REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION
****

HONDA CARS MAKATI, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8466

Members:

DEL ROSARIO, P.J.,
UY, and
MINDARO-GRULLA, JJ.

Promulgated:

FEB 10 2016 ; 3:33 p.m.

x - x

RESOLUTION

UY, J.:

For resolution is respondent's **"MOTION FOR RECONSIDERATION"** filed on October 2, 2015, with petitioner's **"COMMENT (RE: MOTION FOR RECONSIDERATION DATED OCTOBER 2, 2015)"** filed on November 16, 2015, seeking the reconsideration and setting aside of this Court's Decision dated September 17, 2015, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **SIXTEEN MILLION EIGHT HUNDRED FIFTY FIVE THOUSAND EIGHT HUNDRED SIXTEEN PESOS AND FIFTY SIX CENTAVOS (₱16,855,816.56)**, representing its unutilized excess CWT for CY 2009.
>
> **SO ORDERED.**"

Respondent merely reiterates the arguments she raised in her

Memorandum filed on October 29, 2014. Specifically, respondent invokes again the ruling of this Court in *Raytheon-Ebasco Overseas Ltd. – Philippine Branch vs. Commissioner of Internal Revenue*, and asserts that petitioner's failure to make an entry in the Creditable Tax Withheld column under Schedule 1 of its Annual Income Tax Return (ITR) for calendar year (CY) 2009 means that petitioner failed to comply with the requirement that the income upon which the taxes were withheld must be included in the return of the recipient.

Moreover, respondent again contends that certificates of creditable taxes withheld do not constitute conclusive evidence of payment and remittance to the BIR of the withheld taxes on petitioner's income; and that petitioner should have presented the various payors and withholding agents in order to establish the fact of withholding and remittances made.

Petitioner, on the other hand, asserts that there is no legal basis for respondent's argument that failure to indicate the amount of tax withheld under the Creditable Tax Withheld column in Schedule 1 of its Annual ITR for CY 2009 should automatically result in the denial of its claim for refund of excess and unutilized creditable withholding tax (CWT) for CY 2009. Furthermore, according to petitioner, the presented Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by withholding agents constitute sufficient proof of the existence and validity of the taxpayer's CWT.

THE COURT'S RULING

It must be emphasized that the contentions made by respondent were already discussed and thoroughly passed upon by the Court in the assailed Decision. Respondent presents no new argument to convince this Court that the assailed Decision is erroneous.

Moreover, there is neither law nor jurisprudence which states that the taxpayer's failure to fill up the entry in the *"Creditable Tax Withheld"* column of Schedule 1 of the Annual ITR would be fatal to a claim for refund. What is required under Section 2.58.3 of Revenue Regulations No. 2-98 and applicable jurisprudence thereon is that the taxpayer is able to show that the income payment from which the withholding tax was made was declared as part of its gross income in the Annual ITR. In this case, petitioner fulfilled the said requirement.

Lastly, the certificate of 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.[1] Thus, upon presentation of a withholding tax certificate complete in its relevant details and with 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.[2]

In this case, after petitioner presented its Certificates of Creditable Tax Withheld at Source[3], respondent miserably failed to discharge said burden of evidence. In fact, respondent did not present any evidence at all to rebut petitioner's evidence.[4]

WHEREFORE, premises considered, finding no cogent reason to depart from the assailed Decision, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

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[1] *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014.
[2] *Id.*
[3] Exhibits "BB-1" to "BB5076", and "CC1" to "CC15".
[4] Minutes of the Hearing held on July 22, 2014, Docket, pp. 461 and 463.