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. 2601
(CTA Case No. 10058)

Present:

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

Promulgated:
JUL 07 2023 2:35 p.m.

x - x

DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*[1] filed by petitioner Commissioner of Internal Revenue on April 6, 2022, assailing the Decision[2] dated July 9, 2021 (assailed Decision) and the Amended Decision[3] dated March 15, 2022 (assailed Amended Decision), both rendered by this Court's First Division (Court in Division) in CTA Case No. 10058 entitled "*Casas+Architects, Inc. v. Commissioner of Internal Revenue.*"

Petitioner prays that the aforesaid Decision and Amended Decision be reversed and set aside, and a new one rendered dismissing respondent's original *Petition for Review* for lack of merit.

[1] *En Banc (EB)* Docket, pp. 1-10.
[2] *EB* Docket, pp. 14-32.
[3] *EB* Docket, pp. 34-37.

THE FACTS AND THE PROCEEDINGS

The relevant facts,[4] as found by the Court in Division, remain undisputed, to wit:

> [Respondent] Casas + Architects, Inc. (respondent) is a domestic corporation duly organized and existing under the laws of the Philippines, with principal office address at 6th Floor Paseo Center Building, 8757 Paseo de Roxas, Salcedo Village, Makati City. It is engaged, among others, in providing various architectural services. It is registered with the Bureau of Internal Revenue (BIR) under Tax Identification Number (TIN) 008-552-446-000.
>
> [Petitioner] Commissioner of Internal Revenue (CIR or [petitioner]) is empowered to decide, approve, and grant claims for refund or tax credit of erroneously or excessively paid taxes.
>
> On April 17, 2017, [respondent] electronically filed its Annual Income Tax Return (ITR) for taxable year (TY) 2016 declaring a total Income Tax overpayment of P9,989,997.00 computed as follows:

Total Income Tax Due (Overpayment)	₱ 6,087,978.00
Less: Total Tax Credits/Payments	16,077,975.00
Net Tax Payable (Overpayment)	(9,989,997.00)
Add: Total Penalties	0.00
TOTAL AMOUNT PAYABLE (OVERPAYMENT)	₱ (9,989,997.00)

> On January 11, 2019, [respondent] filed an Application for Tax Refund (BIR Form No. 1914) with the BIR.
>
> Due to [petitioner's] inaction on its application for refund, [respondent] filed the present Petition for Review on April 5, 2019.
>
> Summonses were served upon [petitioner] on May 9, 2019 and the Office of the Solicitor General on May 14, 2019.
>
> On June 24, 2019, within the extended period, [petitioner] filed his Answer [through registered mail and received by the Court in Division on July 3, 2019], raising the following as special and affirmative defenses:
>
> (i) The Petition for Review states no cause of action as taxes paid and collected are presumed to have been made in accordance with laws and regulations; therefore, not creditable or refundable;

[4] Assailed Decision, *EB* Docket, pp. 14-17.

(ii) [Respondent] failed to demonstrate that the tax subject of the case was erroneously or illegally collected;

(iii) Assuming but without admitting that [respondent] filed a claim for refund, the same is still subject to investigation by the BIR;

(iv) [Respondent's] claim for refund in the total amount of ₱9,989,997.00 was not fully substantiated by proper documents;

(v) [Respondent] must show compliance with Section 204 (C), in relation to Section 229, of the National Internal Revenue Code (NIRC) of 1997, as amended; failure to prove the same is fatal to its claim for refund;

(v) The burden of proof to establish entitlement to refund is on the claimant taxpayer; and,

(vi) Being in the nature of a claim for exemption, refund is construed *strictissimi juris* against the entity claiming the refund and in favor of the taxing authority.

The Pre-Trial Conference was set on September 5, 2019. On August 29, 2019, [petitioner] filed his Pre-trial Brief while [respondent's] Pre-Trial Brief was filed on August 30, 2019.

On September 5, 2019, the Pre-Trial proceeded as scheduled. The parties were given until September 20, 2019 to file their Joint Stipulation of Facts and Issues (JSFI).

On September 19, 2019, the parties filed their JSFI.

On October 22, 2019, the Pre-Trial Order was issued, terminating the Pre-Trial.

During trial, [respondent] presented two (2) witnesses, namely: Bernadith Bersabe-Nañaga, its Head of Finance and Accounting, and, Araceli F. Caseles, the Court-commissioned Independent Certified Public Accountant (ICPA).

On February 19, 2019, [respondent] filed its Formal Offer of Evidence (Re: [Respondent's] Evidence) which was acted upon in the Resolution dated October 15, 2020, admitting all its offered exhibits and directing the parties to file their respective memoranda within thirty (30) days from receipt thereof, in view of [petitioner's] manifestation that he will not present any evidence.

> In the Resolution dated December 16, 2020, the Court noted [respondent's] Manifestation and Motion (Re: Resolution dated 15 October 2020) filed on November 19, 2020, with attached complete Annual ITR 1702-RT for 2017 (Exhibit "P-9"), which the Court noted in its Resolution dated October 15, 2020 to contain only six pages instead of eight. [Respondent] was given a period of thirty (30) days from receipt of the Resolution within which to file its memorandum.
>
> With the parties' submission of their respective memoranda, the case was submitted for decision on January 6, 2021. (*Citations omitted*)

On July 9, 2021, the Court in Division rendered the assailed Decision, the dispositive portion of which reads:

> **WHEREFORE,** in light of the foregoing discussion, the Petition for Review filed on April 5, 2019 is **PARTIALLY GRANTED.** The Commissioner of Internal Revenue is **ORDERED** to refund or issue a tax credit certificate in favor of Casas + Architects, Inc. the reduced amount of ₱7,814,729.04 representing its excess and unutilized creditable withholding taxes for taxable year 2016.
>
> **SO ORDERED.**

In ruling 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 creditable withholding taxes (CWTs) for taxable year (TY) 2016, but in the reduced amount of ₱7,814,729.04.

On reconsideration,[5] the Court in Division found merit in respondent's sole argument that it should not have been given an option for issuance of a tax credit certificate as it opted for a tax refund only. On the other hand, the Court in Division found no merit in petitioner's *Motion for Partial Reconsideration*[6] as he merely reiterated his previous arguments, which the Court in Division adequately addressed in the assailed Decision. Hence, the Court in Division disposed of the parties' respective *Motions for Partial Reconsideration*, as follows:

> **WHEREFORE**, premises considered, the Court hereby resolves to:

[5] Division Docket, pp. 429-435.
[6] Division Docket, pp. 402-410.

1. **DENY** [petitioner's] "**Motion for Partial Reconsideration**" for lack of merit; and,

2. **GRANT** [respondent's] **Motion for Partial Reconsideration (of Decision dated July 9, 2021)**". Accordingly, the dispositive portion of the Decision dated July 9, 2021 is amended to read:

> **"WHEREFORE,** in light of the foregoing discussion, the Petition for Review filed on April 5, 2019 is **PARTIALLY GRANTED.** The Commissioner of Internal Revenue is **ORDERED** to refund in favor of Casas + Architects, Inc. the reduced amount of ₱7,814,729.04 representing its excess and unutilized creditable withholding taxes for taxable year 2016.
>
> **SO ORDERED."**

SO ORDERED.

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

Upon perusal of the *Petition for Review*, the Court *En Banc* noted that petitioner's counsel failed to indicate the *date* 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[7] 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 ten (10) days 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*[8] *via* registered mail on May 31, 2022, which the Court *En Banc* noted in a *Minute Resolution*[9] dated June 8, 2022.

[7] *EB* Docket, pp. 44-45.
[8] *EB* Docket, pp. 46-48.
[9] *EB* Docket, p. 51.

On June 16, 2022, and within the extension period granted by the Court *En Banc*, respondent filed its *Comment (re: Petition for Review)*.[10]

With the filing of respondent's *Comment*, the instant case was submitted for decision on July 13, 2022.[11]

Hence, this Decision.

THE ISSUE

The lone issue raised by petitioner for the resolution of the Court *En Banc* is:

> WHETHER THE HONORABLE FIRST DIVISION OF THE CTA ERRED IN PARTIALLY GRANTING RESPONDENT'S PETITION FOR REVIEW AND NOT DISMISSING THE SAME FOR BEING FILED OUT OF TIME AND FOR UTTER LACK OF MERIT.

Petitioner's Arguments:

Petitioner submits that the original *Petition for Review* filed by respondent, seeking the refund of its alleged excess and unutilized CWTs for TY 2016 in the amount of ₱9,989,997.00, was 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 National Internal Revenue Code (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 income tax return (ITR)**.

Petitioner asserts that since respondent's claim for refund pertains to excess and unutilized CWTs, the two (2)-year prescriptive period prescribed under Sections 204(C) and 229 of the NIRC of 1997, as amended, must be reckoned from the date of monthly remittance of the claimed CWTs for January to December 2016. Allegedly, the last month covered by this claim for refund is December 2016, which should have been paid on January 15, 2017 or January 20, 2017, if respondent had availed of the *Electronic Filing and Payment System* (*e*FPS) under Section 2.58 of Revenue Regulations (RR) No. 2-98, as amended

[10] *EB* Docket, pp. 64-72.
[11] Resolution dated July 13, 2022, *EB* Docket, pp. 77-78.

by Section 5 of RR No. 17-2003. Hence, respondent had only until January 15, 2019 or January 20, 2019, as the case may be, to file its administrative and judicial claims for refund for January to December 2016.

In the instant case, respondent's judicial claim for refund of its alleged excess and unutilized CWTs for TY 2016 was filed only on April 5, 2019. Hence, the same was filed out of time.

Further, petitioner maintains that before a claim for refund of CWT may be granted, proof of actual remittance to the Bureau of Internal Revenue (BIR) of the taxes withheld is necessary. For petitioner, respondent should have submitted a Certification from the BIR Revenue Accounting Division (BIR-RAD) indicating that the taxes withheld by its withholding agents were indeed remitted to the BIR. However, respondent failed to prove actual remittance. Hence, its CWT refund claim must be denied in its entirety.

In closing, petitioner submits that tax refund is strictly construed, and the burden is on the taxpayer to prove its entitlement to the refund. Here, respondent must show not only that it is entitled under substantive law to the grant of its claim but also that it satisfied all the documentary and evidentiary requirements for a claim for refund.

Respondent's Arguments:

By way of *Comment*, respondent submits that the instant *Petition for Review* should be dismissed for utter lack of merit.

According to respondent, 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 Income Tax Return) and not from the date of the monthly remittance of the claimed CWT. As the Court in Division pointed out, petitioner's assertion that the administrative and judicial claims for refund 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 is not novel as the same has long been settled in the case of *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*,[12] and *Commissioner of Internal Revenue v. TMX Sales, Inc.*

[12] G.R. No. 96322, December 20, 1991.

and the Court of Appeals.[13] In the said cases, the Supreme Court declared that the two (2)-year prescriptive period to claim a refund commences to run, at the earliest, on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have been audited and adjusted, reflective of the results of the operations of a business enterprise.

Likewise, respondent submits that proof of actual remittance to the BIR of the withheld taxes is not a precondition in claiming for refund of unutilized tax credits. According to respondent, upon its presentation of the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307), the burden now shifts to petitioner to prove that said certificates are not complete, false, or irregularly issued. Petitioner could have easily presented a certification from his office (BIR – RAD) showing that the creditable taxes withheld by the payors were not remitted to the BIR, but he did not. He failed to present any evidence to disprove the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) and other evidence presented by respondent.

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 first 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
>
> 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

[13] G.R. No. 83736, January 15, 1992.

> 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.

Records show that petitioner received the assailed Amended Decision 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),[14] Rule 4 of the RRCTA.

We now discuss the merits.

A careful examination of the arguments set forth by petitioner in his *Petition for Review* readily shows that they are a mere restatement of his arguments in his previous pleadings,[15] which were exhaustively considered and passed upon by the Court in Division in the assailed Decision of July 9, 2021, and affirmed in the Amended Decision of March 15, 2022.

Accordingly, the Court *En Banc* sees no compelling reason to deviate from the findings of the Court in Division that the administrative and judicial claims were timely filed; and, that proof of actual remittance to the BIR of the withheld taxes is not a condition in claiming for refund of unutilized tax credits. The ruling based on the evidence presented is in consonance with the law and jurisprudence.

Thus, at the risk of being repetitive, the disquisition of the Court in Division in the assailed Decision is quoted with approval, *viz.*:

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[14] 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.

[15] Memorandum (for the Respondent), Division Docket, pp. 341-351; Motion for Partial Reconsideration, Division Docket, pp. 402-410.

... ***The administrative and judicial claims for refund were filed on time***

Sections 204 (C) and 229 of the NIRC of 1997, as amended, provides the prescriptive period for the filing of the administrative and judicial claims for refund or recovery of tax erroneously or illegally collected, to wit:

> 'SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. — The Commissioner may —
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.
>
> xxx xxx xxx
>
> SEC. 229. Recovery of Tax Erroneously or Illegally Collected. — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the

> Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid."

Section 204 of the NIRC of 1997, as amended, applies to administrative claims for refund while Section 229 of the same Code pertains to judicial claims.

Under the aforequoted provisions, a claimant for refund must first file an administrative claim for refund before [petitioner], prior to filing a judicial claim before the Court. Notably, both the administrative and judicial claims for refund should be filed within the two (2)-year prescriptive period indicated therein, and that the claimant is allowed to file the latter even without waiting for the resolution of the former in order to prevent the forfeiture of its claim through prescription. The primary purpose of filing an administrative claim is to serve as a notice of warning to the CIR that court action would follow unless the tax or penalty alleged to have been collected erroneously or illegally is refunded.

[Petitioner's] assertion that the administrative and judicial claims for refund shall be filed within two (2) years from the date of payment of taxes or penalties and not from the date of the filing of the annual income tax return is no longer novel. The proper resolution of this issue has been long settled by the Supreme Court in *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.* and *Commissioner of Internal Revenue v. TMX Sales, Inc. and the Court of Appeals.* And, in the more recent case of *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*, the Supreme Court reiterated these cases stating that while the law provides that the two (2)-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that **the two (2)-year prescriptive period to claim a refund actually commences to run, at the earliest, on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have been audited and adjusted, reflective of the results of the operations of a business enterprise**.

In this case, [respondent] electronically filed its Annual ITR for TY 2016 on April 17, 2017. Thus, [respondent] had until April 17, 2019 to file both its administrative and judicial claims for refund. As aforementioned, [respondent] filed its administrative claim on January 11, 2019 evidenced by its Application for Tax Credits/Refunds. Without waiting for the decision of [petitioner] on its application, [respondent] filed the present Petition for Review on April 5, 2019. Clearly, both [respondent's] administrative and judicial claims were filed

within the two (2)-year prescriptive period in accordance with Sections 204 (C) and 229 of the NIRC of 1997, as amended. Hence, the Court has jurisdiction to take cognizance of this case.

xxx xxx xxx

... Fact of withholding is established by copies of withholding statements duly issued by the payor

The third requisite mandates [respondent] to prove the fact of withholding of the claimed CWT by a copy of the statement duly issued by the payor, acting as the withholding agent, to the payee, showing the names of the payor and payee, the income payment, the amount of tax withheld, and the nature of the tax paid.

Contrary to [petitioner's] claim that [respondent's] certificates of CWT withheld presented as evidence do not constitute conclusive evidence of payment and remittance to the BIR of the withheld taxes on [respondent's] income, the Supreme Court, in *Commissioner of Internal Revenue v. Philippine National Bank*, explained that the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) is the competent proof to establish the fact of withholding; proof of remittance thereof to the BIR is not a condition for a claim of refund of unutilized tax credits, viz.:

> '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**:
>
> > In fine, the document which may be accepted as evidence of the third condition, that is, the fact of withholding, must emanate from the payor itself, and not merely from the payee, and must indicate the name of the payor, the income payment basis

> of the tax withheld, the amount of the tax withheld and the nature of the tax paid.
>
> At the time material to this case, the requisite information regarding withholding taxes from the sale of acquired assets can be found in BIR Form No. 1743.1. As described in Section 6 of Revenue Regulations No. 6-85, BIR Form No. 1743.1 is a written statement issued by the payor as withholding agent showing the income or other payments made by the said withholding agent during a quarter or year and the amount of the tax deducted and withheld therefrom. It readily identifies the payor, the income payment and the tax withheld. It is complete in the relevant details which would aid the courts in the evaluation of any claim for refund of creditable withholding taxes.

Moreover, as correctly held by the Court of Tax Appeals *En Banc*, **the figures appearing in the withholding tax certificates can be taken at face value since these documents were executed under the penalties of perjury**, pursuant to Section 267 of the 1997 National Internal Revenue Code, as amended, which reads:

> SEC. 267. *Declaration under Penalties of Perjury.* — Any declaration, return and other statements required under this Code, shall, in lieu of an oath, contain a written statement that they are made under the penalties of perjury. Any person who willfully files a declaration, return or statement containing information which is not true and correct as to every material matter shall, upon conviction, be subject to the penalties prescribed for perjury under the Revised Penal Code.

Thus, upon **presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury**, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly.

Petitioner's posture that respondent is required to establish actual remittance to the Bureau of Internal Revenue deserves scant consideration. **Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits. 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 Regulations 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 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**.' (*Citations omitted; boldfacing and underscoring supplied*)

All told, the Court *En Banc* finds no reason to depart from the ruling of the Court in Division.

WHEREFORE, premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue is **DENIED** for lack of merit. The assailed Decision dated July 9, 2021, and the Amended Decision dated March 15, 2022, are **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN 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