REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SERVICE RESOURCES, INC., *Petitioner*,	**CTA CASE NO. 10158**
	Members:
- versus -	**BACORRO-VILLENA**, *Acting Chairperson, and*, **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent*.	Promulgated: JAN 09 2023 4:10 p.m.

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DECISION

CUI-DAVID, J.:

Before this Court is a Petition for Review[1] filed by Service Resources, Inc., praying for a tax refund in the total amount of ₱16,779,933.69, allegedly representing its unutilized creditable withholding taxes (CWT) for the taxable year (TY) 2017.[2]

THE PARTIES

Petitioner Service Resources, Inc. is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with office address located at Ground Floor, First Capitol Place, 1st St. cor. Philam Street, Bo. Kapitolyo, Pasig City, Metro Manila Philippines.[3] It was formed primarily to establish and operate manpower services that will undertake, conduct, and supply services for individuals, offices, stores, and domestic commercial and industrial concerns of all kinds.[4]

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[1] Docket, Vol. I, pp. 12-24.
[2] *Id*, p. 23.
[3] Joint Stipulation of Facts and Issues (JSFI), Docket, Vol. III, p. 844.
[4] Amended Articles of Incorporation, Exhibit P-2, Docket, Vol. II, p. 445.

Petitioner is also registered with the Bureau of Internal Revenue (BIR) under Certificate of Registration No. 3RC0000466898 with Tax Identification Number (TIN) 000-144-056-000.[5]

On the other hand, respondent Commissioner of Internal Revenue is the Chief of the BIR, the government agency vested with the authority to administer and enforce national internal revenue taxes, including, among others, the power to credit or refund internal revenue taxes erroneously or excessively or illegally paid, assessed, or collected. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[6]

THE FACTS

On April 14, 2018, petitioner filed its Annual Income Tax Return (ITR)[7] for TY 2017, reflecting the following:

Total Income Tax Due		₱ 9,196,660.00
Less: Total Tax Credits/Payments		
Prior years excess credits other than MCIT	₱30,859,998.00	
Creditable tax withheld from previous quarter/s per BIR Form No. 2307	12,492,926.00	
Creditable tax withheld per BIR Form No. 2307 for the 4th quarter	4,287,008.00	47,639,932.00
Total Amount Payable (Overpayment)		₱ (38,443,272.00)

Petitioner allegedly opted to refund the income tax overpayment by marking the box corresponding to the said choice in the Annual ITR.

On September 27, 2018, petitioner filed with BIR Revenue District Office No. 43 a letter[8] dated September 21, 2018, requesting the refund or issuance of a tax credit certificate of its alleged excess and unutilized creditable taxes withheld for TY 2017 in the amount of ₱16,779,933.69.[9]

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[5] Exhibit "P-4", Docket, Vol. II, p. 461.
[6] JSFI, Docket, Vol. III, p. 844
[7] Exhibit "P-5", Docket, Vol. II, pp. 462-469.
[8] Exhibit "P-14", Docket, Vol. II, pp. 777-781.
[9] Par. 3, Petition for Review, Docket, Vol. I, p. 13.

Alleging inaction, petitioner elevated its claim before the Court *via* the instant Petition for Review on September 3, 2019.

In his Answer[10] filed on February 4, 2020, respondent interposed Special and Affirmative Defenses that petitioner's claim for refund is still subject to administrative investigation and/or examination by the BIR; that there is doubt on petitioner's right to be entitled to its claim considering that it failed to attach in its *Petition* any proof, particularly its Audited Financial Statements, showing that it has excess creditable withholding taxes or even accumulated creditable withholding taxes for such year that are earmarked for a refund; that petitioner is estopped from claiming a refund due to its failure to signify its option to refund as shown in the instant *Petition's* annexes; that the burden of proof to establish its right to refund is on petitioner; and that claims for refund are construed strictly against the taxpayer as the same partakes the nature of exemption from taxation.

After the pre-trial conference on September 14, 2020, the parties filed their Joint Stipulation of Facts and Issues (JSFI)[11], on the basis of which a Pre-Trial Order[12] was issued on October 26, 2000.

The trial ensued during which petitioner presented as witnesses, its Finance Manager, Ms. Ma. Kristina Barza, and the Court-commissioned Independent Certified Public Accountant (ICPA), Ms. Katherine O. Constantino.

By way of a Judicial Affidavit,[13] **Ms. Ma. Kristina Barza** testified that as petitioner's Finance Manager, she is in charge of petitioner's Main Finance Division which handles matters relating to petitioner's Treasury, Accounting Billing and Collection, Disbursement, and Payroll. She is also responsible for preparing petitioner's income tax returns, financial statements, and the documents or attachments in support thereto. In addition, she declared that she represents petitioner before the BIR in the tax investigation cases involving petitioner.

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[10] Docket, Vol. I, pp. 387-390.
[11] Docket, Vol. III, pp. 844-848.
[12] Docket, Vol. III, pp. 851-854.
[13] Exhibit "P-15", Docket, Vol. II, pp. 429-440.

As petitioner's Finance Manager, she also has access to petitioner's files and records, such as those required by the government agencies, registration documents and papers, Articles of Incorporation, tax returns, official communications to and from the BIR, which include, but not limited to, letters of authority, assessment notices and collections notices.

According to Ms. Barza, petitioner is registered with the Securities and Exchange Commission (SEC) as evidenced by its SEC Certificate of Registration dated August 22, 1979. As shown in its Amended Articles of Incorporation, petitioner was incorporated primarily to establish and operate manpower service which will undertake, conduct, and supply services for individuals, offices, stores, and domestic, commercial, and industrial concerns of all kinds. Petitioner is likewise registered with the BIR as evidenced by its Certificate of Registration (OCN) No. 3RC0000466898 with TIN 000-144-156-000.

Ms. Barza further testified that she closely assisted in the preparation of the instant Petition for Review as she is quite knowledgeable about the facts and details of the case. According to her, the instant Petition for Review filed on September 3, 2019, involves petitioner's claim for refund of its unutilized creditable withholding tax for TY 2017 in the amount of ₱16,779,933.69, which was not utilized against petitioner's income tax due. She explained that on April 14, 2018, petitioner filed its Annual ITR for TY 2017, showing the following information:

Total Income Tax Due		₱ 9,196,660.00
Less: Total Tax Credits/Payments		
Prior years excess credits other than MCIT	₱30,859,998.00	
Creditable tax withheld from previous quarter/s per BIR Form No. 2307	12,492,926.00	
Creditable tax withheld per BIR Form No. 2307 for the 4th quarter	4,287,008.00	47,639,932.00
Total Amount Payable (Overpayment)		₱ (38,443,272.00)

According to Ms. Barza, out of the ₱9,196,660.00 income tax due for TY 2017, petitioner applied a portion of the prior year's excess credits of ₱30,859,998.00 against it, leaving an unutilized prior year's excess credits of ₱21,663,338.00, which petitioner carried over to the following year as shown in its Quarterly Income Tax Returns (QITR) and Annual ITR for TY 2018. For the excess tax payments resulting from the taxes withheld by its payors for TY 2017 in the amount of

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₱16,779,933.69, petitioner opted to refund the same and manifested its option by checking the appropriate box in the Annual ITR for TY 2017. She likewise declared that the excess tax payments of ₱16,779,933.69 are shown in petitioner's Summary Alphalist of Withholding Tax Agents for TY 2017 and were declared as part of petitioner's gross income. Further, the amount of ₱16,779,933.69 is supported by Certificates of Creditable Tax Withheld at Source (BIR Form 2307) which she identified during her testimony.

In relation to petitioner's unutilized creditable withholding taxes for TY 2017, Ms. Barza continued that on September 27, 2018, petitioner filed with the BIR, through a letter request, an administrative claim for refund of its alleged unutilized creditable withholding tax. According to her, petitioner's administrative claim for refund was not decided upon by the BIR. Hence, petitioner was constrained to file its judicial claim on September 3, 2019, as the two-year prescriptive period was about to lapse.

ICPA Katherine O. Constantino, testified on direct examination by way of Judicial Affidavit,[14] that sometime in October 2020, petitioner engaged her services to act as the ICPA in the instant case to (a) review and examine the evidence in support of its Petition for Review dated July 31, 2019, and other pleadings; and (b) render the corresponding summary and report based on her examination. She added that on November 4, 2020, the Court confirmed her appointment as the ICPA in this case.

ICPA Constantino declared that after they completed their examination of the documents and interview with petitioner's management and personnel to determine its relevant policies in reporting transactions both in the books and in the tax returns, they submitted to the Court on December 18, 2020, an ICPA Report containing their findings and the result of the audit and examination they conducted.

Based on the result of their examination/verification of petitioner's documents, ICPA Constantino declared that the properly substantiated Creditable Withholding Taxes amounted to ₱16,051,572.61, as shown in Table 38 of the ICPA Report, and that petitioner's prior years' excess credits were sufficient

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[14] Exhibit "P-17", Docket, Vol. III, pp. 866-887.

to pay for its income tax liability for TY 2017 in the amount of ₱9,196,660.00.

There being no other witness to present, petitioner rested its case and formally offered its documentary evidence via its Formal Offer of Evidence[15] filed on February 9, 2021, which the Court all admitted in the Resolutions dated June 7, 2021,[16] and December 14, 2021.[17]

On her turn to present evidence, counsel for respondent manifested that he would no longer present any witness to this case. As such, the parties were granted a period of thirty (30) days from February 28, 2022, or until March 30, 2022, to file their respective Memoranda.[18]

On May 2, 2022, the instant case was deemed submitted for decision considering petitioner's Memorandum[19] filed on March 30, 2022, and the Report[20] of the Judicial Records Division dated April 26, 2022, stating that no memorandum had been filed by respondent.

THE ISSUES

I. Whether or not the filing of the Petition for Review with this Court is premature; and

II. Whether or not Petitioner is entitled to its claim for refund of its unutilized creditable withholding tax for TY 2017, in the amount of ₱16,779,933.69.

THE COURT'S RULING

Section 76 of the National Internal Revenue Code (NIRC) of 1997, as amended, specifies how claims for refund or credit of excess income tax payments or unutilized CWT may be made by a corporate taxpayer, to wit:

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[15] Docket, Vol. III, pp. 893-904.
[16] Docket, Vol. III, pp. 976-978.
[17] Docket, Vol. III, pp. 1013-1016.
[18] Order dated February 28, 2022, Docket, Vol. III, p. 1018.
[19] Docket, Vol. III, pp. 1019-1037.
[20] Docket, Vol. III, p. 1039.

> 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:
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> (A) Pay the balance of tax still due; or
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> (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 therefor.** *(Emphasis supplied)*

Under the above provision, a corporation that has excess income tax payments in a given taxable year has two (2) options: (1) to carry over the excess amount to the succeeding taxable quarters/years until fully utilized; or (2) to file a claim for a tax refund in the form of cash or tax credit certificate. However, once the carry-over option is taken actually or constructively, it becomes irrevocable for that taxable period.[21] The phrase "for that taxable period" refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[22]

In exercising its option, the corporation must signify in its Annual Corporate Adjustment Return (by marking the option box provided in the BIR form) its intention either to carry over the excess credit or to claim a refund. To facilitate tax collection,

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[21] *Philam Asset Management, Inc., vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 & 162004, December 14, 2005; *Systra Philippines, Inc., vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.

[22] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.

these remedies are in the alternative, and the choice of one precludes the other.[23]

A perusal of petitioner's Annual ITR for TY 2017 shows that petitioner had total tax credits of ₱47,639,932.00, broken down as follows:[24]

Prior Year's Excess Credits Other Than MCIT		₱ 30,859,998.00
Add: Creditable Taxes Withheld – TY 2017		
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	₱12,492,926.00	
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	4,287,008.00	16,779,934.00
Total Tax Credits		**₱47,639,932.00**

Petitioner claims that its income tax due for TY 2017 in the amount of ₱9,196,660.00[25] was paid using a portion of its prior year's excess credits of ₱30,859,998.00, thus, leaving the prior year's excess credits in the amount of ₱21,663,338.00 and the creditable taxes withheld during TY 2017 in the amount of ₱16,779,934.00, or a total of ₱38,443,272.00, unutilized as of December 31, 2017, as shown below:

Prior Year's Excess Credits Other Than MCIT	₱ 30,859,998.00
Less: Income Tax Due	9,196,660.00
Balance of Prior Year's Excess Credits	₱ 21,663,338.00
Add: Creditable Taxes Withheld – TY 2017	16,779,934.00
Excess Creditable Withholding Taxes as of December 31, 2017	**₱ 38,443,272.00**

In its Annual ITR for TY 2017,[26] petitioner marked the box corresponding to the option "To be refunded," clearly manifesting its intention to claim a refund of its excess CWTs for the period. Further, as gleaned from its Annual ITR[27] and quarterly ITRs for TY 2018,[28] petitioner reflected only the amount of ₱21,663,338.00 as "Prior Year's Excess Credits." Correspondingly, the excess CWTs for TY 2017 in the amount of ₱16,779,934.00 were not carried over in the succeeding taxable periods and, therefore, may be the subject of a refund claim.

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[23] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.
[24] Exhibit "P-5" (Schedule 7), Docket - Vol. III, p. 930.
[25] Exhibit "P-5" (Line 44), Docket – Vol. III, p. 926.
[26] Exhibit "P-5" (below Line 21), Docket – Vol. III, p. 925.
[27] Exhibit "P-9" (Schedule 7, Line 1), Docket – Vol. III, p. 948.
[28] Exhibits "P-6' to "P-8" (Line 31A), Docket – Vol. III, pp. 934, 937 and 940.

However, as emphasized by this Court in several similar cases, the refund of excess/unutilized CWT is dependent on the taxpayer's compliance with the following three basic requirements:

1. The claim for refund was filed within the two-year prescriptive period as provided under Section 204 (C) in relation to Section 229 of the 1997 NIRC, as amended.

2. The fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. The income upon which the taxes were withheld were included in the return of the recipient, *i.e.*, declared as part of the gross income.[29]

We shall now proceed to determine petitioner's compliance with the requisites for claiming a refund of excess CWTs.

First Requisite: The claim for refund was filed within the two-year prescriptive period.

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

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may-
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> xxx xxx xxx
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> (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 stamped 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. *(Emphasis supplied)*

[29] Section 2.58, Revenue Regulations No. 2-98, as amended; *Citibank N.A. vs. Court of Appeals and CIR*, 280 SCRA 459; *ACCRA Investment Corporation vs. CA*, 204 SCRA 957.

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

It is well settled that the two-year prescriptive period for claiming a refund of overpaid income tax/CWT commences to run on the date of filing of the Final Adjustment Return or Annual ITR.[30] This is so because it is only when the Final 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.[31]

In the case at bar, petitioner filed its Annual ITR for TY 2017 on April 14, 2018. Counting two (2) years from this date, petitioner had until *April 14, 2020*, to file its administrative and judicial claims for refund of alleged unutilized CWTs for TY 2017. Considering that petitioner's administrative claim for refund was filed on September 27, 2018,[32] and that the corresponding judicial claim was filed on September 3, 2019, both the administrative and judicial claims were filed within the two-year prescriptive period. Thus, the *first* requisite was fulfilled.

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[30] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; *Commissioner of Internal Revenue vs. TMX Sales, Inc. and the Court of Tax Appeals*, G.R. No. 83736, January 15, 1992; *Commissioner of Internal Revenue vs. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, May 29, 1995.

[31] *Commissioner of Internal Revenue vs. TMX Sales Inc. and the Court of Tax Appeals, supra.*

[32] Exhibits "P-14" and "P-15", Docket – Vol. III, pp. 969 to 973.

Second Requisite: The fact of withholding is established by certificates of withholding tax.

Anent the *second* requisite, *i.e.,* the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee showing the amount of tax withheld therefrom, Section 2.58.3 (B) of Revenue Regulations (RR) No. 02-98, as amended, states:

> 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 added)*

In *Commissioner of Internal Revenue vs. Philippine National Bank,* [33] the Supreme Court held that the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) is the competent proof to establish the fact that taxes are withheld, to wit:

> The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates.
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> In *Banco Filipino Savings and Mortgage Bank v. Court of Appeals,*[34] this court declared that a certificate is complete in the relevant details that would aid the courts in the evaluation of any claim for refund of excess creditable withholding taxes:
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> xxx xxx xxx
>
> Moreover, as correctly held by the Court of Tax Appeals En Banc, the figures appearing in the withholding tax certificates can be taken at face value since these documents were executed under the penalties of perjury, pursuant to

[33] G.R. No. 180290, September 29, 2014.
[34] 548 Phil. 32 (2007).

> Section 267 of the 1997 National Internal Revenue Code, as amended, xxx
>
> xxx xxx xxx
>
> Thus, upon presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly.

Based on the foregoing, it is undeniable that the fact of withholding may be established by presenting the pertinent BIR Forms No. 2307 complete in relevant details.

As earlier mentioned, petitioner's total tax credits for TY 2017 amounting to ₱47,639,932.00 comprised of the prior year's excess credits in the amount of ₱30,859,998.00 and CWTs during TY 2017 in the amount of ₱16,779,934.00.

The amount of ₱30,859,998.00 carried over to the Annual ITR of TY 2017 came from petitioner's total excess credits of ₱47,543,794.00 per Annual ITR for TY 2016,[35] of which the amount of ₱16,683,796.00[36] pertains to CWTs during TY 2016. Since petitioner opted to be refunded its ₱16,683,796.00 CWTs during TY 2016 per its Annual ITR for TY 2016,[37] the prior year's excess credits of ₱30,859,998.00 pertain to its excess CWTs as of December 31, 2015 (or end of TY 2015).

To prove its prior year's excess credits of ₱30,859,998.00, petitioner submitted its Annual ITRs for TYs 2012 to 2015,[38] the related BIR Forms No. 2307 for TYs 2012 to 2015 issued by its withholding agents, and the Summary Lists of Certificate of Creditable Tax Withheld at Source for TYs 2012 to 2015, reflecting CWTs in the total amount of ₱47,700,638.90, as summarized below:

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[35] Exhibit "P-44" (Line 20, page 2 of 9).
[36] Exhibit "P-44" (Schedule 7, total of Lines 5 & 6, page 7 of 9).
[37] Exhibit "P-44" (below Line21, page 2 of 9).
[38] Exhibits "P-51" to "P-54".

TY	Summary List of Certificate	BIR Form No. 2307 (Exhibit Nos.)	CWT Amount
2012	Annex 9 of Exhibit "P-18"	"P-46" to "P-46-218"	₱ 11,529,692.71
2013	Annex 10 of Exhibit "P-18"	"P-47" to "P-47-186"	8,553,801.16
2014	Annex 11 of Exhibit "P-18"	"P-48" to "P-48-213"	12,695,273.47
2015	Annex 12 of Exhibit "P-18"	"P-49" to "P-49-230"	14,921,871.56
Total			**₱47,700,638.90**

Upon verification, the Court finds that out of the CWTs from prior years, the amount of ₱16,874,956.31 shall be disallowed for the reasons stated hereunder:

Exhibit No.	Client Name	Income Payment	CWT Amount
CWTs supported by BIR Forms No. 2307 but with incorrect TIN or without the TIN of petitioner indicated therein.			
"P-46-126"	Broad Electronics, Inc.	₱ 1,550,584.50	₱ 31,011.69
"P-46-127"	Samsung Electronics Philippines MFG. Corp.	28,928,421.50	578,568.43
"P-46-128"	Samsung Electronics Philippines MFG. Corp.	33,863,762.00	677,275.24
"P-46-129"	Samsung Electronics Philippines MFG. Corp.	39,691,103.00	793,822.06
"P-46-130"	Small Precision Tools (Phil.) Corp	261,048.35	5,220.97
"P-46-131"	Small Precision Tools (Phil.) Corp	207,277.44	4,145.54
"P-46-132"	Small Precision Tools (Phil.) Corp	231,429.73	4,628.59
"P-46-133"	Small Precision Tools (Phil.) Corp	105,146.06	2,102.92
"P-46-134"	Small Precision Tools (Phil.) Corp	106,679.36	2,133.59
"P-46-135"	Small Precision Tools (Phil.) Corp	111,545.37	2,230.91
"P-46-136"	Small Precision Tools (Phil.) Corp	94,789.20	1,895.78
"P-46-137"	Small Precision Tools (Phil.) Corp	67,175.38	1,343.51
"P-46-138"	Small Precision Tools (Phil.) Corp	72,367.96	1,447.36
"P-46-139"	Small Precision Tools (Phil.) Corp	79,254.54	1,608.07
"P-46-140"	Small Precision Tools (Phil.) Corp	66,717.83	1,334.36
"P-46-141"	Small Precision Tools (Phil.) Corp	74,505.65	1,490.11
"P-46-142"	Small Precision Tools (Phil.) Corp	58,953.31	1,179.07
"P-46-201"	Samsung Electronics Philippines MFG. Corp.	31,125,217.50	622,504.35
"P-46-202"	Small Precision Tools (Phil.) Corp	274,338.21	5,486.76
"P-46-203"	Small Precision Tools (Phil.) Corp	57,162.37	1,143.24
"P-46-204"	Small Precision Tools (Phil.) Corp	189,198.98	3,783.98
"P-46-205"	Small Precision Tools (Phil.) Corp	7,029.00	140.58
"P-46-206"	Small Precision Tools (Phil.) Corp	213,496.94	4,269.93
"P-46-207"	Small Precision Tools (Phil.) Corp	221,618.90	4,432.38
"P-46-208"	Small Precision Tools (Phil.) Corp	198,439.13	3,968.78
"P-46-209"	Small Precision Tools (Phil.) Corp	111,324.00	2,226.48
"P-46-210"	Small Precision Tools (Phil.) Corp	68,936.16	1,378.72
"P-46-211"	Small Precision Tools (Phil.) Corp	103,789.30	2,075.79
"P-46-212"	Small Precision Tools (Phil.) Corp	65,836.56	1,316.73

"P-46-213"	Small Precision Tools (Phil.) Corp	74,095.71	1,481.91
"P-46-215"	Small Precision Tools (Phil.) Corp	90,838.93	1,816.78
"P-47-11"	FF Miravite, Inc.	26,978.50	539.57
"P-47-42"	Seafoods Fukui Philippines Inc.	68,398.80	1,367.98
"P-47-49"	Wiki Malahini-Philippine Branch Office	12,845.89	256.92
"P-47-108"	LBC Express, Inc.	49,318.73	986.37
"P-47-179"	Small Precision Tools (Phil.) Corp	61,041.15	1,220.82
"P-47-180"	Small Precision Tools (Phil.) Corp	65,523.20	1,310.46
"P-47-181"	Small Precision Tools (Phil.) Corp	57,299.41	1,145.99
"P-47-182"	Small Precision Tools (Phil.) Corp	37,286.40	745.73
"P-47-183"	Small Precision Tools (Phil.) Corp	50,480.30	1,009.61
"P-47-184"	Smart Electronics Manufacturing Service Phils., Inc.	26,827,258.50	536,545.17
"P-47-185"	Wiki Malahini-Philippine Branch Office	13,615.44	272.31
"P-47-186"	Wiki Malahini-Philippine Branch Office	12,764.35	255.29
"P-49-91"	Pricon Microelectronics Inc.	1,557,044.72	31,140.89
"P-49-92"	Pricon Microelectronics Inc.	1,777,917.81	35,558.36
"P-49-93"	Pricon Microelectronics Inc.	1,929,310.58	38,586.21
"P-49-94"	Pricon Microelectronics Inc.	1,561,816.72	31,236.33
CWTs supported by BIR Forms No. 2307 but without the address of petitioner indicated therein			
"P-46-143"	CJ GLS Philippines Inc.	2,273,300.37	45,466.01
"P-46-144"	CJ GLS Philippines Inc.	1,604,051.03	32,081.03
"P-46-145"	CJ GLS Philippines VMI Warehouse Inc.	1,101,369.26	22,027.39
"P-46-146"	CJ GLS Philippines VMI Warehouse Inc.	780,927.45	15,618.54
"P-46-147"	Franke Foodservice Systems Philippines, Inc.	332,116.50	6,642.33
"P-46-148"	Franke Foodservice Systems Philippines, Inc.	174,428.50	3,488.57
"P-46-149"	Franke Foodservice Systems Philippines, Inc.	172,976.00	3,459.52
"P-46-150"	HB Fuller Philippines, Inc.	237,695.00	4,753.90
"P-46-151"	JAE Philippines, Inc.	35,306,118.65	706,122.38
"P-46-152"	JAE Philippines, Inc.	44,187,994.24	883,759.89
"P-46-153"	Nec Tokin Electronics Philippines, Inc.	46,843.07	936.86
"P-46-154"	Techlog Center Inc.	32,977,182.50	659,543.65
"P-46-155"	Techlog Center Inc.	34,503,623.59	690,072.47
"P-46-156"	CJ GLS Philippines Inc.	2,493,152.94	49,863.06
"P-46-157"	CJ GLS Philippines Inc.	2,857,184.17	57,143.68
"P-46-158"	CJ GLS Philippines VMI Warehouse Inc.	1,220,717.47	24,414.35
"P-46-159"	CJ GLS Philippines VMI Warehouse Inc.	1,766,388.52	35,327.76
"P-46-160"	HB Fuller Philippines, Inc.	98,378.50	1,967.57
"P-46-161"	HB Fuller Philippines, Inc.	241,751.50	4,835.03

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"P-46-162"	JAE Philippines, Inc.	37,244,180.23	744,883.61
"P-46-163"	JAE Philippines, Inc.	53,522,913.98	1,070,458.27
"P-46-164"	Nec Tokin Electronics Philippines, Inc.	38,966.62	779.33
"P-46-165"	Nec Tokin Electronics Philippines, Inc.	35,003.09	700.06
"P-46-166"	Techlog Center Inc.	48,568,583.50	971,371.67
"P-46-167"	Techlog Center Inc.	25,812,223.52	516,244.47
"P-47-75"	Brother Industries Philippines, Inc.	13,078,264.00	261,565.28
"P-47-76"	Brother Industries Philippines, Inc.	196,675.44	3,933.51
"P-47-77"	Brother Industries Philippines, Inc.	801,273.83	16,025.48
"P-47-78"	Brother Industries Philippines, Inc.	12,737,824.01	254,756.48
"P-47-79"	Brother Industries Philippines, Inc.	504,619.00	10,092.38
"P-47-80"	Brother Industries Philippines, Inc.	1,123,061.00	22,461.22
"P-47-81"	Brother Industries Philippines, Inc.	544,043.50	10,880.87
"P-47-82"	JAE Philippines, Inc.	53,522,116.75	1,070,442.33
"P-47-83"	JAE Philippines, Inc.	48,081,110.43	961,622.21
"P-47-84"	Techlog Center Inc.	17,110,612.39	342,212.25
"P-47-85"	Techlog Center Inc.	176,111.00	3,522.22
"P-47-101"	CJ GLS Philippines Inc.	2,704,903.95	54,098.08
"P-47-102"	CJ GLS Philippines VMI Warehouse Inc.	812,357.97	16,247.16
"P-47-103"	JAE Philippines, Inc.	52,324,201.01	1,046,484.02
"P-47-172"	Samsung SDS Global SCL Philippines Co. Ltd. Inc.	1,079,124.50	21,582.49
"P-47-173"	Samsung SDS Global SCL Philippines Co. Ltd. Inc.	248,210.00	4,964.20
"P-47-174"	Samsung SDS Global SCL Philippines Co. Ltd. Inc.	1,512,916.00	30,258.32
"P-47-175"	Samsung SDS Global SCL Philippines Co. Ltd. Inc.	1,108,106.00	22,162.12
"P-47-176"	Samsung SDS Global SCL Philippines Co. Ltd. Inc.	806,906.50	16,138.13
"P-48-149"	Brother Industries Philippines, Inc.	1,177,461.50	23,549.23
"P-48-150"	Brother Industries Philippines, Inc.	2,388,258.50	47,765.17
"P-48-151"	Brother Industries Philippines, Inc.	2,294,512.50	45,890.25
"P-48-152"	Brother Industries Philippines, Inc.	9,914,696.50	198,293.93
"P-48-153"	CJ Korea Express Phils. Corp.	2,507,231.34	50,144.63
"P-48-154"	CJ Korea Express Phils. Corp.	2,600,948.01	52,018.96
"P-48-155"	Tsuchiya Kogyo Phils., Inc.	1,379.36	27.59
"P-48-156"	Tsuchiya Kogyo Phils., Inc.	14,489.19	289.78
"P-48-157"	Tsuchiya Kogyo Phils., Inc.	12,146.50	242.93
"P-48-158"	Tsuchiya Kogyo Phils., Inc.	25,895.50	517.91
"P-48-159"	Tsuchiya Kogyo Phils., Inc.	30,580.00	611.60
"P-48-173"	Franke Foodservice Systems Philippines, Inc.	2,451.00	2,450.48
"P-48-174"	Franke Foodservice Systems Philippines, Inc.	3,242.68	3,242.68
"P-48-179"	JAE Philippines, Inc.	60,833,250.45	1,216,665.03
"P-48-180"	Tsuchiya Kogyo Phils., Inc.	17,531.43	350.63
"P-48-181"	Tsuchiya Kogyo Phils., Inc.	40,114.95	802.30

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"P-48-191"	Nec Tokin Electronics Philippines, Inc.	36,923.20	738.46
"P-48-209"	Tsuchiya Kogyo Phils., Inc.	154.39	3.09
"P-48-210"	Tsuchiya Kogyo Phils., Inc.	29,215.52	584.31
"P-48-211"	Tsuchiya Kogyo Phils., Inc.	311.06	6.22
"P-49-2"	Brother Industries (Philippines) Inc.	22,784,562.00	455,691.24
"P-49-3"	Brother Industries (Philippines) Inc.	20,011,959.00	400,239.18
"P-49-4"	CJ Korea Express Phils. Corp.	2,596,406.76	51,928.14
"P-49-5"	CJ Korea Express Phils. Corp.	1,760,289.59	35,205.79
"P-49-6"	CJ Korea Express Phils. Corp.	464,306.74	9,286.13
"P-49-7"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	24,748.39	494.97
"P-49-8"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	34,724.90	694.50
"P-49-9"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	40,897.31	817.95
"P-49-10"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	35,404.10	708.08
"P-49-11"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	30,450.50	609.01
"P-49-12"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	36,432.49	728.65
"P-49-13"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	29,104.46	582.09
"P-49-14"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	26,032.60	520.65
"P-49-15"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	26,805.00	536.10
"P-49-16"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	26,357.35	527.15
"P-49-17"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	21,202.40	424.05
"P-49-18"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	15,098.41	301.97
"P-49-19"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	11,494.23	229.88
"P-49-20"	Lakshmi (BEMT) Bldg. Envelope Mfg. and Tech., Inc.	27,622.75	552.46
CWTs supported by BIR Forms No. 2307 but not issued in petitioner's name			
"P-48-160"	Explorer Freight Corporation	3,471.00	69.42
"P-48-161"	Explorer Freight Corporation	1,293.00	25.86
"P-48-162"	Explorer Freight Corporation	3,283.00	65.66
"P-48-163"	Explorer Freight Corporation	3,844.00	76.88
"P-48-164"	Explorer Freight Corporation	4,041.00	80.82
"P-48-165"	Explorer Freight Corporation	2,869.00	57.38
"P-48-166"	Explorer Freight Corporation	2,594.50	51.89
"P-48-167"	Explorer Freight Corporation	3,840.00	76.80
"P-48-168"	Vishay Phils. Inc.	2,398.80	47.97
"P-48-169"	Vishay Phils. Inc.	5,028.80	100.58
"P-48-170"	Vishay Phils. Inc.	5,336.09	106.72

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CWT supported by BIR Form No. 2307 but without the signature of the payor's authorized signatory			
"P-48-208"	Pricon Microelectronics Inc.	3,080,920.49	61,618.41
CWT supported by BIR Form No. 2307 but with incorrect TIN and without the address of petitioner indicated therein			
"P-49-96"	Tsuchiya Kogyo Phils. Corp.	367.66	7.35
CWT supported by BIR Form No. 2307 but with incorrect TIN of petitioner and without the signature of the payor's authorized signatory			
"P-49-81"	Pricon Microelectronics Inc.	1,791,052.04	35,821.04
CWT supported by BIR Form No. 2307 but without the address of petitioner and the signature of the payor's authorized signatory			
"P-47-177"	Samsung SDS Global SCL Philippines Co. Ltd. Inc.	66,622.37	1,423.59
Total		**₱843,463,145.16**	**₱16,874,956.31**

Consequently, petitioner's valid CWTs for TYs 2012 to 2015 amounted to ₱30,825,682.59, which shall be applied against the income tax liabilities for the same periods aggregating to ₱24,957,140.00. Thus, petitioner's prior years' excess valid CWTs amounted to only ₱5,868,542.59, as computed below:

CWTs for TYs 2012 to 2015		₱47,700,638.90
Less: Disallowances		16,874,956.31
Valid CWTs for TYs 2012 to 2015		₱30,825,682.59
Less: Income Taxes Due		
TY 2012 (Exhibit "P-51")	₱5,113,638.00	
TY 2013 (Exhibit "P-52")	2,969,983.00	
TY 2014 (Exhibit "P-53")	7,848,197.00	
TY 2015 (Exhibit "P-54")	9,025,322.00	24,957,140.00
Excess CWTs as of December 31, 2015		**₱5,868,542.59**

Since the substantiated prior years' excess CWTs of ₱5,868,542.59 are insufficient to cover petitioner's tax liability for TY 2016 in the amount of ₱10,702,739.00,[39] there are no prior years' excess credits that may be carried over to TY 2017.

Hence, a portion of petitioner's CWTs during TY 2017 in the amount of ₱16,779,934.00 shall be used to cover its income tax liability for the same period in the amount of ₱9,196,660.00, provided that the said CWTs are compliant to the remaining requisites.

[39] Exhibit "P-44" (Part IV, Line 44, p. 3 of 9).

Meanwhile, to prove the fact of withholding of its ₱16,779,934.00 CWTs during TY 2017, petitioner submitted various BIR Forms No. 2307[40] duly issued by its various withholding agents covering TY 2017, as well as the Schedule of CWTs[41] for the same period, reflecting CWTs in the total amount of ₱16,779,933.69, with related income payments of ₱839,003,599.24.

Verification of the submitted documents reveals that CWTs in the amount of ₱386,201.62 shall be disallowed on the following grounds:

Exhibit No.	Client Name	Income Payment	Tax Withheld
CWT supported by BIR Form No. 2307 but the period indicated is outside TY 2017 (period indicated is 02-02-07 to 02-28-07)			
"P-20-209"	Nyk Auto Logistics Philippines Inc	₱ 719,770.31	₱ 14,395.41
CWTs supported by BIR Forms No. 2307 but with incorrect TIN of petitioner indicated therein			
"P-20-266"	Pricon Microelectronics Inc	₱ 5,706,065.75	₱ 114,121.32
"P-20-267"	Pricon Microelectronics Inc	7,213,070.32	144,261.41
"P-20-268"	Pricon Microelectronics Inc	5,671,174.19	113,423.48
	Total	**₱19,310,080.57**	**₱386,201.62**

Accordingly, petitioner was able to satisfy the *second* requisite but only to the extent of *₱16,393,732.07* (₱16,779,933.69 less ₱386,201.62), being duly supported with BIR Forms No. 2307.

Third Requisite: The income payments from which the substantiated excess CWTs were withheld were part of petitioner's gross income.

As regards the *third* requisite, petitioner must prove that the income payments from which the substantiated excess CWTs of ₱16,393,732.07 were withheld were declared as part of petitioner's gross income in its Annual ITR.

[40] Exhibits "P-20" to "P-20-274".
[41] Exhibit "P-29".

In compliance therewith, petitioner presented its Annual Audited Financial Statements (AFS) as at and for the year ended December 31, 2017, [42] Official Receipts (ORs), [43] Billing Statements (BS),[44] and 2016 & 2017 General Ledger (GLs) per Revenue extracted from System,[45] which were all examined by the ICPA.

As aptly found by the ICPA, most of the income payments per BIR Forms No. 2307 were traced to the related ORs, BS, and GLs as detailed in *Annexes 3-c, 4 (including sub-annexes ITR), and 8-b* of its Report;[46] and the total Service Income per GLs for TYs 2016 and 2017 in the respective amounts of ₱1,126,702,768.87[47] and ₱1,120,511,806.62[48] tallies with the amounts reported as Revenues per ITRs/AFS[49] for the same period.

Further verification of the results of the ICPA's examination based on the related annexes reveals that out of the total income payments of ₱839,003,599.24, upon which the claimed CWTs of ₱16,779,933.69 were withheld, only the amount of ₱838,458,638.54, with corresponding CWTs of ₱16,769,034.45, were traced as part of the income declared in its Annual ITRs for TYs 2016 and 2017, as summarized below:

	Per BIR Forms No. 2307		Income Payments traced to GL *(the amounts formed part of the total amounts per ICPA Annexes)*				
Client Name	**Income Payment**	**Taxes Withheld**	**Reference to ICPA Report ("P-18")**	**for TY 2016**	**for TY 2017**	**Total**	**Equivalent Taxes Withheld**
Alteza Realty Corp	₱ 734,912.50	₱ 14,698.25	*Annex 4-a*		₱ 710,825.20	₱ 710,825.20	₱ 14,216.50
Bandai Namco Philippines, Inc.	75,233,617.49	1,504,672.35	*Annex 4-b*		75,233,617.49	75,233,617.49	1,504,672.35
Brother Industries (Philippines) Inc.	92,472,879.00	1,849,457.58	*Annex 3-c* and *Annex 8-b* (for TY 2016); *Annex 4-c* (for TY 2017)	₱6,870,890.64	85,569,050.77	92,439,941.41	1,848,798.83
Central Services Integrated Cooperative	6,509,821.41	130,196.41	*Annex 4-d*		6,509,821.41	6,509,821.41	130,196.41
Ehs Lens Philippines, Inc.	4,235,745.50	84,714.91	*Annex 4-e*		4,235,745.50	4,235,745.50	84,714.91

[42] Exhibit "P-32"
[43] Exhibits "P-27" to "P-27-513".
[44] Exhibits "P-28" to "P-28-480".
[45] Exhibits "P-26" and P-35.
[46] Exhibit "P-18".
[47] Exhibit "P-26".
[48] Exhibit "P-35".
[49] Exhibits "P-44" (Part IV, Line 30, p. 3 of 9) for TY 2016 and "P-5" (Part IV, Line 30, Docket, Vol. III – p. 926) for TY 2017; Exhibit "P-32" (p. 6 of 33).

Emd Technologies Philippines, Inc.	336,666.40	6,594.94	*Annex 4-f*		336,020.76	336,020.76	6,582.02[50]
Explorer Freight Corp.	1,737,798.96	34,756.00	*Annex 3-c* and *Annex 8-b* (for TY 2016); *Annex 4-g* (for TY 2017)	114,875.83	1,622,923.04	1,737,798.87	34,756.00
Fuji Industries Manila Corp.	45,250,566.39	905,011.33	*Annex 4-h*		45,250,566.39	45,250,566.39	905,011.33
Im Digital Philippines, Inc.	87,193,117.28	1,743,862.37	*Annex 3-c* and *Annex 8-b* (for TY 2016); *Annex 4-i* (for TY 2017)	3,002,764.71	84,190,352.57	87,193,117.28	1,743,862.37
Island Quarry & Agrregates Corporation	4,742,468.50	94,849.37	*Annex 4-j*		4,373,000.97	4,373,000.97	87,460.02
Jae Phils Inc	267,367,312.59	5,347,346.28	*Annex 3-c* and *Annex 8-b* (for TY 2016); *Annex 4-k* (for TY 2017)	9,652,117.49	257,715,195.10	267,367,312.59	5,347,346.28
Katolec Philippines Corporation	15,162,727.22	303,254.54	*Annex 4-l*		15,162,727.22	15,162,727.22	303,254.54
Nanox Philippines, Inc.	19,066,732.50	381,334.65	*Annex 4-m*		19,066,732.50	19,066,732.50	381,334.65
Nec Tokin Electronics Philippines Inc.	142,667.86	2,853.34	*Annex 3-c* and *Annex 8-b* (for TY 2016); *Annex 4-n* (for TY 2017)	12,284.11	130,383.75	142,667.86	2,853.34
Nyk Auto Logistics Philippines Inc	16,582,129.74	331,642.62	*Annex 3-c* and *Annex 8-b* (for TY 2016); *Annex 4-o* (for TY 2017)	1,084,513.26	15,497,616.48	16,582,129.74	331,642.62
Pasig First Capitol Realty Corp	735,149.61	14,702.99	*Annex 4-p*		711,299.22	711,299.22	14,225.98
People-Link Staffing Solutions., Inc.	300,000.00	6,000.00	*Annex 4-q*		300,000.00	300,000.00	6,000.00
Pricon Microelectronics Inc.*	158,633,157.78	3,172,663.17	*Annex 4-r*		158,539,185.66	158,539,185.66	3,170,783.71
Sanno Philippines Manufacturing Corporation	20,856,149.41	417,123.00	*Annex 8-b* (for TY 2016); *Annex 4-s* (for TY 2017)	1,388,205.29	19,467,944.12	20,856,149.41	417,123.00
Solid Cement Corp.	21,401,322.50	428,026.45	*Annex 3-c* and *Annex 8-b* (for TY 2016); *Annex 4-t* (for TY 2017)	3,076,097.08	18,325,225.38	21,401,322.46	428,026.45
Southern Asia-Pacific Division Corp Of General Conference Of Seventh-Day Adventists	308,656.60	6,173.14	*Annex 4-u*		308,656.60	308,656.60	6,173.14
Total	**₱839,003,599.24**	**₱16,779,933.69**				**₱838,458,638.54**	**₱16,769,034.45**

[50] Computation of ₱6,582.02:

Inc. payment subj. to 1% per CWT Cert. (₱13,839.29)	₱ 138.39
Inc. payment subj. to 2% per CWT Certs. (₱336,020.76 - ₱13,839.29 = ₱322,181.47)	6,443.63
Total CWT equivalent	**₱6,582.02**

Note that the income payments of ₱25,201,748.30 (with corresponding CWTs) in TY 2016 were likewise considered and included in petitioner's claim for refund of unutilized CWTs for TY 2017, to wit:

Client Name	Reference to the ICPA Report	Income Payment	CWT Amount
Brother Industries (Philippines), Inc.	Annex 3-c	₱ 6,870,890.64	₱137,417.81
Explorer Freight Corp.		54,225.97	1,084.52
		33,027.16	660.54
		27,622.70	552.45
IM Digital Philippines, Inc.		3,002,764.71	60,055.29
Jae Phils Inc.		9,652,117.49	193,042.35
Nec Tokin Electronics (Philippines) Inc.		12,284.11	245.68
Nyk Auto Logistics Philippines Inc.		586,208.50	11,724.17
		498,304.76	9,966.10
Solid Cement Corp.		3,076,097.08	61,521.94
Sanno Philippines Manufacturing Corporation	Annex 8-b	812,918.50	16,258.37
		575,286.68	11,505.73
TOTAL		**₱25,201,748.30**	**₱504,034.95**

Relevantly, in the case of *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (Univation)*,[42] the Supreme Court, in no uncertain terms, declared that:

> <u>It must be noted that while the income payments from which the CWTs which were declared in its return covered the years 2006, 2008, 2009 and 2010, there was nothing wrong with it as what is important is that the respondent complied with the third requisite, that is, the income which the taxes were withheld was included in the returns of the respondent</u>.
>
> The CTA *En Banc* correctly appreciated the explanation of the independent CPA (ICPA) why the income payments from which the CWT amounting to P12,729,617.90 were withheld, were declared in its returns covering the years 2006, 2008, 2009 and 2010. In gist, the ICPA suggests that there were delays in collection of certain income payments to respondent. For one, certain sales made by respondent to its dealers in 2008 and 2009 were only paid in 2010. In other words, there were certain income payments which, although respondent expected to receive in 2006, 2008 and 2009, were only remitted to it in 2010. As concluded by the CTA En Banc, the delay in collection of certain income payments of respondent caused the timing difference between the actual reporting of the income by respondent and the actual withholding of the corresponding creditable income tax by respondent's customers. **What is important is that the creditable withholding taxes corresponding to the related income in the respondent's books for CY's 2006, 2008 and 2009 were not yet claimed as income tax credits in respondent's annual ITRs corresponding to the said years. Hence, it is**

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> **just proper that these income payments should form part of respondent's tax credit for 2010.** (*Boldfacing and underscoring supplied*)

Clear from the foregoing that CWTs related to income payments reported in prior periods, which were not yet claimed as income tax credits in the said periods, should be allowed as part of the claimant's tax credit in the period subject of the claim as long as the taxpayer-claimant complied with the third requisite, that is, the income which the taxes were withheld was included in the returns of the taxpayer-claimant.

In the case at bar, the income payments amounting to ₱25,201,748.30 were traced to petitioner's General Ledger for 2016. However, the corresponding CWTs thereof were only issued in TY 2017. This timing difference in the issuance of CWT Certificates and recording of the CWT amount was explained by the ICPA in her Report[43] dated December 18, 2018, the pertinent portion of which reads:

> b. Timing difference – 2016 billing but CWTs were reported and dated 2017 - (₱25,234,685.98)
>
> According to the Petitioner through Ms. Kristina Barza, Finance Manager of Finance Department, the timing difference pertains to revenue reported in 2016 but collected in 2017, hence, the CWTs were also recorded and reported in 2017. **As discussed in Section III, item 1b, Collection Process, the timing of customer issuance of BIR Form No. 2307 CWT Certificates and recording of CWT amount per books coincides with the timing of collection**. (*Emphasis supplied*)

Further, based on the verification[51] conducted by the ICPA, the CWTs amounting to ₱504,034.95, which pertains to the income payments of ₱25,201,748.30 reported in TY 2016, were not included in petitioner's annual ITR for TY 2016 but were included in petitioner's CWTs for TY 2017. As petitioner correctly explained, the issuance of CWT Certificates and recording of CWT amount per books coincides with the timing of collection.

Indeed, petitioner was able to prove that the CWTs pertaining to the income payment of ₱25,201,748.30 reported in TY 2016 were not claimed in TY 2016. Hence, following the ruling in *Univation*, it is just proper that these income payments should form part of petitioner's tax credits in TY 2017.

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[51] Exhibit P-18, p. 22.

However, the income payments of ₱838,458,638.54, with corresponding CWTs of ₱16,769,034.45, include the amount of ₱19,310,080.57, with corresponding CWTs of ₱386,201.62, which was earlier disallowed being not properly substantiated. As such, the income payments traced as part of the income reported based on the Annual ITRs shall be reduced to ₱819,148,557.97 (₱838,458,638.54 less ₱19,310,080.57), with corresponding duly substantiated CWTs of ₱16,382,832.83 (₱16,769,034.45 less ₱386,201.62).

Verily, with the foregoing, petitioner is considered to have complied with the *third* requisite.

Moving forward, the duly substantiated CWTs of ₱16,382,832.83 shall be applied against petitioner's income tax liability of ₱9,196,660.00 for TY 2017. Thus, the valid excess and unutilized CWTs during TY 2017 amounted to only ₱7,186,172.83 (₱16,382,832.83 less ₱9,196,660.00).

In sum, the Court finds that petitioner is entitled to a refund in the reduced amount of ₱7,186,172.83, representing its unutilized CWTs for TY 2017.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED.** Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** in favor of petitioner Service Resources, Inc., the reduced amount of **SEVEN MILLION ONE HUNDRED EIGHTY-SIX THOUSAND ONE HUNDRED SEVENTY-TWO PESOS AND EIGHTY-THREE CENTAVOS (₱7,186,172.83)**, representing the latter's excess and unutilized creditable withholding taxes for the taxable year 2017.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest 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's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice