REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2584** (CTA Case No. 10050)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** *and* **FERRER-FLORES,** *JJ.*
BETHLEHEM HOLDINGS, INC., Respondent.	Promulgated: MAY 18 2023 1:53pm

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DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court is a Petition for Review seeking the reversal of the Decision[1] ("Assailed Decision") dated July 07, 2021 of the Court of Tax Appeals First Division ("First Division"), granting Petitioner's claim for refund amounting to Php7,859,319.00, representing its excess and unutilized Creditable Withholding Taxes ("CWT") for the calendar year ended December 31, 2016.

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1 Penned by Presiding Justice Roman G. Del Rosario, with Associate Justice Catherine T. Manahan concurring. Docket, pp. 527-544.

The Parties

Petitioner is the duly appointed Commissioner of Internal Revenue vested under the law with authority to carry out the functions, duties, and responsibilities of said office, including *inter alia*, the power to decide, approve and grant refunds and/or tax credits of overpaid and erroneously paid or collected internal revenue taxes. He may be served with summons, pleadings, and other processes at his office at the 5th Floor, Bureau of Internal Revenue ("BIR") National Office Building, BIR Road, Diliman, Quezon City.[2]

Respondent is a domestic corporation, duly organized and existing under Philippine laws, with principal office at 3F Globe Telecom Tower 1, Pioneer corner Madison Streets, Mandaluyong City. It is a registered taxpayer of BIR Revenue District Office ("RDO") No. 41, with Taxpayer Identification No. 006-731-601-000. Prior thereto, Respondent was registered with BIR RDO No. 43-A.[3]

The Facts

The facts as found by the First Division are as follows:

> "On March 24, 2017, [Respondent] filed with the BIR, through the electronic Filing and Payment System (eFPS), its Annual Income Tax Return (ITR) for CY 2016.
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> On October 3, 2017, [Respondent] filed with the BIR, through the eFPS, its amended Annual ITR for CY 2016.
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> In both its original and amended Annual ITRs for CY 2016, [Respondent] indicated therein its option to be refunded for its tax overpayments for CY 2016.
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> On February 22, 2019, [Respondent] filed with the BIR RDO No. 41 an administrative claim for its excess and unutilized CWT for CY 2016 in the amount of [Php]7,859,319.00.
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> Due to the inaction of [Petitioner], and in order to preserve its right to judicially claim for refund its alleged excess and unutilized CWT for CY 2016 within the prescribed two (2)-year period, [Respondent] filed the present Petition for Review before [the Court of Tax Appeals] on March 22, 2019."[4]

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2 *Id.*, Decision, The Parties, p. 528.
3 *Id.*, Decision, The Parties, p. 527.
4 *Id.*, Decision, Statement of Facts, p. 528.

The Ruling of the First Division

On July 07, 2021, the First Division promulgated the Assailed Decision granting the Petition for Review, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the present Petition for Review is **GRANTED**. Accordingly, [Petitioner] Commissioner of Internal Revenue is **ORDERED** to **REFUND** in favor of [Respondent] Bethlehem Holdings, Inc. the amount of [Php]7,859,319.00 representing its excess and unutilized creditable withholding taxes for taxable year 2016.
>
> **SO ORDERED.**"[5]

Aggrieved, Petitioner filed a "Motion for Reconsideration (Decision dated 07 July 2021)"[6] on December 05 2019, which the First Division denied in a Resolution[7] issued on February 22, 2022, to wit:

> "**WHEREFORE**, premises considered, [Petitioner's] **Motion for Reconsideration (Decision dated 07 July 2021)** is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"[8]

The Proceedings in the Court of Tax Appeals En Banc

On March 23, 2022, Petitioner filed a "Motion for Extension of Time to File Petition for Review"[9], which the Court granted in a Minute Resolution[10] dated March 25, 2022. Petitioner was given thirty (30) days from March 24, 2022 or until April 08, 2022 within which to file his petition.

On April 08, 2022, the "Petition for Review with Notice of Change of Address"[11] was filed.

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5 *Id.*, pp. 543-544.
6 *Id.*, pp. 545-550.
7 *Id.*, pp. 565-567.
8 *Id.*, Resolution dated February 22, 2022, p. 566.
9 Rollo, pp. 1-3. Record shows that Petitioner received the Resolution dated February 22, 2022 on March 09, 2022; Docket, p. 564.
10 *Id.*, p. 4.
11 *Id.*, pp. 5-10.

On May 25, 2022, the Court issued a Resolution[12] directing Respondent to file its comment/opposition to the Petition for Review within ten (10) days from notice.

On June 06, 2022, Respondent filed his "Comment (Re: Petition for Review with Notice of Change of Address dated April 6, 2022)"[13]. Thus, on July 04, 2022, a Resolution[14] was issued submitting the instant case for decision.

Assignment of Error

Petitioner raises a sole ground in support of its petition – the First Division of the Court of Tax Appeals erred in giving due course to the Petition for Review filed by Respondent.[15]

The Arguments of the Parties

Petitioner avers that since Respondent failed to submit the complete supporting documents upon submission of the administrative claim for refund from the date of the filing of the application/submission of documents, the application for tax credit or refund should be denied.

Moreover, Petitioner maintains that for the entitlement to refund under Section 76 of the National Internal Revenue Code ("NIRC") of 1997, as amended, the taxpayer availing of such benefit of law must adhere to the "irrevocability doctrine" enunciated thereon. Given that Respondent already chose the option of carry-over in its Amended Annual Income Tax Return for 2016, it should not be able to claim anymore for tax refund. According to Petitioner, Respondent cannot partition the excess CWT wherein a part shall be carried over and the other shall be refunded. Instead, the whole must either be refunded or carried over alternatively, and not cumulatively. Hence, Respondent is estopped from claiming a refund because although it signified its option to refund its CWT, it carried over the same to the succeeding taxable year.

Lastly, Petitioner insinuates that Respondent failed to prove the requirements in order to claim a tax refund.

On the other hand, Respondent points out that the petition must be dismissed outright for being *pro forma*, no new and compelling arguments that have not already passed upon and considered by the First Division.

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12 *Id.*, pp. 41-42.
13 *Id.*, pp. 43-50.
14 *Id.*, pp. 53-54.
15 *Id.*, Petition for Review, Discussion/Argument, p. 7.

Respondent also asserts that it has satisfied the three (3) essential requisites for the grant of a claim for refund of CWT. *First*, its administrative and judicial claims were timely filed within the two (2)-year prescriptive period. *Second*, the excess and unutilized CWT of Php7,859,319.00 being claimed for refund was verified to be properly substantiated with valid BIR Form No. 2307 duly issued by the payor showing the amount paid and the amount of tax withheld. *And third*, the related income payments were properly recorded as management fees in the books and were reported as taxable revenues in the Annual Income Tax Return for calendar year 2016.

Finally, Respondent contends that it did not exercise the option to carry over its excess and unutilized CWT for calendar year 2016 to the succeeding taxable period.

The Ruling of the Court

Timeliness of Petition

The Court in Division issued a Resolution denying Petitioner's "Motion for Reconsideration (Decision dated 07 July 2021)" on February 22, 2022. Petitioner received said Resolution on March 09, 2022.[16] Pursuant to Rule 4, Section 2(a)(1)[17] in relation to Rule 8, Section 3(b)[18] of the Revised Rules of the Court of Tax Appeals[19] (RRCTA), Petitioner had fifteen (15) days from date of receipt of the resolution or until March 24, 2022 within which to file its petition for review.

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16 Docket, p. 564.

17 **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
>
> xxx xxx xxx
>
> (1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

18 **Sec. 3.** *Who may appeal; period to file petition.* — x x x

> (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. (Rules of Court, Rule 42, sec. 1a)

19 A.M. No. 05-11-07-CTA, November 22, 2005.

On March 25, 2022, the Court granted in a Minute Resolution Petitioner's "Motion for Extension of Time to File Petition for Review"[20] filed on March 23, 2022, giving Petitioner until April 08, 2022 within which to file his petition. On April 08, 2022, Petitioner timely filed the present "Petition for Review with Notice of Change of Address". Hence, the Court *En Banc* validly acquired jurisdiction.

We now proceed to the merits of the case.

At the outset, Petitioner presents no new argument to persuade Us that it has a meritorious case. In fact, the discussion in the instant petition is a complete reproduction of the discussion in Petitioner's "Motion for Reconsideration (Decision dated 07 July 2021)" filed before the First Division. These arguments were already passed upon, addressed and resolved in the Assailed Decision and Resolution dated February 22, 2022. Nevertheless, We will discuss, once again, the demerits of Petitioner's arguments which may serve as a guidepost in deciding issues of similar nature in the future.

Submission of complete documents at the administrative level

Petitioner claims that the CWT refund should be denied for Respondent did not submit complete documents when it filed its administrative claim with the BIR.

We disagree. There is no evidence that Respondent failed to present complete documents at the administrative level.

The only BIR issuance providing for a checklist of documents whenever a taxpayer files a claim for tax credit or refund is for Value-Added Tax (VAT).[21] There is no equivalent regulation for refund of CWT or other types of taxes. Even if we apply Revenue Memorandum Order (RMO) No. 53-98[22], the BIR issuance which prescribes the checklist of documents to be submitted by a taxpayer upon an audit, a cursory reading thereof shows that nowhere it is stated that the non-submission of the documents enumerated therein would result to the denial of the claim for tax refund or credit.

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[20] Rollo, pp. 1-3. Record shows that Petitioner received the Resolution dated February 22, 2022 on March 09, 2022; Docket, p. 564.

[21] *See* Revenue Audit Memorandum Order No. 1-99, Subject: Value-Added Tax Audit Manual, September 05, 1998.

[22] 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 01, 1998.

Additionally, in the absence of contrary evidence, it is presumed that the taxpayer-claimant submitted complete supporting documents when he or she filed the claim. The Supreme Court case *of CBK Power Company Limited v. Commissioner of Internal Revenue*[23] is clear on this:

> "Bearing in mind that the burden to prove entitlement to a tax refund is on the taxpayer, **it is presumed that in order to discharge its burden, petitioner had attached complete supporting documents necessary to prove its entitlement to a refund in its application, absent any evidence to the contrary**."[24]

In the instant case, there was no proof that an audit was conducted by the BIR in connection with Respondent's claim for CWT refund. Indeed, Petitioner did not present any evidence during the case proceedings in the First Division.[25] There being no evidence to the contrary, the Court can only presume that Respondent submitted complete supporting documents.

At any rate, as a court of record, the Court of Tax Appeals is required to conduct a formal trial (*trial de novo*) where the parties must present their evidence accordingly.[26] The Court is not limited by the evidence presented in the administrative claim in the BIR.[27] Simply put, the claimant may present new and additional evidence to the Court of Tax Appeals to support its case for tax refund.[28]

Irrevocability doctrine under Section 76 of the NIRC of 1997, as amended

Section 76 of the NIRC of 1997, as amended, provides:

> "**SEC. 76.** - *Final Adjustment Return.* - Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

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23 G.R. Nos. 198729-30, January 15, 2014.
24 *Emphasis and underscoring supplied.*
25 Docket, Pre-Trial Order, p. 278.
26 Commissioner of Internal Revenue v. Manila Mining Corporation, G.R. No. 153204, August 31, 2005.
27 Philippine Airlines, Inc. v. Commissioner of Internal Revenue, G.R. Nos. 206079-80 and 206309, January 17, 2018.
28 Commissioner of Internal Revenue v. Chevron Holdings, Inc., [Formerly Caltex (Asia) Limited], G.R. No. 233301, February 17, 2020.

(A) Pay the balance of tax still due; or

(B) Carry-over the excess credit; or

(C) Be credited or refunded with the excess amount paid, as the case may be.

In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. **Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable <u>for that taxable period</u> and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor."**[29]

Under the foregoing provision, a taxpayer who has excess income tax payments has two (2) options: (1) to carry over the excess credit, or (2) to apply for a cash refund or the issuance of a tax credit certificate. "In exercising its option, the [taxpayer] must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention either to carry over the excess credit or to claim a refund."[30]

Additionally, the last paragraph of Section 76 provides that once an option has been exercised, the same cannot be changed anymore. This is the rule on irrevocability.[31]

Petitioner however contends that Respondent violated the "irrevocability doctrine". One, the income tax due for 2016 of Php969,632.00 was deducted to the total tax credit amounting to Php85,299,780 which includes the CWT for 2016. This means that Respondent already chosen the option of carry-over and is thus barred from claiming tax refund. Add to this is the carried over balance of the CWT in Respondent's Annual Income Tax Return for 2017 under the heading "Prior Year's Excess Credits".

Petitioner is mistaken in both counts.

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29 *Emphasis and underscoring supplied.*

30 Philippine Bank of Communications v. Commissioner of Internal Revenue, Et Al., G.R. No. 112024, January 28, 1999.

31 Rhombus Energy, Inc. v. Commissioner of Internal Revenue, G.R. No. 206362. August 01, 2018.

As fully discussed by the First Division in the Assailed Decision, Respondent did not choose the option of carry-over for 2016. On the contrary, Respondent marked the box pertaining to the "to be refunded" option. This is permitted because the Total Income Tax Due for 2016 amounting to Php969,632.00 is fully covered by Respondent's Prior Excess Credits from 2015 amounting to Php77,440,461.00, to which Respondent exercised the carry-over option as reflected in its Amended Annual Income Tax Return for 2014. In fact, the remaining balance (*i.e.,* Php77,440,461.00 less Php969,632.00) may be also utilized for succeeding periods (*i.e.,* 2017 onwards) until fully utilized. The court *a quo* declared in this wise:

> "[Respondent] submitted in evidence a copy of its Amended Annual ITR for CY 2014 which shows the balance of [Php]78,412,007.00 representing its income tax overpayments for the period. This amount was carried over in CY 2015. The Annual ITR for CY 2015 utilized the said balance as its 'Prior Year's Credit Other than MCIT' to pay off its income tax due for the period. Thus, the amount of [Php]77,440,461.00 62 — representing the balance of [Respondent's] total tax credits for CY 2015, net of the CWTs for the year which were chosen by [Respondent] to be refunded — may be carried over and allowed as a credit for the income tax due for CY 2016.
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> xxx xxx xxx
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> Here, [Respondent] exercised the carry-over option as reflected in its Amended Annual ITR for CY 2014. Thus, the balance of its income tax overpayments for CY 2014 in the amount of [Ph]78,412,007.00 may be utilized not just for the succeeding CY 2015, but also for succeeding periods until fully utilized. Such unutilized balance in the amount of [Php]77,440,461.00 was validly used by [Respondent] in CY 2016 to pay off its MCIT due for the period. Considering that the 'Prior Year's Excess Credits other than MCIT' in the amount of [Php]77,440,461.00 is sufficient to cover the current MCIT due of [Php]969,632.00, [Respondent's] excess and unutilized CWTs for CY 2016 amounting to [Php]7,859,319.00 shall not be reduced further and may thus be refunded in its entirety."

It must be emphasized that what the taxpayer is choosing for the Annual Income Tax Return every year refers to the excess CWT acquired during the current year, and not the excess CWT acquired during the previous years (since the taxpayer already previously chose either to refund or carry-over the same). This was confirmed in *Commissioner of Internal Revenue v. Bank of the Philippine*

Islands[32] when the High Court ruled that in Section 76 of the NIRC of 1997, as amended, "[t]he phrase 'for that taxable period' merely identifies the excess income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer."

Furthermore, Petitioner's argument that Respondent cannot partition the excess CWT wherein a part shall be carried over and the other shall be refunded and that instead, the whole must either be refunded or carried over alternatively, and not cumulatively – is faulty and unsound.

As an illustration, suppose that a taxpayer has overpayment / excess tax credits as of December 31, 2015 amounting to Php150,000.00, which was derived by deducting the creditable tax withheld acquired amounting to Php200,000.00 from the income tax due of Php50,000.00:

	2015
Income Tax Due	50,000
Creditable Tax Withheld for current year (from 2015)	200,000
Excess Tax Credits as of December 31	150,0000

If the taxpayer chooses to carry-over the amount of Php150,000.00 to next year, the computation for overpayment / excess tax credits as of December 31, 2016 shall be as follows:

	2016[33]
Income Tax Due	50,000
Prior Year's Excess Credit (from 2015)	150,000
Creditable Tax Withheld for current year (from 2016)	100,000
Excess Tax Credits as of December 31	200,000

If we then treat Petitioner's argument as correct and the taxpayer chooses to refund in 2016, the whole Php200,000.00 excess tax credits as of December 31, 2016 shall be refunded. Note however that this violates the irrevocability doctrine. Only the Php100,000.00 CWT acquired in 2016 may be refunded. The remaining Php100,000.00 CWT acquired in 2015 (Php150,000.00 less Php50,000.00) should be carried over until it is fully used/exhausted.

Another absurd situation shall also exist if on the contrary, the taxpayer chooses to carry over in 2016. In that case, the whole Php200,000.00 excess tax credits as of December 31, 2016 will be carried over to the succeeding year/s until it is fully utilized. The taxpayer will never be allowed to exercise its option

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32 G.R. No. 178490, July 07, 2009.

33 The values for 2016 Income Tax Due and Creditable Tax Withheld for current year are assumed.

to refund, for the accumulated CWT will most likely have a component which the taxpayer previously chose to be carried over. Simply stated, the option to refund under Section 76 of the NIRC of 1997, as amended, will be rendered useless and the foregoing is not what the law intends.

All in all, We agree with the court *a quo* that the irrevocability doctrine was not violated in the case at bar.

The First Division did not err in granting Respondent's claim for CWT refund

In order to be entitled to a refund or issuance of TCC for excess/unutilized CWT, Respondent must satisfy the following requirements:

1) That the claim for refund was filed within the two-year prescriptive period as provided under Section 204(C) in relation to Section 229 of the NIRC of 1997, as amended;

2) That the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom;[34] and

3) That the income upon which the taxes were withheld was included in the return of the recipient, (*i.e.,* declared as part of the gross income).[35]

For the *first condition*, the two-year prescriptive period under Sections 204(C) and 229 of the 1997 NIRC of 1997, as amended, should commence from the time of the filing of the Final Adjustment Return or the Annual Income Tax Return, insofar as creditable withholding taxes are concerned.[36] Records show that Petitioner's administrative and judicial claim for refund were filed within the two-year prescriptive period, as summarized in the table below:

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34 Revenue Regulations No. 02-98, Section 2.58.3(B).

35 Calamba Steel Center, Inc. v. Commissioner of Internal Revenue, G.R. No. 151857, April 28, 2005.

36 Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc., G.R. No. 231581, April 10, 2019.

Calendar Year	2-year prescriptive period		Administrative Claim	Judicial Claim
	Start (date of filing of Original Annual ITR)	End		
2016	March 24, 2017[37]	March 24, 2019	February 22, 2019[38]	March 22, 2019[39]

Anent the *second condition*, We affirm the First Division's finding that Petitioner was able to substantiate its Creditable Taxes Withheld for CY 2016 amounting to Php7,859,319.00 by submitting the duly accomplished Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307).

With respect to the *last condition*, a perusal of the evidence presented demonstrate that Respondent was able to establish that the income payments the taxes of which were withheld were properly reported and formed part of the gross income declared for calendar year 2016. The Court *En Banc* echoes the First Division's declaration on the matter, to wit:

> "The total balance in the Summary of Creditable Withholding Taxes for CY 2016 and the total balance in the SAWT correspond to the total of the amounts recorded in the GL for Management Fee-Altimax and GL for Management Fee-BEAM. The amounts recorded in the GLs were then reported in the AFS and Amended Annual ITR for CY 2016.
>
> To be sure, [Respondent] declared in its Amended ITR for CY 2016 net sales/revenues/receipts/fees in the amount of [Php]52,395,458.00. The same amount was reported in the AFS, particularly in the Statements of Comprehensive Income as 'Management fees (Note 16).' Perusal of Note 16 shows that [Respondent] earned management fees of [Php]36,896,018.78 and [Php]15,499,438.59 from its clients Altimax and Broadcast Enterprises and Affiliated Media (BEAM), Inc., respectively. The total amount of [Php]52,395,458.00 was ultimately reported in the Amended Annual ITR for CY 2016. The procedure shows that the total income payments as shown in the CWT certificates tally with the total revenues of [Respondent] as recorded in its GL and as reported and declared in its AFS and Amended Annual ITR for CY 2016, as follows:

Income Payments	Altimax	BEAM	Total

[37] Docket, Exhibit "P-3", pp. 413-420.
[38] *Id.*, Exhibit "P-12-A", p. 495.
[39] *Id.*, Petition for Review, pp. 10-17.

Per CWT certificates	[Php]36,896,018.78	[Php]15,499,438.59	[Php]52,395,457.37
Per GL	[Php]36,896,018.78	[Php]15,499,438.59	[Php]52,395,457.37
Per AFS (Management fees)			[Php]52,395,457.37
Per Amended Annual ITR for CY 2016 (Line 30)			[Php]52,395,458.00

> Thus, [Respondent] was able to establish that the income payments upon which the taxes were withheld were properly reported and formed part of the gross income declared in its Annual ITR for CY 2016."[40]

Considering all these pronouncements, We find no cogent reason to reverse or modify the Assailed Decision of the Court *a quo*.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for lack of merit. The Decision dated July 07, 2021 and the Resolution dated February 22, 2022 of the First Division in the case docketed as CTA Case No. 10050 are **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

[40] *Id.*, Decision, pp. 538-539.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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