REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

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PRHC PROPERTY MANAGERS, INC., Petitioner,	**CTA CASE NO. 7615**
	Members:
- versus -	**ACOSTA,** *Chairperson* **BAUTISTA,** *and* **CASANOVA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** MAR 17 2011 ; 10:52 am

x- -x

AMENDED DECISION

BAUTISTA, *J.*:

For resolution is petitioner's ***"MOTION FOR RECONSIDERATION"*** of the Decision dated September 14 2010, filed on September 27, 2010[1], without respondent's opposition/comment thereto despite notice.

The dispositive portion of the assailed Decision is hereunder quoted:

> **WHEREFORE**, premises considered, petitioner's claim for refund is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

[1] Docket, pp. 464-472.

In the Order dated October 14, 2010,[2] and as prayed for by petitioner in its Manifestation and Motion dated October 6, 2010, this Court set for hearing petitioner's Motion for Reconsideration on November 4, 2010. Upon termination thereof, petitioner filed on November 10, 2010 its *Supplemental Formal Offer of Evidence*[3] submitting exhibits "A-MR", "B-MR", "C-MR", "D-MR", "E-MR" and "F-MR"; which this Court admitted in the Resolution dated January 5, 2011.

In its *Motion*, petitioner argues that there is no requirement at all for petitioner to prove that it did not carry-over the amount being claimed as refund to the succeeding taxable period. Petitioner concludes that its non-submission of income tax returns for the succeeding quarters and its final adjusted return for the year 2005 is not fatal to the granting of its claim for refund in the amount of P1,623,841.00, representing its unutilized creditable taxes withheld at source for the year 2004.

In support of its claim, petitioner cited the Supreme Court ruling in the case of Philam Asset Management, Inc. vs. Commissioner of Internal Revenue[4], and the CTA *En Banc* cases of Golden Arches Development Corp. vs. Commissioner of Internal Revenue[5] and Commissioner of Internal Revenue vs. Golden Arches Development Corp.[6]

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[2] Docket, *p*. 497.
[3] Docket, *pp*. 502-504.
[4] G.R. No. 156637/162004, December 14, 2005.
[5] C.T.A. EB Case No. 465, November 26, 2009.
[6] C.T.A. EB Case No. 470, November 26, 2009.

In support of the motion, petitioner presented and formally offered in evidence its Quarterly Income Tax Returns for the first[7], second[8] and third quarters[9] of taxable year 2005 and Annual Income Tax Return[10] for the same year, in order for this Court to determine whether petitioner carried-over the 2004 excess creditable withholding taxes to the subsequent taxable quarters/year.

After a careful evaluation of the arguments and evidence further adduced, this Court hereby reconsiders.

A perusal of the aforesaid returns shows that no amount of "Prior Year's Excess Credits"[11] was reflected. Therefore, petitioner did not actually carry-over/apply the claimed 2004 excess creditable withholding taxes of P1,623,841.00 against the income tax due for the succeeding quarters/year of 2005.

As found by the Court in the Decision dated September 14, 2010, which was based on evidence[12] presented, petitioner was able to substantiate the amount of P1,622,883.18, out of the claim of P1,623,841.00, computed as follows:

Income Tax Due Per Return			P 495,470.00
Less:	Tax Credits		
	Creditable Taxes Withheld Per Return	P2,119,311.00	
	Less: Creditable Taxes Withheld Claimed Twice[13]	957.82	2,118,353.18
Refundable Excess Tax Credits			**P1,622,883.18**

[7] Exhibit "A-MR".
[8] Exhibit "B-MR".
[9] Exhibit "C-MR".
[10] Exhibit "D-MR".
[11] Line 29A of Exhibits "A-MR", "B-MR" and "C-MR"; Line 28A of Exhibit "D-MR".
[12] Page 9 of Decision dated September 14, 2010.
[13] Exhibits L-21 and M-18.

WHEREFORE, premises considered, petitioner's **"Motion for Reconsideration"** is hereby **PARTIALLY GRANTED** and this Court's Decision dated September 14, 2010 denying petitioner's claim for refund of unutilized creditable withholding taxes is hereby **MODIFIED. ACCORDINGLY,** respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in the amount of **P1,622,883.18** to petitioner, representing excess creditable withholding taxes for taxable year 2004.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
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.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division