

**REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY**

**EN BANC**

**STAGES PRODUCTION  
SPECIALISTS, INC.**

*Petitioner,*

**CTA EB NO. 2658  
(CTA Case No. 9817)**

*Present:*

-versus-

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

**COMMISSIONER OF  
INTERNAL REVENUE,**

*Respondent.*

Promulgated:

**OCT 04 2023**

*3:55 pm*

X- - - - -

-X

**DECISION**

**CUI-DAVID, J.:**

Before the Court *En Banc* is a *Petition for Review* filed by Stages Production Specialist, Inc. (“**Petitioner**”),<sup>1</sup> under Section 3(b), Rule 8,<sup>2</sup> in relation to Section 2(a)(1), Rule 4<sup>3</sup> of the Revised Rules of the Court of Tax Appeals (“**RRCTA**”).<sup>4</sup> It seeks the reversal of the Court’s First Division (“**Court in Division**”)

<sup>1</sup> Petition for Review, dated July 14, 2022, received by the Court on July 18, 2022; *EB Docket*, pp. 1-11.

<sup>2</sup> Section 3. *Who May Appeal; Period to File Petition.* — (a) 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.

<sup>3</sup> 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.

<sup>4</sup> A.M. No. 05-11-07-CTA.

*AW*

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Decision dated August 31, 2021 (“**assailed Decision**”),<sup>5</sup> and Resolution dated June 17, 2022 (“**assailed Resolution**”),<sup>6</sup> in CTA Case No. 9817 entitled *Stages Production Specialists, Inc. vs. Commissioner of Internal Revenue*.

**THE PARTIES**

Petitioner Stages Production Specialists, Inc. is a domestic corporation with business address at 606 Greenbelt Mansion, 106 Perea St., Legaspi Village, Makati. It is engaged in the business of entertainment, promotion, and advertising, such as but not limited to the packaging of total entertainment concepts, from idea stage to show time and management of talents and artists required in the production of shows locally and internationally. It is a registered taxpayer in the Bureau of Internal Revenue (“**BIR**”) Revenue District Office No. 47 with Tax Identification Number 200-417-566-000.<sup>7</sup>

Respondent, on the other hand, is the Commissioner of Internal Revenue (“**CIR**”), with the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (“**NIRC**” or “**Tax Code**”), or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

**THE FACTS**

The facts, as found by the Court in Division, are as follows:<sup>8</sup>

On April 6, 2018, petitioner filed with the BIR an administrative claim for refund through an Application for Tax Credits/ Refunds (BIR Form No. 1914) and the letter dated April 4, 2018, requesting for the refund or the issuance of a tax credit certificate (TCC) in the amount of P3,585,949.00, allegedly representing excess income tax payments for TY 2015.



<sup>5</sup> *EB* Docket, pp. 16-27; penned by Associate Justice Catherine T. Manahan, with Concurring Opinion from Presiding Justice Roman G. Del Rosario.

<sup>6</sup> *Id.*, pp. 33-40.

<sup>7</sup> Par. II(A)(4), Summary of Admitted Facts, Pre-Trial Order dated July 26, 2019, Division Docket - Vol. I, p. 514.

<sup>8</sup> Annex “A,” *Petition for Review, EB* Docket, pp. 16-27.

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Petitioner then filed the instant Petition for Review with this Court on April 16, 2018 which was originally raffled to the Second Division.

On July 6, 2018, respondent posted his Answer to the Petition for Review.

The Pre-Trial Conference was initially set on August 30, 2018. However, in view of the absence of respondent's counsel and without objection from petitioner's counsel, the Pre-Trial Conference was reset to October 11, 2018.

In the meantime, respondent's Pre-Trial Brief was posted on August 11, 2018, while petitioner's Pre-Trial Brief was posted on August 24, 2018.

Pursuant to the Order dated September 24, 2018, the instant case was transferred to this Court's First Division. Correspondingly, the Pre-Trial Conference was again reset to January 31, 2019 by the said Division. However, the same was ultimately reset to and was held on April 4, 2019.

The Court then issued the Pre-Trial Order dated July 26, 2019, and deemed the pre-trial terminated.

During trial, petitioner presented documentary and testimonial evidence. As part of its testimonial evidence, petitioner offered the testimonies of the following individuals, namely: (1) Ms. Evangeline G. Agustin, petitioner's accountant; and (2) Ms. Michele Lacsamana, petitioner's Accounting Assistant.

Petitioner then filed its Offer of Exhibits on December 4, 2019. Respondent failed to comment thereon.

In the Resolution dated June 3, 2020, the Court admitted petitioner's exhibits, except for Exhibits "P-10-l", "P-10-m", "P-10-u", "P-10-v", "P-10-ii", "P-10-xx", "P-10-bbb", "P-10-ccc", "P-10-eee", "P-10-fff", "P-10-iii", "P-10-mmm", "P-10-nnn", "P-10-ppp", "P-10-sss", "P-10-aaaa", "P-10-bbbb", "P-10-cccc", "P-10-dddd", "P-10-eeee", "P-10-ffff", "P-10-gggg", "P-10-llll", "P-10-nnnn", "P-10-oooo", "P-10-pppp", "P-10-qqqq", "P-10-wwww", "P-10-yyyy", "P-10-zzzz", "P-10-ddddd", "P-10-hhhh", "P-10-iiii", "P-10-jjjj", "P-10-mmmmm", and "P-10-ooooo", for failure to present the originals for comparison.

On the other hand, respondent, through counsel, manifested that he will no longer present any evidence.

The Memorandum of respondent was posted on July 30, 2020, while petitioner's Memorandum was posted on August 19, 2020.



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On September 16, 2020, this case was submitted for decision.

On August 31, 2021, the Court in Division promulgated a *Decision*<sup>9</sup> denying petitioner's *Petition for Review*, the dispositive portion of which reads:

**WHEREFORE**, in view of the foregoing, the instant *Petition for Review* filed by petitioner on April 16, 2018 is **DENIED** for lack of merit.

**SO ORDERED.**

On October 27, 2021, petitioner filed a *Motion for Reconsideration*,<sup>10</sup> to which respondent filed his *Comment/Opposition (on Petitioner's Motion for Reconsideration)*,<sup>11</sup> posted on February 21, 2022. Petitioner filed its *Reply* on March 4, 2022.

On June 17, 2022, the Court in Division denied petitioner's *Motion for Reconsideration*. The dispositive portion of the *Resolution*<sup>12</sup> reads:

**WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration* filed on October 27, 2021, is **DENIED** for lack of merit.

**SO ORDERED.**

**PROCEEDINGS BEFORE THE COURT EN BANC**

Petitioner filed a *Petition for Review*<sup>13</sup> on July 18, 2022.

Following the Court's *Minute Resolution* dated September 14, 2022,<sup>14</sup> petitioner filed a *Compliance*<sup>15</sup> submitting the original copy of the *Verification and Certification on Non-Forum Shopping* on September 27, 2022.

Respondent filed his *Comment/Opposition (on Petition for Review)*,<sup>16</sup> posted on September 30, 2022.

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<sup>9</sup> *Supra* at note 5.

<sup>10</sup> Division Docket, Vol. II, pp. 1365-1370.

<sup>11</sup> *Id.*, pp. 1386-1390.

<sup>12</sup> *Supra* at note 6.

<sup>13</sup> *Supra* at note 1.

<sup>14</sup> *EB* Docket, p. 465.

<sup>15</sup> *Id.*, p. 466.

<sup>16</sup> *Id.*, pp. 470-475.

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The case was submitted for decision on November 2, 2022.<sup>17</sup>

**ISSUES**

Petitioner forwards the sole issue as follows:

WHETHER PETITIONER IS ENTITLED TO A REFUND OF EXCESS INCOME TAX PAYMENTS AMOUNTING TO THREE MILLION FIVE HUNDRED EIGHTY-FIVE THOUSAND NINE HUNDRED FORTY-NINE PESOS (P3,585,949).

**PETITIONER’S ARGUMENTS**

Petitioner contends that all the requirements for entitlement to a tax refund have been duly proven.<sup>18</sup> It further contends that the claim for refund was filed within the two-year reglementary period, the income payments received by petitioner were declared [as] part of its gross income, and that the fact of withholding was established by petitioner when it submitted the certificates of creditable taxes withheld.<sup>19</sup> It argues that the Tax Code and jurisprudence do not require the submission of proof of the prior year’s excess credits.<sup>20</sup>

Petitioner also argues that its annual income tax return (“**ITR**”) for the taxable year (“**TY**”) 2015 shows under Item No. 20 the total overpayment of ₱10,152,147.00 and under Item No. 21 that it has opted for a tax refund. However, it alleges that contrary to the assailed *Decision* and *Resolution*, the “To be refunded” portion pertains only to ₱3,585,949.00 out of the total overpayment of ₱10,152,147.00 or the total creditable withholding taxes (“**CWT**”) for 2015. It “understands that since it already exercised the carry-over option for the balance of prior years excess credits of ₱6,566,198.00, it can no longer be refunded.” Thus, petitioner concludes that the presentation of additional evidence to prove the supposed total credits amounting to ₱8,488,552.00 has no use or purpose.

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<sup>17</sup> *Id.*, pp. 479-480.

<sup>18</sup> *Petition for Review*, p. 5.

<sup>19</sup> *Id.*, p. 6.

<sup>20</sup> *Id.*, p. 7.

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Petitioner questions the finding of the Court in Division as to the amount of the prior year's excess credits that was carried over to TY 2016. It avers that the excess CWT of ₱3,585,949.00 was not carried over in 2016 and that there is no more income tax due of ₱258,759.00 for TY 2015.<sup>21</sup>

**RESPONDENT'S COUNTER-ARGUMENTS**

Quoting the ruling of the Court in Division, respondent alleges that petitioner exercised the carry-over option instead of a refund. Thus, according to respondent, a portion of petitioner's CWT was already carried over and can no longer be refunded.<sup>22</sup> Respondent further avers that petitioner failed to substantiate that it has excess tax credits for TY 2015.<sup>23</sup> Respondent ends his argument by stating that tax refunds are in the nature of tax exemptions, and hence, these must be construed strictly against the taxpayer.<sup>24</sup>

**THE COURT *EN BANC*'s RULING**

The instant *Petition* is not impressed with merit.

***The Court En Banc has jurisdiction over the instant Petition.***

Before We proceed to the merits of the case, We shall first determine whether the present *Petition* was timely filed.

On June 17, 2022, the Court in Division denied petitioner's *Motion for Reconsideration* through a *Resolution*, which petitioner received on July 1, 2022.

Under Section 3(b), Rule 8<sup>25</sup> of RRCTA, petitioner had fifteen (15) days from receipt of the said *Resolution*, or until July 18, 2022,<sup>26</sup> to file a *Petition for Review* before the Court *En Banc*.

On July 18, 2022, petitioner timely filed the instant *Petition for Review*.<sup>27</sup>

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<sup>21</sup> *Id.*, p. 9.

<sup>22</sup> Comment/Opposition, p. 1.

<sup>23</sup> *Id.*, p. 3.

<sup>24</sup> *Id.*, p. 4.

<sup>25</sup> *Supra* at note 2.

<sup>26</sup> The 15<sup>th</sup> day falls on July 16, 2022, which is a Saturday. Accordingly, the next working day is on July 18, 2022.

<sup>27</sup> *Id.*, pp. 6-46.

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Having settled that the *Petition* was timely filed, We likewise rule that the Court *En Banc* has jurisdiction to take cognizance of this case under Section 2(a)(1), Rule 4<sup>28</sup> of the RRCTA.

We now discuss the merits.

***Petitioner's compliance with the requirements of Section 76 of the NIRC of 1997, as amended.***

Relevant to the resolution of the instant case is Section 76 of the NIRC of 1997, as amended, *viz.*:

**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:

- (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 for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefore. [*Emphases and underscoring supplied.*]

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<sup>28</sup> 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.

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Under the above provision, there are two options available to a corporation whenever it *overpays* its income tax for the taxable year: (1) to **carry over** and apply the overpayment as tax credit against the estimated quarterly income tax liabilities of the succeeding taxable years until fully utilized, and (2) to apply for a **cash refund** or issuance of a **tax credit certificate** within the prescribed period.<sup>29</sup>

Such overpayment of income tax is usually occasioned by the over-withholding of taxes on the income payments to the corporate taxpayer.<sup>30</sup>

In exercising its option, the corporation must signify in its annual corporate adjustment return its intention to carry over the excess credit or to claim a refund or tax credit, by marking the option box provided in the BIR form.<sup>31</sup> To facilitate tax collection, the two options are alternative and not cumulative, that is, the choice of one precludes the other.<sup>32</sup>

As Section 76 of the NIRC of 1997, as amended, unequivocally provides, once the carry-over option is made, actually or constructively, it becomes forever irrevocable **regardless of whether the excess tax credits were actually or fully utilized**. No application for a tax refund or issuance of a tax credit certificate shall then be allowed.<sup>33</sup> Petitioner can only take comfort in the assurance that the amount will not be forfeited in favor of the government but will remain in its account, to be carried over in the succeeding taxable years, creditable against its future income tax liabilities until fully utilized.<sup>34</sup>

*MW*

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<sup>29</sup>*University Physicians Services, Inc.-Management, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205955, March 7, 2018.

<sup>30</sup> *Id.*

<sup>31</sup> *Systra Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.

<sup>32</sup> *Republic vs. Team (Phils.) Energy Corp.*, G.R. No. 188016, January 14, 2015, 750 PHIL 700-723.

<sup>33</sup> *United International Pictures AB v. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012, 684 SCRA 23; *Commissioner of Internal Revenue v. PL Management International Philippines, Inc.*, 662 Phil. 431 (2011); *Belle Corporation v. Commissioner of Internal Revenue*, 654 Phil. 102 (2011); *Commissioner of Internal Revenue v. The Philippine American Life and General Insurance Co.*, 646 Phil. 161 (2010); *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, 560 Phil. 261 (2007).

<sup>34</sup> *Axia Power Holdings Philippines Corp. v. Commissioner of Internal Revenue*, G.R. No. 230847 (Notice), October 14, 2020, citing the case of *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, 560 Phil. 261, 274 (2007).



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Here, a perusal of petitioner’s Amended Annual ITR for TY 2015 or Final Adjustment Return (“**FAR**”) reveals the following:

Total Income Tax Due(Overpayment)				₱1,922,354.00
Less: Total Tax Credits/Payments				
Prior Year's Excess Credits Other Than MCIT			₱8,488,552.00	
Creditable Tax Withheld from <b>Previous Quarter/s</b> per BIR Form 2307	₱2,540,234.00			
Creditable Tax Withheld for the <b>4th Quarter</b> per BIR Form 2307	1,045,715.00	3,585,949.00		12,074,501.00
<b>TOTAL AMOUNT PAYABLE (Overpayment)</b>				<b><u>₱10,152,147.00</u></b>

In Part II, Item No. 21 of petitioner’s 2015 Amended Annual ITR,<sup>35</sup> petitioner ticked the box “To Be Refunded,” viz.:

20 TOTAL AMOUNT PAYABLE (Overpayment)	(₱10,152,147)
21 If Overpayment, mark “X” on one box only.	
<input checked="" type="checkbox"/> To be Refunded	<input type="checkbox"/> To be issued a tax credit certificate
<input type="checkbox"/> To be carried over as tax credit next year/quarter	<input type="checkbox"/> To be carried over as tax credit next year/quarter

Petitioner indicated its choice to be refunded of its excess CWTs under Section 76 of the NIRC of 1997, as amended.

However, the Court in Division ruled that petitioner was not able to prove its entitlement to a refund, considering that there is no evidence presented to prove its Prior Year’s Excess Credits of ₱8,488,552.00.<sup>36</sup>

Petitioner assails the findings of the Court in Division and reiterates that the Tax Code and jurisprudence do not require submission of proof of Prior Years Excess Credits.<sup>37</sup>

After considering the parties’ arguments anent the above ruling of the Court in Division, the Court *En Banc* finds that the presentation of petitioner’s 2014 Annual and Quarterly ITRs and the corresponding CWT certificates, and other related evidence for TY 2014 and prior years, is not indispensable since the credits pertaining to TY 2014 and prior years are not the subject of the refund claim. Further, respondent never refuted or questioned the truthfulness and existence of petitioner's prior year's excess credits of ₱8,488,552.00. He did not object to petitioner's offer of its Annual and Quarterly ITRs for TY 2015, which alleged the existence of the said prior year's excess credits, despite the opportunity given to him. Further, he did

<sup>35</sup> Exhibit “P-1”, Division Docket, Vol. II, p. 1054.

<sup>36</sup> Assailed *Decision*, pp. 9 and 11.

<sup>37</sup> *Petition for Review*, CTA EB No. 2658, p.7.

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not present any evidence, testimonial or documentary, to disprove the existence of the same. Respondent's failure to object to the evidence offered by petitioner rendered the same admissible, and this Court cannot, on its own, ignore such uncontested evidence. More, Section 76 of the NIRC of 1997, as amended, and the other requisites for claiming a refund of excess or unutilized CWT do not require substantiation of prior years' excess credits.

The Court in Division likewise ruled that part of petitioner's refund claim in the amount of ₱1,922,354.00 was carried over to the succeeding taxable period;<sup>38</sup> hence, it is precluded from refunding the same.

Petitioner argues that the amount carried over in TY 2016 is the same amount declared in its Amended Annual ITR for TY 2015 as the "Prior Year's Excess Credits Other Than MCIT," leaving behind its 2015 excess CWTs of ₱3,585,949.00, which petitioner claimed to be a proper subject of a refund claim.

After taking a second hard look at the parties' arguments and the evidence admitted relative to the finding of the Court in Division that "part of the claimed CWT for the calendar year 2015 in the amount of ₱1,922,354.00 was carried over to the succeeding taxable period," the Court *En Banc* is convinced that the amount of ₱3,585,949.00, representing the excess CWTs for TY 2015, has not been carried over to the succeeding TY 2016.

Records reveal that petitioner filed its 2015 Amended Annual ITR<sup>39</sup> reflecting an overpayment of ₱10,152,147.00, after deducting the Total Income Tax Due for TY 2015 of ₱1,922,354.00.<sup>40</sup> In the following year, petitioner filed its 2016 Amended Quarterly ITR for the *First* Quarter, 2016 Amended Quarterly ITR for the *Second* Quarter, and 2016 Original or Unamended Quarterly ITR for the *Third* Quarter, *all* reflecting the amount of ₱6,566,197.56 as its Prior Year's Excess Credits under Item No. 31A of the quarterly returns. Petitioner's 2016 Amended Annual ITR also declared the amount of ₱6,566,198.00 as its Prior Year's Excess Credits. As discussed, petitioner had an overpayment of ₱10,152,147.00, net of the income tax due, for TY 2015, but it carried over to TY 2016 only ₱6,566,198.00, leaving the amount of ₱3,585,949.00.

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<sup>38</sup> Assailed *Decision*, p. 10.

<sup>39</sup> Exhibit "P-1", Division Docket – Vol. II, pp. 1054-1061.

<sup>40</sup> *Supra* at note 35.

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Indeed, the excess CWTs for TY 2015 in the amount of ₱3,585,949.00, subject of the present case, have not been carried over to the succeeding TY 2016 and may be refunded to petitioner under Section 76 of the NIRC of 1997, as amended, if it complies with the other requirements, as discussed below.

***Petitioner's compliance with the other requirements or requisites for a claim for refund of excess or unutilized CWTs.***

Sections 204(C) and 229 of the NIRC of 1997, as amended, state:

SEC. 204. Authority of the Commissioner to Compromise, Abate, and Refund or Credit Taxes. -

The Commissioner may -

... ..

(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.

... ..

SEC. 229. Recovery of Tax Erroneously or Illegally Collected.- No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.



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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.

In the case of *Commissioner of Internal Revenue v. Philippine Bank of Communications*,<sup>41</sup> the Supreme Court enumerated the requisites for claiming a tax credit or a refund of creditable withholding tax as follows:

1. The claim must be filed with the CIR within the two (2)-year period from the date of payment of the tax;
2. The fact of withholding must be 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; and
3. It must be shown on the return that the income received was declared as part of the gross income.

We examine each requisite *in seriatim*.

**First requisite: The administrative and judicial claims for refund were timely filed.**

In accordance with Sections 204(C) and 229 of the NIRC of 1997, as amended, it is clear that in cases of recovery of erroneously paid or illegally collected tax, *both* the claim for refund and the filing of the suit should be made before the expiration of two (2) years from the *date of payment* regardless of any supervening cause that may arise after payment.

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<sup>41</sup> G.R. No. 211348, February 23, 2022, citing *Winebremer & Inigo Insurance Brokers, Inc., v. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015; *Commissioner of Internal Revenue vs. Team (Philippines) Operations Corporation*, G.R. No. 185728, October 16, 2013.

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While the law provides that the two (2)-year prescriptive period in claiming a tax credit/refund is counted from the date of payment of the tax, jurisprudence clarified that the two years is reckoned from the filing of the *final adjustment return* or **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. The case of *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)* elucidates:<sup>42</sup>

Indeed, the two-year period in filing a claim for tax refund is crucial. While the law provides that the two-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that **the two-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. Thus, it is only when the 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. [*Emphasis supplied*]

As aptly found by the Court in Division, petitioner filed its Annual ITR for TY 2015 on April 15, 2016. Counting two years, the administrative claim filed on April 6, 2018, and the judicial claim filed before the Court in Division on April 16, 2018,<sup>43</sup> were within the two-year prescriptive period.

Clearly, the *first* requisite has been satisfied.

**Second requisite: The fact of withholding has been established by copies of certificates of CWT duly issued by the payors showing the amounts paid and tax withheld, but only to the extent of ₱2,570,522.39.**

<sup>42</sup> *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. No. 211348, February 23, 2022, citing *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

<sup>43</sup> April 15, 2018 fell on a Sunday; hence, the *Petition for Review* was filed on the next working day.

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The second requisite mandates petitioner to prove the fact of withholding of the claimed CWTs 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.

In *Commissioner of Internal Revenue vs. Philippine National Bank*,<sup>44</sup> the Supreme Court held that the certificate of creditable tax withheld at source (BIR Form No. 2307) is the competent proof to establish that taxes are withheld. It is not even 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.

Thus, We proceed with the examination of the certificates and other relevant documents.

To prove the fact of withholding of the CWT for TY 2015 in the amount of ₱3,585,949.00, petitioner presented *Certificates of Creditable Tax Withheld at Source*<sup>45</sup> issued by various clients showing CWT in the aggregate amount of only ₱3,382,759.34, with related income payments amounting to ₱63,171,803.72, detailed as follows:

Exhibit No.	Payor's Name	Amount of Income Payment	Amount of Tax Withheld
"P-10"	4Life Research Philippines, LLC	₱164,705.88	₱24,705.88
"P-10-a"	ABS-CBN Corporation	9,803.90	980.39
"P-10-a"	ABS-CBN Corporation	597,407.30	59,740.73
"P-10-a"	ABS-CBN Corporation	387,037.00	58,055.55
"P-10-a"	ABS-CBN Corporation	583,333.40	58,333.34
"P-10-a"	ABS-CBN Corporation	35,294.13	5,294.12
"P-10-a-1"	ABS-CBN Corporation	11,764.73	1,764.71
"P-10-a-1"	ABS-CBN Corporation	64,814.80	9,722.22
"P-10-a-1"	ABS-CBN Corporation	2,599,454.93	389,918.24
"P-10-a-2"	ABS-CBN Corporation	10,309.27	1,546.39
"P-10-a-2"	ABS-CBN Corporation	1,228,540.13	184,281.02
"P-10-a-3"	ABS-CBN Corporation	(1,356,317.87)	(203,447.68)
"P-10-b"	ABS-CBN Film Productions, Inc.	23,529.41	3,529.41

<sup>44</sup> *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014, 744 PHIL 299-312.

<sup>45</sup> Exhibits "P-10", "P-10-a" to "P-10-k", "P-10-n" to "P-10-t", "P-10-w" to "P-10-hh", "P-10-jj" to "P-10-ww", "P-10-yy" to "P-10-aaa", "P-10-ddd", "P-10-ggg", "P-10-hhh", "P-10-iii" to "P-10-lll", "P-10-ooo", "P-10-qqq", "P-10-rrr", "P-10-ttt" to "P-10-zzz", "P-10-hhhh" to "P-10-kkkk", "P-10-mmmm", "P-10-rrrr" to "P-10-vvvv", "P-10-xxxx", "P-10-aaaaa" to "P-10-cccc", "P-10-eeee" to "P-10-gggg", "P-10-kkkkk", "P-10-lllll", "P-10-nnnnn", and "P-10-ppppp", CTA Case No. 9817, Docket – Vol. II, pp. 1120 to 1243.

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Exhibit No.	Payor's Name	Amount of Income Payment	Amount of Tax Withheld
"P-10-b-1"	ABS-CBN Film Productions, Inc.	9,920.60	1,488.09
"P-10-b-2"	ABS-CBN Film Productions, Inc.	22,222.22	2,222.22
"P-10-b-2"	ABS-CBN Film Productions, Inc.	11,764.71	1,764.71
"P-10-c"	Ace Saatchi and Saatchi Advertising Co Inc	2,163,815.50	43,276.31
"P-10-d"	Ace Saatchi and Saatchi Advertising Co Inc	2,293,593.50	45,871.87
"P-10-e"	Ace Saatchi and Saatchi Advertising Co Inc	198,432.00	3,968.64
"P-10-f"	Analog Devices Gen. Trias, Inc.	1,764,827.45	35,296.55
"P-10-g"	Asalus Corporation	1,241,813.78	24,836.28
"P-10-h"	Asalus Corporation	1,241,813.78	24,836.28
"P-10-i"	Asalus Corporation	19,053.31	381.07
"P-10-j"	Asalus Corporation	87,172.01	1,743.44
"P-10-k"	Asalus Corporation	211,392.13	4,227.84
"P-10-l"	Asian Academy of Television Arts Inc.	82,352.94	12,352.94
"P-10-m"	Ayala Land, Inc.	512,249.05	10,244.98
"P-10-n"	Bamboo Organ Foundation Inc.	235,994.12	35,294.12
"P-10-o"	Bautista, Christian Joseph Morata	1,748,158.02	174,815.80
"P-10-p"	BDO Unibank, Inc.	176,470.60	26,470.59
"P-10-q"	BDO Unibank, Inc.	188,235.27	28,235.29
"P-10-r"	Berjaya Auto Philippines, Inc.	13,392.86	267.86
"P-10-s"	Big Big Big, Inc.	37,333.33	3,333.33
"P-10-t"	Bloomberry Resorts and Hotels, Inc.	5,882.14	117.64
"P-10-u"	Bloomberry Resorts and Hotels Inc	11,274.11	225.48
"P-10-v"	Bloomberry Resorts and Hotels Inc	14,705.36	294.11
"P-10-w"	BPI Family Savings Bank	714,285.71	14,285.71
"P-10-x"	BPI Family Savings Bank	667,043.14	13,340.86
"P-10-y"	BPI Family Savings Bank	969,645.31	19,392.91
"P-10-z"	BPI Family Savings Bank	45,403.02	908.06
"P-10-aa"	Brandaction, Inc	235,294.13	35,294.12
"P-10-bb"	Brandaction, Inc	141,176.47	21,176.47
"P-10-cc"	Bridges @ Com Inc	16,666.66	1,666.67
"P-10-dd"	Calayan Surgicentre Corporation	8,928.57	178.57
"P-10-ee"	City Government of Valenzuela	1,607,142.86	32,142.86
"P-10-ff"	Co, Elizaldy S.	257,731.96	38,659.79
"P-10-gg"	Co, Elizaldy S.	36,385.69	5,457.85
"P-10-hh"	Creasia Inc.	164,705.83	24,705.87
"P-10-ii"	Creative Juice Communications, Inc.	145,542.75	21,831.41
"P-10-jj"	Creative Programs, Inc.	80,357.13	12,053.58
"P-10-kk"	Creative Programs, Inc.	80,357.13	12,053.58
"P-10-ll"	Creative Programs, Inc.	(20,000.00)	(400.00)
"P-10-ll"	Creative Programs, Inc.	52,941.18	7,941.18

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Exhibit No.	Payor's Name	Amount of Income Payment	Amount of Tax Withheld
"P-10-mm"	Cultural Center of the Philippines	89,285.71	13,392.86
"P-10-nn"	Cultural Center of the Philippines	107,142.86	16,071.43
"P-10-oo"	Cultural Center of the Philippines	10,892.86	1,633.93
"P-10-pp"	Dentsu Philippines, Inc.	880,599.21	17,611.98
"P-10-qq"	EON (Events Organizer Network) Inc.	743,661.00	14,873.22
"P-10-rr"	EON (Events Organizer Network) Inc.	164,706.00	3,294.12
"P-10-ss"	Ever Bilena Cosmetics, Inc.	45,454.55	909.09
"P-10-tt"	Ever Bilena Cosmetics, Inc.	15,000.00	300.00
"P-10-uu"	Ever Bilena Cosmetics, Inc.	470,588.24	70,588.24
"P-10-vv"	First Asia Realty Development Corp	100,000.00	2,000.00
"P-10-ww"	First Asia Realty Development Corp	223,214.29	4,464.29
"P-10-xx"	First Philippine Holdings Corporation	2,716,620.35	54,332.41
"P-10-yy"	Five 2 Seven Entertainment Production	552,941.18	82,941.18
"P-10-zz"	Five 2 Seven Entertainment Production	1,279,411.76	191,911.76
"P-10-aaa"	Fullhouse Asia Production Studios Inc	200,000.00	30,000.00
"P-10-bbb"	GMA Network, Inc.	117,647.06	11,764.71
"P-10-ccc"	Golden Arches Development Corporation	94,117.64	14,117.65
"P-10-ddd"	Golden Donuts, Inc.	1,160,714.00	23,214.28
"P-10-eee"	Grolier International, Inc.	89,751.40	13,462.71
"P-10-fff"	GV Productions, Inc.	16,666.67	1,666.67
"P-10-ggg"	GV Productions, Inc	22,222.22	2,222.22
"P-10-hhh"	Ideashop Manila Inc	117,647.05	17,647.06
"P-10-iii"	Intelligent Beauty Skin Solutions Inc.	35,714.29	714.29
"P-10-iii"	I-Remit Inc.	76,785.71	1,535.71
"P-10-kkk"	Jollibee Foods Corporation	7,589,285.50	151,785.71
"P-10-lll"	Magic Leaf Marine Logistics Corp.	58,823.53	8,823.53
"P-10-mmm"	Magic Leaf Marine Logistics Corp.	35,294.12	5,294.12
"P-10-mmm"	Magic Leaf Marine Logistics Corp.	58,823.53	8,823.53
"P-10-nnn"	Makati Shangri-la Hotel & Resort, Inc.	1,021,964.27	153,294.64
"P-10-ooo"	Manila North Tollways Corporation	1,214,420.09	24,288.40
"P-10-ppp"	Manuela Corporation	105,882.36	15,882.35
"P-10-qqq"	Manulife Data Services, Inc.	1,250,000.00	62,500.00
"P-10-rrr"	Manulife Data Services, Inc.	485,071.43	9,701.43
"P-10-sss"	Marivent Resort Hotel Inc.	1,000,000.00	20,000.00
"P-10-ttt"	Megaworld Corporation	370,588.27	55,588.24
"P-10-uuu"	National Commission for Culture and the Arts	80,000.00	10,714.29



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<b>Exhibit No.</b>	<b>Payor's Name</b>	<b>Amount of Income Payment</b>	<b>Amount of Tax Withheld</b>
"P-10-vvv"	Organisasyon ng mga Pilipinong Mang-aawit, Inc.	178,571.43	26,785.72
"P-10-www"	Ortigas and Company Limited Partnership	1,127,514.20	22,550.29
"P-10-xxx"	Perez De Tagle, Fabie & Jentes Co., Inc.	352,941.20	52,941.18
"P-10-yyy"	Philippine Educational Theater Association, Inc.	82,352.94	12,352.94
"P-10-zzz"	Pilipino Cable Corporation	70,588.20	10,588.23
"P-10-aaaa"	Pilipino Cable Corporation	141,176.47	21,176.47
"P-10-bbbb"	Philippine Long Distance Telephone Company	175,434.00	3,508.68
"P-10-cccc"	Prime Events Force Unlimited Inc.	141,176.47	21,176.47
"P-10-dddd"	Push Associates Inc	141,176.47	21,176.47
"P-10-eeee"	Red Events & Communications, Inc.	117,647.06	17,647.06
"P-10-ffff"	Red Events & Communications, Inc.	176,470.59	26,470.59
"P-10-gggg"	Robinsons Land Corporation (Crowne Plaza Galleria Manila)	159,793.73	23,969.06
"P-10-hhhh"	Samsung Electronics Philippines Corporation	375,080.39	7,501.61
"P-10-iiii"	Samsung Electronics Philippines Corporation	3,413,428.72	68,268.57
"P-10-jjjj"	Samsung Electronics Philippines Corporation	125,026.80	2,500.54
"P-10-kkkk"	Shangri-la Plaza Corporation	133,928.57	20,089.29
"P-10-llll"	Sky Cable Corporation	70,588.27	10,588.24
"P-10-mmmm"	SM Mart Inc	664,143.00	13,282.86
"P-10-nnnn"	Smart Communications, Inc.	8,084.13	161.68
"P-10-oooo"	SPI CRM Inc	1,172,766.64	23,455.34
"P-10-pppp"	Strategic Works (Stratworks), Inc.	80,357.14	12,053.57
"P-10-qqqq"	Strategic Works (Stratworks), Inc.	80,357.14	12,053.57
"P-10-rrrr"	Strategic Works (Stratworks), Inc	111,607.14	16,741.07
"P-10-ssss"	Strategic Works (Stratworks), Inc	111,607.14	16,741.07
"P-10-tttt"	Strategic Works (Stratworks), Inc	80,357.14	12,053.57
"P-10-uuuu"	Strategic Works (Stratworks), Inc	111,607.14	16,741.07
"P-10-vvvv"	Team On Ground Inc	142,857.14	14,285.71
"P-10-wwww"	The Philippine American Life and General Insurance Company	1,248,578.89	24,971.58
"P-10-xxxx"	The Philippine American Life and General Insurance Company	1,248,578.89	24,971.58
"P-10-yyyy"	The Philippine American Life and General Insurance Company	638,197.46	12,763.95

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<b>Exhibit No.</b>	<b>Payor's Name</b>	<b>Amount of Income Payment</b>	<b>Amount of Tax Withheld</b>
"P-10-zzzz"	The Philippine American Life and General Insurance Company	638,197.46	12,763.95
"P-10-aaaa"	The Philippine American Life and General Insurance Company	291,797.86	5,835.96
"P-10-bbbbb"	The Philippine American Life and General Insurance Company	26,785.71	535.71
"P-10-cccc"	Tupperware Brands Phils. Inc.	136,082.47	20,412.37
"P-10-ddddd"	Tupperware Brands Phils. Inc.	90,721.65	13,608.25
"P-10-eeee"	Tupperware Brands Phils. Inc.	64,705.88	9,705.88
"P-10-ffff"	TV5 Network Inc.	298,235.34	44,735.30
"P-10-ffff"	TV5 Network Inc.	848,823.66	127,323.55
"P-10-ggggg"	United Coconut Planters Bank	446,428.57	8,928.57
"P-10-hhhhh"	United Coconut Planters Bank	1,769,249.34	35,384.98
"P-10-iiii"	United Coconut Planters Bank	35,114.05	5,267.11
"P-10-iiii"	Vidanes, Elizabeth Alviar	52,941.17	7,941.18
"P-10-kkkkk"	Whitelight Creative Management Inc.	147,058.82	22,058.82
"P-10-lllll"	Xolutions Are Us, Inc.	160,714.29	24,107.14
"P-10-mmmmm"	SPI CRM Inc	530,640.60	10,612.81
"P-10-nnnnn"	Golden ABC, Inc	89,285.71	1,785.71
"P-10-oooo"	Ayala Land, Inc.	277,158.43	5,543.17
"P-10-ppppp"	Ace Saatchi and Saatchi Advertising Co Inc	129,777.72	2,595.55
	<b>TOTAL</b>	<b>₱63,171,803.72</b>	<b>₱3,382,759.34</b>

However, after a careful examination of the above-enumerated Certificates of CWT, the following CWTs in the total amount of ₱812,236.95, should be disallowed from petitioner's claim for the reasons stated below:

<b>Exhibit No.</b>	<b>Payor's Name</b>	<b>Amount of Income Payment</b>	<b>Amount of Tax Withheld</b>
<i>1. Supporting Certificates of Creditable Tax Withheld At Source (BIR Form No. 2307) were denied admission by the Court for failure to present the originals for comparison.<sup>46</sup></i>			
"P-10-l"	Asian Academy of Television Arts Inc.	₱82,352.94	₱12,352.94
"P-10-m"	Ayala Land, Inc.	512,249.05	10,244.98
"P-10-u"	Bloomberry Resorts and Hotels Inc	11,274.11	225.48
"P-10-v"	Bloomberry Resorts and Hotels Inc	14,705.36	294.11
"P-10-ii"	Creative Juice Communications, Inc.	145,542.75	21,831.41
"P-10-xx"	Smart Communications, Inc.	8,084.13	161.68
"P-10-bbb"	GMA Network, Inc.	117,647.06	11,764.71

<sup>46</sup> Resolution dated June 3, 2020, CTA Case No. 9817, Docket – Vol. II, pp. 1302 to 1303.

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"P-10-ccc"	Golden Arches Development Corporation	94,117.64	14,117.65
"P-10-eee"	Grolier International, Inc.	89,751.40	13,462.71
"P-10-fff"	GV Productions, Inc.	16,666.67	1,666.67
"P-10-iii"	Intelligent Beauty Skin Solutions Inc.	35,714.29	714.29
"P-10-mmm"	Magic Leaf Marine Logistics Corp.	35,294.12	5,294.12
"P-10-mmm"	Magic Leaf Marine Logistics Corp.	58,823.53	8,823.53
"P-10-nnn"	Makati Shangri-la Hotel & Resort, Inc.	1,021,964.27	153,294.64
"P-10-ppp"	Manuela Corporation	105,882.36	15,882.35
"P-10-sss"	Marivent Resort Hotel Inc.	1,000,000.00	20,000.00
"P-10-aaaa"	Pilipino Cable Corporation	141,176.47	21,176.47
"P-10-bbbb"	Philippine Long Distance Telephone Company	175,434.00	3,508.68
"P-10-cccc"	Prime Events Force Unlimited Inc.	141,176.47	21,176.47
"P-10-dddd"	Push Associates Inc	141,176.47	21,176.47
"P-10-eeee"	Red Events & Communications, Inc.	117,647.06	17,647.06
"P-10-ffff"	Red Events & Communications, Inc.	176,470.59	26,470.59
"P-10-gggg"	Robinsons Land Corporation (Crowne Plaza Galleria Manila)	159,793.73	23,969.06
"P-10-llll"	Sky Cable Corporation	70,588.27	10,588.24
"P-10-nnnn"	Smart Communications, Inc.	8,084.13	161.68
"P-10-oooo"	SPI CRM Inc	1,172,766.64	23,455.34
"P-10-pppp"	Strategic Works (Stratworks), Inc.	80,357.14	12,053.57
"P-10-qqqq"	Strategic Works (Stratworks), Inc.	80,357.14	12,053.57
"P-10-wwww"	The Philippine American Life and General Insurance Company	1,248,578.89	24,971.58
"P-10-yyyy"	The Philippine American Life and General Insurance Company	638,197.46	12,763.95
"P-10-zzzz"	The Philippine American Life and General Insurance Company	638,197.46	12,763.95
"P-10-ddddd"	Tupperware Brands Phils. Inc.	90,721.65	13,608.25
"P-10-hhhhh"	United Coconut Planters Bank	1,769,249.34	35,384.98
"P-10-iiiiii"	United Coconut Planters Bank	35,114.05	5,267.11
"P-10-jjjjj"	Vidanes, Elizabeth Alviar	52,941.17	7,941.18
"P-10-mmmmm"	SPI CRM Inc	530,640.60	10,612.81
"P-10-ooooo"	Ayala Land, Inc.	277,158.43	5,543.17

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	<b>Subtotal</b>	<b>13,804,433.06</b>	<b>666,596.18</b>
2. Supporting Certificates of Creditable Tax Withheld At Source (BIR Form No. 2307) are out of the claimed period.			
"P-10-hhh"	Ideashop Manila Inc	117,647.05	17,647.06
"P-10-uu"	Ever Bilena Cosmetics, Inc.	470,588.24	70,588.24
"P-10-ww"	First Asia Realty Development Corp	223,214.29	4,464.29
	<b>Subtotal</b>	<b>811,449.58</b>	<b>92,699.59</b>
3. Supporting Certificate of Creditable Tax Withheld At Source (BIR Form No. 2307) is not in petitioner's name.			
"P-10-xxx"	Perez De Tagle, Fabie & Jentes Co., Inc.	352,941.20	52,941.18
	<b>Subtotal</b>	<b>352,941.20</b>	<b>52,941.18</b>
	<b>TOTAL</b>	<b>₱14,968,823.84</b>	<b>₱ 812,236.95</b>

Accordingly, petitioner was able to satisfy the *second* requisite, but only to the extent of the duly substantiated CWT of ₱2,570,522.39.<sup>47</sup>

***Third requisite: Petitioner failed to prove that the income payments subjected to CWTs were declared in its 2015 Annual ITR.***

The *third* requisite mandates petitioner to prove that the income payments subjected to CWTs were reported or declared as part of its gross income in its Annual ITR for FY 2015.

To prove that the income payments related to the claimed CWT formed part of petitioner's declared income per ITR, petitioner presented its original and amended Annual ITRs for TY 2015,<sup>48</sup> Quarterly ITRs for TY 2015,<sup>49</sup> Summary Alphabetical List of Withholding Taxes ("**SAWT**") for TY 2015,<sup>50</sup> and 2015 Audited Financial Statements ("**AFS**").<sup>51</sup>

Petitioner's witnesses, Ms. Michelle Lacsamana and Ms. Evangeline G. Agustin, both testified in their Judicial Affidavits that the income payments representing the ₱3,585,949.00 taxes withheld were declared as part of petitioner's income for TY 2015 as evidenced by the amended Annual ITR and SAWT for TY 2015, to wit:

<sup>47</sup> ₱3,382,759.34 less ₱812,236.95.

<sup>48</sup> Exhibits "P-1-a" and "P-1", CTA Case No. 9817, Docket – Vol. II, pp. 1062 to 1069 and 1054 to 1061.

<sup>49</sup> Exhibits "P-3", "P-4", "P-5", and "P-5-a", CTA Case No. 9817, Docket – Vol. II, pp. 1078 to 1087.

<sup>50</sup> Exhibit "P-2", CTA Case No. 9817, Docket – Vol. II, pp. 1071 to 1076.

<sup>51</sup> Exhibit "P-15", CTA Case No. 9817, Docket – Vol. II, pp. 1268 to 1282.

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“Q27: You mentioned that the amount of ₱3,585,949 arose from excess income tax payments of Stages for the taxable year 2015, what proof can you show that the excess income tax payments of ₱3,585,949 were declared as part of Stages’ income for the taxable year 2015?”

A27: I also have the Amended Annual Income Tax Return (‘ITR’)-BIR Form 1702-RT of Stages and Summary Alphalist of Withholding Taxes (‘SAWT’) for the year 2015 which prove that the amount of income payments representing the ₱3,585,949 taxes withheld were declared as part of the income of Stages for the taxable year 2015.”<sup>52</sup>

“Q32: You mentioned that the amount of ₱3,585,949 arose from excess income tax payments of Stages for the taxable year 2015, what is your proof that the income payments representing the excess income tax payments of ₱3,585,949 were declared as part of Stages’ income for the taxable year 2015?”

A32: Aside from the CWTs which I have identified earlier, I also have with me the Amended Annual Income Tax Return (‘ITR’)-BIR Form 1702-RT of Stages and Summary Alphalist of Withholding Taxes (‘SAWT’) for the year 2015 which prove that the amount of income payments representing the ₱3,585,949 taxes withheld were declared as part of the income of Stages for the taxable year 2015.”<sup>53</sup>

Notwithstanding the foregoing testimonies and the above-mentioned documentary exhibits, the Court is unable to verify whether the income payments subjected to CWTs for TY 2015 were indeed reported and formed part of petitioner’s 2015 gross income. The bare testimonies of Ms. Michelle Lacsamana and Ms. Evangeline G. Agustin in their respective Judicial Affidavits, stating by way of a hasty conclusion that the amounts withheld were declared as part of the income of petitioner for TY 2015, without guiding this Court as to how the amounts indicated in the SAWT and the *Certificates of Creditable Tax Withheld at*

<sup>52</sup> Exhibit “P-18”, CTA Case No. 9817, Docket – Vol. II, p. 782.

<sup>53</sup> Exhibit “P-17”, CTA Case No. 9817, Docket – Vol. II, p. 1289.



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Source formed part of the declared income in the 2015 Annual ITR, were not sufficient to prove that income payments subjected to CWTs were declared as part of petitioner's gross income in its 2015 Annual ITR.


Simply put, petitioner's failure to prove its compliance with the *third requisite* is fatal to the present refund claim.

Given the foregoing disquisitions, petitioner failed to sufficiently prove its entitlement to a refund of the excess CWTs for TY 2015.


There is no automatic grant of a tax refund.<sup>54</sup> Strict compliance with the mandatory and jurisdictional conditions prescribed by law to claim such tax refund or credit is essential for such a claim to prosper.<sup>55</sup> It must be emphasized that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption, and the law is not only construed in *strictissimi juris* against the taxpayer but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.<sup>56</sup>

**WHEREFORE**, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit.

**SO ORDERED.**

  
**LANEE S. CUI-DAVID**  
Associate Justice

WE CONCUR:

  
(I reiterate my Concurring Opinion in the assailed Decision)  
**ROMAN G. DEL ROSARIO**  
Presiding Justice

<sup>54</sup> *Commissioner of Internal Revenue vs. Far East Bank & Trust Company*, G.R. No. 173854, March 15, 2010, 629 SCRA 405-418.

<sup>55</sup> *Commissioner of Internal Revenue vs. San Roque Power Corp.*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013, 703 PHIL 310-434.

<sup>56</sup> *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.


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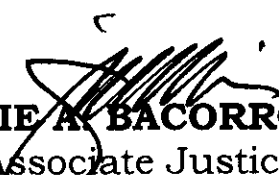
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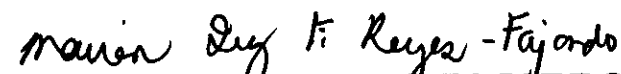
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**MA. BELEN M. RINGPIS-LIBAN**  
Associate Justice

  
**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

**ON LEAVE**  
**HENRY SUMAWAY ANGELES**  
Associate Justice



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**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

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