REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

AYALA CORPORATION, Petitioner,	**CTA CASE NO. 9024**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **UY,** and **MINDARO-GRULLA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 25 2019 ; 4:00pm

x -x

AMENDED DECISION

MINDARO-GRULLA, *J.*:

For resolution are the following:

1. respondent's **Motion for Partial Reconsideration (re: Decision promulgated on 13 February 2018)**, filed on March 6, 2018, with petitioner's **Comment**, filed on April 6, 2018; and

2. petitioner's **Motion for Partial Reconsideration**, filed on March 6, 2018, without respondent's comment as per Records Verification dated April 17, 2018.

Both parties seek reconsideration of this Court's Decision dated February 13, 2018, the dispositive portion of which reads:

L

> "**WHEREFORE,** premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED.** Accordingly, respondent is **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱81,723,674.43**, representing petitioner's excess or unutilized creditable withholding taxes for calendar years 2012 and 2013.
>
> **SO ORDERED.**"

I. Respondent's Motion for Partial Reconsideration

In his motion, respondent argues that this Court erred in ruling that petitioner is entitled to a refund of unutilized excess creditable withholding tax (CWT) for calendar years (CYs) 2012 and 2013 in the reduced amount of ₱81,723,674.43, despite no evidence of actual remittance to the Bureau of Internal Revenue (BIR).

Respondent contends that it is incumbent upon petitioner to discharge its burden of proving the fact of withholding of taxes and their subsequent remittance to the BIR.

Respondent maintains that Revenue Regulation (RR) No. 2-2006 is a valid regulation. Hence, proof of actual remittance of the taxes withheld to the BIR is indispensible in a claim for refund of excess CWTs. Respondent avers that petitioner failed to prove that the alleged withheld taxes came to the hands of BIR, thus, petitioner is not entitled to any refund.

On the other hand, petitioner avers that the arguments raised by respondent are not new and novel. Petitioner states that this Court and the Supreme Court already held that proof of actual remittance is not a condition for granting a claim for refund of unutilized tax credits. Petitioner also stresses that it was compliant with RR No. 2-2006, which requires the mandatory submission of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Creditable Withholding Taxes (SAWT) by the Payee/Income Recipient to all taxpayers claiming refund.

The Court maintains its ruling that petitioner was able to comply with Section 2.58.3(B) of RR No. 2-98, which requires that:

L

"SEC. 2.58.3. *Claim for Tax Credit or Refund.-*

xxx xxx xxx

(B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom**." (*Emphasis supplied*)

In this case, petitioner was able to submit the Schedule of Creditable Taxes Withheld for the years 2012 and 2013 and the related Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307).

Commissioner of Internal Revenue vs. Asian Transmission Corporation,[1] is instructive:

At any rate, the CIR is correct in stating that the taxpayer bears the burden of proof to establish not only that a refund is justified under the law but also that the amount that should be refunded is correct. In this case, however, the CTA-First Division and the CTA-En Banc uniformly found that from the evidence submitted, ATC has established its claim for refund or issuance of a tax credit certificate for unutilized creditable withholding taxes for the taxable year 2001 in the amount of P27,325,856.58. The Court finds no cogent reason to rule differently. As correctly noted by the CTA-En Banc:

x x x proof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner. Section 2.58.3 (B) of Revenue Regulation No. 2-98 clearly provides that

[1] G.R. No. 179617, January 19, 2011.

> proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Section 57 and 58 of the NIRC of 1997, as amended, the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent, x x x has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are prima facie proof of actual payment by herein respondent-payee to the government itself through said agents. xxx

Thus, the certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld.[2]

II. Petitioner's Motion for Partial Reconsideration

Petitioner raises the following grounds in support of its motion for partial reconsideration:

I. The Court erred in disallowing a portion of the claim for tax credit certificate in the total amount of ₱46,414,695.77 on the ground that the income payments per Summary of Certificates of Creditable

---

[2] *Commissioner of Internal Revenue vs. Philippine National Bank,* G.R. No. 180290, September 29, 2014.

Taxes Withheld (BIR Form No. 2307) do not tally with the income indicated in the Summaries of Rental Income, Directors' Fees, Other Income, Proceeds From Sale-Land and Other Various Accounts for CYs 2012 and 2013.

II. The Court erred in not taking into account the findings made by the Independent Certified Public Accountant (ICPA) as found in the ICPA Report which can fully explain the apparent discrepancy between the income payments per Summary of Certificates of Creditable Taxes Withheld as against the income indicated in the Summaries of Rental Income, Directors' Fees, Other Income, Proceeds from Sale-Land and Other Various Accounts totaling to ₱46,414,695.77.

III. The summary of explanations provides the necessary reconciliation showing that there are no discrepancies between income payments per Summary of Certificates of Creditable Taxes Withheld as against the income indicated in the Summaries of Rental Income, Directors' Fees, Other Income, Proceeds from Sale-Land and Other Various Accounts.

Petitioner assails the findings of this Court with respect to the disallowance of a portion of petitioner's claim for tax credit certificate (TCC) in the total amount of ₱46,414,695.77. In order to assail such findings, petitioner prepared a detailed list of explanations for some items of disallowance with cross references to relevant documentary exhibits, attached to petitioner's motion as Annex "A" for the Court's consideration. To address the concerns of this Court's findings of lack of sufficient proof, the ICPA also attached the copies of the relevant General Journals/Journal Vouchers, Customer Invoices and Treasury Documents which are the source documents for each transaction.

In this connection, petitioner moved to allow the ICPA to testify on the execution of her Judicial Affidavit attached to its Motion for Partial Reconsideration and identify the relevant supporting documents attached thereto and to set the case for hearing for reception of its evidence.

c

In the Resolution[3] dated May 24, 2018, the Court granted the recall of the ICPA for a hearing on July 10, 2018 for the above-stated purpose. Meanwhile, the resolution of petitioner's Motion for Partial Reconsideration and respondent's Motion for Partial Reconsideration (re: Decision promulgated on 13 February 2018) was held in abeyance.

The hearing proceeded as scheduled and petitioner was ordered to submit its Formal Offer of Evidence. Accordingly, petitioner filed its Formal Offer of Additional Evidence on August 14, 2018.

In the Resolution dated October 10, 2018, the Court admitted petitioner's additional evidence but noted some discrepancies between the documents described in the Summary of Explanations, the printed documents and the scanned documents submitted by petitioner.

On November 7, 2018, petitioner filed a Manifestation and Motion to correct the document reference number in the Summary of Explanations and to submit the correct printed and scanned copy of documents to conform with testimonial and documentary evidence offered during the trial. The same was noted and granted by the Court in the Resolution dated December 12, 2018. Hence, we now resolve petitioner's motion.

Petitioner seeks for the reconsideration of its claimed CWTs amounting to ₱46,414,695.77 which was disallowed for issuance of TCC since the corresponding income payments amounting to ₱448,708,926.10 per the Summary of Certificate of Creditable Taxes Withheld Supported by Original Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) Issued by the Payor in the Petitioner's Name for CYs 2012 and 2013 cannot be traced or differed with the income amounts indicated in the Summaries[4] of Rental Income, Directors' Fees, Other Income, Proceeds from Sale - Land and Others-Various Accounts. The Court found that some items with discrepancy were accounted for by petitioner but failed to submit proof (*i.e.*, journal entries traced to subsidiary and general ledgers) to support such; while other discrepancies remained unaccounted. Thus, the Court held that it cannot ascertain whether said income payments pertain to one and the same transactions.

---

[3] Docket, pp. 741 to 746.
[4] Exhibits P-23 to P-31.

L

However, the Court found that, out of the total disallowances of ₱46,414,695.77 being sought for reconsideration, petitioner accounted only the amount of ₱46,342,779.34 with corresponding income payments amounting to ₱444,991,196.86 by presenting a Summary of Explanations per CTA Disallowances[5] (Summary) together with the relevant General Journals/Journal Vouchers, Customer Invoices and Treasury Documents[6] which were checked and validated by the Court-commissioned ICPA.

The Summary shows the details of the amount of disallowances accounted for as follows:

Exh. No.	Period Covered	Payor	Amount of Income Payment	Amount of Taxes Withheld
2012				
Rental Income				
P-20-11	1st Quarter	Honda Cars Makati, Inc.	₱ 5,554,880.50	₱ 277,744.03
P-20-12	1st Quarter	Honda Cars Makati, Inc.	1,380,070.32	69,003.52
P-20-14	1st Quarter	Honda Cars Makati, Inc.	4,358,590.98	217,929.55
P-20-30 to 32	3rd Quarter	Isuzu Automotive Dealership, Inc. - Alabang Branch	1,675,772.80	83,788.64
P-20-36	4th Quarter	Isuzu Cebu, Inc. - Mandaue Branch	974,459.20	48,722.96
		Subtotal	***₱ 13,943,773.80***	***₱ 697,188.70***
Directors' Fees				
P-20-60 to 95	1st to 4th Quarter	Ayala Land Inc.	***₱ 9,500,000.00***	***₱ 1,425,000.00***
Other income				
P-20-176 to 178	4th Quarter	Bank of the Philippine Islands	₱ 36,581,296.78	3,721,625.94
P-20-180	December 2012	BPI Family Savings Bank Inc.	3,003,307.94	60,066.16
P-20-187 to 189	2nd to 4th Quarter	Globe Telecoms Inc.	580,473.34 36,703,579.53	11,609.47 5,440,536.93
P-20-193 to 199	2nd to 4th Quarter	Integrated Microelectronics Inc	17,428,648.88	2,614,135.91
P-20-207 and P-20-152	2nd Quarter	Manila Water Company	28,171,420.36	4,225,713.05
P-20-208 to 213	3rd to 4th Quarter	Manila Water Company	27,077,458.47	4,061,618.77
		Subtotal	***₱ 149,546,185.30***	***₱ 20,135,306.23***
Proceeds from Sale of Land				
P-20-244	December 2012	Amaia Land Corp.	***₱ 126,785,270.00***	***₱ 7,607,116.20***
		Total – 2012	***₱ 299,775,229.10***	***₱ 29,864,611.13***
2013				
Rental Income				
P-20-251	1st Quarter	Honda Cars Alabang	₱ 9,392,972.13	₱ 469,648.61

[5] Exhibit P-58-2, Docket, pp. 596 to 606.

[6] Exhibits P-23-1-1 to P-23-1-10, P-23-1-11 to P-23-1-12, P-25-1-1 to P-25-1-5, P-25-1-6, P-25-1-7 to P-25-1-10, P-25-1-11 to P-25-1-16 , P-25-1-17 to P-25-1-18, P-26-1-1, P-28-1-1 to P-28-1-9, P-28-1-10 to P-28-1-16, P-28-1-17 to P-28-1-35, P-28-1-36, P-29-1-1 to P-29-1-2, P-30-1-1 to P-30-1-5, P-30-1-6, P-30-1-7 to P-30-1-9, P-30-1-10, P-30-1-11, P-30-1-12 to P-30-1-15, P-31-2-1 to P-31-2-2 and P-58-3.

L

P-20-254	August 2013	Honda Cars Global City	2,563,056.02	128,152.80
P-20-255	1st Quarter	Honda Cars Makati, Inc.	7,089,043.00	354,452.15
P-20-257 to 258 and P-20-260	3rd Quarter	Honda Cars Makati, Inc.	14,787,192.58	739,359.64
P-20-261 to 262 and P-20-264	4th Quarter	Honda Cars Makati, Inc.	11,825,274.18	591,263.70
P-20-279	1st Quarter	Isuzu Cebu Inc. - Mandaue Branch	1,324,898.20	66,244.91
		Subtotal	***₱ 46,982,436.11***	***₱ 2,349,121.81***
Directors' Fees				
P-20-293	3rd Quarter	ALFM Peso Bond Fund Inc.	30,000.00	4,500.00
P-20-301	3rd Quarter	ALFM Dollar Bond Fund Inc.	10,000.00	1,500.00
		Subtotal	***₱ 40,000.00***	***₱ 6,000.00***
Other Income				
P-20-442 to 446	2nd and 4th Quarter	Bank of the Philippine Islands	30,629,127.19	4,317,582.54
P-20-447	December 2013	BPI Family Savings Bank Inc.	3,534,260.42	70,685.21
P-20-456 to 458	2nd to 4th Quarter	Globe Telecom, Inc.	210,715.00 36,268,339.00	4,214.30 5,440,250.85
P-20-465	December 2013	HR Mall, Inc.	8,190,449.00	1,228,567.35
P-20-470	1st Quarter	Integrated Microelectronics, Inc.	134,465.00	20,319.75
P-20-473 to 475	4th Quarter	Integrated Microelectronics, Inc.	16,076,176.00	2,411,426.40
		Subtotal	***₱ 95,043,531.61***	***₱ 13,493,046.40***
Others - Various Accounts				
P-20-509 to 511	1st Quarter	BPI Rental Corporation	3,150,000.00	630,000.00
		Subtotal	***₱ 3,150,000.00***	***₱ 630,000.00***
		Total – 2013	***₱ ₱145,215,967.72***	***₱ ₱16,478,168.21***
		Total - 2012 and 2013	**₱ ₱444,991,196.82**	**₱ ₱46,342,779.34**

Considering that petitioner failed to account for the following disallowed CWTs of **₱71,916.43** (₱46,414,695.77 less ₱46,342,779.34) with corresponding income payments of ₱3,717,729.28, the disallowance thereof still stands:

Exh. No.	Period Covered	Payor	Amount of Income Payment	Amount of Taxes Withheld
2012				
Rental Income				
P-20-40	Jun-12	Integrated Microelectronics Inc.	₱ 20,000.00	₱ 1,000.00
		Subtotal	***₱ 20,000.00***	***₱ 1,000.00***
Other income				
P-20-174	May-12	Bank of the Philippine Islands	₱ 22,400.00	₱ 448.00
P-20-184	Aug-12	Dataone Asia (Philippines) Inc.	100,000.00	2,000.00

P-20-200 to P-20-201	1st and 3rd Quarter	Integreon Managed Solutions (Philippines) Inc.	167,533.30	312.50
P-20-203	May-12	Liveit Investments Limited - Philippine Regional Operating Headquarters	3,200.00	64.00
P-20-227	1st Quarter	Stream International Global Services Philippines	25,000.00	500.00
		Subtotal	***₱ 318,133.30***	***₱ 3,324.50***
Others - Various Accounts				
P-20-5 to P-20-7	2nd to 4th Quarter	Honda Cars Alabang	₱ 554,481.76	₱ 11,089.64
P-20-14 and P-20-238 to P-20-242	1st to 4th Quarter	Honda Cars Makati, Inc.	695,313.69	13,906.27
P-20-18 to P-20-20	2nd to 4th Quarter	Honda Cars Pasig (A Branch of Honda Cars Makati, Inc.)	472,586.99	9,451.73
		Subtotal	***₱ 1,722,382.44***	***₱ 34,447.64***
		Total – 2012	***₱ 2,060,515.74***	***₱ 38,772.14***
2013				
Other Income				
P-20-460	4th Quarter	Honda Cars Makati, Inc.	₱ 219,780.00	₱ 4,395.60
		Subtotal	***₱ 219,780.00***	***₱ 4,395.60***
Others - Various Accounts				
P-20-251 to P-20-252	1st to 2nd Quarter	Honda Cars Alabang	₱ 306,459.13	₱ 6,129.19
P-20-512 to P-20-519	1st to 4th Quarter	Honda Cars Makati, Inc.	882,367.49	17,647.36
P-20-265 to P-20-266	1st to 2nd Quarter	Honda Cars Pasig (A Branch of Honda Cars Makati, Inc.)	248,606.92	4,972.14
		Subtotal	***₱ 1,437,433.54***	***₱ 28,748.69***
		Total – 2013	***₱ 1,657,213.54***	***₱ 33,144.29***
		Grand Total – 2012 and 2013	**₱ 3,717,729.28**	**₱ 71,916.43**

Now, after examining the Summary submitted by petitioner and scrutinizing the additional pieces of evidence submitted, as well as revisiting the evidence previously offered and admitted during trial, the Court finds merit in reconsidering the CWTs amounting to **₱45,568,802.77** previously disallowed in the assailed Decision. Petitioner sufficiently reconciled and accounted the differences found in the corresponding income payments amounting to ₱438,486,952.46, and thus proves that each pertain to one and the same transactions.

However, the disallowance of the following CWTs amounting to (₱46,342,779.34 less ₱45,568,802.77) **₱773,976.57** with

L

corresponding income payments amounting to ₱6,504,244.36 shall remain, to wit:

Exh. No.	Period Covered	Payor	Amount of Income Payment	Amount of Taxes Withheld
***2012* - Other income**				
P-20-187 to 189	2nd to 4th Quarter	Globe Telecoms Inc.	***₱ 580,473.34***	***₱ 11,609.47***
2013				
Rental Income				
P-20-254	August 2013	Honda Cars Global City	***₱ 2,563,056.02***	***128,152.80***
Other Income				
P-20-456 to 458	2nd to 4th Quarter	Globe Telecom, Inc.	***210,715.00***	***4,214.30***
Others - Various Accounts				
P-20-509 to 511	1st Quarter	BPI Rental Corporation	***3,150,000.00***	***630,000.00***
		Total - 2013	***₱ 5,923,771.02***	***₱ 762,367.10***
		Total - 2012 and 2013	**₱ 6,504,244.36**	**₱ 773,976.57**

1.) Other Income from Globe Telecoms Inc. - ₱580,473.34

The total income payments previously found as unreconciled for this particular transaction amounted to ₱37,284,052.87, broken down as follows:

Period Covered	Income Payment	Income Tax Withheld
2nd Quarter	₱ 580,473.34	₱ 11,609.47
3rd Quarter	500,000.00	10,000.00
4th Quarter	36,203,579.53	5,430,536.93
Total	**₱ 37,284,052.87**	**₱ 5,452,146.40**

Petitioner explained in the present motion the differences found for the income payments amounting to ₱500,000.00 and ₱36,203,579.53, but failed to do so for the income payment amounting to ₱580,473.34.

As laid down in the Summary (p.4), a comparison of income payment per BIR Form No. 2307 with that recorded in petitioner's books reveals a difference of ₱2,115.95:

Exh. No.	Description	Amount
P-25-1	Per books/GL	₱ 582,589.29
P-20-187	Less: Per summary of CWTs	580,473.34
	Difference	**₱ 2,115.95**

h

The amount of ₱2,115.95 allegedly pertains to foreign exchange (FX) loss resulting from the difference between the FX rate used at transaction date and FX rate used at collection date.

Petitioner submitted Journal Entry (JE) Ref. No. 4100000525 dated 07/31/2012[7] to show how the above transaction was recorded but the Court did not find any FX loss in said entry. Further, the amount of ₱580,473.34 cannot be traced to petitioner's Bank Statement.[8] As such, the Court cannot ascertain that the ₱580,473.34 pertains to the subsequent collection for the income entry per JE Ref. No. 4100000525.

Verily, our finding that the income payment per BIR Form No. 2307 amounting to ₱580,473.34 is not the same as the income recognized in petitioner's books amounting to ₱582,589.29 will still stand. Hence, the Court affirms the disallowance of the corresponding CWTs amounting to **₱11,609.47.**

2.) Rental Income from Honda Cars Global City (Honda) - ₱2,563,056.02

As reflected in the Summary, a comparison of income payments per BIR Form No. 2307 with the income recorded in its books shows a discrepancy of ₱83,921.99 as follows:

Exh. No.	Doc. No.	Posting Date	Description	Amount
P-28-1	Per books/GL			
P-28-1-10	GJ 4100000254	4/30/2013	Rental for April 2013	₱ 924,762.05
P-28-1-11	GJ 4100000323	5/31/2013	Rental for May 2013	1,027,365.49
P-28-1-12	GJ 4100000439	6/30/2013	Rental for June 2013	694,850.47
P-28-1-13	GJ 4100000510	7/31/2013	Rental for June 2013 – Adjustment	(83,921.99)
P-28-1-14	GJ 4100000574	8/31/2013	Rental for June 2013 - 2nd Adjustment	53,378.61
P-28-1-15	GJ 4100000576	8/31/2013	Rental for April 2013 - Adjustment Reversal	83,921.99
P-28-1-16	GI 5100000004	8/31/2013	Rental for June 2013 - 2nd Adjustment Reversal	(53,378.61)
	Subtotal Honda Cars Global City - 3rd quarter rental			₱ 2,646,978.01
P-20-254	Less: Per summary of CWTs			₱ 2,563,056.02
	Difference			**₱ (83,921.99)**

As stated by the ICPA, while the difference remains unaccounted by petitioner, it has no effect in petitioner's claim since equivalent CWT claimed by petitioner is based on the amount of

[7] Exhibit P-25-1-7.
[8] Exhibit P-33-237 (3/4).

income payment per BIR Form No. 2307, which is lower than the amount recorded per books/GL.[9]

However, the Court is not amenable to the above ICPA's explanation.

The fact that there is a difference between the income recognized in the books and the income payment declared in the BIR Form No. 2307 already gives rise to a question as to whether or not the two (2) differing amounts are one and the same, unless it is **completely and properly** reconciled by petitioner.

For this transaction, petitioner attempted to account for the difference but failed to do it completely. Partial reconciliation does not warrant that the two transactions being compared are one and the same. Thus, petitioner still failed to dispose its burden of proof that the income payment amounting to ₱2,563,056.02 was accordingly declared as income for tax purposes.

3.) Other Income from Globe Telecoms Inc. - ₱210,715.00

The total income payments previously found as unreconciled for this particular transaction amounted to ₱36,479,054.00, which is broken down as follows:

Period Covered	Income Payment	Income Tax Withheld
June 2013	₱ 210,715.00	₱ 4,214.30
4th Quarter	36,268,339.00	5,440,250.85
Total	**₱ 36,479,054.00**	**₱ 5,444,465.15**

Petitioner explained the differences found for the income payment of ₱36,268,339.00, but failed to do so for the income payment of ₱210,715.00.

As presented in the Summary (p. 12), a comparison of income payment per BIR Form No. 2307 with the recorded income in petitioner's books shows a difference of ₱4,785.00:

Exh. No.	Description	Amount

[9] Summary of Explanation per CTA Disallowances, Exhibit P-58-2, Docket, p. 623.

P-30-1	Per books/GL	₱ 215,500.00
P-20-456	Less: Per summary of CWTs	210,715.00
	Difference	**₱ 4,785.00**

Again, the difference amounting to ₱4,785.00 allegedly pertains to FX loss resulting from the difference between the FX rate used at transaction date and FX rate used at collection date.

Petitioner submitted JE Ref. No. 4100000340 dated 06/17/2013[10] to show how the above transaction was recorded but the Court did not find any FX loss in said entry. Further, the JE shows a simultaneous recording of collection and income recognition, as shown below:

Account Name	Dr.	Cr.
BPI FCDU SA#0898	210,909.85	
Bank Charges	280.15	
Inc. tax payable	4,310.00	
Other income		215,500.00

With this, the Court finds it incorrect that any FX loss will arise from the above transaction since there was no timing difference between the income recognition and the collection. Thus, petitioner's explanation, thru the ICPA, failed to convince this Court as to the proper and complete reconciliation of the transaction in question.

Thus, for petitioner's failure to prove that the income payment per BIR Form No. 2307 amounting to ₱210,715.00 is the same as the income recognized in petitioner's books amounting to ₱215,500.00, the disallowance of the claimed CWTs of **₱4,214.30** shall remain.

4.) Others-Various Accounts from BPI Rental Corporation - ₱3,150,000.00

A comparison of income payment per BIR Form No. 2307 with the recorded income in petitioner's books is presented in the Summary as follows:

Exh. No.	Description	Amount
P-31-2	Per books/GL	₱ 3,150,999.96
P-20-509	Less: Per summary of CWTs	3,150,000.00
	Difference	**₱ 999.96**

[10] Exhibit P-30-1-7.

L

The difference allegedly pertains to reimbursement by petitioner to the payor that was included by the latter in its income payments per BIR Form No. 2307.[11]

Petitioner submitted JE Ref. No. 600018389 dated 01/22/2013[12] to show how the above transaction was recorded but the Court did not find any entry involving the reimbursement made. Neither did petitioner submit any other documents to show that the difference noted was actually a mere reimbursement.

We reiterate that failure to completely and properly account for the difference noted between the two transactions involved sustains the doubt as to whether or not they are one and the same transaction. Verily, petitioner still failed to dispose its burden of proof that the income payment amounting to ₱3,150,000.00 was accordingly declared as income for tax purposes.

Accordingly, and in compliance with the third requisite, out of the total amount of ₱128,138,370.20 CWTs which was properly supported with BIR Forms No. 2307, the amount of CWTs which shall be granted is increased to ₱127,292,477.20, from the amount of P81,723,674.43 previously granted in the assailed Decision, considering that this is the amount which corresponds to the income payments which were verified to have been included in petitioner's taxable gross income per its Annual Income Tax Returns for CYs 2012 and 2013, to wit:

	CY 2012	**CY 2013**	**Total**
Claimed CWTs with valid BIR Forms No. 2307	₱ 65,969,541.75	₱ 62,168,828.45	₱ 128,138,370.20
Less: CWTs, the related income payments of which per Schedule of Creditable Taxes Withheld differ with the income payments reflected in the Summaries of Rental Income, Directors' Fees, Other Income, Proceeds from Sale - Land and Others-Various Accounts	50,381.61	795,511.39	845,893.00[13]
Refundable Excess CWT	**₱65,919,160.14**	**₱61,373,317.06**	**₱127,292,477.20**

WHEREFORE, in view of the foregoing, respondent's **Motion for Partial Reconsideration (re: Decision promulgated on 13**

[11] Summary of Explanation per CTA Disallowances, Exhibit P-58-2, Docket, p. 629.
[12] Exhibit P-31-2-1.
[13] The sum of ₱71,916.43 and ₱773,976.57.

February 2018) is **DENIED** while petitioner's **Motion for Partial Reconsideration** is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of the Decision dated February 13, 2018 should be amended to read as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱127,292,477.20**, representing petitioner's excess or unutilized creditable withholding taxes for calendar years 2012 and 2013.
>
> **SO ORDERED**."

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, Special 1st Division