REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

CASAS+ARCHITECTS, INC.,
Respondent.

CTA *EB* NO. 2599
(CTA Case No. 9806)

Present:

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

Promulgated:
JUL 04 2023 1:50pm

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*[1] filed by petitioner Commissioner of Internal on April 6, 2022, assailing the Decision[2] dated June 17, 2021 (assailed Decision) and the Resolution [3] dated March 15, 2022 (assailed Resolution), rendered by this Court's First Division (Court in Division) in CTA Case No. 9806 entitled "*Casas+Architects, Inc. v. Commissioner of Internal Revenue*." The dispositive portion of the assailed Decision and Resolution read as follows:

Assailed Decision dated June 17, 2021:

> **WHEREFORE,** premises considered, the Petition for Review is **PARTIALLY GRANTED.** Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** in favor of petitioner Casas+Architects, Inc. the amount of

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[1] *En Banc (EB)* docket, pp. 1-21.
[2] *EB* docket, pp. 28-47.
[3] *EB* docket, pp. 49-57.

₱11,613,232.95, representing its excess and unutilized creditable withholding taxes for taxable year 2015.

SO ORDERED.

Assailed Resolution dated March 15, 2022:

WHEREFORE, premises considered, respondent's Motion for Reconsideration filed on July 23, 2021 is **DENIED** for lack of merit.

SO ORDERED.

Petitioner prays that the aforesaid Decision and Resolution be set aside and a new one rendered denying respondent's claim for refund of ₱11,613,232.95 for lack of factual and legal bases and/or lack of jurisdiction.

THE PARTIES

Petitioner is the duly appointed Commissioner of Internal Revenue (CIR) empowered under the relevant provisions of law to perform the duties of the said office, including, but not limited to, the power to decide, approve, and grant claims for refund or tax credit of erroneously or excessively paid taxes. Respondent holds office at BIR National Office Building, BIR Road, Diliman, Quezon City.[4]

Respondent Casas+Architects, Inc. is a corporation duly organized and existing under Philippine laws with principal office address at 6th Floor Paseo Center Bldg., 8757 Paseo de Roxas, Salcedo Village, Makati City. It is registered with the Securities and Exchange Commission (SEC) to engage, among others, in providing various architectural services.[5] It is also registered with the Bureau of Internal Revenue (BIR) with Certificate of Registration No. OCN 9RC0000379155 and Tax Identification Number (TIN) 008-552-446-000.[6]

[4] Paragraph 4 of Summary of Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI); Division Docket, pp. 221-222.
[5] Paragraphs 1 and 2 of Summary of Admitted Facts, JSFI; Division Docket, p. 221.
[6] Exhibit "P-3"; Division Docket, p. 358.

THE FACTS AND THE PROCEEDINGS

On April 15, 2016, respondent filed with the BIR Revenue District Office (RDO) No. 50, Revenue Region No. 8 – Makati, its Annual Income Tax Return (Annual ITR) for taxable year (TY) 2015 or BIR Form No. 1702-RT, declaring the following:[7]

Net Sales/Revenues/Receipts/fees		₱160,401,166.00
Less: Cost of Sales/Services		68,926,458.00
Gross Income from Operation		91,474,708.00
Add: Other Taxable Income Not Subjected to Final Tax		437,649.00
Total Gross Income		91,912,357.00
Less: Ordinary Allowable Itemized Deductions		74,634,314.00
Net Taxable Income		17,278,043.00
Income Tax Rate		30%
Income Tax Due		5,183,413.00
Less: Total Tax Credits/Payments		
Prior Year's Excess Credits Other Than MCIT	₱2,832,401.00	
Income Tax Payment Under Regular/Normal Rate from Previous Quarters	820,874.00	
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	14,864,241.00	
Creditable Tax Withheld from per BIR Form No. 2307 for the 4th Quarter	6,087,603.00	24,605,119.00
Net Tax Payable (Overpayment)		**₱(19,421,706.00)**

On February 27, 2017, respondent filed before BIR RDO No. 50 its Letter dated January 27, 2017, and BIR Form No. 1914 or the *Application for Tax Credits/Refunds*, requesting for the refund of its alleged unutilized creditable withholding taxes (CWT) for TY 2015 in the amount of ₱19,421,706.00.

Alleging inaction, respondent elevated its claim before this Court *via* a *Petition for Review*[8] filed on April 11, 2018.

In his *Answer* filed on May 22, 2018, petitioner interposed as Special and Affirmative Defenses the following:

1. Respondent failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;

2. Taxes paid and collected are presumed to be made in accordance with laws and regulations, hence, not refundable;

3. It is incumbent upon the respondent to show that it has complied with the provisions of Section 204 (C) in relation to Section 229 of the NIRC of 1997, as amended;

[7] Exhibit "P-4"; Docket, pp. 359-369.
[8] Division Docket, pp. 10-21.

4. Respondent's claim for refund or issuance of tax credit certificate in the amount of ₱19,421,706.00 representing alleged unutilized CWT for TY 2015 as prior year's excess credits should be denied considering that respondent carried it over to the succeeding taxable year. Respondent cannot get a tax refund and a tax credit at the same time for the same excess income taxes paid;

5. In a claim for tax refund or tax credit, a taxpayer must prove not only its entitlement to the grant of the claim under substantive law, but it must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for refund or tax credit; and

6. Claims for refund are construed strictly against the claimant, and the same partake the nature of exemption from taxation, as such, they are looked upon with disfavor.

After the *Pre-Trial Conference*, the parties filed their *Joint Stipulation of Facts and Issues* (JSFI), based on which a *Pre-Trial Order*[9] was issued on July 15, 2019.

During the trial, respondent presented testimonial and documentary evidence supporting its claim. On the other hand, petitioner manifested that he will no longer present evidence, which the Court in Division noted in the Resolution dated February 4, 2020.

On June 17, 2021, the Court in Division rendered the assailed Decision granting, *albeit* partially, respondent's *Petition for Review*. In holding in favor of respondent, the Court in Division found that respondent has sufficiently proven that it is entitled to a refund of its excess and unutilized CWTs for TY 2015 but in the reduced amount of ₱11,613,232.95.

Not satisfied, petitioner moved for reconsideration,[10] but the same was denied in the equally assailed Resolution of March 15, 2022.[11]

Undeterred, petitioner elevated his case before the Court *En Banc via* the instant *Petition for Review* filed through registered mail on April 6, 2022.

[9] Division Docket, pp. 261-267.
[10] Division Docket, pp. 552-563.
[11] Division Docket, Vol. II, pp. 586-594.

Upon perusal of the *Petition for Review*, the Court *En Banc* noted that petitioner's counsel failed to indicate the <u>*date*</u> of issuance of his *Mandatory Continuing Legal Education Compliance Certificate* as required under Section 6(5), Rule 6 of the Revised Rules of the Court of Tax Appeals. In view thereof, and to allow petitioner to rectify said omission, the Court *En Banc* issued a Resolution[12] dated May 25, 2022, directing petitioner to submit a compliant *Entry of Appearance* within five (5) days from notice. In the same Resolution, respondent was given a period of ten (10) from notice to file its comment on petitioner's *Petition for Review.*

In compliance with the Court *En Banc's* directive, petitioner's counsel filed his *Entry of Appearance*[13] *via* registered mail on June 3, 2022, which the Court *En Banc* noted in a *Minute Resolution*[14] dated June 15, 2022.

On June 16, 2022, and within the extension period granted by the Court *En Banc*, respondent filed its *Comment (Re: Petition for Review).*[15]

With the filing of respondent's *Comment*, the instant case was submitted for decision on July 5, 2022.[16]

Hence, this Decision.

ASSIGNMENT OF ERRORS

Petitioner assigns the following errors allegedly committed by the Court in Division, to wit:

I. CTA 1ST DIVISION IN ITS DECISION DATED JUNE 17, 2021 ERRED IN DECLARING THAT RESPONDENT'S ANNUAL ITR FOR TY 2014 IS SUFFICIENT TO PROVE RESPONDENT'S "PRIOR YEAR'S EXCESS CREDITS OTHER THAN MCIT" IN THE AMOUNT OF ₱2,831,752.00 CITING *PHILAM ASSET MANAGEMENT, INC. v. COMMISSIONER OF INTERNAL REVENUE.*

II. CTA 1ST DIVISION ERRED IN NOT DECLARING CASAS+ARCHITECTS' JUDICIAL TAX REFUND FOR CALENDAR YEAR 2015 WAS FILED OUT OF TIME.

[12] *EB* Docket, pp. 75-76.
[13] *EB* Docket, pp. 89-90.
[14] *EB* Docket, p. 93.
[15] *EB* Docket, pp. 94-105.
[16] Resolution dated July 5, 2022, *EB* Docket, pp. 156-157.

III. CTA 1ST DIVISION ERRED IN NOT DECLARING THAT CASAS+ARCHITECTS FAILED TO COMPLY WITH THE REQUIREMENTS UNDER REVENUE REGULATIONS NO. 2-98, AS AMENDED BY REVENUE REGULATIONS NO. 2-2006, ON THE CLAIM FOR REFUND OF ITS EXCESS/UNUTILIZED CREDITABLE INCOME TAXES WITHHELD FOR CY 2015.

IV. CTA 1ST DIVISION ERRED IN NOT DECLARING IN ITS DECISION DATED JUNE 17, 2021 THAT CASAS+ARCHITECTS FAILED TO PROVE THAT ITS ANNUAL INCOME TAX RETURNS AND QUARTERLY INCOME TAX RETURN WERE EXECUTED UNDER THE PAIN OF PERJURY AND MADE UNDER OATH.

Petitioner's Arguments:

On the *first* assigned error, petitioner asserts that the Court in Division erred in declaring that respondent's Annual ITR for TY 2014 is sufficient to prove respondent's "Prior Year's Excess Credits other than MCIT" in the amount of ₱2,831,752.00. According to petitioner, to prove the prior year's excess credits amounting to ₱2,831,752.00, respondent should have presented the corresponding CWT certificates, citing this Court *En Banc's* ruling in *Zuellig Pharma Corporation v. Commissioner of Internal Revenue.*[17] Hence, for petitioner, respondent's prior year's excess credits amounting to ₱2,831,752.00 should be disallowed for the failure of respondent to present as evidence its corresponding CWT certificates.

Anent the *second* assigned error, petitioner claims that the Court in Division erred in not declaring respondent's judicial claim for a tax refund for TY 2015 as filed out of time. According to petitioner, administrative and judicial claims for refund of taxes falling under Section 204(C), in relation to Section 229 of the NIRC of 1997, as amended, shall be filed within two (2) years from the date of payment of taxes or penalties and NOT from the date of filing of the Annual ITR. Allegedly, in the case of *LISP-II Locator's Association Incorporated v. Commissioner of Internal Revenue (LISP-II case),*[18] this Court's Third Division ruled that the reckoning of the 2-year prescriptive period would be from the date of monthly remittance of the claimed CWTs.

[17] CTA *EB* Nos. 1793 & 1794, October 1, 2019.
[18] CTA Case No. 7906, September 22, 2011.

Following the ruling in the *LISP-II case*, petitioner asserts that the reckoning of the 2-year prescriptive period would be from the date of the monthly remittance of the claimed CWTs for TY 2015. Here, the last month of the subject claim, December 2015 for TY 2015, must be paid on or before January 10th or the 15th of the month following December 31, 2015. Hence, respondent had until January 10 or 15, 2017, as the case may be, to file its claim at the administrative and judicial levels.

However, respondent's administrative claim for a refund for TY 2015 was filed on February 27, 2017, and its judicial claim for the same was filed on April 11, 2018, which was way beyond the 2-year prescriptive period.

As regards the *third* assigned error, petitioner claims that the Court in Division erred in not declaring that respondent failed to comply with the requirements under RR No. 2-98, as amended by RR No. 2-2006, on the claim for refund of respondent's excess/unutilized creditable income taxes withheld for TY 2015. According to petitioner, records show that respondent failed to present the *Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax* (SAWT) and *Monthly Alphalist of Payees* (MAP), prescribed under RR No. 2-98, as amended by RR No. 2-2006, in support of its claim for refund of excess/unutilized CWTs for TY 2015.

Finally, petitioner claims that the Court in Division erred in not declaring that respondent failed to prove that its Annual ITR and Quarterly ITRs were executed under pain of perjury and made under oath. According to petitioner, Section 2.58.4 of RR No. 2-98, as amended, requires that returns, statements, or other documents filed shall be under oath. Allegedly, a perusal of respondent's Annual ITR and Quarterly ITRs reveals that they were not executed under oath.

In closing, petitioner submits that in a claim for a tax refund or tax credit, the applicant must not only prove his entitlement to the claim. He must also prove that it was filed within the period provided by law. Tax refunds and exemptions derogate the State's power of taxation; thus, they must be construed strictly against the taxpayer and liberally in favor of

the State.[19] Accordingly, respondent's claim for refund should be denied for having filed the claim beyond the prescriptive period and for failure to substantiate the same.

Respondent's Arguments:

By way of *Comment*, respondent counters that the Court in Division, following the ruling of the Supreme Court in *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*,[20] correctly ruled that the submission of respondent's Annual ITR for TY 2014 is sufficient to prove its "Prior Year's Excess Credits Other Than MCIT" in the amount of ₱2,831,752.00. Further, in the assailed Resolution, the Court in Division pointed out that "*the Annual ITR for the taxable year 2014 (Exhibit P-26) was signed under the penalties of perjury by Carlos Simon Casas under the portion 'Signature over printed name of Treasurer/Assistant Treasurer' in compliance with the provision of Section 52 of the NIRC of 1997, as amended...*"

Moreover, respondent submits that petitioner raised this issue for the first time. Nevertheless, and to disabuse petitioner's mind, respondent attached in its *Comment* the copies of the *Certificates of Creditable Tax Withheld At Source* (BIR Form No. 2307) issued to it for TY 2014 and the *Summary Alphalist of Withholding Taxes* for TY 2014.

Respondent likewise counters that the Court in Division correctly ruled that both its administrative and judicial claims for tax refund were seasonably filed; and that the 2-year prescriptive period commences to run on the date of filing of the Final Adjustment Return (*i.e.*, Annual ITR) and not from the date of the monthly remittance of the claimed CWT. As the Court in Division pointed out, the prescriptive period of two years should commence running only from the time that the refund is ascertained, which can only be determined after the final adjustment return is accomplished, citing the Supreme Court ruling in *Commissioner of Internal Revenue v. The Philippine American Life Insurance Co., et al.*[21]

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[19] *Gulf Air Company, Philippine Branch (GF) v. Commissioner of Internal Revenue*, G.R. No. 182045, September 19, 2012.
[20] G.R. Nos. 156637 & 162004, December 14, 2005.
[21] G.R. No. 105208, May 29, 1995.

Respondent also submits that petitioner is mistaken in his assertion that respondent failed to comply with the documentary requirements set forth in RR No. 2-98, as amended by RR No. 2-2006. According to respondent, the determination of the sufficiency and weight of the evidence at the judicial level are not governed by RR No. 2-98, as amended by RR No. 2-2006, but by the Rules of Court and prevailing jurisprudence, which determination lies within the sound discretion and judgment of the Court. In the instant case, the Court in Division meticulously and judiciously scrutinized all the evidence it presented; hence, the refund of the amount of ₱11,613,232.95 was ordered by the Court in Division.

Lastly, contrary to petitioner's assertion, the Court in Division correctly held that respondent's Annual ITR for taxable year 2014 (Exhibit P-26) was signed under the penalties of perjury by Carlos Simon Casas in compliance with Section 52 of the NIRC of 1997, as amended. Further, and with regard respondent's Quarterly ITRs (Exhibits P-5, P-6, and P-7) for TY 2016, the Court in Division correctly ruled that there is no need to discuss the same as they were not used as the basis in concluding the assailed Decision.

Nevertheless, respondent submits that these documents (Annual ITR for TY 2014 and Quarterly ITRs for 2016), executed and filed electronically, are parts and parcels of the Judicial Affidavit of Ms. Bernadith Bersabe-Nanaga, the very person who prepared, reviewed, and filed respondent's annual and quarterly ITRs. In the Judicial Affidavit, she declared that she was answering the questions fully conscious that she was doing so under oath and may face criminal liability for false testimony and perjury. Hence, petitioner's claim that the aforesaid documents were not identified under oath or pain of perjury has no basis.

THE COURT *EN BANC*'S RULING

The Court En Banc has jurisdiction over the instant Petition.

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 (RRCTA) states:

> **SEC. 3**. *Who may appeal; period to file petition.* — xxx
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> xxx xxx xxx
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> (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)*

Records show that petitioner received the assailed Resolution on March 22, 2022. Thus, petitioner had fifteen (15) days from March 22, 2022, or until April 6, 2022, to file his *Petition for Review* before the Court *En Banc.*

Evidently, the filing of the instant *Petition for Review* through registered mail on April 6, 2022, is on time.

Having settled that the instant *Petition for Review* was timely filed, *We* likewise rule that the CTA *En Banc* has validly acquired jurisdiction to take cognizance of this *Petition* under Section 2(a)(1), Rule 4[22] of the RRCTA.

We now discuss the merits.

After a careful examination and consideration of the facts, issues, and arguments presented by the parties, the Court *En Banc* finds that petitioner failed to raise any new or substantial matter, let alone any compelling reason to warrant the modification, much less reversal of the assailed Decision and Resolution.

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[22] *Section 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:
(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture.

Nevertheless, this Court finds it necessary to recapitulate and further elucidate some points discussed in the assailed Decision and Resolution.

The Court in Division committed no error when it ruled that respondent's Annual ITR for TY 2014 is sufficient to prove its "Prior Year's Excess Credits other than MCIT."

Petitioner claims that the Court in Division erred in holding that respondent's Annual ITR for TY 2014 is sufficient to prove respondent's "Prior Year's Excess Credits other than MCIT" in the amount of ₱2,831,752.00. According to petitioner, to prove the **prior year's excess credits** amounting to ₱2,831,752.00, respondent should have presented the corresponding CWT certificates.

We are not convinced.

Section 2.58.3 (C) of RR No. 2-98 states:

> SECTION 2.58.3. *Claim for Tax Credit or Refund.* —
>
> xxx xxx xxx
>
> (C) *Excess Credits* — An individual or corporate taxpayer's excess expanded withholding tax credits for the taxable quarter/year **shall automatically be allowed as a credit against his income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, provided he submits with his income tax return, a copy of the first page of his income tax return for the previous taxable period showing the amount of his excess withholding tax credits**, and on which return he has not opted for a cash refund or tax credit certificate. (*Boldfacing supplied*)

Clear from the foregoing that a taxpayer's excess credits for the taxable quarter/year shall automatically be allowed as a credit against his income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, **provided he submits with his ITR, a copy of the first page of his ITR for the previous taxable period showing the amount of his excess credits.**

Relevantly, in the case of *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*,[23] the Supreme Court categorically declared thus:

> Requiring that the ITR or the FAR of the *succeeding* year be presented to the BIR in requesting a *tax refund* has no basis in law and jurisprudence.
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> . . . Section 76 of the Tax Code does not mandate it. The law merely requires the filing of the FAR for the preceding — not the succeeding — taxable year. **Indeed, any refundable amount indicated in the FAR of the preceding taxable year may be credited against the estimated income tax liabilities for the taxable quarters of the succeeding taxable year**. However, nowhere is there even a tinge of a hint in any of the provisions of the Tax Code that the FAR of the taxable year following the period to which the *tax credits* are originally being applied should also be presented to the BIR. (*Boldfacing and underscoring supplied*)

Following the foregoing, indeed, the Court in Division committed no error when it ruled that the submission of respondent's Annual ITR for TY 2014 is sufficient to prove its "Prior Year's Excess Credits other than MCIT" in the amount of ₱2,831,752.00.

Besides, it may not be amiss to state that while respondent's Annual ITR for TY 2014 was prepared under penalties of perjury, the figures indicated therein (which necessarily include the amount of its prior year's excess credits of ₱2,831,752.00) should be presumed true and correct in the absence of any evidence to the contrary. The pronouncement of the Supreme Court in *Citibank N.A. v. Court of Appeals*[24] is most enlightening:

> A refund claimant is required to prove the inclusion of the income payments which were the basis of the withholding taxes and the fact of withholding. However, **detailed proof of the truthfulness of each and every item in the income tax return is not required. That function is lodged in the Commissioner of Internal Revenue by the NIRC which requires the Commissioner to assess internal revenue taxes within three years after the last day prescribed by law for the filing of the return.** In *San Carlos Milling Co., Inc. v. Commissioner of Internal Revenue*, the Court held that the internal revenue branch of government must investigate and confirm the claims for tax refund or credit before taxpayers

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[23] *Supra* at note 20.
[24] G.R. No. 107434, October 10, 1997.

> may avail themselves of this option. **The grant of a refund is founded on the assumption that the tax return is valid; that is, the facts stated therein are true and correct**. In fact, even without petitioner's tax claim, the Commissioner can proceed to examine the books, records of the petitioner-bank, or any data which may be relevant or material in accordance with Section 16 of the present NIRC. (*Boldfacing and underscoring supplied*)

In the instant case, petitioner never objected to the presentation of respondent's Annual ITR for TY 2014 to prove its "Prior Year's Excess Credits other than MCIT" in the amount of ₱2,831,752.00. Further, petitioner was given the opportunity to present evidence to disprove respondent's "Prior Year's Excess Credits other than MCIT." However, petitioner chose not to present any evidence. Petitioner's failure to object to the evidence offered by respondent renders the same admissible, and this Court cannot, on its own, disregard such evidence.

Hence, considering that respondent's "Prior Year's Excess Credits other than MCIT" in the amount of ₱2,831,752.00 was duly declared in its Annual ITR for TY 2014, and respondent submitted said Annual ITR for TY 2014 to prove its "Prior Year's Excess Credits other than MCIT," the said prior year's excess credits in the amount of ₱2,831,752.00 may be utilized and applied against respondent's 2015 income tax liability.

The Court in Division committed no error when it ruled that respondent's administrative and judicial claims for refund were timely filed.

Petitioner maintains that in claims for refund of excess and/or unutilized CWTs, the 2-year prescriptive period provided under Section 229 of the NIRC of 1997, as amended, should be reckoned from the date of the monthly remittance of the claimed CWTs.

Petitioner is mistaken.

While the law provides that the two (2)-year period is counted from the date of payment of the tax, the Supreme Court clarified in *ACCRA Investments Corporation v. Court of Appeals et al.*[25] that the two-year prescriptive period for claiming a refund of overpaid income tax/CWT commences to run on the date of filing of the Final Adjustment Return.[26]

This guiding principle was reiterated in *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.),*[27] where it was held that the two-year prescriptive period is reckoned from the filing of the final adjustment return. It is only when the Final Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.[28]

As aptly discussed by the Court in Division in the assailed Resolution, to wit:

> To begin with, this case involves a claim for refund pursuant to Section 229 of the NIRC of 1997, as amended, **representing unutilized and excess CWT** for TY 2015.
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> It bears stressing that a taxpayer who contributes to the withholding tax system, does so to perform and extinguish his tax obligation for the year concerned. Under the creditable withholding tax system, in particular, taxes withheld on certain income payments are intended to equal or at least approximate the tax due of the payee on said income. The amount of creditable tax withheld shall be allowed as a tax credit against the income tax liability of the payee in the quarter of the taxable year in which income was earned or received.
>
> The income recipient (taxpayer) under the creditable withholding tax system is required to file an ITR. Under Section 76 of the NIRC of 1997, as amended, if the sum of the quarterly tax payments made during the year is not equal to the total tax due on the entire taxable income of that year, the taxpayer corporation shall either: (i) pay the balance of tax still due; (ii) carry-over the excess credit; or, (iii) be credited or refunded with the excess amount paid, as the case may be. There will be excess CWT if the total income tax payments made exceeds the income tax due for the year. **It is only when the Final Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still**

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[25] G.R. No. 96322, December 20, 1991.
[26] *Commissioner of Internal Revenue v. TMX Sales, Inc.*, et al., G.R. No. 83736, January 15, 1992.
[27] G.R. No. 231581, April 10, 2019.
[28] *Supra* at note 26.

due or a refund can be claimed based on the adjusted and audited figures.

[Petitioner] erroneously contends that the reckoning of the two (2)-year prescriptive period is the date of the monthly remittance of the claimed CWT. A similar issue had long been settled in *Commissioner of Internal Revenue v. The Philippine American Life Insurance Co., et al., viz.*:

> "Petitioner poses the following question: In a case such as this, where a corporate taxpayer remits/pays to the BIR tax withheld on income for the first quarter but whose business operations actually resulted in a loss for that year, as reflected in the Corporate Final Adjustment Return subsequently filed with the BIR, **should not the running of the prescriptive period commence from the remittance/payment at the end of the first quarter of the tax withheld instead of from the filing of the Final Adjustment Return?**
>
> xxx xxx xxx
>
> It is true that in the Pacific *Procon* case, we held that the right to bring an action for refund had prescribed, the tax having been found to have been paid at the end of the first quarter when the withholding tax corresponding thereto was remitted to the Bureau of Internal Revenue, not at the time of filing of the Final Adjustment Return in April of the following year.
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> **However, this case was overturned by the Court in Commissioner of Internal Revenue v. TMX Sales, Incorporated and the Court of Tax Appeals,** wherein we said:
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> > . . . in resolving the instant case, it is necessary that we consider not only Section 292 (now Section 230) of the National Internal Revenue Code but also the other provisions of the Tax Code, particularly Sections 84, 85 (now both incorporated as Section 68), Section 86 (now Section 70) and Section 87 (now Section 69) on Quarterly Corporate Income Tax Payment and Section 321 (now Section 232) on keeping of books of accounts. All these provisions of the Tax Code should be harmonized with each other.

Section 292 (now Section 230) stipulates that the two-year prescriptive period to claim refunds should be counted from the date of payment of the tax sought to be refunded. When applied to taxpayers filing income tax returns on a quarterly basis, the date of payment mentioned in Section 292 (now Section 230) must be deemed to be qualified by Sections 68 and 69 of the present Tax Code which respectively provide:

> Sec. 68. Declaration of Quarterly Income Tax. — Every corporation shall file in duplicate a quarterly summary declaration of its gross income and deductions on a cumulative basis for the preceding quarter or quarters upon which the income tax, as provided in Title II of this Code shall be levied, collected and paid. The Tax so computed shall be decreased by the amount of tax previously paid or assessed during the preceding quarters and shall be paid not later than sixty (60) days from the close of each of the first three (3) quarters of the taxable year.
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> Sec. 69. Final Adjustment Return. — Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total net 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 net income of that year the corporation shall either:
>
> (a) Pay the excess still due; or
>
> (b) Be refunded the excess amount paid, as the case may be.
>
> In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year.

> It may be observed that although quarterly taxes due are required to be *paid* within sixty days from the close of each quarter, the fact that the amount shall be *deducted* from the tax due for the succeeding quarter shows that until a final adjustment return shall have been filed, the taxes paid in the preceding quarters are merely partial taxes due from a corporation. Neither amount can serve as the final figure to quantify what is due to the government nor what should be refunded to the corporation.
>
> **This interpretation may be gleaned from the last paragraph of Section 69 of the Tax Code which provides that the refundable amount, in case a refund is due a corporation, is that amount which is shown on its final adjustment return and not on its quarterly returns.**
>
> xxx xxx xxx
>
> **Clearly, the prescriptive period of two years should commence to run only from the time that the refund is ascertained, which can only be determined after a final adjustment return is accomplished**.
>
> Thus, the two (2)-year prescriptive period for claiming a refund of excess CWT or overpaid income tax commences to run on the date of filing of the Final Adjustment Return as it is from that time the refundable amount is ascertained. (*Emphasis supplied, Citations omitted*)

In the instant case, respondent filed its Annual ITR for TY 2015 on April 15, 2016; thus, it had until April 15, 2018 to file its administrative and judicial claims for refund. The filing of respondent's administrative claim on February 27, 2017, and its judicial claim on April 11, 2018, were made within the two-year prescriptive period provided under Sections 204 (C) and 229 of the NIRC of 1997, as amended. As the judicial claim was seasonably filed, the Court in Division rightly assumed jurisdiction to take cognizance of the case.

Non-compliance with RR No. 2-98, as amended by RR No. 2-2006, on the claim for refund is inconsequential.

Petitioner asserts that respondent's claim for refund should be denied outright, considering that it failed to present the *Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax* (SAWT) and *Monthly Alphalist of Payees* (MAP), prescribed under RR No. 2-98, as amended by RR No. 2-2006.

Petitioner's assertion is bereft of merit.

In the recent case of *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motors Philippines, Inc.),*[29] the Supreme Court declared that there are three essential conditions for the grant of a claim for refund of creditable withholding income tax, to wit:

> 1. The claim is filed with the Commissioner of Internal Revenue within the two-year period from the date of payment of the tax;
>
> 2. The fact of withholding is established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld therefrom; and
>
> 3. It is shown on the return of the recipient that the income payment received was declared as part of the gross income.

It is clear from the foregoing that petitioner may not impose additional requirements such as submission of SAWTs and MAPs by respondent as a precondition for entitlement to a CWT refund simply because it is neither required by law nor jurisprudence. The administrative agency issuing regulations may not enlarge, alter or restrict the provisions of the law it administers, and it cannot engraft additional requirements not contemplated by the legislature. [30] To do so constitutes lawmaking, which is generally reserved for Congress.[31]

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[29] *Supra* at note 27.
[30] See *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, G.R. No. 159647, April 15, 2005.
[31] See *Soriano v. Secretary of Finance*, G.R. No. 184450, January 24, 2017.

Besides, as correctly pointed out by the Court in Division, and *We* quote:

> When a claim for refund is elevated to this Court, the Rules of Court governs. This Court is not precluded from accepting evidence even if the same were not presented at the administrative level. Cases filed in this Court are litigated *de novo*, and a taxpayer-claimant may present new and additional evidence before this Court to support its claim for refund. The question of whether the evidence submitted by a party is sufficient to warrant the granting of the taxpayer-claimant's prayer lies within the sound discretion and judgment of the Court.

In the instant case, the record reveals that respondent has sufficiently proven its entitlement to a refund, *albeit* partially.

Respondent's Annual ITR for TY 2014 was executed under pain of perjury and made under oath, while its Quarterly ITRs for TY 2016 were not considered in the assailed Decision.

Petitioner submits that the Court in Division erred in not declaring that respondent failed to prove that its Annual ITR for TY 2014 and Quarterly ITRs for 2016 were executed under pain of perjury and made under oath. Allegedly, a perusal of respondent's Annual ITR and Quarterly ITRs reveals that they were not executed under oath in violation of Section 2.58.4 of RR No. 2-98, as amended.

The Court *En Banc* is not convinced.

For one, the record reveals that respondent's Annual ITR for TY 2014 (Exhibit P-26) was signed under the penalties of perjury by Carlos Simon Casas under the portion "*Signature over printed name of Treasurer/Assistant Treasurer*" in compliance with the provision of Section 52 of the NIRC of 1997, as amended.

For another, and as correctly observed by the Court in Division, respondent's Quarterly ITRs for TY 2016 were not used to reach a conclusion in the assailed Decision. Hence, respondent need not prove that the same were executed under pain of perjury and made under oath.

Undoubtedly, petitioner's claim has no basis.

Considering all the foregoing, *We* see no cogent reason or overriding justification to depart from the ruling of the Court in Division.

WHEREFORE, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed *Decision* dated June 17, 2021, and the *Resolution* dated March 15, 2022, of the Court's First Division in CTA Case No. 9806 are **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding 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