REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

WATSONS PERSONAL CARE STORES (PHILIPPINES), INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10504

Members:

RINGPIS-LIBAN, *PJ, Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

3 p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

The Petition for Review prays that the Court render judgment ordering respondent to grant petitioner's claim for tax refund in the total amount of Three Hundred Eighty Million Fourteen Thousand Seven Hundred Ninety Pesos (₱380,014,790.00) representing its unutilized creditable withholding taxes ("CWT") for the taxable year ("TY") 2018.[1]

The Parties

Petitioner Watsons Personal Care Stores (Philippines), Inc. is a corporation duly organized and registered under the laws of the Republic of the Philippines, with principal office address at Unit 211, 2nd Floor, The Podium, ADB Avenue, Ortigas Center, Wack-Wack Greenhills, City of Mandaluyong, NCR, Second District Philippines, 1550.[2]

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[1] Statement of the Case, Pre-Trial Order, Docket – Vol. I, p. 237..
[2] Par. 5, Petition for Review, *id.* at 12.

Respondent Commissioner of Internal Revenue is the chief of the BIR, the government agency vested with the authority to administer and enforce national internal revenue taxes, including, among others, the power to credit or refund internal revenue taxes erroneously, excessively, or illegally paid, assessed, or collected. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City, where he may be served with summons, notices and other court processes.[3]

The Facts

On April 13, 2019, petitioner filed its Annual Income Tax Return ("AITR") for TY 2018,[4] which reflected an overpayment of ₱687,341,305.00:

Total income tax due		₱135,852,499.00
Less: Total tax credits/payments		
Prior year's excess credits other than MCIT	₱420,045,366.00	
Creditable tax withheld for taxable year 2018	380,014,790.00[5]	
Excess MCIT applied in taxable year 2018	23,133,648.00	823,193,804.00
Total amount of overpayment		**₱(687,341,305.00)**

Petitioner manifested its option to refund the same by checking the appropriate box in the Annual ITR for taxable year 2018.[6]

On January 25, 2021, petitioner filed with BIR-RLTAD I its claim for refund of unutilized creditable withholding taxes for taxable year 2018 in the amount of ₱380,014,790.00, through an Application for Tax Credit/Refunds (BIR Form No. 1914)[7] and a letter to the BIR dated January 21, 2021.[8]

Due to respondent's inaction on petitioner's claim for refund, petitioner filed via e-mail its Petition for Review ("Petition") before this Court on April 12, 2021,[9] to which respondent filed his Answer on October 25, 2021.[10]

Respondent transmitted to this Court the BIR Records of the case, consisting of 20 pages,[11] and filed his Pre-Trial Brief[12] on February 17, 2022,

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[3] Par. 1, Summary of Admitted Facts, Joint Stipulation of Facts and Issues ("JSFI"), *id.* at 149.
[4] Exhibit "P-1", Docket – Vol. II, pp. 510 to 519.
[5] Exhibit "P-1-A", *id.* at 515.
[6] Exhibit "P-1-B", *id.* at 510.
[7] Exhibit "P-2", *id.* at 520.
[8] Exhibit "P-3", *id.* at 521 to 528.
[9] Docket – Vol. I, pp. 10 to 33.
[10] *Id.* at 61 to 71.
[11] Compliance dated February 16, 2022, *id.* at 76 to 78.
[12] *Id.* at 91 to 93.

while petitioner filed its Pre-Trial Brief March 4, 2022.[13] Thereafter, Pre-Trial Conference was held on May 26, 2022.[14]

On June 22, 2022, the parties submitted their Joint Stipulation of Facts and Issues,[15] which was approved and adopted in the Pre-Trial Order issued and dated July 20, 2022.[16]

Trial then ensued, with the parties presenting and offering their respective documentary and testimonial evidence.

Petitioner presented the testimonies of the following individuals: (1) Lady Ann Luz A. Zipagan,[17] petitioner's Senior Tax Manager – Finance; (2) Normita L. Villaruz[18] of Villaruz, Villaruz & Co., CPAs, the Court-commissioned Independent Certified Public Accountant ("ICPA").[19] Additionally, petitioner presented the testimony of Sta. Cecilia M. Santillan-Visto of SGV & Co,[20] petitioner's authorized representative in its administrative claim for refund before the BIR, and her duly identified documents,[21] as its rebuttal evidence.[22]

The original and supplemental reports of the ICPA were submitted on September 15, 2022 and September 30, 2022, respectively.[23]

Petitioner filed its Formal Offer of Evidence on November 4, 2022, [24] with respondent posting his Comment thereon on November 7, 2022.[25] The Court resolved thereon in Resolutions dated April 11, 2023[26] and June 30, 2023,[27] ultimately denying Exhibit "P-30411", for not being found in the records; Exhibits "P-7-1 to P-7-99" and "P-13 to P-13-2130", failure to be marked by the ICPA nor during Commissioner's Hearing; and, Exhibits "P-18182 to P-18183, for failure to be formally offered and identified by petitioner.

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[13] *Id.* at 96 to 110.
[14] Minutes of hearing held on, and Order dated May 26, 2022, *id.* at 118 to 120.
[15] *Id.* at 149 to 158.
[16] *Id.* at 237 to 243.
[17] *Id.* at 126 to 146; Minutes of the hearing held on, and Order dated July 21, 2022, *id.* at 244 to 246.
[18] Exhibits "P-35" and "P-36", *id.* at 391 to 427 and 470 to 485, respectively; Minutes of the hearing held on, and Order dated, October 5, 2022, *id.* at 487 to 488.
[19] Oath of Commission dated July 21, 2022, *id.* at 252; Minutes of the hearing held on, and Order dated July 21, 2022, *id.* at 244 to 246.
[20] Exhibit "P-37845", Docket – Vol. 2; Minutes of the hearing held on, and Order dated, February 4, 2025, *id.*
[21] Exhibits "P-37841", "P-37842", "P-37843", "P-37844-1", and "P-37844-2", *id.*
[22] Motion to Reopen Proceedings filed by petitioner on June 7, 2024, with respondent's Comment and Opposition filed on June 26, 2024, and Court's Resolution on September 9, 2024, granting the motion.
[23] Exhibits "P-50" and "P-37818", Docket – Vol. I, pp. 321 to 383 and 437 to 459, respectively.
[24] Docket – Vol. 2, pp. 491 to 508.
[25] *Id.* at 645.
[26] *Id.* at 652 to 662.
[27] *Id.* at 706 to 720.

For respondent's part, he presented his sole witness, Revenue Officer Francis Elvin S. Ordoñez.[28] He filed his Formal Offer of Evidence on October 6, 2023,[29] with petitioner's Manifestation thereto filed on October 19, 2023.[30] On January 5, 2024, the Court resolved to admit all of respondent's evidence.[31]

Respondent manifested that he was adopting the arguments in his Answer as his Memorandum,[32] while petitioner's Memorandum[33] and Supplemental Memorandum were submitted on February 8, 2024 and February 13, 2025, respectively. Thus, in a Minute Resolution dated February 21, 2025, the case was deemed submitted for decision.

Hence, this Decision.

The Issue

The sole issue to be resolved by the Court, as stipulated by the parties is:

> Whether or not petitioner is entitled to its claim for refund of its unutilized creditable withholding tax for taxable year 2018 in the amount of ₱380,014,790.00.[34]

Arguments of the Parties

Petitioner's Arguments:

Petitioner argues that it is entitled to a tax credit or refund of its excess amount of taxes withheld over its income tax due in accordance with *Section 76*, in relation to *Section 58(D), of the National Internal Revenue Code of 1997, as amended*, ("*the Tax Code*") and is filed in accordance with *Sections 204(C) and 229 of the same Code.*

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[28] Exhibit "R-5", Docket – Vol. I, pp. 84 to 90; Minutes of the hearing held on, and Order dated, October 5, 2023, Docket – Vol. 2, 721 to 722.
[29] Docket – Vol. 2, pp. 723 to 725.
[30] *Id.* at 727 to 729.
[31] *Id.* at 733 to 734.
[32] Manifestation dated and filed on January 29, 2024, *id.* at 737.
[33] *Id.* at 741 to 766.
[34] Summary Statement of Issue, JSFI, Docket – Vol. I, p. 150.

Respondent's Counter-arguments:

Respondent counter-argues that (1) the petition must be dismissed for lack of jurisdiction as petitioner failed to exhaust administrative remedies before elevating the case to this Court; (2) assuming there is jurisdiction, petitioner is not entitled to the refund as petitioner failed to prove actual remittance of the excess CWTs claimed for refund and to submit the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source ("SAWT"); and (3) refunds are in the nature of exemptions and should be construed against the taxpayer claiming such refund.

The Ruling of the Court

The Petition must be partially granted.

Petitioner anchors its claim for refund primarily on *Section 76 of the Tax Code*, which provides that:

> 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.*
>
> In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. *Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.* (Italics, Ours.)

A corporation entitled to a tax credit or refund of the excess estimated quarterly income taxes paid has two options: (a) to carry over the excess credit; or (b) to apply for the issuance of a tax credit certificate or to claim a

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cash refund. If the option to carry over the excess credit is exercised, the same shall be irrevocable for that taxable period.[35]

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.[36]

This is known as the irrevocability rule and is embodied in the last sentence of *Section 76 of the Tax Code*. The phrase "such option shall be considered irrevocable for that taxable period" means that the option to carry over the excess tax credits of a particular taxable year can no longer be revoked,[37] while 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.[38]

The rule prevents a taxpayer from claiming twice the excess quarterly taxes paid: (1) as automatic credit against taxes for the taxable quarters of the succeeding years for which no tax credit certificate has been issued; and (2) as a tax credit either for which a tax credit certificate will be issued or which will be claimed for cash refund.[39]

At this point, it is worth noting that a taxpayer claiming refund of its excess income taxes paid must establish two things: (1) that it is qualified to claim for a refund by complying with *Section 76 of the Tax Code*; and (2) that it is entitled therefor after complying with the corresponding requirements.

Petitioner is qualified to claim a refund of its excess income tax payments for TY 2018.

In order for a taxpayer to *qualify* for a claim of tax refund under *Section 76 of the Tax Code*, it is crucial that a taxpayer first establish that it has: (1) excess tax payments for the taxable year, and (2) chosen the option to be credited or refunded of such amount. Otherwise, the Court would not have any basis to proceed and verify if a taxpayer is indeed entitled to such refund.

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[35] *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 176290 (Resolution), September 21, 2007.
[36] *Id.*
[37] *Id.*
[38] *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.
[39] *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, supra.

1.) Petitioner has excess income tax payments to cover its income tax due for TY 2018.

Nothing can be refunded if there are no excess tax payments to begin with. As *Section 76 of the Tax Code* is worded, only the excess tax payments may be refunded.

As such, a paramount consideration for a taxpayer who opts to be refunded with its excess income tax payments must show that it has sufficient tax credits to cover its income tax due for the taxable year.

Petitioner's Total Income Tax Due (Line 16, Part II) for TY 2018 amounted to ₱135,852,499.00, as declared in its AITR.[40] Meanwhile, its Prior Year's Excess Credits Other Than MCIT (Line 1, Schedule 7) show an amount of ₱420,045,366.00.[41]

In this regard, *Section 2.58.3 of Revenue Regulations ("RR") No. 02-98, as amended*, provides that submission of the prior year AITR showing the amount of excess withholding tax credits shall entitle the taxpayer to an automatic tax credit of said amount in the succeeding quarters/year:

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

Thus, submission of the prior year AITR is sufficient to support a taxpayer's prior year excess credits carried over to the current year in order to prove that it has sufficient tax credits against which its income tax due for the current year may be charged.

In this case, petitioner's prior year excess credits amounting to ₱420,045,366.00 can be traced to its prior year AITR for TY 2017,[42] as computed below:

[40] Exhibit "P-1".
[41] *Id.*
[42] Exhibit "P-31003".

Total Tax Credits/Payments for TY 2017 (Line 12, Schedule 7)		₱829,325,861.00
Applied against Total Income Tax Due for TY 2017		110,267,355.00
Less: CWTs during TY 2017 (Lines 4 & 5, Schedule 7 and opted "To be refunded" in Line 21, Part II)		
Creditable tax withheld from previous quarters	₱203,376,153.00	
Creditable tax withheld for the 4th quarter	95,636,987.00	299,013,140.00
Remaining excess tax credits carried over to succeeding year - TY 2018		**₱420,045,366.00**

This automatically entitled petitioner to a tax credit to the extent of such amount in succeeding year TY 2018, in accordance with *Section 2.58.3 of RR No. 2-98, as amended.* Petitioner's prior year excess credits are more than sufficient to cover its income tax due for TY 2018 and it indeed has excess tax payments which qualify for a claim for refund.

2.) *Petitioner opted to be refunded of its excess taxes paid for TY 2018, which was no longer carried over to the succeeding taxable years.*

A perusal of petitioner's AITR for TY 2018[43] shows that it reported Total Overpayment of income taxes (Line 21, Part II) in the amount of ₱687,341,305.00 for the whole taxable year. Out of said amount, ₱380,014,790.00 pertains to the creditable taxes withheld during TY 2018.[44] Notably, petitioner ticked the option "To be refunded" therein.[45]

Given that petitioner opted to be refunded with its excess tax payments in the amount of ₱380,014,790.00, it no longer carried over the same to the succeeding taxable quarters/year (*i.e.* 2019). This can be confirmed from petitioner's quarterly ITRs (Line 31A) and AITR (Schedule 7, Line 1) for TY 2019,[46] where it reported only the amount of ₱307,326,515.00 as its Prior Year's Excess Credits – Tax Withheld, which is the remaining amount after deducting the excess payments for TY 2018 opted to be refunded from the total overpayment of income taxes in TY 2018.[47]

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43 Exhibit "P-1", Docket – Vol. II, pp. 510 to 519.
44 Exhibit "P-1-A", *id.* at 515.
45 Exhibit "P-1-B", *id.* at 510.
46 Exhibit "P-8" to "P-11", with submarkings.
47 Total overpayment for TY 2018 of ₱687,341,305.00 less creditable taxes withheld during TY 2018 of ₱380,014,790.00.

The creditable taxes withheld during TY 2018 in the amount of ₱380,014,790.00 which were not carried over to the succeeding taxable years may then be subjected to a claim for refund filed before the BIR on January 25, 2021[48] and to this Court.

With the foregoing considered, petitioner was able to satisfactorily demonstrate that it is *qualified* to claim a refund of its excess income tax payments for TY 2018 in the amount of ₱380,014,790.00 in compliance with *Section 76 of the Tax Code*. We shall now determine whether it is indeed entitled thereto.

Requisites for entitlement to a refund of excess income tax payments

Jurisprudence has laid down the requisites for entitlement to a refund for excess CWTs, namely:

> 1.) That the claim for refund was filed within the two-year reglementary period pursuant to *Sections 204(C) and 229 of the Tax Code*;
>
> 2.) When it is shown on the ITR that the income payment received is being declared part of the taxpayer's gross income; and
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> 3.) When 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 income tax withheld from that amount.[49]

1.) *<u>Petitioner's administrative and judicial claims were timely filed; thus, the Court acquired jurisdiction in this case.</u>*

With respect to excess CWTs, *Section 58 of the Tax Code* provides that any amount withheld in excess of the total tax liability of any person shall be returned to him in the form of a credit or refund and made reference to *Section 204* in claiming the same:

> SEC. 58. *Returns and Payment of Taxes Withheld at Source*. –
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> . . . .

[48] Exhibits "P-2" to "P-3".

[49] *Rhombus Energy, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206362, August 1, 2018, citing *Republic v. Team (Phils.) Energy Corporation*, G.R. No. 188016, January 15, 2015.

> (D) *Income of Recipient.* – Income upon which any creditable tax is required to be withheld at source under Section 57 shall be included in the return of its recipient *but the excess of the amount of tax so withheld over the tax due on his return shall be refunded to him subject to the provisions of Section 204*; if the income tax collected at source is less than the tax due on his return, the difference shall be paid in accordance with the provisions of Section 56.
> (Italics, Ours)

Based on the foregoing, the manner by which the claim for refund shall be processed should be in accordance with *Section 204 of the Tax Code*, the relevant provision of which states:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
>
> . . . .
>
> (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.
> (Italics, Ours.)

Section 229 of the Tax Code must be read with the foregoing provision of *Section 204*, to wit:

> 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, of any sum alleged to have been excessively or in any manner wrongfully 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.

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(Italics, Ours.)

Thus, an erroneously paid or illegally collected tax may be refunded if:

1) the taxpayer files in writing with the CIR a claim for credit or refund within two years after the payment of the tax or penalty;

2) the claim for refund must first be filed before the CIR before maintaining a suit or proceeding in any court; and

3) such suit or proceeding shall be filed also within two years from the date of payment of the tax or penalty, regardless of any supervening cause that may arise after payment.

As explained in *Commissioner of Internal Revenue vs. Carrier Air Conditioning Philippines, Inc.*[50] ("*Carrier*"):

> Section 204 refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.
>
> Section 229, on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) the judicial claim must be filed within two years after payment of the tax sought to be refunded.
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> Reading the two provisions together, *both administrative and judicial claims must be filed within the two-year period.* Furthermore, the *administrative claim must be filed before the judicial claim.* This Court has previously declared that "*[t]imeliness of the filing of the claim is mandatory and jurisdictional.* The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund filed either prematurely or out of time."

Thus, while *both* administrative and judicial claims must be filed within two years after the payment of the alleged erroneously paid or illegally collected tax, the *filing of the administrative claim must still precede the filing of judicial claim.*

Notably, the foregoing citations richly discussed the prescriptive periods with respect to claiming refund of erroneous or illegally collected taxes. However, excess CWTs can be well-considered as erroneously collected taxes also.

Citibank, N.A. vs. Court of Tax Appeals[51] explained the nature of CWTs and when it becomes erroneously collected:

[50] G.R. No. 226592, July 27, 2021.
[51] G.R. No. 107434, October 10, 1997.

> The payments of the withholding taxes for 1979 and 1980 were creditable to the income tax liability, if any, of petitioner-bank, determined after the filing of the corporate income tax returns on April 15, 1980 and April 15, 1981. As petitioner posted net losses in its 1979 and 1980 returns, it was not liable for any income taxes. Consequently[,] and clearly, the taxes withheld during the course of the taxable year, *while collected legally under the aforesaid revenue regulation, became untenable and took on the nature of erroneously collected taxes at the end of the taxable year.* (Italics, Ours.)

Thus, at its inception, income taxes withheld from a taxpayer's income payments and remitted by its customers to the BIR are valid collections in accordance with *Section 58(B) of the Tax Code*[52] and its implementing regulations *RR No. 2-98, as amended.* However, when at the end of the taxable period, it is determined that its income tax due is actually lower than the total taxes withheld from a taxpayer's income payments, these excess amount already in the possession of the BIR becomes erroneously collected.

Thus, the foregoing legal precedents are likewise applicable in cases of claims for refund of excess CWTs. In particular, the two-year prescriptive period shall be reckoned from the date of actual filing of the final adjustment return or the AITR, as ruled in *Commissioner of Internal Revenue v. Univation Motor Philippines (formerly Nissan Motor Philippines, Inc.)*:[53]

> . . . 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." (Italics, Ours.)

Petitioner filed its AITR for TY 2018 on April 13, 2019.[54] Counting two years therefrom, petitioner had until April 12, 2021[55] to file both its administrative and judicial claims for refund. Petitioner filed its Application for Tax Credits/Refunds with the BIR on January 25, 2021[56] and later filed its

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[52] Section 57. *Withholding of Tax at Source.* – . . .
(B) *Withholding of Creditable Tax at Source.* – The Secretary of Finance may, upon the recommendation of the Commissioner, require the withholding of a tax on the items of income payable to natural or juridical persons, residing in the Philippines, by payor-corporation/persons as provided for by law, at the rate of not less than one percent (1%) but not more than thirty-two percent (32%) thereof, which shall be credited against the income tax liability of the taxpayer for the taxable year.
[53] G.R. No. 231581, April 10, 2019.
[54] Exhibit "P-1".
[55] Considering year 2020 is a leap year.
[56] Exhibits "P-2" to "P-3".

Petition before the Court on April 12, 2021.[57] Clearly, petitioner timely filed both claims before the two-year prescriptive period lapsed.

However, respondent argues that the Court cannot acquire jurisdiction herein as petitioner failed to exhaust the available administrative remedies before filing its Petition as the BIR is yet to act on petitioner's claim for refund. Respondent asserts that the doctrine of exhaustion of administrative remedies rests upon the presumption that the administrative body, board, or officer, if given the chance to correct its mistake error, may amend its decision on a given matter and decide it properly. Thus, non-compliance with a condition precedent renders the petition for review filed by petitioner dismissible.

We find this argument by respondent untenable.

This issue on the doctrine of exhaustion of administrative remedies vis-à-vis *Sections 204(C) and 229 of the NIRC, as amended*, is no longer novel. In *Carrier*, citing *CBK Power Company Limited v. Commissioner of Internal Revenue*,[58] the High Court explained that *Sections 204 and 229 of the 1997 National Internal Revenue Code* require only that the administrative claim be filed before the judicial claim and that both claims be filed within two years from the payment of the tax. Hence, the taxpayer properly filed its judicial claim without awaiting the Commissioner's action on its administrative claim, as long as the judicial claim was filed within the two-year prescriptive period. Further, *Section 229* does not require that the Commissioner first act on the taxpayer's claim, and that the taxpayer cannot go to court without the Commissioner's action. The administrative claim filed before the Commissioner was intended "primarily as a notice of warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow[.]"

Thus, applying *Carrier* and its precedent in this case, petitioner rightfully filed its judicial claim before the Court even without respondent's ruling on its administrative claim. Given that the administrative claim, followed by the judicial claim, were both filed by petitioner within two years from the payment of the excess CWTs, the Court has well-acquired jurisdiction over this case.

[57] Docket – Vol. I, pp. 10 to 33.
[58] G.R. Nos. 193383-84 & 193407-08, January 14, 2015.

2.) *<u>The fact of withholding was established by a copy of the withholding tax statement, duly issued by the payor to the payee, showing the amount paid and income tax withheld from that amount.</u>*

In this case, We find it proper to first discuss petitioner's compliance with the requisite that the excess CWTs for TY 2018 claimed for refund is supported by copies of the withholding tax statement to begin with, before determining whether the corresponding income payment was declared as part of its gross income in the AITR.

In proving the fact of withholding, the certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld.[59] When the certificate readily identifies the payor, the income payment and the tax withheld, it is considered complete in the relevant details which would aid the courts in the evaluation of any claim for refund of creditable withholding taxes.[60]

Thus, We find untenable respondent's argument that the claimant must also prove actual remittance of the taxes withheld to BIR as it has long been settled that proof of actual remittance is not a condition to claim for a refund of unutilized tax credits. Under *Sections 57 and 58 of the Tax Code*, it is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with the responsibility of withholding and remitting income taxes.[61]

Neither is the failure to submit the SAWT fatal to a taxpayer's claim for refund. A careful reading of *RR No. 2-2006* reveals that it mandates the submission of the SAWT by the payee-claimant and the MAP by the payor-withholding agent as attachments to their respective tax returns filed with the BIR. Nowhere in the regulation are payee-claimants required to attach the SAWT or the MAP of their payor-withholding agents to their administrative or judicial claim for refund. The regulation establishes an escalating penalty system for non-compliance, beginning with administrative fines and progressing to criminal prosecution for willful or repeated violations. It does not, however, prescribe the outright denial of a refund claim.[62]

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[59] *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014.
[60] *Banco Filipino Savings and Mortgage Bank v. Court of Appeals, et. al.*, G.R. No. 155682, March 27, 2007.
[61] *Commissioner of Internal Revenue v. Philippine National Bank*, supra.
[62] *Commissioner of Internal Revenue v. Sonoma Services, Inc.*, G.R. No. 263916, August 18, 2025.

Moving forward, in establishing its compliance with the *second requisite*, petitioner submitted its Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) for TY 2018,[63] which were examined by the Court-commissioned ICPA.

Out of the CWTs for TY 2018 amounting to ₱380,014,790.00, the Court concurs with the ICPA's findings and, thus, disallows the amount of ₱5,782,828.94 on the following grounds:[64]

Incorrect TIN of petitioner	₱33.35
Incomplete / Incorrect name of petitioner	1,110,404.18
Incomplete / Incorrect name of petitioner; the TIN of the Head Office was indicated but the address is the Branch Office	20,805.97
Incomplete address of petitioner	4,638,655.31
BIR Forms 2307 were dated 2019	12,028.20
Variance in the amount of CWT per BIR Form 2307 versus per books	901.93
Total CWTs Disallowed	**₱5,782,828.94**

Accordingly, only the amount of ₱374,231,961.06[65] satisfied the *second requisite.*

3.) <u>*The income payments received were reported as part of petitioner's gross income as declared in the ITR.*</u>

With respect to this *third requisite*, it is essential that the income payments corresponding to CWTs claimed for refund is included in petitioner's gross income and declared in its AITR for TY 2018.

In compliance thereto, petitioner submitted its Audited Financial Statements ("AFS") for TY 2018,[66] AITR for TY 2018, BIR-registered statements of account ("SOA"),[67] sales invoices ("SI"),[68] and official receipts ("OR"),[69] debit memos,[70] relevant journal entries[71] and cash receipts summary[72] extracted from petitioner's BIR-registered computerized

[63] Exhibits "P-51" to "P-2197".
[64] Exhibits "P-50", ICPA Report (Annex B1).
[65] CWTs for TY 2018 amounting to ₱380,014,790.00 less not properly substantiated CWTs amounting to ₱5,782,828.94.
[66] Exhibit "P-14".
[67] Exhibits "P-2868" to "P-2867".
[68] Exhibits "P-2198" to "P-2906", "P-2917" to "P-25261", "P-30763" to "P-30947", "P-30960", "P-30964" to "P-30984", and "P-30992".
[69] Exhibits "P-2907" to "P-2916", and "P-29843" to "P-30749"
[70] Exhibits "P-25262" to "P-29842".
[71] Exhibits "P-30961" to "P-30963", and "P-30985" to "P-30991".
[72] Exhibits "P-30948" to "P-30959".

accounting system, and Payment Files from petitioner's credit card collection service provider.[73]

The income amounts declared in petitioner's AFS were reconciled with the AITR and were duly traced and accounted for by the ICPA to the corresponding source documents (*i.e.* SOA, SI, OR, debit memos, journal entries, cash receipts summary and Payment Files), as discussed in Part III – B of her original Report.[74]

However, the ICPA noted the following items from petitioner's Other Operating Income amounting to ₱129,602,444.69, which cannot be traced to petitioner's schedules or source documents,[75] as summarized below:

ICPA's Findings		**Amount of Income Payment**	**Correspondin g Amount of CWT**
Manpower Income			
Variance between amount per SI versus per Schedule (Manpower per Schedule is higher than amount per SOA)		₱430,576.65	₱8,611.53
Department Store Sales			
Supported by original copies of cancelled Sales Invoices	₱1,143,660.21		
Duplicate Sales Invoice	180,326.17		
No supporting Sales Invoice presented for examination	311,043.52		
Unreadable original copies of Sales Invoice	107,295.57		
Variance between amount per Sales Invoices versus per schedule	(6,209.17)		
Variance between amount per Journal Entry versus per schedule	16,138.38	1,752,254.69	17,522.55
Vendor Support Income			
Income payment with CWTs included in the claim for refund but untraced to petitioner's sales schedules		80,915,239.43	3,569,962.71
Variance between amount per Official Receipt versus per books (Amount in OR is higher than books)	1,675,921.71		
No supporting documents presented	6,918,656.36	8,594,578.07	429,728.90
Bancard Sales			
Untraced in payment file		36,875,279.88	184,376.40
Institutional Sales Service			
Supported by original cancelled Sales Invoice	22,719.42		
Variance between amount per Sales Invoices versus per AFS	520,893.04		
No supporting documents presented	490,903.52	1,034,515.97	10,345.16
Total		**₱129,602,444.69**	**₱4,220,547.25**

[73] Exhibits "P-30750" to "P-30762".
[74] Exhibit "P-50".
[75] *Id.* at Annex F3.

For failure of petitioner to prove that its income payment amounting to ₱129,602,444.69 was declared as part of its gross income in the AITR for TY 2019, the corresponding CWT in the amount of ₱4,220,547.25 shall further be deducted from the properly substantiated CWTs, as determined earlier, amounting to ₱374,231,961.06.

Ultimately, out of the total claim for refund amounting to ₱380,014,790.00, only the amount of ₱370,011,413.81 satisfactorily complied with all the *three requisites* and is, thus, refundable to petitioner:

Excess CWTs for TY 2018 claimed for refund	₱380,014,790.00
Less:	
Not properly substantiated CWTs	5,782,828.94
CWTs corresponding to income payments not declared as part of gross income in the AITR	4,220,547.25
Excess CWTs for TY 2018 allowed for refund	**₱370,011,413.81**

ACCORDINGLY, the *Petition for Review* is **PARTIALLY GRANTED**. Respondent is hereby **ORDERED TO REFUND** petitioner the amount of **₱370,011,413.81**, representing the latter's excess and unutilized CWTs for TY 2018.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice