CTA Form No. 8

21-000182-0059

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10515

SONOMA SERVICES, INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. ALBERT C. ARPO
ATTY. CARL FITRI A. HUSSIN
ATTY. MARY ANTONETTE M. YU
Bureau of Internal Revenue - Revenue Region No. 8A-Makati City
36th Floor, Export Bank Plaza Bldg.
Sen. Gil Puyat Ave. corner Chino Roces Ave.
Makati City

SALVADOR LLANILLO & BERNARDO
8th Floor, Tower One & Exchange Plaza
Ayala Triangle, Ayala Avenue
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **July 2, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 2, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SONOMA SERVICES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10515

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

JUL 02 2024 9:16AM

x -- x

DECISION

DEL ROSARIO, P.J.:

Before the Court is a Petition for Review[1] filed on April 14, 2021 by petitioner Sonoma Services, Inc. against respondent Commissioner of Internal Revenue (CIR), praying for the refund or issuance of a tax credit certificate (TCC) in the amount of ₱5,533,500.00, representing its excess and unutilized creditable withholding taxes (CWTs) for the calendar year (CY) ended December 31, 2018.

THE PARTIES

Petitioner Sonoma Services, Inc. is a domestic corporation, duly organized and existing under Philippine laws, with principal office at 3rd Floor, Makati Stock Exchange, Ayala Triangle, Ayala Avenue, Makati City.[2] It was incorporated with the primary purpose of carrying on and conducting a general services business with any party, including the rendering of management and other allied services within the limits allowed by law, including office and clerical support

[1] CTA Docket Vol. I, pp. 10-151.
[2] Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), CTA Docket Vol. II, p. 468.

services, maintenance services of any kind, or otherwise, to engage in any preservation, maintenance or repair work upon any and every kind of property, to enter into and execute contracts therefore or relating thereto.[3]

Respondent is the duly appointed CIR vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said Office, including *inter alia,* the power to decide, approve, and grant refunds and/or tax credits of overpaid and erroneously paid or collected internal revenue taxes.[4]

THE FACTS

On April 15, 2019, petitioner filed with the BIR, through the Electronic Filing and Payment System (eFPS), its Annual Income Tax Return (ITR) for CY 2018.[5]

On May 2, 2019, petitioner filed with the BIR, through the eFPS, its amended Annual ITR for CY 2018.[6]

On February 2, 2021, petitioner filed with the BIR Revenue District Office (RDO) No. 50 - South Makati, an administrative claim for its excess and unutilized CWT for CY 2018 in the amount of ₱5,533,500.00.[7]

Due to the inaction of respondent and in order to preserve its right to judicially claim for refund its alleged excess and unutilized CWTs for CY 2018, petitioner filed, via electronic mail, the present Petition for Review[8] before this Court on April 14, 2021.

Summonses were personally served upon the CIR and the Office of the Solicitor General on May 31, 2021.[9]

On June 29, 2021, respondent filed, via registered mail, a Motion for Extension of Time to File Answer,[10] which the Court granted on July 14, 2021,[11] setting a non-extendible period of fifteen

[3] Par. 2, Stipulation of Facts, JSFI, CTA Docket Vol. II, pp. 468-469.
[4] Par. 4, Stipulation of Facts, JSFI, CTA Docket Vol. II, p. 469.
[5] Exhibit "P-3", CTA Docket Vol. I, pp. 52-69.
[6] Exhibit "P-4", CTA Docket Vol. I, pp. 70-78.
[7] Exhibit "P-10," CTA Docket Vol. I, pp. 116-117.
[8] CTA Docket Vol. I, pp. 10-151.
[9] CTA Docket Vol. I, pp. 152-153.
[10] CTA Docket Vol. I, pp. 154-159.
[11] CTA Docket Vol. I, p. 161.

(15) days from June 30, 2021 or until July 15, 2021, within which to file Answer.

Respondent subsequently filed another Motion for Extension of Time to File Answer[12] praying for an additional period of fifteen (15) days from July 15, 2021 or until July 30, 2021, within which to file Answer.

Thereafter, on July 21, 2021, respondent filed a Motion to Admit Answer,[13] with his attached Answer,[14] raising the following special and affirmative defenses: (i) petitioner is not entitled to refund because it failed to establish the fact of withholding and the fact that the income upon which the taxes were withheld was included as part of the income declared in its Annual ITR; and (ii) even assuming that petitioner satisfied all the requisites for a refund, petitioner still is not entitled to its full claim since it has no prior year excess credits in taxable year 2018, which it can apply to the income tax due for the current year.

On October 4, 2021, the Court, in the interest of justice, resolved to grant respondent's Motion to Admit Answer, admitted the Answer attached thereto, and set the case for pre-trial on December 1, 2021.[15]

Respondent, on October 21, 2021, then transmitted to the Court the BIR Records of this case.[16]

Respondent's Pre-Trial Brief[17] was filed on November 26, 2021, while Petitioner's Pre-trial Brief[18] was filed on March 30, 2022. Thereafter, the Pre-Trial Conference[19] was held on April 4, 2022.

On April 25, 2022, the parties filed their Joint Stipulation of Facts and Issues.[20] On the same date, petitioner filed a Motion to Commission an Independent Certified Public Accountant (ICPA).[21]

---

[12] CTA Docket Vol. II, pp. 403-408.
[13] CTA Docket Vol. I, pp. 162-167.
[14] CTA Docket Vol. I, pp. 181-401.
[15] CTA Docket Vol. II, p. 411.
[16] CTA Docket Vol. II, pp. 412-413.
[17] CTA Docket Vol. II, pp. 440-450.
[18] CTA Docket Vol. II, pp. 452-465.
[19] Minutes of Hearing dated April 4, 2022, CTA Docket Vol. II, p. 466.
[20] CTA Docket Vol. II, pp. 468-477.
[21] CTA Docket Vol. II, pp. 478-496.

In the Pre-Trial Order dated May 10, 2022, the Court approved and adopted the parties' Joint Stipulation of Facts and Issues and set the hearing of petitioner's Motion to Commission an ICPA.[22] On May 30, 2022, Ms. Madonna Mia S. Dayego was commissioned as the ICPA of the present case, and was ordered to submit her report within thirty (30) days from the date of her commissioning.[23]

During trial, petitioner presented testimonial and documentary evidence. It presented the following witnesses: Ms. Krystal E. Gamit,[24] petitioner's Financial Accountant; and Ms. Dayego,[25] the Court-commissioned ICPA.

Petitioner filed its Formal Offer of Evidence (with Motion to Set a Commissioner's Hearing)[26] on October 24, 2022, and a Supplemental Formal Offer of Evidence with Manifestation[27] on February 16, 2023. The Court admitted in evidence petitioner's exhibits in the Resolution[28] dated July 21, 2023, save for Exhibit "P-33-3" for not being found in the records.

On August 15, 2023, petitioner filed a Motion for Reconsideration (Re: Resolution Dated July 21, 2023).[29] In the Resolution[30] dated October 4, 2023, Exhibit "P-33-3" was admitted by the Court, taking judicial notice of the Supreme Court's minute resolution.[31]

Respondent also presented testimonial and documentary evidence. He presented Revenue Officer Opalynne Rose A. Calacar[32] as his lone witness.

On October 13, 2023, respondent filed his Formal Offer of Evidence.[33] The Court admitted in evidence all of respondent's exhibits in the Resolution[34] dated January 16, 2024.

---

[22] CTA Docket Vol. II, pp. 508-513.
[23] CTA Docket Vol. II, p. 516.
[24] Exhibit "P-19", CTA Docket Vol. I, pp. 26-40; and Minutes of Hearing dated May 30, 2022, CTA Docket Vol. II, p. 514.
[25] Exhibit "P-20", CTA Docket Vol. II, pp. 521-535; and Minutes of Hearing dated September 22, 2022, CTA Docket Vol. II, p. 539.
[26] CTA Docket Vol. II, pp. 547-713.
[27] CTA Docket Vol. II, pp. 747-759.
[28] CTA Docket Vol. II, pp. 789-790.
[29] CTA Docket Vol. II, pp. 791-797.
[30] CTA Docket Vol. II, pp. 814-817.
[31] Resolution, *Sonoma Services, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 205191, June 13, 2013.
[32] Exhibit "R-17", CTA Docket Vol. II, pp. 419 - 426; CTA Docket Vol. II, pp. 808-809.
[33] CTA Docket Vol. II, pp. 818-825.
[34] CTA Docket Vol. II, pp. 835-836.

Petitioner[35] and respondent[36] filed their respective Memoranda on February 19, 2024. Thereafter, on March 5, 2024, the case was submitted for decision.[37]

THE ISSUE

The parties stipulated the following issue for the Court's resolution:

> Whether or not petitioner is entitled to its claim for refund or issuance of TCC in the amount of ₱5,533,500.00, representing petitioner's alleged excess and unutilized CWTs for CY 2018.[38]

THE PARTIES' ARGUMENTS

Petitioner argues that: (i) it has complied with all the requirements for claiming a refund or issuance of a TCC for its excess and unutilized CWTs for CY 2018; (ii) its administrative and judicial claims for refund were filed within the two (2)-year prescriptive period provided under Section 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended; (iii) its CWTs for CY 2018 are duly supported by Certificates of Creditable Tax Withheld at Source (CWT Certificates)[39] issued by petitioner's withholding agents showing the amount of income payment and the amount of tax withheld therefrom; (iv) the income upon which the CWTs being claimed for refund were withheld was included as part of the gross income reported in petitioner's ITR; and, (v) it did not exercise the option to carry over its excess and unutilized CWTs for CY 2018 to the succeeding taxable periods.

On the other hand, respondent counter-argues that: (i) the CTA has no jurisdiction over the claim for refund due to the belated filing of the Petition for Review; (ii) assuming the Court has jurisdiction, petitioner is not entitled to refund or issuance of TCC because it carried over its alleged excess and unutilized CWTs for taxable year 2018; (iii) assuming the Court has jurisdiction and petitioner established that it opted to claim for refund, it is not entitled to refund because it failed to establish the following: (a) the existence of prior year's excess credits in CY 2018 to cover income tax liability for the

[35] CTA Docket Vol. II, pp. 864-885.
[36] CTA Docket Vol. II, pp. 837-863.
[37] CTA Docket Vol. II, p. 886.
[38] Issue, JSFI, CTA Docket Vol. II, p. 469.
[39] BIR Form No. 2307

year; (b) the fact of withholding; (c) the income upon which the taxes were withheld formed part of the income declared in its Annual ITR.

THE COURT'S RULING

The present Petition for Review is impressed with merit.

In its Amended Annual Income Tax Return (ITR) for CY 2018, petitioner had total tax credits of ₱9,508,608.00, broken down as follows:

Particulars	Amount
Prior Year's Excess Credits Other Than Minimum Corporate Income Tax ("MCIT")	₱ 3,975,108.00
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	5,458,500.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	75,000.00
Total Tax Credits/Payments	**₱ 9,508,608.00**

Petitioner claims that its MCIT due for the period in the amount of ₱330,384.00 was paid for using its Prior Year's Excess Credits other than MCIT in the amount of ₱3,975,108.00. This left a balance of ₱3,644,724.00 in its prior year's excess credits. Petitioner alleges that its creditable taxes withheld for the four (4) quarters of CY 2018 in the total amount of ₱5,533,500.00 were not utilized to cover its current income tax liability and were not carried over to the succeeding taxable year, *viz.:*

Item	Amount
CWTs for the 1st to 3rd quarters of CY 2018	₱ 5,458,500.00
CWTs for the 4th quarter of CY 2018	75,000.00
CWTs being claimed for refund (CY 2018)	**₱ 5,533,500.00**

Petitioner's compliance with Section 76 of the NIRC of 1997, as amended

Pertinent to the resolution of the present case is Section 76 of the NIRC of 1997, as amended, which states:

> "**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:
>
> (A) Pay the balance of tax still due; or
> (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 tax credit certificate shall be allowed therefor."

Pursuant to the above provision, a corporation entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, essentially, has two (2) options, either: (1) to carry-over the excess credit and apply the same against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year; or (2) to apply for a cash refund or issuance of a TCC within the prescribed period. If the carry-over option is selected, such is irrevocable for that taxable period and no application for cash refund or issuance of tax credit certificate shall be allowed therefor.[40]

In exercising its option, the corporation must signify in its Annual ITR (by marking the option box provided therein) its intention, either to carry over the excess credit or to claim a refund.[41] To ease the administration of tax collection, these remedies are in the alternative, and the choice of one precludes the other.[42]

A perusal of petitioner's Original[43] and Amended[44] Annual ITRs for CY 2018 shows that petitioner marked the box corresponding to

---

[40] *University Physicians Services Inc.-Management, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 205955, March 7, 2018.
[41] *Systra Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 176290, September 21, 2007.
[42] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.,* G.R. No. 112024, January 28, 1999.
[43] Exhibit No. "P-3", CTA Docket Vol. I, pp. 52-60.
[44] Exhibit No. "P-4", CTA Docket Vol. I, pp. 70-78.

the option "To be refunded". Clearly, petitioner chose the option to be refunded under Section 76 of the NIRC of 1997, as amended.

Likewise, a close examination of petitioner's Original and Amended Annual ITR for CY 2019[45] shows that the amount of ₱5,533,500.00, representing its excess and unutilized CWTs subject of the present refund claim, has not been carried over to the succeeding taxable periods. The presentation of the annual ITR for the subsequent CY (2019 in this case) would suffice in proving that prior year's excess credits were not utilized for the taxable year in order to make a final determination of the total tax due.[46]

The "Prior Year's Excess Credits Other Than MCIT" found in petitioner's Original[47] and Amended[48] Annual ITRs for the CY ended December 31, 2019 show the amount of ₱3,644,725.00, which is the same balance of the prior year's excess credits of petitioner for CY 2018.[49] This means that the amount claimed to be refunded in this case has not been carried over to the succeeding CY 2019. Evidently, what was used as "Prior Year's Excess Credits Other Than MCIT" in petitioner's Annual ITR for CY 2019 was only the balance of the prior year's excess credits that was carried over to the succeeding taxable period. Therefore, the unutilized CWTs for CY 2018 in the amount of ₱5,533,500.00 remained intact and may accordingly be the subject of a claim for refund under Section 76 of the NIRC of 1997, as amended.

Petitioner's compliance with the other requisites to claim a tax credit or refund of excess and unutilized CWTs

Sections 204(C) and 229 of the NIRC of 1997, as amended, provide for the prescriptive period in the filing of the administrative and judicial claims for refund or recovery of tax erroneously or illegally collected, to wit:

> "**SEC. 204.** ***Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** —
>
> The Commissioner may —

[45] Exhibit Nos. "P-11" and "P-12", CTA Docket Vol. I, pp. 118-135.
[46] *Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015.
[47] Exhibit No. "P-11", CTA Docket Vol. I, p. 124.
[48] Exhibit No. "P-12", CTA Docket Vol. I, p. 133.
[49] With ₱1.00 difference.

xxx xxx xxx

> (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 stamps 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.

xxx xxx xxx

> **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.
>
> 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 therefor, 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."

Based on the foregoing provisions, a claimant for refund must first file an administrative claim for refund before the CIR, prior to filing a judicial claim before the Court. Notably, both the administrative and judicial claims for refund should be filed within the two (2)-year prescriptive period indicated therein, and the claimant is allowed to file the latter even without waiting for the resolution of the former in order to prevent the forfeiture of its claim through prescription.[50]

While the law provides that the two (2)-year period is counted from the date of payment of the tax, jurisprudence, however, clarified

[50] *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.

that the two (2)-year prescriptive period to claim a refund actually commences to run, at the earliest, on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have been audited and adjusted, thus, reflecting the results of the operations of a business enterprise. Therefore, it is only when the 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.[51]

In addition to the foregoing, Section 2.58.3(B) of Revenue Regulations (RR) No. 2-98, as amended, provides the procedure in claiming for tax credit or refund of CWTs, as follows:

> "***Sec. 2.58.3. Claim for tax credit or refund. –***
>
> (A) 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**. xxx." *(Boldfacing supplied)*

In fine, petitioner must satisfy the following three (3) essential requisites for the grant of a claim for refund or issuance of TCC for its excess creditable withholding income tax, to wit:

(1) The administrative and judicial claims must be filed within the two (2)-year period from the date of payment of the tax, and/or the filing of the Annual ITR;

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

(3) It must be shown on the return of the recipient that the income received was declared as part of the gross income.[52]

---

[51] *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.*, G.R. No. 231581, April 10, 2019.
[52] *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 212699, March 13, 2019.

Ol

First requisite: The administrative and judicial claims for refund were timely filed

Records show that petitioner filed its Original[53] Annual ITR for CY 2018 on April 15, 2019 and its Amended[54] Annual ITR for CY 2018 on May 2, 2019. **The two (2)-year period shall commence on the date the Original Annual ITR for CY 2018 was filed on April 15, 2019.** Thus, petitioner had until April 15, 2021 within which to file both its administrative and judicial claims for refund.

The administrative claim was filed by petitioner on February 2, 2021 as evidenced by its Application for Tax Credits/Refund.[55] Without awaiting the decision of the respondent on its application, petitioner filed the subject Petition for Review on April 14, 2021, *via* electronic mail,[56] and subsequently filed the physical copies on May 18, 2021.[57]

Respondent, in his Memorandum, argues that petitioner's judicial claim was filed beyond the two-year prescriptive period under Sections 204(c) and 299 of the NIRC of 1997, as amended. He bases his argument on petitioner's failure to comply with paragraphs 3 and 4 in relation to paragraph 6 of CTA *En Banc* Resolution No. 4-2021, specifically, the failure to submit hardcopies of the petition together with the proof of payment of the filing fees within five (5) days from the date of filing by electronic mail.

Respondent's argument lacks merit.

In light of the COVID-19 pandemic, on April 10, 2021, the Supreme Court issued Administrative Circular No. 21-2021 declaring that all courts and judicial offices in the National Capital Judicial Region and nearby provinces shall remain physically closed until April 18, 2021. Subsequently, on April 14, 2021 and April 30, 2021, SC issued Administrative Circular Nos. 22-2021 and 29-2021, respectively, further extending the physical closure of courts until May 14, 2021. In the same circulars, the Supreme Court mandated that the time for filing and service of pleadings and motions during the period of physical closure of the pertinent courts is suspended and

---

[53] Exhibit No. "P-3", CTA Docket Vol. I, pp. 52-60.
[54] Exhibit No. "P-4", CTA Docket Vol. I, pp. 70-78.
[55] Exhibit No. "P-10", CTA Docket Vol. I, pp. 116-117.
[56] CTA Docket Vol. I, p. 8.
[57] CTA Docket Vol. I, p. 10.

shall resume after seven (7) calendar days counted from the first day of the physical reopening of the relevant court.

On May 14, 2021, the SC issued Administrative Circular No. 33-2021, which declared that all first and second level courts, appellate collegiate courts (except for the Supreme Court), and judicial offices in areas under General Community Quarantine (GCQ) shall be physically opened with a skeleton workforce starting from May 17, 2021, until further notice.

Thereafter, on May 17, 2021, the CTA reopened. The next day, on May 18, while the time for filing was still suspended, petitioner submitted four (4) copies of its Petition for Review with attached exhibits, along with a printout of the email from the CTA Judicial Records Division dated April 14, 2021, acknowledging receipt of petitioner's electronically-filed Petition for Review.[58] Clearly, the Petition for Review was timely filed.

Considering that both the administrative and judicial claims were filed within the two (2)-year prescriptive period, clearly, the Court has jurisdiction to take cognizance of the case at bar.

Second Requisite: Fact of withholding is established by copies of withholding statements duly issued by the payor

The second requisite mandates petitioner to prove the fact of withholding of the claimed CWTs by a copy of the statement duly issued by the payor, acting as the withholding agent, to the payee, showing the names of the payor and payee, the income payment, the amount of tax withheld, and the nature of the tax paid.

As enunciated by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Philippine National Bank*,[59] the CWT certificate is the competent proof to establish the fact that taxes were withheld, and it is not even necessary for the person who executed and prepared the CWT certificate to be presented and to testify personally to prove its authenticity. Upon presentation of the CWT certificate, complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden

---

[58] Par. 7, Manifestation, CTA Docket Vol. I, p. 8.
[59] G.R. No. 180290, September 29, 2014.

of evidence to prove that it is incomplete, false, or irregularly issued shifts to the CIR.[60]

To prove compliance with the second requisite, petitioner presented its CWT certificates (BIR Form No. 2307) issued by its income payors during CY 2018. Records show that the Court-commissioned ICPA was able to trace the total income payments pertaining to management fees in the amount of ₱36,890,000.00, which was subjected by petitioner's customers to CWTs in the amount of ₱5,533,500.00, broken down as follows:[61]

Exhibit No.	Payor's Name	Amount of Income Payment	Equivalent Tax Withheld
First Quarter			
"P-24-1"	Corullon Holdings, Inc.	₱ 2,000,000.00	₱ 300,000.00
"P-24-3"	FBC Holdings, Inc.	2,000,000.00	300,000.00
"P-24-5"	FBC Steps Realty, Inc.	300,000.00	45,000.00
"P-24-7"	Fercat Holdings, Inc.	2,000,000.00	300,000.00
"P-24-9"	Gilmon Holdings, Inc.	2,000,000.00	300,000.00
"P-24-11"	Gracie Square Holdings, Inc.	2,000,000.00	300,000.00
"P-24-15"	Mermac, Inc.	3,445,000.00	516,750.00
"P-24-17"	Reinosa Holdings, Inc.	2,000,000.00	300,000.00
"P-24-19"	San Puente Holdings, Inc.	2,000,000.00	300,000.00
"P-24-21"	Steps Dance Center, Inc.	200,000.00	30,000.00
Subtotal - First Quarter		*₱ 17,945,000.00*	*₱ 2,691,750.00*
Third Quarter			
"P-24-2"	Corullon Holdings, Inc.	₱ 2,000,000.00	₱ 300,000.00
"P-24-4"	FBC Holdings, Inc.	2,000,000.00	300,000.00
"P-24-6"	FBC Steps Realty, Inc.	300,000.00	45,000.00
"P-24-8"	Fercat Holdings, Inc.	2,000,000.00	300,000.00
"P-24-10"	Gilmon Holdings, Inc.	2,000,000.00	300,000.00
"P-24-12"	Gracie Square Holdings, Inc.	2,000,000.00	300,000.00
"P-24-13"	JZA Artworks, Inc.	500,000.00	75,000.00
"P-24-16"	Mermac, Inc.	3,445,000.00	516,750.00
"P-24-18"	Reinosa Holdings, Inc.	2,000,000.00	300,000.00
"P-24-20"	San Puente Holdings, Inc.	2,000,000.00	300,000.00
"P-24-22"	Steps Dance Center, Inc.	200,000.00	30,000.00
Subtotal - Third Quarter		*₱ 18,445,000.00*	*₱ 2,766,750.00*
Fourth Quarter			
"P-24-14"	JZA Artworks, Inc.	₱ 500,000.00	₱ 75,000.00
Subtotal - Fourth Quarter		*₱ 500,000.00*	*₱ 75,000.00*
TOTAL INCOME PAYMENTS / CWT - CY 2018		**₱ 36,890,000.00**	**₱ 5,533,500.00**

Upon verification, these CWT certificates are complete in their relevant details such as the names of the payor and the payee, the income payment, the amount of tax withheld, and the nature of the tax paid.

---

[60] *Id.*
[61] Exhibit No. "P-21", ICPA Report, CTA Docket Vol. II, pp. 517A-517ZZ.

In sum, petitioner was able to prove the fact of the withholding of the refund claim, in the amount of ₱5,533,500.00, pertaining to CY 2018.

Third Requisite: The income received was declared as part of the gross income

The third requisite requires petitioner to prove that the income payments that were subjected to CWTs were reported or declared as part of its gross income in its Annual ITR for the CY 2018. Upon examination, the Court was able to trace the income payments related to the claimed CWTs to the Official Receipts (ORs),[62] Cash Receipts Book (CRB),[63] and General Ledger (GL) - Administration Fees[64] submitted by petitioner.

As mentioned, the CWT certificates show that the claimed CWTs for CY 2018 were withheld on income payments of ₱36,890,000.00. After comparing the same to the total sales/revenues/receipts per Original[65] and Amended[66] Annual ITRs for the same period and the revenue section in the Statement of Comprehensive Income of petitioner's AFS for the year ended December 31, 2018,[67] which showed total income pertaining to management fees in the amount of ₱60,500,000.00, there is a resulting variance in the amount of ₱23,610,000.00.

In her Report,[68] the ICPA was able to determine that the variance of ₱23,610,000.00 pertains to the income payments not subjected to CWTs. According to petitioner, these are income payments by individuals and a juridical entity not required to withhold CWTs.[69] Said income payments were traced to petitioner's GL-Administration Fees,[70] CRB,[71] and were fully supported by ORs.[72] The Court confirms the ICPA's findings.

---

[62] Exhibit Nos. "P-25-1-1" to "P-25-1-22", USB; Exhibit Nos. "P-29-1" to "P-29-11", USB.
[63] Exhibit No. "P-25-2", USB
[64] Exhibit No. "P-28-1", USB.
[65] Exhibit No. "P-3", CTA Docket Vol. I, pp. 52-60.
[66] Exhibit No. "P-4", CTA Docket Vol. I, pp. 70-78.
[67] Exhibit No. "P-5", CTA Docket Vol. II, pp. 641-669.
[68] Exhibit No. "P-21", USB.
[69] Exhibit Nos. "P-26" and "P-26-1", USB.
[70] Exhibit No. "P-28-1", USB.
[71] Exhibit No. "P-25-2", USB.
[72] Exhibit Nos. "25-1-1" to "25-1-22" and "27-1" to "27-24", USB.

It bears noting, however, that petitioner's GL-Administration Fees showed income payments in the total amount of ₱61,900,000.00. Nevertheless, as mentioned, the income payments in the amount of ₱36,890,000.00 with corresponding CWTs of ₱5,533,500.00 subject of the claim were still traced by the Court to said GL.

It should likewise be emphasized that when added together, petitioner's income payments composing of those with and without CWTs in the amounts of ₱36,890,000.00 and ₱23,610,000.00, respectively, equal to ₱60,500,000.00, which represents the amount that is reflected in its AFS and declared in its Annual ITR for CY 2018.

In fine, petitioner was able to comply with the third requisite. That is, the Court has determined that petitioner sufficiently showed that the income payments upon which the claimed CWTs were based were reported as part of the gross income in its ITR for CY 2018.

At this juncture, the Court finds it imperative to address certain arguments put forth by respondent.

In his Answer, respondent raised doubts as to the accuracy of the details provided in petitioner's Annual ITR for CY 2018, considering the discrepancies in the amount of income in the company's records (i.e., ledger account, trial balance and breakdown of sales/revenues) and the amount declared in the Annual ITR and AFS.[73] Considering this discrepancy, respondent argues that the Annual ITR cannot be given credence, and consequently, petitioner cannot establish the fact that the income payments upon which taxes were withheld were indeed declared in its Annual ITR.[74]

In his Memorandum, respondent further argues that the ICPA's failure to notice the discrepancy creates serious questions as to the accuracy, veracity, and merit of the ICPA report, as well as the independence and impartiality of the ICPA herself.[75] The respondent noted that the ICPA has been commissioned in several companies, including petitioner, under the Ayala Group of Companies.[76]

---

[73] Pars. 21 and 24, Answer, CTA Docket Vol. I, p. 187.
[74] Par. 25, Answer, CTA Docket Vol. I, pp. 187-188.
[75] Par. 55, Memorandum, CTA Docket Vol. II, p. 855; Par. 66, Memorandum, CTA Docket Vol. II, p. 859.
[76] Par. 66, Memorandum, CTA Docket Vol. II, p. 859.

In the present case, the total revenues from management fees in the general ledger submitted by petitioner reveals a higher amount by ₱1,400,000.00 than that indicated in the Annual ITR and AFS. Similarly, the CRB showed a total amount of ₱1,400,000.00 that is not supported by ORs nor included in the Annual ITR and the AFS. Thus, there appears to be additional income payments received by petitioner that were not reported in its AFS and Annual ITR.

This alleged discrepancy, however, is of no moment. The present petition is one for refund. To reiterate, in order to establish a claim for refund, only the following three requirements must be met: (1) that the claim must be filed within the two-year reglementary period, (2) that the fact of withholding must be established, and, (3) the income received must have been declared as part of the gross income.[77] The discrepancy between the general ledger and cash receipts book, on one hand, and the Annual ITR and AFS, on the other, is more appropriately addressed in an assessment proceeding. In a claim for refund, so long as the income payments upon which the claimed CWTs were withheld are established to have been declared as part of the gross income of the claimant, and the two other requisites are met, the claim shall be granted.[78]

In this case, the income payments for management fees from which the claimed CWTs were based were traced to the ORs, CRB, GL, AFS, and Annual ITR. Thus, the third requisite was sufficiently established.

Nevertheless, it is worth noting that the NIRC provides that there is substantial under-declaration of taxable sales, which constitutes *prima facie* evidence of a false or fraudulent return, when there is failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return.[79] Since the alleged underdeclaration of sales/revenue is only ₱1,400,000.00 or 2.31%[80] of the declared sales, it becomes even more unreasonable to disregard the Annual ITR, and consequently deem petitioner as unable to comply with the third requisite of a valid tax refund claim solely on the basis thereof.

Anent the issues raised by respondent concerning the integrity, independence, and impartiality of the ICPA, the Court finds such

---

[77] *Commissioner of Internal Revenue vs. Philippine National Bank,* G.R. No. 212699, March 13, 2019.
[78] *Calamba Steel Center, Inc. (formerly JS Steel Corporation) vs. Commissioner of Internal Revenue,* G.R. No. 151857, April 28, 2005.
[79] Section 248, National Internal Revenue Code.
[80] ₱1,400,000.00/₱60,500,000.00

allegations unfounded and devoid of merit. The mere fact that the ICPA was hired on multiple occasions by companies under the Ayala Group of Companies, including petitioner, does not render her testimony without probative value. Besides, the Court does not place exclusive reliance on the ICPA's findings but rather considers it in conjunction with the other evidence admitted. The Court conducts its own independent review of the records and formulates its determinations, even as it retains the discretion to assess the weight accorded to the evidence proffered and admitted.

Once again, because the income payments related to the CWTs claimed for refund can be traced to the Annual ITR of the petitioner, the third requirement for a valid refund claim is satisfied.

Petitioner's prior year's excess tax credits are fully accounted

As aforementioned, petitioner had total tax credits of ₱9,508,608.00 for CY 2018. Petitioner's MCIT for the period amounted to ₱330,384.00, which was paid for using its Prior Year's Excess Credits of ₱3,975,108.00, thus leaving a balance of ₱3,644,724.00 in petitioner's prior year's excess credits. Petitioner's creditable taxes withheld during CY 2018 in the total amount of ₱5,533,500.00 were not utilized to cover its income tax liability for the said year.

The Court-commissioned ICPA painstakingly traced the sources of petitioner's prior year's excess credits amounting to ₱3,975,108.00 and found that the same arose from its prior years' excess credits for CY 2017 in the amount of ₱6,176,482.00 less Regular Corporate Income Tax (RCIT) of ₱2,201,374.00 during the same period, as shown below:

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
2003			
Tax credits/payments	–	2,506,600.00	2,506,600.00
Less application of excess tax credits against RCIT due	–	(289,502.00)	(289,502.00)
Amount carried over to 2004	–	2,217,098.00	2,217,098.00
2004			
Tax credits/payments	2,217,098.00	5,188,970.00	7,406,068.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2003 CWT of 2,217,098.00 carried over to 2004	(550,220.00)	–	(550,220.00)

ar

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
Amount claimed for refund of or issuance of TCC (CTA Case No. 7613)	–	(5,188,970.00)	(5,188,970.00)
Amount carried over to 2005	1,666,878.00	–	1,666,878.00
2005			
Tax credits/payments	1,666,878.00	5,070,932.00	6,737,810.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2003 CWT of 1,666,878.00 carried over to 2005	(1,029,302.00)	–	(1,029,302.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 7757)	–	(5,070,932.00)	(5,070,932.00)
Amount carried over to 2006	637,576.00	–	637,576.00
2006			
Tax credits/payments	637,576.00	3,991,800.00	4,629,376.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2003 CWT of 637,576.00 carried over to 2006	(434,043.00)	–	(434,043.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 7911)	–	(3,991,800.00)	(3,991,800.00)
Amount carried over to 2007	203,533.00	–	203,533.00
2007			
Tax credits/payments	203,533.00	3,643,050.00	3,846,583.00
Less application of excess tax credits against RCIT due from the:			
Remainder of 2003 CWT of 203,533.00 carried over to 2007	(203,533.00)	–	(203,533.00)
2007 CWT	–	(553,207.00)	(553,207.00)
Amount carried over to 2008	–	3,089,843.00	3,089,843.00
2008			
Tax credits/payments	3,089,843.00	3,683,100.00	6,772,943.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2007 CWT of 3,089,843.00 carried over to 2008	(827,408.40)	–	(827,408.40)
Amount claimed for refund of or issuance of TCC (CTA Case No. 8266)	–	(3,683,100.00)	(3,683,100.00)
Amount carried over to 2009	2,262,434.60	–	2,262,434.60
2009			
Tax credits/payments	2,262,434.60	4,045,410.00	6,307,844.60
Less:			
Application of excess tax credits against RCIT due from the remainder of 2007 CWT of 2,262,434.60 carried over to 2009	(995,903.10)	–	(995,903.10)

om

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
Amount claimed for refund of or issuance of TCC (CTA Case No. 8458)	–	(4,045,410.00)	(4,045,410.00)
Amount carried over to 2010	1,266,531.50	–	1,266,531.50
2010			
Tax credits/payments	1,266,531.50	3,911,850.00	5,178,381.50
Less:			
Application of excess tax credits against MCIT due from the remainder of 2007 CWT of 1,266,531.50 carried over to 2010	(178,931.38)	–	(178,931.38)
Amount claimed for refund of or issuance of TCC (CTA Case No. 8639)	–	(3,911,850.00)	(3,911,850.00)
Amount carried over to 2011	1,087,600.12	–	1,087,600.12
2011			
Tax credits/payments	1,087,600.12	4,386,654.40	5,474,254.52
Less: Application of excess tax credits against RCIT due from the:			
Remainder of 2007 CWT of 1,087,600.12 carried over to 2011	(1,087,600.12)	–	(1,087,600.12)
2011 CWT	–	(392,088.25)	(392,088.25)
Amount carried over to 2012	–	3,994,566.15	3,994,566.15
2012			
Tax credits/payments	3,994,566.15	4,880,190.40	8,874,756.55
Less:			
Application of excess tax credits against RCIT due from the remainder of 2011 CWT of 3,994,566.15 carried over to 2012	(1,479,209.10)	–	(1,479,209.10)
Amount claimed for refund of or issuance of TCC (CTA Case No. 9026)	–	(4,880,190.40)	(4,880,190.40)
Amount carried over to 2013	2,515,357.05	–	2,515,357.05
2013			
Tax credits/payments	2,515,357.05	4,733,500.00	7,248,857.05
Add reinstatement of 2004 CWTs disallowed by the CTA (per decision in CTA EB Case No. 697 dated April 20, 2012 (Paragraph B.5.b)	4,357,499.04	–	4,357,499.04
Less adjustment made by the Petitioner (Paragraph (B.5.c)	(380,481.09)	–	(380,481.09)
Net 2004 CWT reinstated in 2013	3,977,017.95	–	3,977,017.95
	6,492,375.00	4,733,500.00	11,225,875.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2011 CWT of 2,515,357.05 carried over to 2013	(971,659.00)	–	(971,659.00))
Amount claimed for refund of or issuance of TCC (CTA Case No. 9249)	–	(4,733,500.00)	(4,733,500.00)
Amount carried over to 2014	5,520,716.00	–	5,520,716.00

am

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
2014			
Tax credits/payments	5,520,716.00	4,864,750.00	10,385,466.00
Less application of excess tax credits against RCIT due from the remainder of 2011 CWT of 1,543,698.05 carried over to 2014	(1,324,343.00)	–	(1,324,343.00)
Amount carried over to 2015	4,196,373.00	4,864,750.00	9,061,123.00
2015			
Tax credits/payments	9,061,123.00	4,993,000.00	14,054,123.00
Less:			
Application of excess tax credits against RCIT due from the:			
Remainder of 2011 CWT of 219,355.05 carried over to 2015	(219,355.05)	–	(219,355.05)
Net 2004 CWT reinstated in 2013 of 3,977,017.95 carried over to 2015	(226,071.95)	–	(226,071.95)
Amount claimed for refund of or issuance of TCC (CTA Case No. 9808)	–	(4,993,000.00)	(4,993,000.00)
Amount carried over to 2016	8,615,696.00	–	8,615,696.00
2016			
Tax credits/payments	8,615,696.00	5,366,304.00	13,982,000.00
Less:			
Application of excess tax credits against RCIT due from the remainder of the net 2004 CWT reinstated in 2013 of 3,750,946.00 carried over to 2016	(2,439,214.00)	–	(2,439,214.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 9771)	–	(5,366,304.00)	(5,366,304.00)
Amount carried over to 2017	6,176,482.00	–	6,176,482.00
2017			
Tax credits/payments	6,176,482.00	5,437,000.00	11,613,482.00
Less:			
Application of excess tax credits against RCIT due from the:			
Remainder of the net 2004 CWT reinstated in 2013 of 1,311,732.00 carried over to 2017	(1,311,732.00)	–	(1,311,732.00)
2014 CWT of 4,864,750.00 carried over to 2017	(889,642.00)	–	(889,642.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 10272)	–	(5,437,000.00)	(5,437,000.00)
Amount carried over to 2018	3,975,108.00	–	3,975,108.00
2018			
Tax credits/payments	3,975,108.00	5,533,500.00	9,508,608.00
Less:			
Application of excess tax credits against MCIT due from the remainder of the 2014 CWT of 3,975,108.00 carried over to 2018	(330,384.00)	–	(330,384.00)

am

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
Amount claimed for refund of or issuance of TCC (CTA Case No. 10515)	-	(5,533,500.00)	(5,533,500.00)
Amount carried over to 2018	3,644,724.00	-	3,644,724.00

Upon close examination of the above movements of the excess CWT from CY 2003 to CY 2018, petitioner's prior year's excess credits traced to CY 2017 actually pertain to tax credits for CY 2014 amounting to ₱4,864,750.00, which were utilized as follows:

Particulars	Amount
2014 Amount of Credits	₱ 4,864,750.00
CY 2017 RCIT Balance	(889,642.00)
Balance	**₱ 3,975,108.00**

This finding was further verified upon examination of the CWT certificates for CY 2014,[81] broken down as follows:

Exhibit	CWT
"32-1"	₱ 262,500.00
"32-2"	262,500.00
"32-3"	262,500.00
"32-4"	262,500.00
"32-5"	45,000.00
"32-6"	45,000.00
"32-7"	262,500.00
"32-8"	262,500.00
"32-9"	262,500.00
"32-10"	262,500.00
"32-11"	262,500.00
"32-12"	262,500.00
"32-13"	351,750.00
"32-14"	408,000.00
"32-15"	262,500.00
"32-16"	262,500.00

[81] Exhibit Nos. "P-32-1" to "P-32-24", USB.

09

"32-17"	262,500.00
"32-18"	262,500.00
"32-19"	10,000.00
"32-20"	10,000.00
"32-21"	10,000.00
"32-22"	10,000.00
"32-23"	112,500.00
"32-24"	187,500.00
Total	**₱ 4,864,750.00**

On the other hand, the CY 2004 CWTs in the amount of ₱4,357,499.04 reinstated in CY 2013 pertains to petitioner's claim for CWT refund that was denied by the Court in CTA *EB* No. 697[82] due to petitioner's failure to prove that it did not utilize the same in the succeeding taxable year. The Court finds the reinstatement of the amount of ₱4,357,499.04 proper in view of the Supreme Court's ruling[83] that a taxpayer with a denied CWT refund claim remains entitled to the benefit of carry-over of said tax credits as payment of its income tax payable in succeeding taxable years until the same are fully exhausted, *viz.:*

> "In sum, the petitioner is clearly mistaken in its view that the irrevocability rule also applies to the option of refund or tax credit certificate. In view of the court's finding that it constructively chose the option of carry-over, it is already barred from recovering its 2006 excess creditable tax through refund or TCC even if it was its initial choice.
>
> However, the **petitioner remains entitled to the benefit of carry-over and thus may apply the 2006 overpaid income tax as tax credit in succeeding taxable years until fully exhausted.** This is because, unlike the remedy of refund or tax credit certificate, the option of carry-over under Section 76 is not subject to any prescriptive period." *(Boldfacing supplied)*

The Court finds that petitioner adequately proved the existence of its CY 2018 prior year's excess tax credits, which it applied as payment for its CY 2018 MCIT. Petitioner's CWTs for CY 2018, in the amount of ₱5,533,500.00, remain unutilized.

---

[82] *Sonoma Services, Inc. vs. CIR*, CTA EB No. 697, April 12, 2012.
[83] *University Physicians Services, Inc.-Management, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 205955, March 7, 2018.

In view of the foregoing disquisition, the Court holds that petitioner is entitled to a refund or the issuance of TCC in the amount of ₱5,533,500.00, representing its excess and unutilized CWTs for CY 2018.

WHEREFORE, premises considered, the present Petition for Review is **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱5,533,500.00**, in favor of petitioner Sonoma Services, Inc., representing its excess and unutilized creditable withholding taxes for CY 2018.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice