REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2689** (CTA Case No. 10251)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.*
PREMIER CENTRAL, INC., *Respondent.*	Promulgated: DEC 01 2023 3:47 p.m.

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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 Revenue (CIR) assailing the Decision dated May 16, 2022 (assailed Decision)[2] and the Resolution dated August 18, 2022 (assailed Resolution)[3] rendered by the Court's First Division (Court in Division) in CTA Case No. 10251, with the following dispositive portions:

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[1] *En Banc* (*EB*) Docket, pp. 7-19.
[2] *EB* Docket, pp. 28-42.
[3] *Id.*, pp. 45-48.

Assailed Decision dated May 16, 2022:

> **WHEREFORE**, premises considered, the present Petition for Review is **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED to REFUND** to petitioner Premier Central, Inc. the total amount of One Hundred Million Four Hundred Thirty-Nine Thousand Eight Hundred Five Pesos and Forty-Seven Centavos (₱100,439,805.47), representing creditable withholding tax, interest, surcharge and compromise penalty remitted by petitioner Premier Central, Inc. to the Bureau of Internal Revenue on January 31, 2018 and March 16, 2018, in connection with its purchase of the Hilaga Property from the Tourism Infrastructure and Enterprise Zone Authority.
>
> **SO ORDERED.**

Assailed Resolution dated August 18, 2022:

> **WHEREFORE**, premises considered, respondent's **Motion for Reconsideration (Re: Decision dated 16 May 2022)** is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

THE PARTIES[4]

Petitioner CIR is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), authorized to perform the duties of his office, including, among others, the power to decide claims for refund of internal revenue taxes, fees, or other charges, and penalties imposed in relation thereto, under the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended. Respondent holds office at the BIR National Office Building, Diliman, Quezon City, where he may be served with notices and legal processes.

Respondent Premier Central, Inc. is a domestic corporation organized and existing under Philippine laws, with principal office address at 10/F Mall of Asia Arena Annex Building, Coral Way corner J.W. Diokno Boulevard, Mall of Asia Complex, 1300 Pasay City. Petitioner is engaged in the business of operating and maintaining shopping center spaces, amusement centers, and movie and cinema theatres within the premises of shopping centers, as well as the management and operation of buildings for mixed-use purposes.

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[4] *Supra*, note 3, pp. 28-29.

THE FACTS

The facts, as found by the Court in Division, are as follows:

> The Tourism Infrastructure and Enterprise Zone Authority (TIEZA) is a body corporate that is under the supervision of the Secretary of the Department of Tourism (DOT). It is attached to the DOT for purposes of program and policy coordination.
>
> TIEZA is mandated to, among others, designate, regulate, and supervise the Tourism Enterprise Zones (TEZs) established under Republic Act (R.A.) No. 9593, or The Tourism Act of 2009, as well as to develop, manage, and supervise tourism infrastructure projects in the Philippines. It shall supervise and regulate the cultural, economic, and environmentally sustainable development of TEZs toward the primary objective of encouraging investments therein.
>
> In 2014, TIEZA embarked on an Asset Privatization Program (APP) involving certain properties/lots owned by TIEZA. Based on the October 31, 2014 Terms of Reference for Interested Bidders (Terms of Reference), the APP was being undertaken by TIEZA to: (a) spur the re-development and optimize the value of its portfolio of assets; (b) generate more economic activities, income, and employment within the localities where the assets are located; and, (c) raise additional funds for TIEZA's plans, programs, and projects.
>
> On December 17, 2014, TIEZA conducted a public bidding of the following properties listed in the Terms of Reference:
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> a) Agoo Playa Hotel Property located within the Agoo Tourism Complex, Barrio San Nicolas West, Municipality of Agoo, La Union;
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> b) Hilaga Property situated in San Jose, San Fernando City, Pampanga;
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> c) Matabungkay Property located near the Matabungkay beach area in the town of Lian, Batangas; and,
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> d) Talisay Property situated in Barangays of Buco, Sampaloc, and Caloocan in Talisay City, Batangas.
>
> During the bidding, [respondent] submitted a bid for the Hilaga Property, which was covered by Transfer Certificate of Title (TCT) Nos. 297231-R and 376323-R.

After the completion of the procedures under the Terms of Reference, TIEZA declared [respondent] as the winning bidder, and the Hilaga Property was awarded to [respondent] as confirmed by the Board of Directors of TIEZA in its Resolution No. R-06-03-15 dated March 6, 2015.

[Respondent] paid TIEZA the winning bid of ₱939,656,848, net of value-added tax, for the Hilaga Property. Thereafter, TIEZA executed a Deed of Absolute Sale dated May 4, 2015, in favor of [respondent].

On June [5,] 2015, [respondent] paid the documentary stamp tax due on its purchase of the Hilaga Property amounting to ₱14,094,855.00.

[Respondent] did not subject to creditable withholding tax the purchase price of the Hilaga Property as [respondent] believed that TIEZA is exempt from payment of corporate income tax under Section 74 of R.A. No. 9593.

When [respondent] applied for the issuance of the Certificates Authorizing Registration (CARs), the BIR directed [respondent] to withhold and remit the creditable withholding tax equivalent to 6% of the ₱939,656,848.00 purchase price or a total basic creditable withholding tax of ₱56,379,410.88, plus interest, surcharge and compromise penalty.

In view of the BIR's directive, and to avoid undue delay in the issuance of the CARs and transfer of title over the Hilaga Property to [respondent], [respondent] was allegedly constrained to remit to the BIR the total amount of ₱100,439,805.47, as follows:

(i) ₱71,875,824.82 — remitted on January 31, 2018, consisting of creditable withholding tax, interest and compromise penalty; and,

(ii) ₱28,563,980.65 — remitted on March 16, 2018, consisting of creditable withholding tax, interest, surcharge and compromise penalty.

After remitting to the BIR the total amount of ₱100,439,805.47 in compliance with the BIR's directive, [respondent] was issued the corresponding CARs on its purchase of the Hilaga Property from TIEZA and Transfer Certificate of Title Nos. 042-2019010364 and 042-2019010365 were consequently issued in its name.

Claiming that the BIR's directive to remit the 6% creditable withholding tax was erroneous and illegal, as TIEZA is exempt from payment of corporate income tax, [respondent] filed with the BIR Revenue District Office No. 21

B an administrative claim for refund on July 2, 2019, praying for the refund of the amount of ₱100,439,805.47.

As [petitioner] has not rendered a decision on [respondent]'s administrative claim for refund and considering that the two (2)-year prescriptive period under Section 209, in relation to Section 204, of the NIRC of 1997, as amended, was about to lapse, [respondent] was constrained to file the present Petition for Review on January 30, 2020.

Summonses were served upon [petitioner] on February 18, 2020 and the Office of the Solicitor General on February 17, 2020.

On March 3, 2020, [petitioner] filed a Motion for Additional Time to File Answer praying for an additional period of thirty (30) days from March 4, 2020, or until April 3, 2020, within which to file his Answer. [Petitioner]'s Motion for Additional Time to File Answer was granted by the Court in the Order dated March 6, 2020.

On July 24, 2020, the Court's Judicial Records Division issued a Records Verification stating that [petitioner] failed to file his Answer per Order dated March 6, 2020.

On September 1, 2020, the Court issued a Resolution giving [respondent] a period of five (5) days from receipt thereof to indicate its interest to continue with the case and to file the appropriate motion.

On September 10, 2020, [respondent] filed a Motion to Declare Respondent in Default.

On September 14, 2020, [petitioner] filed a Motion for Leave to Admit Attached Answer, attaching thereto his Answer dated September 14, 2020.

In the Resolution dated September 28, 2020, the Court denied [respondent]'s Motion to Declare [Petitioner] in Default, and granted [petitioner]'s Motion for Leave to Admit Attached Answer.

In his Answer, [petitioner] raised the following Special and Affirmative Defenses: (*i*) [respondent] failed to comply with the requirements for refund of creditable withholding tax; (*ii*) [respondent] is not exempt from payment of withholding tax under Section 74 of R.A. No. 9593; and, (*iii*) claims for refund are construed strictly against the taxpayer and in favor of the government.

On October 12, 2020, the Court issued a Notice of Pre-Trial Conference and set the Pre-Trial on December 3, 2020 at 9:00 a.m. For lack of quorum, the Pre-Trial set on December 3, 2020 was cancelled and reset to March 4, 2021 at 9:00 a.m.

On November 27, 2020, [respondent]'s Pre-Trial Brief and [petitioner]'s Pre-Trial Brief were filed.

During the March 4, 2021 Pre-Trial, the parties were directed to submit their Joint Stipulation of Facts and Issues within twenty (20) days from March 4, 2021 or until March 24, 2021. The parties submitted their Joint Stipulation of Facts and Issues on March 24, 2021.

On April 29, 2021, the Court issued a Resolution approving the parties' Joint Stipulation of Facts and Issues, terminating Pre-Trial and setting the initial presentation of [respondent]'s evidence on May 6, 2021 at 9:00 a.m.

On May 26, 2021, the Court issued a Pre-Trial Order.

Meanwhile, during the May 6, 2021 hearing, [respondent] presented its sole witness, Atty. David P. Tan, Jr. who testified by way of Judicial Affidavit. Atty. Tan also identified and authenticated [respondent]'s exhibits, consisting of Exhibits "P-1" to "P-15".

On June 17, 2021, [respondent] filed its Formal Offer of Documentary Evidence. In the Resolution dated November 3, 2021, the Court admitted in evidence [respondent]'s Exhibits "P-1" to "P-16-a", *sans* [petitioner]'s comment despite due notice. Since [petitioner] failed to notify the Court on whether he would be presenting evidence, the Court directed the parties to submit their respective memoranda within thirty (30) days from receipt of the November 3, 2021 Resolution.

On December 21, 2021, [respondent] filed its Memorandum.

The case was submitted for decision in the Resolution dated February 28, 2022, taking into consideration [respondent]'s Memorandum, *sans* [petitioner]'s Memorandum as per Records Verification dated February 9, 2022.

On May 16, 2022, the Court in Division promulgated the assailed Decision,[5] to which petitioner filed *via* registered mail a *Motion for Reconsideration (Re: Decision dated 16 May 2022)*[6] *[Motion for Reconsideration]* on June 6, 2022, with respondent's *Opposition (to [Petitioner]'s Motion for Reconsideration dated 06 June 2022)*[7] filed on July 6, 2022.

On August 18, 2022, the Court in Division promulgated the assailed Resolution[8] denying petitioner's Motion for Reconsideration.

Aggrieved, petitioner filed the instant *Petition for Review*[9] with the Court *En Banc.*

On October 11, 2022, the Court *En Banc* issued a Minute Resolution[10] directing respondent to file its comment within ten (10) days from notice.

On December 2, 2022, respondent filed its *Comment (To: Petition for Review dated 30 September 2022).*[11]

On January 5, 2023, this case was submitted for decision.[12]

THE ISSUE

Petitioner assigned the following error for this Court's resolution:

> WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED WHEN IT GRANTED A RELIEF THAT WAS NOT PRAYED FOR BY PETITIONER.

Petitioner's arguments:

Petitioner argues that respondent failed to comply with the requirements for a refund of creditable withholding tax (CWT) since respondent did not provide supporting documents to show that the income from which the CWT being claimed

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[5] *Supra*, note 3.
[6] Division Docket – Vol. II, pp. 981-991.
[7] *Id.*, pp. 996-1004.
[8] *Supra*, note 4.
[9] *Supra*, note 1.
[10] *EB* Docket, p. 49.
[11] *Id.*, pp. 50-64.
[12] Minute Resolution, *id.*, p. 65.

was declared in its Annual Income Tax Return (AITR). Petitioner posits that there is no direct linkage between the CWT and the income as reflected in AITR.

Petitioner insists that respondent is not exempt from the payment of withholding tax under Section 74 of The Tourism Act of 2009. Respondent, being the withholding agent in the sale of Hilaga property, is not the proper party to claim a refund of CWT. Also, there is no evidence that TIEZA has not yet claimed the CWT related to the sale of Hilaga property.

Finally, petitioner asserts that claims for refund are strictly construed against the taxpayer.

Respondent's arguments:

Respondent contends that it is not required to prove the inclusion of its payment for Hilaga property in TIEZA's gross income to claim a refund of erroneously and illegally assessed and collected CWT. Respondent adds that its purchase of Hilaga property from TIEZA, a Philippine government agency exempt from corporate income tax, is not subject to the payment of CWT.

Respondent claims that it is the proper party to claim a refund of the CWT it paid on the sale of Hilaga property because a withholding agent is regarded as a party in interest to file a claim for refund of illegally collected taxes. TIEZA cannot properly claim a refund of CWT that was never deducted from its income payment in the first place; thus, it is only respondent that could claim a refund because it was the one that paid the CWT despite the sale of Hilaga property, not being subject to withholding tax.

THE COURT *EN BANC*'S RULING

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

The Court En Banc has jurisdiction over the instant Petition.

First, We determine whether the present *Petition for Review* was timely filed.

Under Section 3(b), Rule 8[13] of the Revised Rules of the Court of Tax Appeals (RRCTA), a petition for review must be filed with this Court within fifteen (15) days from receipt of the copy of the questioned resolution of the Court in Division.

Petitioner received the assailed Resolution on September 2, 2022.[14] Counting fifteen (15) days, petitioner had until September 17, 2022, to file a petition for review with the Court *En Banc*.

On September 16, 2022, petitioner filed a *Motion for Extension of Time to File Petition for Review*,[15] asking for an additional period of fifteen (15) days from September 17, 2022, or until October 2, 2022, to file a Petition for Review, which the Court granted.[16]

October 2, 2022 fell on a Sunday. Hence, the filing of this *Petition for Review* on October 3, 2022, the next working day, was 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 case under Section 2(a)(1), Rule 4[17] of the RRCTA.

The Court in Division did not err in ruling that respondent is entitled to its claim for a refund of ₱100,439,805.47.

The claimed amount was erroneously and illegally collected and remitted to the BIR.

TIEZA's income tax exemption is provided under Section 74 of Republic Act (R.A.) No. 9593, The Tourism Act of 2009, which reads:

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[13] *Supra*, note 2.
[14] Notice of Resolution, Division Docket – Vol. II, p. 1008.
[15] *EB* Docket, pp. 1-5.
[16] Minute Resolution dated September 20, 2022, *id.*, p. 6.
[17] SEC. 2. *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; ...

> SEC. 74. *Exemption from Payment of Corporate Income Tax.* — Notwithstanding any provision of existing laws, decrees, executive orders to the contrary, **the TIEZA shall be exempt from the payment of corporate income tax, as provided under the NIRC**. (*Emphasis supplied*)

Since TIEZA is exempt from the payment of corporate income tax under the law, all **income payments to TIEZA**, including the amount received from the sale of its Hilaga Property, are **exempt from withholding** under Section 2.57.5 of RR No. 2-98, as amended, *viz.*:

> SEC. 2.57.5. *Exemption from Withholding.* — **The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to** the following:
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> (A) National government and its instrumentalities, including provincial, city or municipal governments;
>
> (B) **Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law**, general or special, such as but not limited to the following: ... (*Emphasis supplied*)

Correspondingly, respondent is **not** required to withhold and remit to the BIR the CWT equivalent to six percent (6%) of the purchase price of the Hilaga Property. Hence, it was erroneous and illegal for the BIR to require respondent to remit the total amount of ₱100,439,805.47, as follows:

> (i) ₱71,875,824.82 — remitted on January 31, 2018, consisting of creditable withholding tax, interest and compromise penalty; and,
>
> (ii) ₱28,563,980.65 — remitted on March 16, 2018, consisting of creditable withholding tax, interest, surcharge and compromise penalty.

Considering that the claimed amount of ₱100,439,805.47 was erroneously and illegally collected and remitted to the BIR, the same is refundable under Sections 204 and 229 of the NIRC of 1997, as amended.

Respondent has sufficiently proven its claim for refund.

Petitioner claims that it is incumbent upon respondent to prove the following to be entitled to a refund of CWT,[18] *viz.*:

a) The claim for refund was filed within the two-year prescriptive period provided under Section 229 of the NIRC of 1997, as amended;

b) Fact of withholding by taxpayer, including the amount paid and withheld therefrom;

c) Income from which the taxes were withheld is included as part of gross income in the Income Tax Return; and

d) It did not perform any act that carry over said excess withholding tax to the succeeding quarter or year.

Petitioner claims that respondent must show in the return that the income from which the withholding tax was withheld formed part of his gross income. In the instant case, respondent did not provide supporting documents to show that the income from which the CWT being claimed is attributed was declared in the AITR. Hence, the refund claim must be disallowed.

Respondent counters that it is not required to prove the inclusion of its payment for the Hilaga Property in TIEZA's gross income to claim for refund of erroneously and illegally assessed and collected CWT; that as judiciously ruled by the Court in Division, proof that the income payment was declared as part of the recipient's gross income is only vital for claims for refund of excess income tax or excess CWT payment, and not in cases where the CWT was erroneously and illegally assessed and collected by the BIR; and that the circumstances surrounding respondent's remittance to the BIR of CWT render TIEZA's ITR irrelevant to its claim for refund.

We find for respondent.

[18] *EB* Docket, p. 13.

The Court in Division correctly pointed out that respondent's claim for refund was duly substantiated and that the above requirements are vital only for claims for refund of excess income tax payments or excess CWT under Section 76 of the NIRC of 1997, as amended, and not to a claim for refund of CWT that should not have been remitted to the BIR in the first place. The Court *En Banc* finds it fit to quote with approval, the Court in Division's disquisition on the matter,[19] to wit:

> To prove the remittance to the BIR of the erroneously or illegally collected creditable withholding tax, interest, surcharge, and compromise penalty, [respondent] offered in evidence the following documents:
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> 1. Withholding Tax Remittance Return dated January 31, 2018 and its corresponding bank payment slip, evidencing remittance to the BIR of the total amount of ₱71,875,824.82, broken down as follows: (i) creditable withholding tax in the amount of ₱46,982,842.40; (ii) interest of ₱24,842,982.42; and, (iii) compromise penalty of ₱50,000.00;
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> 2. Withholding Tax Remittance Return dated March 16, 2018 and its corresponding bank payment slip, evidencing additional remittance to the BIR of the total amount of ₱28,563,980.65, consisting of creditable withholding tax, surcharge, interest and compromise penalty; and,
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> 3. BIR's Certification dated February 13, 2020, certifying that [respondent] have "filed the tax return/s and paid the corresponding tax due/s for taxable year 2018," to wit: ...
>
> Evidently, **[respondent] has sufficiently proven that it is entitled to a refund in the total amount of ₱100,439,805.47** representing the erroneously or illegally withheld and remitted creditable withholding tax, interest, surcharge and compromise penalty, on January 31, 2018 and March 16, 2018, in connection with its purchase from TIEZA of the Hilaga Property as evidenced by the Deed of Absolute Sale dated May 4, 2015 issued by TIEZA in favor of [respondent].
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> Anent [petitioner]'s contention that [respondent] must prove its compliance with the following requisites: *(i)* the income from which the tax was withheld was included as part of the gross income; and, *(ii)* the fact of withholding must be evidenced by a copy of the statement duly issued by the payor to the payee, the Court finds the same **inapplicable** in this case.

[19] *Supra*, note 2, *EB* Docket, pp. 39-40.

> The foregoing requirements are vital only for claims for refund of excess income tax payments or excess creditable withholding tax under **Section 76 of the NIRC of 1997**, as amended, and not to a claim for refund of creditable withholding tax which should not have been remitted to the BIR in the first place. (*Emphases supplied*)

Respondent, as withholding agent, may file a claim for a refund of CWT.

Petitioner argues that respondent is not the proper party to claim a CWT refund. It emphasizes that the proper claimant of the CWT refund is TIEZA, the taxpayer whose taxes were withheld, and not respondent, the withholding agent.

Petitioner is mistaken.

It has already been settled by jurisprudence that a withholding agent, such as respondent, may file a claim for a refund of the erroneously withheld taxes on behalf of the statutory taxpayer.[20]

In *Commissioner of Internal Revenue v. Smart Communication, Inc.*[21] (*Smart*), the Supreme Court emphasized that the person entitled to claim a tax refund is the taxpayer. However, in case the taxpayer does not file a claim for refund, the withholding agent may file the claim, *viz.*:

> In *Commissioner of Internal Revenue v. Procter & Gamble Philippine Manufacturing Corporation*, a withholding agent was considered a proper party to file a claim for refund of the withheld taxes of its foreign parent company. Pertinent portions of the Decision read:
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> > The term "taxpayer" is defined in our NIRC as referring to "any person subject to tax imposed by the Title [on Tax on Income]." It thus becomes important to note that under Section 53(c) of the NIRC, the withholding agent who is "required to deduct and withhold any tax" is made "personally liable for such tax" and indeed is indemnified against any claims and demands which the stockholder might wish to make in questioning the amount of payments effected by the withholding agent in accordance with the provisions of the

[20] *Commissioner of Internal Revenue v. Bahay Bonds 2 Special Purpose Trust*, G.R. No. 240515 (Notice), February 4, 2019.
[21] G.R. Nos. 179045-46, August 25, 2010.

> NIRC. The withholding agent, P&G-Phil., is directly and independently liable for the correct amount of the tax that should be withheld from the dividend remittances. The withholding agent is, moreover, subject to and liable for deficiency assessments, surcharges, and penalties should the amount of the tax withheld be finally found to be less than the amount that should have been withheld under law.
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> **A "person liable for tax" has been held to be a "person subject to tax" and properly considered a "taxpayer."** The terms "liable for tax" and "subject to tax" both connote legal obligation or duty to pay a tax. It is very difficult, indeed conceptually impossible, to consider a person who is statutorily made "liable for tax" as not "subject to tax." By any reasonable standard, **such a person should be regarded as a party in interest, or as a person having sufficient legal interest, to bring a suit for refund of taxes he believes were illegally collected from him**.
>
> ... ...

We believe and so hold that, under the circumstances of this case, P&G-Phil. is properly regarded as a "taxpayer" within the meaning of Section 309, NIRC, and as impliedly authorized to file the claim for refund and the suit to recover such claim.

Petitioner, however, submits that this ruling applies only when the withholding agent and the taxpayer are related parties, *i.e.*, where the withholding agent is a wholly owned subsidiary of the taxpayer.

We do not agree.

Although such relation between the taxpayer and the withholding agent is a factor that increases the latter's legal interest to file a claim for refund, there is nothing in the decision to suggest that such relationship is required or that the lack of such relation deprives the withholding agent of the right to file a claim for refund. Rather, what is clear in the decision is that **a withholding agent has a legal right to file a claim for refund** for two reasons. *First*, **he is considered a "taxpayer" under the NIRC** as he is personally liable for the withholding tax as well as for deficiency assessments, surcharges, and penalties, should the amount of the tax withheld be finally found to be less than the amount that should have been withheld under law. *Second*, **as an agent of the taxpayer, his authority to file the necessary income tax return and to remit the tax withheld to the government impliedly includes the authority to file a claim for refund and to bring an action for recovery of such claim.** (*Emphasis supplied*)

The Supreme Court clarified in the *Smart* case that a withholding agent may file a claim for a refund on behalf of the taxpayer, even if they are unrelated parties. Applying the *Smart* case, respondent may file a claim for a refund on behalf of TIEZA as it has interest over the CWT it remitted, which TIEZA is exempt from paying.

All told, the Court *En Banc* sees no compelling reason to reverse and set aside the Court in Division's finding that respondent has sufficiently proven its entitlement to a ₱100,439,805.47 refund, representing erroneously or illegally collected creditable withholding tax, interest, surcharge, and compromise penalty.

WHEREFORE, premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue is **DENIED** for lack of merit. Accordingly, the Decision dated May 16, 2022, and the Resolution dated August 18, 2022, of the Court's First Division in CTA Case No. 10251 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

(On Leave)
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

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice