court to Present Additional Evidence). In the Resolution dated December 20, 2019, the Court denied [respondent]'s Omnibus Motion for lack of merit.

Subsequently, [respondent] filed its Memorandum on June 30, 2020.

The case was submitted for decision on July 16, 2020.

On June 17, 2021, the Court in Division promulgated the assailed Decision partially granting the *Petition for Review* and ordering petitioner to issue a tax credit certificate (TCC) in respondent's favor in the reduced amount of ₱5,310,177.10.

Aggrieved, petitioner filed a *Motion for Partial Reconsideration (Decision promulgated 17 June 2021)* on July 8, 2021,[6] which was denied by the Court in Division in its assailed Resolution dated February 24, 2022.

On March 11, 2022, petitioner filed this *Petition for Review* assailing the June 17, 2021 Decision and February 24, 2022 Resolution of the Court in Division.

On April 18, 2022, respondent filed its *Comment (Re: Petition for Review dated March 8, 2022).*[7]

On May 11, 2022, the Court issued a Resolution[8] referring the case to the Philippine Mediation Center - Court of Tax Appeals (PMC-CTA) for mediation. On May 31, 2022, the Court received the PMC-CTA's "No Agreement to Mediate" report[9] indicating that the parties decided not to have their case mediated.

Hence, on June 22, 2022, the Court submitted the present *Petition for Review* for decision.

THE ISSUE

Petitioner assigns the following error for the resolution of the Court *En Banc*:

> THE FIRST DIVISION OF THE HONORABLE COURT ERRED IN RULING THAT RESPONDENT IS ENTITLED TO REFUND IN THE AMOUNT OF ₱5,310,177.10 REPRESENTING ALLEGED EXCESS AND UNUTILIZED CWTs FOR CALENDAR YEAR 2014

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[6] Division Docket – Vol. II, pp. 972-982.
[7] *EB* Docket, pp. 59-78.
[8] *Id.*, pp. 80-81.
[9] *Id.*, p. 82.

Petitioner's arguments:

Petitioner claims that respondent did not provide supporting documents to show that the income from which CWT is being claimed was declared in its Annual Income Tax Return (AITR) for CY 2014; hence, there is no direct linkage between the CWT and the income as reflected in the said AITR. Petitioner argues that it is required that the gross income as reported in the AITR must include the portion of income which respondent is requesting for refund of CWT.

Petitioner further claims that respondent failed to prove actual remittance of the alleged excess taxes to the BIR, which is indispensable in its claim for refund of excess CWT.

Petitioner also insists that respondent did not submit the documents to prove its claim for unutilized and excess CWT under Revenue Memorandum Order (RMO) No. 53-98[10] and Revenue Regulations (RR) No. 2-2006.[11] The taxpayer's failure to submit relevant documents makes the administrative claim for tax credit or refund *pro forma* and shall be construed as if no administrative claim was filed. More, the alleged failure of respondent to submit relevant documents deprived petitioner of the opportunity to study respondent's claim for a refund, so respondent's petition for review before the Court in Division must be dismissed for prematurity or lack of cause of action.

Respondent's counter-arguments:

Respondent asserts that this petition is a mere rehash of petitioner's Motion for Reconsideration and that petitioner's arguments in this Petition were weighed and considered by the Court in Division and found unmeritorious.

Respondent counters that it submitted voluminous documents to prove that the income from which CWT is being claimed was declared as part of the gross income reported in its AITR. Respondent adds that proof of actual remittance of the claimed CWTs is not required as a requisite for the claim for refund of excess CWT. Respondent points out that the

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[10] Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which Comprise a Complete Tax Docket, June 25, 1998.

[11] Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT) to Tax Returns with Claimed Tax Credits due to Creditable Tax Withheld at Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payment, January 5, 2006.

submission of a copy of a statement duly issued by the payor or withholding agent to the payee showing the amount paid and the amount of tax withheld therefrom, *i.e.*, Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307), is sufficient proof of the fact of withholding.

Respondent further alleges that petitioner did not identify which of the alleged documentary requirements under RMO No. 53-98 and RR No. 2-2006 that respondent failed to submit to the BIR. Even so, RMO No. 53-98 and RR No. 2-2006 did not state that the non-submission of the documents enumerated therein would result in the denial of the claim for tax refund or credit. The said regulations were issued for audit purposes and to help promote a better business environment and secure government revenues by insuring observance of the withholding tax system.

THE COURT *EN BANC'S* RULING

The instant *Petition for Review* is not impressed with merit.

The Petition for Review was filed on time.

Before delving into the merits of the case, the Court *En Banc* shall determine whether the present Petition for Review was timely filed.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals states:

> SEC. 3. *Who may appeal; period to file petition.* — xxx
>
> xxx xxx xxx
>
> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Emphasis supplied*)

On March 7, 2022, petitioner received a copy of the assailed Resolution denying his Motion for Partial Reconsideration of the assailed Decision for lack of merit. Thus, petitioner had fifteen (15) days from March 7, 2022, or until March 22, 2022, to file a Petition for Review before the Court *En Banc*.

On March 11, 2022, petitioner filed the present Petition. Hence, it was timely filed.

The income payments upon which the CWTs were being claimed were declared in respondent's AITR.

Petitioner claims that respondent failed to show that the income from which the CWTs were withheld, was declared in its AITR.

We disagree.

After an assiduous review of the evidence, the Court in Division found that respondent reported the income payments, which were the basis of the claimed CWTs, in its AITR. We reiterate with affirmation the disquisition of the Court *a quo* on the matter, *viz.*:

> This brings us to the determination of the above-stated third requisite, which is **whether or not the income upon which the subject taxes were withheld was included and reported by petitioner in its Annual ITR**.
>
> The certificates show that the claimed CWTs were withheld on income payments amounting to ₱121,552,093.70, representing gross commissions or service fees of customs, insurance, stock, real estate, immigration, and commercial brokers.
>
> On the other hand, [respondent]'s Audited Financial Statements (AFS) for CY 2014 disclosed that the principal activity of [respondent] is to operate as a broker between market participants in foreign exchange, deposits, and fixed income securities, among others. Brokerage fees-net derived from such activity in 2014 amounted to ₱130,220,141.00. This is the same amount reflected as "Net Sales/Revenues/Receipts/Fees" from Sales of Services in [respondent]'s Annual ITR for CY 2014.

> As ascertained by the ICPA, [respondent]'s revenue account subjected to withholding tax at the rates of 2%, 10%, or 15% was lodged under "Account 60005 — Gross Brokerage Name Give Up" which shows a total amount of ₱130,220,140.56 per petitioner's general ledger.
>
> To verify that the ₱121,552,093.70 income payments per certificates indeed formed part of [respondent]'s declared income per Annual ITR, the ICPA traced in the revenue general ledger of "Account 60005 — Gross Brokerage Name Give Up" the related income amount of the claimed CWT based on [respondent]'s Schedule of Creditable Withholding Taxes, billing invoices, and official receipts, for CY 2014. ...
>
> This Court is unable to verify the CWTs traced to CY 2013 Gross Brokerage Account General Ledger by the ICPA as [respondent] failed to present the same, and thus, shall perforce be denied.
>
> Correspondingly, **[respondent] was able to prove that the *income payments* of ₱109,976,491.59, with corresponding CWTs of ₱9,714,600.10, formed part of the income declared in its Annual ITR for CY 2014**. ... (*Emphases supplied*)

Petitioner further claims that respondent did not provide *supporting documents* to show that the income, which is the basis of the CWTs sought to be refunded, was declared in its AITR.[12] However, petitioner failed to specify the *supporting documents* that respondent must submit to prove that the subject income from which taxes were withheld was declared in the AITR.[13] Allegations must be proven by sufficient evidence because a mere allegation is not evidence.[14]

On the contrary, a meticulous examination of respondent's evidence, particularly the Schedule of Creditable Withholding Tax, the pertinent Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307) for CY 2014, and the uncontroverted testimony of the Court-commissioned ICPA, proves that the income payments relative to the claimed CWTs were indeed declared as part of respondent's gross income in its AITR.

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[12] Par. 6, Petition for Review, *EB* Docket, p. 3.
[13] *Id.*
[14] *Spouses Nilo Ramos and Eliadora Ramos v. Raul Obispo and Far East Bank and Trust Company*, G.R. No. 193804, February 27, 2013, citing *Real v. Sangu Philippines, Inc.*, G.R. No. 168757, January 19, 2011, citing *General Milling Corporation v. Casio*, G.R. No. 149552, March 10, 2010.

Respondent need not prove actual remittance of tax for its claim for refund or credit of excess CWT to prosper.

Petitioner contends that respondent should have presented evidence to prove the actual remittance of the alleged withholding taxes.

We are not persuaded.

Petitioner's position that proof of actual remittance is a condition precedent before a claim for refund of excess CWTs may prosper has no basis in law and jurisprudence.

In *Commissioner of Internal Revenue v. Philippine National Bank*,[15] the Supreme Court ruled that proof of actual remittance is not a condition to claim a refund of CWT, *viz.*:

> ... Under Sections 57 and 58 of the 1997 National Internal Revenue Code, as amended, it is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with the responsibility of withholding and remitting income taxes.
>
> This court's ruling in *Commissioner of Internal Revenue v. Asian Transmission Corporation*, citing the Court of Tax Appeals' explanation, is instructive:
>
> > ... **proof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner**. Section 2.58.3 (B) of Revenue Regulation No. 2-98 clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has

[15] G.R. No. 180290, September 29, 2014.

> been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Sections 57 and 58 of the NIRC of 1997, as amended, the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent ... has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. **The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents.** (*Emphasis supplied*)

The presentation of CWT certificates as *prima facie* proof of payment of taxes is affirmed by the Supreme Court in a more recent case also involving the Philippine National Bank, *viz.*:[16]

> At this juncture, the Court quotes with affirmation the following discussion of the CTA in Division:
>
> The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment to the government through the agents. In *Commissioner of Internal Revenue vs. Philippine National Bank*, the Supreme Court stressed the importance of presenting the pertinent CWT certificates in this wise:
>
> > **The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld.** It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates. In *Banco Filipino Savings and Mortgage Bank v. Court of Appeals*, this court declared that **a certificate is complete in the relevant details that would aid the courts in the evaluation of any claim for refund of excess creditable withholding taxes**[.] ... *(Emphasis supplied)*

From the foregoing, proof of actual remittance of withheld taxes is not an indispensable requirement in claims for refund/credit of CWTs. The certificate of creditable tax withheld at source proves that taxes are withheld.

[16] *Philippine National Bank v. Commisioner of Internal Revenue*, G.R. Nos. 242647 & 243814, G.R. Nos. 242842-43, March 15, 2022.

Here, the fact of withholding was sufficiently established by respondent upon presentation of the relevant Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307) for CY 2014.

Non-submission of the documents required under RMO No. 53-98 and RR No. 2-2006 does not result in the denial of respondent's claim for refund or credit.

Petitioner insists that respondent's failure to submit the complete requirements under RMO No. 53-98 and RR No. 2-2006 makes respondent's administrative claim for refund or credit *pro-forma* and shall be deemed as if no administrative claim was filed at all.

Petitioner further insists that respondent's failure to prove compliance with the requirements of the issuances mentioned above (RMO No. 53-98 and RR No. 2-2006) at the administrative level renders the instant Petition for Review vulnerable, and weak, and unworthy of refund.

We disagree.

The above contentions of petitioner have been squarely addressed and passed upon by the Court in Division in the assailed Decision, which is hereby quoted with approval:

> Respondent also argues that petitioner must prove compliance with Revenue Memorandum Order (RMO) No. 53-98 and RR No. 2-2006 to give support to the validity of its claim for unutilized CWT. He contends that petitioner miserably failed to substantiate its administrative claim for refund because it failed to submit the complete requirements prescribed under RMO No. 53-98. According to respondent, failure on the part of the taxpayer to submit relevant documents in the administrative level, such as in the instant case, makes the administrative claim for tax refund or credit *pro-forma* and shall be construed as if no administrative claim was filed at all.
>
> Respondent's position lacks merit.
>
> A cursory reading of RMO No. 53-98 and RR No. 2-2006 shows that nowhere is it stated that the non-submission of the documents enumerated therein would *ipso facto* result in the denial of the claim for tax refund or credit. In fact, **RR No.**

2-2006 merely imposes a penalty of a fine for non-submission of the information or statements required therein, but not the outright denial of any claim for tax refund or credit.

In *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue,* the Supreme Court, citing *Commissioner of Internal Revenue vs. Team Sual Corporation (Formerly Mirant Sual Corporation),* pointed out that **there is nothing under RMO No. 53-98 that requires the submission of complete documents for a grant of a refund or credit**, ...

While the above case involves a claim for tax refund or credit of unutilized VAT, We find that the principle enunciated therein is also applicable in a claim for tax refund or issuance of tax credit certificate of unutilized CWTs.

As held in the *Pilipinas Total Gas* case, RMO No. 53-98 is merely a guide to revenue officers as to what documents they may require taxpayers to present upon audit of their tax liabilities and is never intended to be a benchmark in determining whether the documents submitted by a taxpayer are actually complete to support a claim for tax credit or refund. Moreover, the Supreme Court categorically ruled that the failure of the taxpayer to submit the requirements listed under RMO No. 53-98 is *not fatal* to its claim for tax credit or refund.

In any case, even when this Court ought to disregard the said ruling in the *Pilipinas Total Gas* case, and petitioner was indeed *not* able to submit the required documents at the administrative level, the same is of no moment. In *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.,* the Supreme Court ruled as follows:

> "Cases filed in the CTA are litigated *de novo* as such, respondent 'should prove every minute aspect of its case by presenting, formally offering and submitting x x x to the Court of Tax Appeals all evidence x x x required for the successful prosecution of its administrative claim. Consequently, **the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.**"

Since this case is being essentially decided in the first instance, this Court may give credence to all evidence presented by petitioner, including those that may not have been submitted at the administrative level. **As a corollary, this Court cannot give credence to the said argument of respondent regarding petitioner's failure to submit the**

> **supposed required documents at the administrative level**. (*Emphasis supplied*)

The aforesaid ruling of the Court in Division finds support in the recent case of *Philippine National Bank v. Commissioner of Internal Revenue*,[17] thus:

> ... The Court rejects the CIR's contention that PNB cannot be deemed to have filed its administrative claim because the latter failed to submit all of the documents mentioned in RMO No. 53-98 and RR No. 2-2006.
>
> In the first place, PNB was never apprised by the CIR of the alleged incompleteness of the documents in support of its claim for refund. By failing to inform PNB of the need to submit any additional document, the CIR cannot now argue that the judicial claim should be dismissed because it failed to submit complete documents. And at any rate, **a cursory reading of RMO No. 53-98 and RR No. 2-2006 reveals that neither issuance explicitly states that the failure to submit the required documents is tantamount to a non-filed claim**. In fact, Section 5 of RR No. 2-2006 merely provides a penalty of fine for non-submission of these documents. (*Emphasis supplied*)

The Court in Division was correct in partially granting respondent's claim for tax refund/credit of the alleged excess and unutilized CWTs for CY 2014.

Petitioner argues that the Court in Division erred when it partially granted respondent's claim for tax refund or credit in the reduced amount of **₱5,310,177.10**, representing its excess and unutilized CWTs for CY 2014.

We are not persuaded.

The Court *En Banc* finds that respondent sufficiently proved its entitlement to the issuance of a tax credit certificate of its excess CWTs for CY 2014 in the reduced amount of **₱5,310,177.10.** Moreover, the Court *En Banc* agrees with the conclusion reached by the Court in Division, and quotes:

[17] G.R. Nos. 242647 & 243814, G.R. Nos. 242842-43, March 15, 2022.

In sum, petitioner complied with the three (3) requisites for refund of excess CWTs for CY 2014, but only up to the extent of P9,714,600.10.

... ...

The Court shall now proceed to determine whether the aforesaid CWTs of P9,714,600.10 are unutilized and may be the proper subject of a claim for refund or issuance of a tax credit certificate, pursuant to Section 76 of the NIRC of 1997, which reads: ...

Considering that petitioner failed to prove that it had prior years excess credits, petitioner's properly substantiated CWTs for CY 2014 in the amount of P9,714,600.10, as stated earlier, should be applied to cover its income tax due for CY 2014 in the amount of P4,404,423.00, as shown below:

Valid CWTs for 2014	P9,714,600.10
Less: Income Tax Due for CY 2014	4,404,423.00
Excess Valid CWTs for 2014	**P5,310,177.10**

In view of the foregoing, petitioner sufficiently proved its entitlement to the issuance of a tax credit certificate of its excess CWTs for CY 2014, but only up to the extent of P5,310,177.10. Parenthetically, since petitioner opted to be issued a tax credit certificate for its excess and unutilized CWTs for CY 2014, as indicated on its Annual ITR for CY 2014, it is not entitled to be refunded with the said amount.

Considering petitioner's failure to raise meritorious arguments, the denial of the instant Petition is in order.

WHEREFORE, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the June 17, 2021 Decision and the February 24, 2022 Resolution of the Court's First Division in CTA Case No. 9562 are **AFFIRMED** *in toto*.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice