REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

GLOBAL ENERGY SUPPLY CORPORATION, *Petitioner,*	**CTA CASE NO. 10871**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 20 2024 1:30 p.m.

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DECISION

ANGELES, J.:

Before this Court is a *Petition for Review* filed by petitioner Global Energy Supply Corporation on May 30, 2022, praying that a judgment be rendered declaring petitioner entitled to a refund in the amount of ₱31,924,168.00, representing its alleged unutilized and excess creditable withholding tax (CWT) withheld by its customers for the taxable year (TY) 2019.[1]

THE PARTIES

Petitioner Global Energy Supply Corporation (GESC) is a domestic corporation duly organized and existing under the laws of the Philippines with principal office at Tower 1, Rockwell Business Center, Ortigas Avenue, Pasig City.[2] It is engaged in the business of supplying, selling, brokering, marketing, aggregating, or delivering electricity and in the development, construction, erection, assembly, commissioning, owning, operating, maintaining, rehabilitation and managing of electric generation facilities.[3] It is registered with the Bureau of

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[1] Prayer, Petition for Review, Docket, p. 13.
[2] Par. 2, *Joint Stipulation of Facts and Issues* (JSFI), Docket, p. 283; Exhibits "P-1" and "P-2", Docket, pp. 187 to 206.
[3] Par. 3, Petition for Review, Docket, p. 6.

Internal Revenue (BIR) – Revenue District Office No. 81, under Tax Identification Number 234-621-270-000.[4]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) with office address at the BIR Building, Diliman, Quezon City. He is represented by Litigation Division and may be served with summons, processes, orders and notices at Room 703, Litigation Division, BIR National Office, Agham Road, Diliman, Quezon City.[5]

ANTECEDENT (ADMINISTRATIVE LEVEL)

On April 7, 2022, petitioner filed an *Application for Tax Credits/Refunds* (BIR Form No. 1914)[6] and the letter dated March 25, 2022[7] with the BIR, requesting for the refund or issuance of a TCC in the amount of ₱31,924,168.00, allegedly representing its excess and unutilized CWT for TY 2019.

PROCEEDINGS BEFORE THIS COURT

On May 30, 2022, petitioner filed the present *Petition for Review*,[8] which was originally raffled to the First Division of this Court.

Thereafter, on June 28, 2022, the Summons dated June 23, 2022 were personally served requiring respondent to file within thirty (30) days after service, an Answer to the *Petition for Review*.[9]

On July 27, 2022, respondent posted a *Motion for Extension of Time to File Answer*,[10] praying for an extension of until August 27, 2022 within which to file an Answer.

In the *Resolution* dated August 17, 2022,[11] the Court granted respondent a non-extendible period of until August 29, 2022, within which to file an Answer. Respondent filed an *Answer* on August 30, 2022.[12]

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[4] Exhibit "P-3", Docket, p. 490.
[5] Par. 1, JSFI, Docket, p. 283.
[6] Exhibit "P-7", BIR Records, p. 1012.
[7] Exhibit "P-7-A", BIR Records, p. 1013.
[8] Docket, pp. 6 to 15.
[9] Docket, p. 122.
[10] Docket, p. 126.
[11] Docket, p. 132.
[12] Docket, pp. 133 to 142.

Petitioner's *Pre-Trial Brief* was filed on October 14, 2022,[13] while *Respondent's Pre-Trial Brief* was submitted on October 17, 2022.[14] Thereafter, the Pre-Trial Conference was set and held on October 20, 2022.[15]

On November 10, 2022, the parties filed their *Joint Stipulation of Facts and Issues*,[16] which was approved in the *Resolution* dated November 23, 2022,[17] thereby deeming the termination of the Pre-Trial Conference. The Court then issued the *Pre-Trial Order* dated February 14, 2023.[18]

Trial ensued.

During trial, petitioner presented and offered the testimonies of the following witnesses, namely: (1) Ms. Reymonda Aida B. Obrero,[19] petitioner's Financial Operations Head; and (2) Mr. Nikkolai F. Canceran,[20] the Court-commissioned Independent Certified Public Accountant (ICPA).[21]

At the hearing held on April 18, 2023, respondent's counsel manifested that he will no longer present any witness.[22]

On May 8, 2023, petitioner filed its *Formal Offer of Evidence*,[23] to which respondent filed his *Comment (Re: Petitioner's Formal Offer of Evidence)* on May 18, 2023.[24] In the *Resolution* dated June 26, 2023,[25] the Court admitted petitioners offered exhibits, except Exhibit "P-181-2", for not being found in the records of the case.

In the meantime, pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court) dated May 23, 2023, the instant case was transferred to the Third Division of this Court.[26]

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[13] Docket, pp. 161 to 166.
[14] Docket, pp. 157 to 160.
[15] Notice of Pre-Trial Conference dated September 8, 2022, Docket, pp. 144 to 145; Order dated October 20, 2022, Docket, pp. 278 to 280.
[16] Docket, pp. 283 to 286.
[17] Docket, p. 316.
[18] Docket, pp. 343 to 351.
[19] Exhibit "P-10", Docket, pp. 173 to 186; Minutes of Hearing held on, and Order dated, February 8, 2023, Docket, pp. 331 to 333, and 335 to 336.
[20] Exhibit "P-12", Docket, pp. 469 to 475; Order dated April 18, 2023, Docket, pp. 497 to 498.
[21] *Oath of Commission* dated February 8, 2023, Docket, p. 334; Minutes of Hearing held on, and Order dated, February 8, 2023, Docket, pp. 331 to 333, and 335 to 336.
[22] Order dated April 18, 2023, Docket, pp. 497 to 498; Transcript of Stenographic Notes at the hearing held on April 18, 2023, at p. 13.
[23] Docket, pp. 479 to 489.
[24] Docket, pp. 500 to 502.
[25] Docket, pp. 511 to 513.
[26] Notice, Docket, p. 506.

On August 2, 2023, petitioner filed its *Memorandum*.[27] For his part, respondent, on August 16, 2023, filed a *Manifestation*,[28] stating that he is adopting the arguments he raised in his *Answer* as his Memorandum.

On October 13, 2023, the instant case was submitted for decision.[29]

Hence, this Decision.

ISSUE

The parties submit the following issue for resolution of the Court, to wit:

> WHETHER OR NOT PETITIONER IS ENTITLED TO A REFUND IN THE AMOUNT OF PHP31,924,168.00 REPRESENTING PETITIONER'S UNUTILIZED AND EXCESS CREDITABLE WITHHOLDING TAX WITHHELD BY ITS CUSTOMERS FOR TAXABLE YEAR 2019.[30]

Petitioner's arguments:

Petitioner argues that the claim for refund was filed within the two (2)-year prescriptive period provided under Sections 204 and 229 of the Tax Code; that the fact of withholding of petitioner's customers is established by the Certificates of Creditable Withheld at Source, indicating the amount of income payment and the amount of tax withheld therefrom; that the income payments subjected by petitioner's customers to CWT were reported by petitioner as part of its gross income in its Income Tax Return (ITR) for TY 2019; and that petitioner did not carry over the excess and unutilized CWT subject of the claim for refund to the succeeding quarter or year.

Respondent's counter-arguments:

Respondent contends that petitioner did not provide supporting documents to show that said income was declared in the Annual ITR;

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[27] Docket, pp. 522 to 543.
[28] Docket, pp. 546 to 549.
[29] Docket, p 553.
[30] Stipulated Issue, JSFI, Docket, pp. 283 to 284; Issue to be Tried or Resolved, Pre-trial Order dated February 14, 2023, Docket, p. 346.

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that there is no direct linkage between the CWT and the income as reflected therein; that petitioner should have presented evidence to prove actual remittance of the alleged taxes to the BIR; that petitioner must prove compliance with Revenue Memorandum Order (RMO) No. 52-98[31] and Revenue Regulations (RR) No. 2-2006[32], to give support to the validity of its claim for unutilized creditable withholding tax for TY 2019; that failure on the part of the taxpayer to submit relevant documents on the administrative level, makes the administrative claim for tax refund or credit pro-forma and shall be construed as if no administrative claim was filed at all; and that considering the refund of taxes are a direct deduction from the coffers of government, petitioner must, at all instance, prove it is entitled to refund.

RULING OF THE COURT

The present *Petition for Review* is partially granted.

This Court shall first address some of respondent's contentions. Thereafter, We shall discuss the merits of this case.

Proof of actual remittance is not required.

Respondent argues that proof of actual remittance of the taxes withheld to the BIR is indispensable in a claim for refund of excess CWT.

We are not persuaded.

Proof of actual remittance to the BIR of the taxes withheld is not indispensable in claims for refund or issuance of tax credit certificate.[33] In *Commissioner of Internal Revenue v. Philippine National Bank,*[34] citing *Commissioner of Internal Revenue v. Asian Transmission Corporation,*[35] the Supreme Court ruled that:

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[31] Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which comprise a Complete Tax Docket, dated June 1, 1998.

[32] Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT) to Tax Returns With Claimed Tax Credits due to Creditable Tax Withheld at Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments, dated December 1, 2005.

[33] *Commissioner of Internal Revenue v. Honda Cars Makati, Inc.*, G.R. No. 247792, September 9, 2020.

[34] G.R. No. 180290, September 29, 2014.

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

> **[P]roof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner**. Section 2.58.3 (B) of Revenue Regulations No. 2-98 clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Sections 57 and 58 of the NIRC of 1997, as amended, **the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent x x x has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are prima facie proof of actual payment by herein respondent-payee to the government itself through said agents**. (Emphasis Supplied)

Thus, the Court finds no merit in respondent's contention that proof of actual remittance of withheld taxes is indispensable to claim refund of excess CWT.

Resort to judicial claim was proper.

Respondent further contends that petitioner must prove compliance with RMO No. 53-98 and RR No. 2-2006 to support the validity of its claim. According to respondent, failure of the petitioner to submit the relevant documents to the BIR, makes the administrative claim for tax refund or credit, pro-forma and should be construed as if no administrative claim was filed at all.

We disagree.

In *Philippine National Bank v. Commissioner of Internal Revenue,*[36] the Supreme Court rejected the contention that the administrative claim cannot be deemed to have been filed because of the failure to submit all of the documents mentioned in RMO No. 53-98 and RR No. 2-2006, to wit:

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[36] G.R. Nos. 242647 & 243814 & 242842-43, March 15, 2022.

> Nothing in our laws and jurisprudence supports the CIR's position that the exhaustion of an administrative claim for tax refund is a condition precedent that must be completely acted upon by the BIR before a judicial claim for refund may be filed by the taxpayer concerned. **The Court rejects the CIR's contention that PNB cannot be deemed to have filed its administrative claim because the latter failed to submit all of the documents mentioned in RMO No. 53-98 and RR No. 2-2006.**
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> xxx And at any rate, a cursory reading of RMO No. 53-98 and RR No. 2-2006 reveals that **neither issuance explicitly states that the failure to submit the required documents is tantamount to a non-filed claim**. In fact, Section 5 of RR No. 2-2006 merely provides a penalty of fine for non-submission of these documents.
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> Indeed, jurisprudence dictates that a taxpayer need not await the BIR's action on an administrative claim before going to the CTA.
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> In Commissioner of Internal Revenue v. Univation Motor Philippines, Inc., Univation Motor Philippines, Inc. (Univation) filed on April 15, 2011 its Final Adjustment Return for 2010. On March 12, 2012, it filed an administrative claim for tax refund. Because the BIR did not act on its administrative claim, Univation filed a petition for review with the CTA on April 12, 2013. The CIR excoriated Univation for not awaiting its action on the administrative claim before elevating the matter to the CTA.
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> Finding in favor of Univation, We declared:
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> xxx Under the circumstances, if respondent awaited for the commissioner to act on its administrative claim (before resort to the Court), chances are, the two-year prescriptive period will lapse effectively resulting to the loss of respondent's right to seek judicial recourse and worse, its right to recover the taxes it erroneously paid to the government. Hence, respondent's immediate resort to the Court is justified.
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> Contrary to petitioner CIR's assertion, there was no violation of the doctrine of exhaustion of administrative remedies. xxx
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> **The law only requires that an administrative claim be priorly filed**. That is, to give the BIR at the administrative level an opportunity to act on said claim. In other words, for as long as the administrative claim and the judicial claim were filed within the two-year prescriptive period, then there was exhaustion of the administrative remedies. (Emphasis Supplied)

As applied in this case, petitioner filed its 2019 Annual ITR on June 1, 2020. Within two (2) years therefrom, it filed its administrative on April 7, 2022. Considering that the two (2)-year prescriptive period was about to expire, without any action from the respondent, petitioner filed its judicial claim on May 30, 2022. Therefore, petitioner has duly exhausted its administrative remedies for its claim.

It should also be noted that respondent did not identify the documents which were allegedly not submitted by petitioner to substantiate its administrative claim for refund. In this case, respondent did not even present any evidence to support his allegation. In view of the basic rule that mere allegations are not evidence and not equivalent to proof,[37] respondent's allegation is essentially self-serving and devoid of any evidentiary weight.

To emphasize, the filing of an administrative claim for tax refund does not toll the running of the prescriptive period within which to file the corresponding judicial claim. The law requires that the administrative and judicial claims for refund should be brought within the same two-year prescriptive period.[38] Had petitioner waited for the respondent's action on its administrative claim beyond the two-year prescriptive period, it would forever be barred from pursuing its judicial claim.

Petitioner complied with Section 76 of the Tax Code, and has not carried over the excess CWT being claimed for refund.

Pertinent to the resolution of the present case is Section 76 of the Tax Code, which provides for the options that a corporate taxpayer may exercise if its total income tax payments in a given taxable year exceeds its total income tax due, thus:

> 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
> (B) **Carry-over the excess credit**; or
> (C) **Be credited or refunded with the excess amount paid**, as the case may be.
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> 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**

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[37] Lauro Cardinez v. Spouse Prudencio, G.R. No. 213001, August 04, 2021, citing Government Service Insurance System vs. Prudential Guarantee and Assurance, Inc., G.R. No. 165585, November 20, 2013.
[38] *Id.*

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> **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)

Based on the cited provision, there are two (2) options available to the corporation whenever it overpays its income tax for the taxable year, to wit: *(1)* to carry-over and apply the overpayment as tax credit against the estimated quarterly income tax liabilities of the succeeding taxable years (also known as automatic tax credit) until fully utilized (meaning, there is no prescriptive period); and *(2)* to apply for a cash refund or issuance of a TCC within the prescribed period.[39] However, once the carry-over option is taken actually or constructively it becomes irrevocable for that taxable period.[40] The phrase *"for that taxable period"* merely identifies the excess income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer.[41]

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, these remedies are in the alternative and the choice of one precludes the other.[42]

In the present case, petitioner marked the box corresponding to the option *"To be Refunded"* in its Annual ITR for TY 2019.[43] A perusal thereof[44] shows that petitioner had income tax credits in the total amount of ₱61,272,700.00, consisting of the: (i) prior year's excess tax credits in the amount of ₱29,348,532.00,[45] and (ii) CWT accumulated during the four (4) quarters of TY 2019, in the aggregate amount of ₱31,924,168.00 (the sum of ₱18,483,027.00 and ₱13,441,141.00),[46] to wit:

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[39] *University Physicians Services Inc. – Management, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205955, March 7, 2018.
[40] *Rhombus Energy, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206362, August 1, 2018, citing the case of *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation*, G.R. No. 188016, January 14, 2015; *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.
[41] *Republic of the Philippines v. Team (Phils.) Energy Corporation*, G.R. No. 188016, January 14, 2015, citing *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.
[42] *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007; *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.
[43] Exhibit "P-4", Line 21, Docket, p. 208.
[44] Exhibit "P-4", Docket, pp. 208 to 215.
[45] Exhibit "P-4", Line 1, Schedule 7, Docket, p. 213.
[46] Exhibit "P-4", Lines 5 and 6, Schedule 7, Docket, p. 213.

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Prior Year's Excess Credits other than Minimum Corporate Income Tax (MCIT)		₱ 29,348,532.00
Add: Creditable Taxes Withheld – TY 2019		
Creditable tax withheld from previous quarters	₱ 18,483,027.00	
Creditable tax withheld per BIR Form 2307 for the fourth quarter	13,441,141.00	31,924,168.00
Total tax credits		**₱ 61,272,700.00**

Petitioner claims that its Minimum Corporate Income Tax (MCIT) due in the amount of ₱847,231.00[47] for TY 2019 was paid using a portion of its prior year's excess credits of ₱29,348,532.00. This then leaves the prior year's excess credits in the amount of ₱28,501,301.00, and creditable taxes withheld, during the TY 2019, in the amount of ₱31,924,168.00, as unutilized as of December 31, 2018, in the aggregate amount of ₱60,425,469.00, as shown below:

Prior Year's Excess Credits other than MCIT	₱ 29,348,532.00
Less: Tax Due (MCIT)	847,231.00
Balance of Prior Year's Excess Credits	₱ 28,501,301.00
Add: Creditable Taxes Withheld – TY 2019	31,924,168.00
Excess CWT as of December 31, 2019	**₱ 60,425,469.00** [48]

Verily, pursuant to Section 2.58.3 of RR No. 2-98[49], as quoted below, the submission of petitioner's Annual ITR for TY 2018[50] is sufficient to prove *its "Prior Year's Excess Credits other than MCIT"* in the amount of ₱29,348,532.00, *viz.*:

> Sec. 2.58.3. *Claim for tax credit or refund.* —
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> (C) Excess Credits. – An individual or corporate taxpayer's excess expanded withholding tax credits for the taxable quarter/year shall automatically be allowed as a credit against his income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, provided **he submits with his income tax return, a copy of the first page of his income tax return for the previous taxable period showing the amount of his excess withholding tax credits**, and on which return he has not opted for a cash refund or tax credit certificate. (Emphasis Supplied)

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[47] Exhibit "P-4", Line 44, Docket, p. 209.
[48] Exhibit "P-4", Line 51, Docket, p. 209.
[49] Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.
[50] Exhibit "P-15", USB.

Based on the above provision, the excess CWT of a TY, which were opted to be carried-over to the succeeding TY, are automatic credits against the income tax due of such succeeding TY, so long as the amount of excess CWT are evidenced by the ITR for the TY when such excess credits arose.

In this case, petitioner presented its Annual ITR for TY 2018 showing the excess tax credits amounting to ₱82,720,276.00,[51] which consisted of prior year's excess credits of ₱29,348,532.00, and CWTs during TY 2018 in the amount of ₱53,371,744.00, as shown below:

Prior Year's Excess Credits other than MCIT		₱ 42,582,759.00[52]
Less: Tax Due (MCIT)		13,234,227.00
Balance of Prior Year's Excess Credits		₱ 29,348,532.00
Creditable Taxes Withheld – TY 2017:		
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	₱36,267,991.00	
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	17,103,753.00	53,371,744.00[53]
Excess CWT as of December 31, 2018		**₱82,720,276.00**

Considering that petitioner opted for a refund by marking the box corresponding to the option *"To be refunded"*[54] in its Annual ITR for the TY 2019, and carried over only the amount of ₱28,501,300.00 (which is the prior year's excess credits) in its Quarterly ITR for the 1st quarter of TY 2020[55] and 2020 Annual ITR[56], the claimed CWT for TY 2019 in the amount of ₱31,924,168.00 may be a proper subject of a claim for credit or refund, pursuant to the afore-quoted Section 76 of the Tax Code.

Petitioner's compliance with the requisites to claim a refund or credit for unutilized excess CWT.

In addition to the requisites provided under Section 76 of the Tax Code, jurisprudence and pertinent RR provide that in order for a taxpayer to be entitled to a refund or an issuance of tax credit certificate for unutilized excess CWT, the following three (3) requisites must be further complied with, to wit:

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[51] Exhibit "P-15", Line 46, USB.
[52] Exhibit "P-15", Schedule 7, Line 1, USB.
[53] Exhibit "P-15", Schedule 7, Lines 5 and 6, USB.
[54] Exhibit "P-4", Line 21, Docket, p. 54.
[55] Exhibit "P-6", Line 31A, Docket, p. 66.
[56] Exhibit "P-5", Line 44, Docket, p. 63.

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1. The claim for refund must be filed within the two (2)-year prescriptive period as provided under Sections 204(C) and 229 of the Tax Code;

2. The fact of withholding must be 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 must be included in the return of the recipient.[57]

Thus, it is incumbent upon the petitioner to establish the foregoing requisites.

Anent the *first* requisite and as alluded to earlier, the pertinent provisions on the period for filing of the administrative claim for refund with the BIR as well as the judicial claim for refund with the Court of Tax Appeals (CTA) are provided in Sections 204(C) and 229 of the Tax Code, to wit:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
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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 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.
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> 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 sum alleged to have been excessively or in any manner

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[57] *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. No. 211348, February 23, 2022; *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015; *United International Pictures AB vs. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012; *Citibank N.A. vs. Court of Appeals*, et al., G.R. No. 107434, October 10, 1997; *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; Section 2.58, Revenue Regulations No. 2-98, as amended.

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> 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 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. (Emphasis Supplied)

The above-cited provisions require that *both* administrative and judicial claims for refund must be filed within two (2) years from the date of payment of the tax.

The Supreme Court, however, clarified that the two (2)-year prescriptive period to claim a refund actually commences to run from the date of filing of the final adjustment return[58], thus:

> Indeed, the two-year period in filing a claim for tax refund is crucial. While the law provides that the two-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that the **two-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, reflective of the results of the operations of a business enterprise. Thus, 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. (Emphasis Supplied)

In the instant case, petitioner filed its 2019 Annual ITR on June 1, 2020, or within the extended period of filing pursuant to RR No. 11-2020[59]. Hence, when petitioner filed the administrative claim on April 7, 2022 and the judicial claim on May 30, 2022, petitioner satisfied the *first* requisite as both claims were timely filed within the two (2)-year prescriptive period from June 1, 2020.

With regard to the *second* and *third* requisites, Section 2.58.3(B) of RR No. 2-98, as amended, states:

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[58] *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

[59] Amends Section 2 of Revenue Regulations No. 10-2020 relative to the extension of statutory deadlines and timeliness for the filing and submission of any document and the payment of taxes pursuant to Section 4 (z) of Republic Act No. 11469, otherwise known as "Bayanihan to Heal As One Act", dated April 29, 2020.

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Sec. 2.58.3. *Claim for tax credit or refund.* —

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(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 <u>income payment has been declared as part of the gross income</u> and the <u>fact of withholding is established by a copy of the withholding tax statement</u> duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom**. (Emphasis added)

The *second* requisite mandates petitioner to prove the fact of withholding of the claimed CWT through a copy of the statement duly issued by the payor (withholding agent) to the payee showing the names of the payor and payee, the income payment and the amount of tax withheld therefrom.

In *Commissioner of Internal Revenue vs. Philippine National Bank*,[60] the Supreme Court held that the *Certificate of Creditable Tax Withheld at Source* (BIR Form No. 2307), complete in relevant details, 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.

In Banco Filipino Savings and Mortgage Bank v. Court of Appeals, 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:

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 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

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[60] G.R. No. 180290, September 29, 2014.

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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." *(Emphasis added)*

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.

To prove its compliance with the *second* requisite, petitioner submitted the *Certificates of Creditable Tax Withheld at Source* (BIR Forms No. 2307)[61] duly issued by its withholding agents for TY 2019, detailed as follows:

Exhibit	Name of Payor	Income Payment	CWT
"P-16"	PHILIPPINE MINING SERVICE CORPORATION	₱4,131,119.02	₱82,622.38
"P-17"	ROBINSONS LAND CORPORATION	2,411,816.39	48,236.33
"P-18"	ROBINSONS LAND CORPORATION	2,337,478.93	46,749.58
"P-19"	ROBINSONS LAND CORPORATION	9,193,177.06	183,863.54
"P-20"	ROBINSONS LAND CORPORATION	6,212,169.75	124,243.40
"P-21"	ROBINSONS LAND CORPORATION	2,427,298.66	48,545.97
"P-22"	ROBINSONS LAND CORPORATION	2,294,424.45	45,888.49
"P-23"	ROBINSONS LAND CORPORATION	9,158,198.08	183,163.96
"P-24"	ROBINSONS LAND CORPORATION	5,718,016.37	114,360.33
"P-25"	CEBU DANAO PAPER, INC.	2,817,967.41	56,359.35
"P-26"	SM PRIME HOLDINGS INC	54,899,541.56	1,097,990.83
"P-27"	SM PRIME HOLDINGS INC	51,370,923.67	1,027,418.47
"P-28"	SM PRIME HOLDINGS INC	48,293,598.34	965,871.97
"P-29"	SM PRIME HOLDINGS INC	49,434,371.47	988,687.43
"P-30"	SM PRIME HOLDINGS INC	(19,241,814.98)	(384,836.30)
"P-31"	SM PRIME HOLDINGS INC	55,593,475.05	1,111,869.50
"P-32"	SM PRIME HOLDINGS INC	56,127,964.68	1,122,559.29
"P-33"	SM PRIME HOLDINGS INC	53,629,146.27	1,072,582.93
"P-34"	SM PRIME HOLDINGS INC	54,591,262.86	1,091,825.26
"P-35"	SM PRIME HOLDINGS INC	54,414,636.28	1,088,292.73
"P-36"	SM PRIME HOLDINGS INC	53,673,814.65	1,073,476.29
"P-37"	SM PRIME HOLDINGS INC	108,836,071.67	2,176,721.44
"P-38"	UNIVERSAL ROBINA CORPORATION	3,838,056.90	76,761.14
"P-39"	UNIVERSAL ROBINA CORPORATION	4,394,603.95	87,892.08
"P-40"	UNIVERSAL ROBINA CORPORATION	1,952,262.20	39,045.24
"P-41"	UNIVERSAL ROBINA CORPORATION	3,410,707.96	68,214.16
"P-42"	UNIVERSAL ROBINA CORPORATION	3,775,997.73	75,519.95
"P-43"	PHILIPPINE MINING SERVICE CORPORATION	3,299,437.12	65,988.74
"P-44"	PHILIPPINE MINING SERVICE CORPORATION	3,196,625.84	63,932.52
"P-45"	ROBINSONS LAND CORPORATION	6,640,819.90	132,816.40
"P-46"	ROBINSONS LAND CORPORATION	2,523,342.16	50,466.84
"P-47"	ROBINSONS LAND CORPORATION	2,329,506.04	46,590.12
"P-48"	ROBINSONS LAND CORPORATION	10,266,998.76	205,339.98
"P-49"	ROBINSONS LAND CORPORATION	2,352,847.89	47,056.96
"P-50"	ROBINSONS LAND CORPORATION	2,180,255.52	43,605.11
"P-51"	ROBINSONS LAND CORPORATION	9,351,970.12	187,039.40
"P-52"	ROBINSONS LAND CORPORATION	6,419,052.50	128,381.04
"P-53"	ROBINSONS LAND CORPORATION	2,435,307.88	48,706.16

[61] Exhibits "P-16" to "P-184", USB.

"P-54"	ROBINSONS LAND CORPORATION	2,240,702.53	44,814.05
"P-55"	ROBINSONS LAND CORPORATION	10,747,318.08	214,946.36
"P-56"	ROBINSONS LAND CORPORATION	6,725,359.55	134,507.19
"P-57"	BOHOL HENANN RESORT INC	3,186,797.06	63,735.94
"P-58"	BOHOL HENANN RESORT INC	3,056,607.34	61,132.15
"P-59"	BOHOL HENANN RESORT INC	3,121,433.58	62,428.67
"P-60"	PANAY ENERGY DEVELOPMENT CORPORATION	1,199,137.50	23,982.75
"P-60"	PANAY ENERGY DEVELOPMENT CORPORATION	211,612.59	31,741.89
"P-61"	PANAY POWER CORPORATION	109,221.00	2,184.42
"P-61"	PANAY POWER CORPORATION	19,274.27	2,891.14
"P-62"	PANAY POWER CORPORATION	109,220.75	2,184.42
"P-62"	PANAY POWER CORPORATION	19,274.24	2,891.14
"P-63"	PANAY POWER CORPORATION	109,220.75	2,184.42
"P-63"	PANAY POWER CORPORATION	19,274.24	2,891.14
"P-64"	TOLEDO POWER COMPANY	115,914.81	17,387.22
"P-64"	TOLEDO POWER COMPANY	656,851.50	13,137.03
"P-65"	TOLEDO POWER COMPANY	154,553.13	23,182.97
"P-65"	TOLEDO POWER COMPANY	875,802.00	17,516.04
"P-66"	UNIVERSAL ROBINA CORPORATION	4,976,739.52	99,534.79
"P-67"	UNIVERSAL ROBINA CORPORATION	2,824,897.78	56,497.96
"P-68"	UNIVERSAL ROBINA CORPORATION	3,365,388.24	67,307.76
"P-69"	PANAY POWER CORPORATION	109,220.75	2,184.42
"P-69"	PANAY POWER CORPORATION	19,274.25	2,891.14
"P-70"	PANAY POWER CORPORATION	109,220.75	2,184.42
"P-70"	PANAY POWER CORPORATION	19,274.25	2,891.14
"P-71"	PANAY POWER CORPORATION	109,220.75	2,184.42
"P-71"	PANAY POWER CORPORATION	19,274.25	2,891.14
"P-72"	PANAY POWER CORPORATION	109,220.75	2,184.42
"P-72"	PANAY POWER CORPORATION	19,274.24	2,891.14
"P-73"	PANAY POWER CORPORATION	546,105.00	10,922.10
"P-73"	PANAY POWER CORPORATION	96,371.33	14,455.70
"P-74"	PANAY ENERGY DEVELOPMENT CORPORATION	352,687.67	52,903.15
"P-74"	PANAY ENERGY DEVELOPMENT CORPORATION	1,998,562.50	39,971.25
"P-75"	PANAY ENERGY DEVELOPMENT CORPORATION	282,150.13	42,322.52
"P-75"	PANAY ENERGY DEVELOPMENT CORPORATION	1,598,850.00	31,977.00
"P-76"	GOLDEN PORTALS INDUSTRIES, INC.	2,443,780.78	48,875.62
"P-77"	GOLDEN PORTALS INDUSTRIES, INC.	2,432,551.90	48,651.04
"P-78"	GOLDEN PORTALS INDUSTRIES, INC.	2,491,131.81	49,822.64
"P-79"	GOLDEN PORTALS INDUSTRIES, INC.	2,493,152.97	49,863.06
"P-80"	PHILIPPINE MINING SERVICE CORPORATION	3,733,296.06	74,665.92
"P-81"	PHILIPPINE MINING SERVICE CORPORATION	3,175,472.27	63,509.45
"P-82"	PHILIPPINE MINING SERVICE CORPORATION	3,521,030.07	70,420.60
"P-83"	PHILIPPINE MINING SERVICE CORPORATION	3,020,506.94	60,410.14
"P-84"	ROBINSONS LAND CORPORATION	2,430,968.84	48,619.38
"P-85"	ROBINSONS LAND CORPORATION	2,323,320.35	46,466.41
"P-86"	ROBINSONS LAND CORPORATION	9,247,736.61	184,954.73
"P-87"	ROBINSONS LAND CORPORATION	6,424,333.30	128,486.67
"P-88"	ROBINSONS LAND CORPORATION	2,469,756.68	49,395.13
"P-89"	ROBINSONS LAND CORPORATION	2,265,985.83	45,319.72
"P-90"	ROBINSONS LAND CORPORATION	9,571,997.58	191,439.95
"P-91"	ROBINSONS LAND CORPORATION	5,935,055.68	118,701.11
"P-92"	ROBINSONS LAND CORPORATION	2,495,770.76	49,915.42
"P-93"	ROBINSONS LAND CORPORATION	2,316,471.51	46,329.43
"P-94"	ROBINSONS LAND CORPORATION	9,622,982.86	192,459.66
"P-95"	ROBINSONS LAND CORPORATION	249,342.68	4,986.86
"P-96"	BOHOL HENANN RESORT INC	3,161,763.32	63,235.27
"P-97"	BOHOL HENANN RESORT INC	3,065,187.25	61,303.75
"P-98"	BOHOL HENANN RESORT INC	3,186,437.43	63,728.75

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"P-99"	GOLDEN PORTALS INDUSTRIES, INC.	2,598,520.12	51,970.40
"P-100"	GOLDEN PORTALS INDUSTRIES, INC.	2,764,849.51	55,296.99
"P-101"	GOLDEN PORTALS INDUSTRIES, INC.	2,343,858.04	46,877.16
"P-102"	GOLDEN PORTALS INDUSTRIES, INC.	2,481,637.01	49,632.74
"P-103"	ROBINSONS LAND CORPORATION	2,301,890.72	46,037.81
"P-104"	ROBINSONS LAND CORPORATION	2,104,072.17	42,081.44
"P-105"	ROBINSONS LAND CORPORATION	8,500,898.48	170,017.97
"P-106"	ROBINSONS LAND CORPORATION	5,460,851.16	109,217.02
"P-107"	ROBINSONS LAND CORPORATION	2,434,449.39	48,688.99
"P-108"	ROBINSONS LAND CORPORATION	2,138,805.25	42,776.11
"P-109"	ROBINSONS LAND CORPORATION	9,192,450.20	183,849.00
"P-110"	ROBINSONS LAND CORPORATION	5,796,927.43	115,938.55
"P-111"	ROBINSONS LAND CORPORATION	2,444,800.97	48,896.02
"P-112"	ROBINSONS LAND CORPORATION	2,278,346.77	45,566.94
"P-113"	ROBINSONS LAND CORPORATION	9,766,093.88	195,321.88
"P-114"	ROBINSONS LAND CORPORATION	6,150,506.07	123,010.12
"P-115"	TAIHEIYO CEMENT PHILIPPINES INC	25,984,955.00	519,699.10
"P-116"	TOLEDO POWER COMPANY	193,191.33	28,978.70
"P-116"	TOLEDO POWER COMPANY	1,094,752.50	21,895.05
"P-117"	UNIVERSAL ROBINA CORPORATION	4,417,653.59	88,353.07
"P-118"	UNIVERSAL ROBINA CORPORATION	4,540,386.97	90,807.74
"P-119"	UNIVERSAL ROBINA CORPORATION	4,297,746.79	85,954.94
"P-120"	CALVESTON INTERNATIONAL INC	310,525.57	6,210.51
"P-121"	CALVESTON INTERNATIONAL INC	831,632.47	16,632.65
"P-122"	CALVESTON INTERNATIONAL INC	523,935.09	10,478.70
"P-123"	CALVESTON INTERNATIONAL INC	554,515.11	11,090.30
"P-124"	CALVESTON INTERNATIONAL INC	559,472.82	11,189.46
"P-125"	CEBU MITSUMI INC.	64,679,165.50	1,293,583.32
"P-126"	CEBU MITSUMI INC.	51,847,560.99	1,036,951.22
"P-127"	CEBU MITSUMI INC.	53,276,206.90	1,065,524.14
"P-128"	PHILIPPINE MINING SERVICE CORPORATION	3,016,833.11	60,336.66
"P-129"	PHILIPPINE MINING SERVICE CORPORATION	2,360,644.62	47,212.89
"P-130"	PHILIPPINE MINING SERVICE CORPORATION	2,030,603.92	40,612.08
"P-131"	PHILIPPINE MINING SERVICE CORPORATION	3,613,542.20	72,270.84
"P-132"	TAIHEIYO CEMENT PHILIPPINES INC	14,621,568.00	292,431.36
"P-133"	CATHAY INTERNATIONAL RESOURCES CORP	3,439,486.76	68,789.74
"P-134"	MAKOTO METAL TECHNOLOGY INC	3,343,517.07	33,436.17
"P-135"	MAKOTO METAL TECHNOLOGY INC	3,860,993.02	38,609.93
"P-136"	MABUHAY FILCEMENT INC	14,187,144.80	283,742.90
"P-137"	MABUHAY FILCEMENT INC	16,386,911.23	327,738.22
"P-138"	TAIHEIYO CEMENT PHILIPPINES INC	28,368,860.00	567,377.20
"P-139"	TAIHEIYO CEMENT PHILIPPINES INC	32,350,575.50	647,011.51
"P-140"	TAIHEIYO CEMENT PHILIPPINES INC	31,287,164.00	625,743.28
"P-141"	UNIVERSAL ROBINA CORPORATION	3,487,973.52	69,759.47
"P-142"	CATHAY INTERNATIONAL RESOURCES CORP	3,164,729.45	63,294.59
"P-143"	CATHAY INTERNATIONAL RESOURCES CORP	2,399,470.95	47,989.42
"P-144"	CATHAY INTERNATIONAL RESOURCES CORP	2,703,932.19	54,078.64
"P-145"	CATHAY INTERNATIONAL RESOURCES CORP	2,815,864.35	56,317.29
"P-146"	MAKOTO METAL TECHNOLOGY INC	3,964,134.11	39,641.34
"P-147"	MABUHAY FILCEMENT INC	13,483,612.17	269,672.24
"P-148"	MABUHAY FILCEMENT INC	14,296,738.50	285,934.77
"P-149"	MABUHAY FILCEMENT INC	12,408,686.27	248,173.73
"P-150"	TAIHEIYO CEMENT PHILIPPINES INC	29,281,149.50	585,622.99
"P-151"	CATHAY INTERNATIONAL RESOURCES CORP	2,946,041.37	58,920.83
"P-152"	CATHAY INTERNATIONAL RESOURCES CORP	2,905,997.66	58,119.95
"P-153"	CATHAY INTERNATIONAL RESOURCES CORP	2,815,661.51	56,313.23
"P-154"	MABUHAY FILCEMENT INC	13,054,524.28	261,090.49
"P-155"	TAIHEIYO CEMENT PHILIPPINES INC	27,267,521.50	545,350.43

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"P-156"	CATHAY INTERNATIONAL RESOURCES CORP	2,785,705.35	55,714.11
"P-157"	CATHAY INTERNATIONAL RESOURCES CORP	2,859,935.09	57,198.70
"P-158"	CATHAY INTERNATIONAL RESOURCES CORP	2,887,627.62	57,752.55
"P-159"	CATHAY INTERNATIONAL RESOURCES CORP	2,932,775.91	58,655.52
"P-160"	MABUHAY FILCEMENT INC	12,872,897.00	257,457.94
"P-161"	MABUHAY FILCEMENT INC	13,283,757.00	265,675.14
"P-162"	MABUHAY FILCEMENT INC	12,904,243.19	258,084.86
"P-163"	MABUHAY FILCEMENT INC	12,004,490.02	240,089.80
"P-164"	MABUHAY FILCEMENT INC	10,392,912.51	207,858.25
"P-165"	MABUHAY FILCEMENT INC	11,945,893.37	238,917.87
"P-166"	GLOBAL-ESTATE RESORTS INC.	1,887,652.00	37,753.03
"P-167"	GLOBAL-ESTATE RESORTS INC.	1,782,112.50	35,642.25
"P-168"	CEBU ENERGY DEVELOPMENT CORPORATION	4,012,748.00	80,254.96
"P-168"	CEBU ENERGY DEVELOPMENT CORPORATION	236,044.00	35,406.60
"P-168"	CEBU ENERGY DEVELOPMENT CORPORATION	472,088.00	47,208.80
"P-169"	PHILIPPINE MINING SERVICE CORPORATION	3,524,204.90	70,484.10
"P-170"	CEBU DANAO PAPER, INC.	2,592,586.91	51,851.74
"P-171"	CEBU DANAO PAPER, INC.	2,454,037.33	49,080.75
"P-172"	CEBU DANAO PAPER, INC.	2,838,204.91	56,764.10
"P-173"	CEBU DANAO PAPER, INC.	2,564,404.53	51,288.09
"P-174"	CEBU DANAO PAPER, INC.	2,823,511.08	56,470.23
"P-175"	CEBU DANAO PAPER, INC.	2,617,944.82	52,358.90
"P-176"	CEBU DANAO PAPER, INC.	3,979,275.46	79,585.51
"P-177"	CEBU DANAO PAPER, INC.	2,745,292.48	54,905.85
"P-178"	CEBU DANAO PAPER, INC.	1,978,285.84	39,565.72
"P-179"	CEBU DANAO PAPER, INC.	3,562,587.13	71,251.74
"P-180"	CEBU DANAO PAPER, INC.	2,083,528.15	41,670.56
"P-181"	GOLDEN PORTALS INDUSTRIES, INC.	2,369,124.72	47,382.49
"P-182"	GOLDEN PORTALS INDUSTRIES, INC.	2,333,521.76	46,670.44
"P-183"	GOLDEN PORTALS INDUSTRIES, INC.	2,407,129.14	48,142.58
"P-184"	GOLDEN PORTALS INDUSTRIES, INC.	2,478,071.37	49,561.43
	Total	**₱1,588,350,922.12**	**₱31,924,167.97**[62]

The Court examined the aforesaid BIR Forms No. 2307 and found that a majority thereof has no significant exceptions in the claimed CWT, except for the following transaction in the amount of ₱1,293,583.32, which must be disallowed for being outside the period of claim:

Exhibit	Payor	Income Payment	CWT	Reason
"P-125"	CEBU MITSUMI INC.	P64,679,165.50	P1,293,583.32	Outside the Period of Claim (2018)

Correspondingly, petitioner has satisfactorily complied with the *second* requisite, but only insofar as the amount of ₱30,630,584.65 (₱31,924,167.97 less ₱1,293,583.32) is concerned.

As regards the *third* requisite, petitioner must prove that the income payments from which the claimed CWT were withheld were declared as part of petitioner's gross income in its Annual ITR.

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[62] Rounding Off Difference of 0.03.

In its Annual ITR for TY 2019, petitioner declared total net sales/revenues of ₱1,596,114,046.00[63]. Likewise, petitioner declared total revenues of ₱1,596,114,047.00 composed of Electricity Trading revenue of ₱1,581,117,166.00 and Services Fees of ₱14,996,881.00 in its Audited Financial Statements (AFS) for TY 2019[64].

An examination of petitioner's Summary of Total Revenues per 2019 General Ledger (GL) amounting to ₱1,596,114,046.28[65] reveals that the revenues reported thereon tally with the total revenues per petitioner's 2019 AFS and Annual ITR. However, the income related to the claimed CWT amounted only to ₱1,588,350,922.12[66].

To ascertain that the income payments of ₱1,588,350,922.12 were declared as part of petitioner's gross income in its Annual ITR, petitioner submitted in evidence the related billing statements[67], as well as the Schedule of Annual Revenue Breakdown per 2019 GL[68].

Upon examination of the aforementioned documents and matching the same to the income reflected in the Summary of CWT *vis-à-vis* the 2019 GLs, the Court agrees with the findings of the ICPA that income payments amounting to ₱43,686,267.12 with corresponding claimed CWT of ₱840,291.17[69] cannot be traced to the 2019 GL.

Moreover, a further scrutiny of the documents showed that additional income payments of ₱35,283,351.41 with corresponding claimed CWT of ₱705,667.03 cannot be traced to the 2019 Annual Revenue Breakdown per GL, as a result, an aggregate CWT of ₱1,545,958.20 must be disallowed for the reason that its corresponding income payments amounting to ₱78,969,618.53 cannot be traced to GL, the details of which are as follows:

Exhibit	Name of Payor	Amount	CWT	Billing Statement	
				Exhibit	Number
	Per ICPA				
"P-134"	MAKOTO METAL TECHNOLOGY INC	₱3,343,517.07	₱33,436.17	"P-134-1"	BS#A0007
"P-138"	TAIHEIYO CEMENT PHILIPPINES INC	28,368,860.00	567,377.20	"P-138-1"	BS#A0001
"P-141"	UNIVERSAL ROBINA CORPORATION	3,487,973.52	69,759.47	"P-141-1"	BS#2000
"P-169"	PHILIPPINE MINING SERVICE CORPORATION	3,524,204.90	70,484.10	"P-169-1"	BS#A0005
"P-170"	CEBU DANAO PAPER, INC.	2,592,586.91	51,851.74	"P-170-1"	BS#1992
"P-181"	GOLDEN PORTALS INDUSTRIES, INC.	2,369,124.72	47,382.49	"P-181-1"	BS#A0008
				"P-181-2"	CM#0008
	Sub-Total	₱43,686,267.12	₱840,291.17		

63 Exhibit "P-4", Line 30, Docket, p. 209.
64 Exhibit "P-6", Docket, p. 232.
65 Annex B, ICPA USB.
66 Annex C, ICPA USB, Typo Error: Reflected in the schedule is ₱1,548,523,416.49 but the actual sum is ₱1,588,350,922.312.
67 Exhibits "P-16-1" to "P-184-1", USB.
68 Annex B, ICPA USB.
69 Annex C-1, ICPA USB.

	Per This Court				
"P-139"	TAIHEIYO CEMENT PHILIPPINES INC	32,350,575.50	647,011.51	"P-139-1"	BS#A0029
"P-159"	CATHAY INTERNATIONAL RESOURCES CORP	2,932,775.91	58,655.52	"P-159-1"	JV 7222
	Sub-Total	35,283,351.41	705,667.03		
	TOTAL	₱78,969,618.53	₱1,545,958.20		

Furthermore, the Court further agrees with the finding of the ICPA that there were income payments reflected in the BIR Form No. 2307 that were higher as compared to the amounts reflected in the billing statement as well as in the schedule of 2019 revenue breakdown per GL, hence, the differential CWT amounting to ₱10,088.14[70] shall also be disallowed because its corresponding income payments amounting to ₱530,551.70 were not reported in its 2019 AITR, computed as follows:

Exhibit	Name of Payor	Amount per 2307(a)	CWT	Exhibit	BS No.	Amount per BS (b)
"P-37"	SM PRIME HOLDINGS INC	108,836,071.67	2,176,721.44	"P-37-1"	BS#A0272	₱9,091,852.00
				"P-37-2"	BS#A0274	42,573,126.28
				"P-37-3"	BS#A0311	1,828,827.00
				"P-37-5"	BS#A0273	1,811,579.00
				"P-37-6"	BS#A0312	9,952,096.00
				"P-37-8"	BS#A0310	43,371,354.45
	Sub-Total	108,836,071.67				₱108,628,834.73
	Difference in Income (a - b)					207,236.94
	Rate					2%
	Disallowed					₱4,144.74
"P-117"	UNIVERSAL ROBINA CORPORATION	4,417,653.59	88,353.07	"P-117-1"	BS#A0064	4,146,628.07
	Difference in Income (a - b)					271,025.52
	Rate					2%
	Disallowed					5,420.51
"P-146"	MAKOTO METAL TECHNOLOGY INC	3,964,134.11	39,641.34	"P-146-1"	BS#A0053	3,911,844.87
	Difference in Income (a - b)					52,289.24
	Rate					1%
	Disallowed					522.89
	Total Disallowed Income Payments					₱530,551.70
	Total Disallowed CWT					₱10,088.14

The Court finds that petitioner sufficiently showed that the income payments upon which the claimed CWT were based were reported as part of the gross income in its 2019 ITR, ***except*** for the income payments of ₱79,500,170.23 (₱78,969,618.53 plus ₱530,551.70), with corresponding claimed CWT of ₱1,556,046.34

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[70] Annex C-2, USB.

(₱1,545,958.20 plus ₱10,088.14), which cannot be traced to the 2019 GL.

Accordingly, and in compliance with the *third* requisite, out of the total amount of ₱30,630,584.65 CWT which was earlier determined to be properly supported with BIR Forms No. 2307, only the amount of ₱29,074,538.34 CWT must be granted, considering that this is the amount which corresponds to the income payments which were verified to have been included in petitioner's taxable gross income per its Annual ITR for TY 2019, *viz.*:

Claimed CWT		₱31,924,168.00
Less:		
CWT, outside the period of claim	₱1,293,583.32	
CWT, Income payment of which cannot be traced to the GL and ITR	1,556,046.34	2,849,629.66
Refundable Unutilized CWT		**₱29,074,538.34**

In sum, petitioner has sufficiently proven that it is entitled to the issuance of tax credit certificate in the amount of ₱29,074,538.34, representing its unutilized CWTs for TY 2019, pursuant to Section 76 in relation to Sections 204 and 229 of the Tax Code.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED** to issue a tax credit certificate in favor of petitioner in the total amount of **₱29,074,538.34**, representing petitioner's unutilized CWT for the TY 2019.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division 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