

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF
INTERNAL REVENUE,
Petitioner,

CTA EB NO. 2798
(CTA Case No. 10107)

- versus -

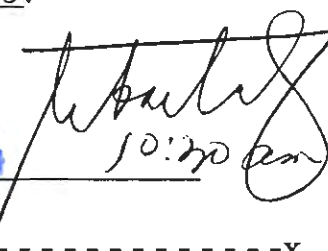
Present:

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

KUWAIT AIRWAYS
CORPORATION,
Respondent.

Promulgated:

NOV 04 2024

A handwritten signature in black ink is written over a blue date stamp that reads "NOV 04 2024". The signature appears to be "J. Angeles".

X-----X

DECISION

ANGELES, J.:

Before the Court *En Banc* is a *Petition for Review*¹ filed on September 26, 2023 by petitioner Commissioner of Internal Revenue (CIR), seeking the reversal of the *Decision*² dated March 28, 2023, and *Resolution*³ dated September 4, 2023, both promulgated by the Special Third Division of this Court (the “Court in Division”) in CTA Case No. 10107, entitled “*Kuwait Airways Corporation vs. Commissioner of Internal Revenue*”, and the denial of herein respondent’s entire claim for refund of overpayment of income tax on its Gross Philippine Billings (GPBs) for fiscal year ended March 31, 2017.

¹ EB Docket, *Petition for Review* dated September 20, 2023, pp. 1-6.

² EB Docket, *Decision* dated March 28, 2023, pp. 16-32.

³ EB Docket, *Resolution* dated September 4, 2023, pp. 34-39.

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THE PARTIES

Petitioner is the duly appointed Commissioner of Internal Revenue, vested under appropriate laws with authority to carry out all the functions, duties and responsibilities of the Bureau of Internal Revenue (BIR), including, *inter alia*, the power to decide, approve and grant claims for refund or tax credit of internal revenue taxes. He holds office at the BIR National Office Building, Agham Road, Quezon City.⁴

Respondent Kuwait Airways Corporation (KAC) is a corporation organized and existing under the laws of Kuwait. It has been granted a license to transact business in the Philippines by the Securities and Exchange Commission. It is registered with the BIR under Taxpayer Identification Number (TIN) 001-482-624-00000, with address at G/F Corporate Plaza, 150 Legaspi Street, Legaspi Village, San Lorenzo, City of Makati, NCR, Fourth District, Philippines 1223.⁵

THE FACTS

On June 5, 2015, KAC filed an Application for Relief from Double Taxation on Shipping and Air Transport (BIR Form No. 0901-T), accompanied by certain documents, with the BIR-International Tax Affairs Division (ITAD). On January 11, 2018, KAC received, via registered mail, a copy of BIR Ruling No. ITAD 034-17 dated November 6, 2017 signed by then Commissioner Caesar R. Dulay.⁶ Pertinent portions of the said BIR Ruling⁷ read:

In the case of Kuwait Airways, it invokes solely the Philippines-Kuwait tax treaty, effective January 1, 2014.

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Under Article 8, international carriers of Kuwait doing business in the Philippines are subject to income tax on their GBP at the rate of 1½%, or the lowest rate imposed on the GBP of international carriers of a third country (the so-called ‘most-favored-nation treatment’).

Accordingly, since the Philippines, to date, has not granted a most-favored-nation treatment to any international air carrier of a third country, Kuwait Airways is subject to income tax of 1½% on its GBP earned beginning January 1, 2014, pursuant to paragraph 2(b), Article 8 of the Philippines-Kuwait tax treaty.

⁴ *Supra* note 2, p. 17.

⁵ *Supra* note 2, pp. 16-17.

⁶ *Id.*

⁷ Division Docket – Vol. II, Exhibit “P-80”, pp. 617-620.

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On March 21, 2018, KAC then filed an Amended Annual Income Tax Return (ITR) for the fiscal year ended March 31, 2017, which reflected the application of the 1½% preferential income tax rate.⁸

Thereafter, on May 16, 2018, KAC filed with the BIR-Regular Large Taxpayer Audit Division 2, an Application for Tax Credits/Refunds (BIR Form No. 1914), and a letter of even date, applying for the issuance of tax credit certificates (TCCs) in its favor in view of its overpaid taxes for taxable fiscal year ended March 31, 2017 amounting to ₱12,508,611.74.⁹

Due to the alleged inaction of the CIR, respondent KAC filed a *Petition for Review*¹⁰ on July 10, 2019, docketed as CTA Case No. 10107, praying that it be declared entitled to the issuance of TCCs in the amount of ₱12,508,611.74 for the fiscal year ended March 31, 2017.

After trial on the merits, the Court in Division promulgated the assailed *Decision* dated March 28, 2023, partially granting KAC's *Petition*, as follows:

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, [CIR] is hereby **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of [KAC] in the amount of ₱12,398,319.19, representing the latter's overpayment of income tax on its GPBs for fiscal year ended March 31, 2017.

SO ORDERED.

Thereafter, the *Motion for Reconsideration*¹¹ filed by the CIR on May 12, 2023, was denied in the assailed *Resolution* dated September 4, 2023, promulgated by the Court in Division, the dispositive portion of which provides:

WHEREFORE, in light of the foregoing, [CIR]'s *Motion for Reconsideration* (Re: *Decision* promulgated on 28 March 2023), is **DENIED** for lack of merit.

SO ORDERED.

⁸ *Supra* note 2, p. 18.

⁹ *Id.*

¹⁰ Division Docket – Vol. I, *Petition for Review* dated July 5, 2019, pp. 11-31.

¹¹ Division Docket - Vol. II, *Motion for Reconsideration* (Re: *Decision* promulgated on 28 March 2023) dated May 8, 2023, pp. 1095-1100.

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On September 26, 2023, the CIR filed the instant *Petition* before this Court *En Banc*, praying for the reversal of both assailed *Decision* and *Resolution*, and denial of KAC's entire claim for refund. KAC then filed its *Comment*¹² on November 15, 2023, in compliance with the *Minute Resolution*¹³ dated October 25, 2023. Thus, on November 20, 2023, the present *Petition* was submitted for decision.¹⁴

ISSUE

Petitioner raised the following error¹⁵ allegedly committed by the Court in Division, to wit:

WHETHER OR NOT THE SPECIAL THIRD DIVISION OF THE HONORABLE COURT ERRED WHEN IT RULED THAT RESPONDENT IS ENTITLED TO REFUND IN THE AMOUNT OF ₱12,398,319.19, REPRESENTING ALLEGED OVERPAYMENT OF INCOME TAX ON ITS GPBs FOR FISCAL YEAR ENDED MARCH 31, 2017.

ARGUMENTS OF THE PARTIES

CIR's Arguments

In his *Petition*, the CIR argues that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer. The CIR claims that under Revenue Regulations No. 15-2013 or the *Revenue Regulations Implementing Republic Act No. 10378* entitled "*An Act Recognizing the Principle of Reciprocity as Basis for the Grant of Income Tax Exemptions to International Carriers and Rationalizing Other Taxes Imposed thereon by Amending Sections 28(A)(3)(A), 109, 118 And 236 of the National Internal Revenue Code (NIRC), as Amended, and for Other Purposes*" (RR No. 15-2013), reciprocity requires that Philippine carriers operating in the Home Country of an international carrier are actually enjoying the same income tax exemption. In KAC's case, the CIR asserts that KAC failed to show that Philippine carriers are enjoying the same income tax exemption in KAC's Home Country in Kuwait.

Moreover, according to the CIR, there is no record that KAC submitted complete documents to substantiate its administrative

¹² EB Docket, Comment (Re: Petition for Review dated September 20, 2023) dated November 13, 2023, pp. 41-47.

¹³ EB Docket, p. 50.

¹⁴ EB Docket, Minute Resolution dated November 20, 2023, p. 49.

¹⁵ *Supra* note 1, p. 3.

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claim for refund, and in the absence thereof, there is sufficient reason for the denial of the claim.

KAC's Arguments

In its *Comment*, KAC posits that under RR No. 15-2013, reciprocity may be invoked by an international carrier only if it is claiming GPB tax exemption, in which case, the international carrier has to establish that the same privilege is accorded to Philippine carriers operating in the Home Country of such international carrier. Contrary to the CIR's contention, KAC argues that the reciprocity requirement is not applicable considering that its case does not involve income tax exemption but the availment of the preferential income tax rate on its GPBs.

KAC contends that it has established by evidence its entitlement to the issuance of TCCs. According to KAC, BIR Ruling ITAD No. 034-17 clearly provides that it is entitled to avail of the preferential income tax rate of 1½% on its GPBs earned beginning January 1, 2014 pursuant to the Philippines-Kuwait Tax Treaty.¹⁶

RULING OF THE COURT *EN BANC*

The *Petition for Review* is bereft of merit.

The Court En Banc has jurisdiction to take cognizance over the Petition.

Section 2(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides for the cases within the jurisdiction of the Court *En Banc*, thus:

**RULE 4
JURISDICTION OF THE COURT**

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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:

¹⁶ Convention between the Government of Republic of the Philippines and the Government of the State of Kuwait for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income.

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(a) **Decisions or resolutions** on motions for reconsideration or new trial of the **Court in Division 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; (Emphasis supplied)

As the *Petition for Review* filed by the CIR before the Court *En Banc* prays for the reversal of the assailed *Decision* and *Resolution* both promulgated by the Court in Division, the Court *En Banc* has appellate jurisdiction to review by appeal the subject matter of the instant *Petition* pursuant to Section 2(a)(1), Rule 4 of the RRCTA.

As to the timeliness of filing the *Petition*, Section 3(b), Rule 8 of the RRCTA, provides:

**RULE 8
PROCEDURE IN CIVIL CASES**

xxx

SEC. 3. Who may appeal; period to file petition. –

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(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may **appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, **the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.** (Emphasis supplied)

A perusal of the records shows that on September 12, 2023, the CIR received the assailed *Resolution*, denying his *Motion for Reconsideration* filed before the Court in Division.¹⁷

Pursuant to Section 3(b), Rule 8 of the RRCTA, the CIR has fifteen (15) days from September 12, 2023 or until September 27, 2023, within which to appeal the assailed *Resolution* with the Court *En Banc*.

¹⁷ EB Docket, Notice of Resolution dated September 5, 2023, p. 33.

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On September 26, 2023, the CIR timely filed the instant *Petition for Review*. Therefore, the Court *En Banc* has validly acquired jurisdiction to take cognizance over the present *Petition*.

At the outset, it is pertinent to note that an examination of the CIR's arguments in his *Petition for Review* readily reveals that the same are a verbatim rehash and mere reiteration of those already raised in his *Answer*¹⁸ and *Motion for Reconsideration* before the Court in Division, which were already exhaustively passed upon and duly considered in the assailed *Decision* and *Resolution*.

The Court in Division committed no error in ruling in favor of respondent.

In the *Petition*, the CIR claims that respondent KAC is not entitled to the relief sought considering that it failed to establish that Philippine carriers are enjoying the same income tax exemption in Kuwait pursuant to provisions on reciprocity under RR No. 15-2013.

We are not convinced.

Under Section 28(A)(3)(a) of the National Internal Revenue Code of 1997 (Tax Code), as amended by R.A. No. 10378, it provides that international carrier doing business in the Philippines is required to pay a tax of 2½% on its GPB, **or** may avail of a preferential rate or exemption from such tax based on an applicable tax treaty to which the Philippines is a signatory, thus:

SEC. 28. Rates of Income Tax on Foreign Corporations. —

(A) Tax on Resident Foreign Corporations. —

(1) xxx

(2) xxx

(3). **International Carrier. — An international carrier doing business in the Philippines shall pay a tax of two and one-half percent (2 1/2 %) on its 'Gross Philippine Billings'** as defined hereunder:

(a) **International Air Carrier. — 'Gross Philippine Billings'** refers to the amount of gross revenue derived from carriage of persons, excess baggage, cargo, and mail originating from the Philippines

¹⁸ Division Docket – Vol. I, pp. 243-247.

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in a continuous and uninterrupted flight, irrespective of the place of sale or issue and the place of payment of the ticket or passage document: Provided, That tickets revalidated, exchanged and/or indorsed to another international airline form part of the Gross Philippine Billings if the passenger boards a plane in a port or point in the Philippines: Provided, further, That for a flight which originates from the Philippines, but transshipment of passenger takes place at any part outside the Philippines on another airline, only the aliquot portion of the cost of the ticket corresponding to the leg flown from the Philippines to the point of transshipment shall form part of Gross Philippine Billings.

(b) International Shipping. — ‘Gross . Philippine Billings’ means gross revenue whether for passenger, cargo or mail originating from the Philippines up to final destination, regardless of the place of sale or payments of the passage or freight documents.

Provided, That international carriers doing business in the Philippines may avail of a preferential rate or exemption from the tax herein imposed on their gross revenue derived from the carriage of persons and their excess baggage **on the basis of an applicable tax treaty or international agreement to which the Philippines is a signatory or** on the basis of **reciprocity** such that an international carrier, whose home country grants income tax exemption to Philippine carriers, shall likewise be exempt from the tax imposed under this provision. (Emphasis supplied)

To implement Section 28(A)(3)(a) of the Tax Code, the BIR issued RR No. 15-2013, the relevant provisions of which are hereunder quoted:

SECTION 1. BACKGROUND. — On March 7, 2013, Republic Act (RA) No. 10378 entitled “An Act Recognizing the Principle of Reciprocity as Basis for the Grant of Income Tax Exemptions to International carriers and Rationalizing other Taxes Imposed thereon by amending Sections 28(A)(3)(a), 109, 118 and 236 of the National Internal Revenue Code (NIRC), as amended, and for other Purposes” was signed into law. **Pursuant thereto, international carriers may now avail of preferential rates** or exemption from income tax on their gross revenues derived from the carriage of persons and their excess baggage **based on the principle of reciprocity or an applicable tax treaty** or international agreement to which the Philippines is a signatory.

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SECTION 4. INCOME TAX. —

4.1) Income Tax Imposed on International Carriers with Flights or Voyages Originating from Philippine Ports. — **An international carrier having flights or voyages originating from any port**

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or point in the Philippines, irrespective of the place where passage documents are sold or issued, is subject to the Gross Philippine Billings Tax of two and one-half percent (2-1/2%) imposed under Section 28(A)(3)(a) and (b) of the NIRC, as amended, unless it is subject to a preferential rate or exemption on the basis of an applicable tax treaty or international agreement to which the Philippines is a signatory or on the basis of 'reciprocity.'

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4.2) Preferential Income Tax Rate or Exemption of International Carrier with Flights or Voyage Originating from Philippine Ports. – Under Section 28(A)(3) of the NIRC, as amended by RA No. 10378, **international carriers doing business in the Philippines may avail of a preferential income tax rate or income tax exemption on their gross revenues derived from the carriage of persons and their excess baggage on the basis of the following:**

A) Applicable tax treaty to which the Philippines is a signatory. – Tax Treaties generally allow the Philippines to impose preferential income tax rates on profits from the operation of ships or aircrafts in international traffic by residents of the other contracting states. There are Tax Treaties which provide that the tax shall not exceed the lesser of **one and one-half percent (1-1/2%) of the gross revenues derived from sources in the Philippines**, or the lowest rate of the Philippine tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

In order to avail of the preferential income tax rates under Tax Treaties, international carriers shall observe the procedures stated in Revenue Memorandum Order No. 072-10 on the *Guidelines on the Processing of Tax Treaty Relief Applications (TTRA) Pursuant to Existing Philippine Tax Treaties*. Accordingly, a **tax treaty relief application (TTRA) is required to be filed with the International Tax Affairs Division (ITAD) of the BIR and duly approved by the Commissioner of Internal Revenue or his/her duly authorized representative, before an international carrier may be entitled to avail of the preferential rate.**

A TTRA filed by and/or granted to an international carrier prior to the effective date of these Regulations shall remain valid and binding, thus dispensing with the need for such international carrier to file a new TTRA under these Regulations.

B) Reciprocity. – This may be invoked by an international carrier as basis for Gross Philippine Billings Tax exemption when its Home Country grants income tax exemption to Philippine carriers.

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Reciprocity requires that Philippine carriers operating in the Home Country of an international carrier are actually enjoying the income tax exemption. (Emphasis supplied)

Verily, as gleaned from the above provisions, an international carrier is entitled to avail of a preferential income tax rate on its GPBs by invoking any applicable tax treaty to which the Philippines is a signatory. Based on the foregoing, an international carrier who invokes an applicable tax treaty for the availment of a preferential income tax rate is required to file a tax treaty relief application (TTRA) with the ITAD of the BIR, which must be duly approved by the CIR before the international carrier may apply the preferential rate on its GPBs.

A reading of Section 4.2 (B) also shows that proof of reciprocity is required only if an international carrier invokes the same as basis for its GPB **exemption**. Hence, contrary to the CIR's contention, it should be emphasized that neither R.A. No. 10378 nor RR No. 15-2013, mandates the international carrier invoking a **preferential income tax rate based on an applicable tax treaty**, to also prove reciprocity in order to be entitled to such preferential income tax rate.

In this regard, the Court *En Banc* notes with approval the Court in Division's ruling that requiring international carriers invoking any treaties or agreements to also provide proof of actual enjoyment by Philippine carriers of income tax exemption in the Home Country of the international carrier, unduly expands the law, and in turn, creates an additional burden upon international carriers which should not be tolerated.

The Court *En Banc* stresses that the purpose of a tax treaty is to avoid double taxation, among others. This was explained in *Air Canada v. Commissioner of Internal Revenue*¹⁹, as follows:

A tax treaty is an agreement entered into between sovereign states "for purposes of eliminating double taxation on income and capital, preventing fiscal evasion, promoting mutual trade and investment, and according fair and equitable tax treatment to foreign residents or nationals." *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc.* explained the purpose of a tax treaty:

The purpose of these international agreements is to reconcile the national fiscal legislations of the contracting parties in order to help the taxpayer avoid simultaneous taxation in two different jurisdictions. More precisely, the **tax conventions**

¹⁹ G.R. No. 169507, January 11, 2016, citing *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc.*, G.R. No. 127105, June 25, 1999.

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are drafted with a view towards the elimination of international juridical double taxation, which is defined as the imposition of comparable taxes in two or more states on the same taxpayer in respect of the same subject matter and for identical periods.

The apparent rationale for doing away with double taxation is to encourage the free flow of goods and services and the movement of capital, technology and persons between countries, conditions deemed vital in creating robust and dynamic economies. Foreign investments will only thrive in a fairly predictable and reasonable international investment climate and the protection against double taxation is crucial in creating such a climate. (Emphasis supplied)

Observance of any treaty obligation binding upon the government of the Philippines is anchored on the constitutional provision that the Philippines "adopts the generally accepted principles of international law as part of the law of the land." *Pacta sunt servanda* is a fundamental international law principle that requires agreeing parties to comply with their treaty obligations in good faith. Hence, the application of the provisions of the Tax Code must be subject to the provisions of tax treaties entered into by the Philippines with foreign countries.²⁰

Based on the Philippines-Kuwait Tax Treaty, a Contracting State may be taxed at 1½% of the gross revenue derived from sources in the other Contracting State, *viz*:

Article 8
SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships and aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. Notwithstanding the provisions of paragraph 1, **profits from sources within a Contracting State derived by an enterprise of other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the first mentioned State but the tax so charged shall not exceed the lesser of:**
 - a) **one and one-half percent of the gross revenue derived from sources in that State;** and
 - b) the lowest rate that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

²⁰ *Id.*

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In relation thereto, Revenue Memorandum Circular (RMC) No. 37-2014, entitled "*Entry into Force, Effectivity, and Applicability of the Philippines-Kuwait Double Taxation Agreement*" was issued by the CIR on May 8, 2014, which states:

The Agreement between the Government of the Republic of the Philippines and the Government of the State of Kuwait for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income has entered into force on 22 April 2013. Pursuant to paragraph 2, Article 28 thereof, the **provisions on taxes on income of the Agreement shall apply to income derived or which accrued beginning 01 January 2014.**

Tax Treaty Relief Applications (TTRA) invoking the Philippines-Kuwait Double Taxation Agreement should be filed with and addressed to the International Tax Affairs Division (ITAD) xxx. For this purpose, the concerned Kuwaiti resident income earner or an authorized representative of the latter should file a duly accomplished BIR Form 0901 (Application for Relief from Double Taxation) xxx.

In this case, KAC's Application for Relief from Double Taxation on Shipping and Air Transport (BIR Form No. 0901-T) filed on June 5, 2015, evidently shows that the same was for the availment of the preferential rate of 1½% on the basis of the Philippines-Kuwait Tax Treaty, not exemption. As established by KAC, its Application was approved by then Commissioner Caesar R. Dulay through the issuance of the BIR Ruling No. ITAD 034-17 dated November 6, 2017. Thus, as aptly held by the Court in Division, there is no reason to deprive KAC of its availment of the preferential tax rate of 1½% on its GPBs pursuant to the Philippines-Kuwait Tax Treaty, especially since the same had already been confirmed by no less than the Office of the CIR.

Furthermore, the CIR's argument that KAC's claim should be denied since there is no record that it has submitted complete documentation in support of its administrative claim for refund, deserves scant consideration.

As correctly found by the Court in Division, KAC's judicial recourse with the Court was prompted by the CIR's inaction on its application for the issuance of TCCs in view of its overpaid taxes for taxable fiscal year ended March 31, 2017. Here, the CIR failed to show that it has sent any written notice to KAC informing the latter that the documents submitted were incomplete or requiring KAC to submit additional documents in support of its administrative claim. It should also be emphasized that the CIR did not even present any evidence to controvert KAC's claim. It is noteworthy that in the Pre-trial Order

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dated January 14, 2020, it was stated that the CIR will not present evidence as manifested during the Pre-trial Conference on November 21, 2019.²¹ Likewise, during the October 28, 2020 hearing, counsel for CIR manifested that she will not present any evidence for the CIR.²²

In view of the basic rule that mere allegations are not evidence and not equivalent to proof²³, the CIR's allegation is essentially self-serving and devoid of any evidentiary weight. Thus, the findings of the Court in Division in the assailed *Decision* and *Resolution* remain uncontroverted.

Verily, the Court *En Banc* concurs with the Court in Division's findings that KAC has sufficiently established its entitlement to the preferential income tax rate of 1½% on its GPBs beginning January 1, 2014 under the Philippine-Kuwait Tax Treaty as confirmed by the BIR Ruling No. ITAD 034-17 dated November 6, 2017, and, consequently, the issuance of TCCs in the amount of ₱12,398,319.19 for the overpayment of its income tax for taxable fiscal year ended March 31, 2017.

Finally, the Court emphasizes that while tax refunds are strictly construed against the taxpayer, the Government should not resort to technicalities and legalisms, much less frivolous appeals, to keep the money it is not entitled to at the expense of the taxpayers. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.²⁴

In view of the foregoing and there being no new matter or substantial issue raised in the CIR's *Petition*, the Court finds no compelling reason to reverse, amend, or modify the assailed *Decision* and *Resolution*.

WHEREFORE, premises considered, the CIR's *Petition for Review* filed on September 26, 2023, is hereby **DENIED** for lack of merit.

²¹ Division Docket – Vol. II, p. 673.

²² Division Docket – Vol. II, pp. 768-769.

²³ *Lauro Cardinez v. Spouses Prudencio*, G.R. No. 213001, August 04, 2021, citing *Government Service Insurance System vs. Prudential Guarantee and Assurance, Inc.*, G.R. No. 165585, November 20, 2013.

²⁴ *Commissioner of Internal Revenue v. Lucio L. Co*, G.R. No. 241424, February 26, 2020.

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Accordingly, the *Decision* dated March 28, 2023, and *Resolution* dated September 4, 2023, both promulgated in CTA Case No. 10107, are **AFFIRMED**.

SO ORDERED.


HENRY S. ANGELES
Associate Justice

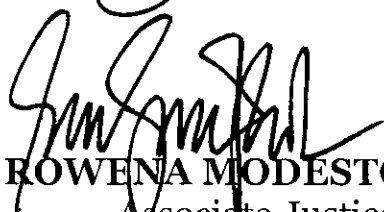
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIA A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

Lanee S. Cui-David
LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
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