Republic of the Philippines
**COURT OF TAX APPEALS**
Quezon City

**SECOND DIVISION**

**ZUELLIG PHARMA CORPORATION,**
Petitioner,

-versus-

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

**CTA Case No. 8801**

Members:
**CASTAÑEDA, JR.**, *Chairperson*,
**CASANOVA,** *and*
**MANAHAN,** *JJ.*

Promulgated:
SEP 05 2017
4:00 p.m.

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# DECISION

**CASANOVA, *J.*:**

This is a Petition for Review, filed on April 11, 2014 by petitioner Zuellig Pharma Corporation, praying for the refund of the amount of ₱477,269,935.23, allegedly representing its excess and unutilized creditable withholding taxes (CWT) for the calendar year (CY) ended December 31, 2011.

Petitioner Zuellig Pharma Corporation is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal place of business at Km. 14 West Service Road, South Superhighway corner Edison Avenue, Barangay Sun Valley, Parañaque City.[1] It is a registered taxpayer with the Bureau of Internal Revenue (BIR), Large Taxpayer Service, with Taxpayer Identification No. (TIN) 000-172-443-000.[2]

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue (CIR), vested with authority to carry

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[1] Par. 1, Joint Stipulation of Facts and Issues (JSFI), Docket (Vol. I), p. 289.
[2] Par. 4, JSFI, Docket (Vol. I), p. 290; Exhibit "P-2".

out all the functions, duties, and responsibilities of said office, including *inter alia*, the power to decide, approve, and grant claims for refund of or issuance of TCC for overpaid or erroneously paid or collected internal revenue taxes, including excess and unutilized CWT, with office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.[3]

Petitioner is primarily engaged in the business of manufacturing, preparing, compounding, processing, packaging, buying and selling at wholesale and retail, importing and exporting, and otherwise dealing in all kinds of drugs, chemicals, patent, proprietary and other medicines, biological products, oils, dyestuffs, perfumeries, toilet and fancy articles, fancy goods, cosmetics, druggists, sundries, soaps, veterinary products and generally dealing in goods, wares, merchandise and personal property of every kind.[4]

On April 16, 2012, petitioner filed its Annual Income Tax Return (ITR)[5] for CY 2011 with the BIR, through the Electronic Filing and Payment System (eFPS).

Petitioner then manually filed on April 30, 2012, its Annual ITR[6] for CY 2011 with the BIR, Large Taxpayers Assistance Division I together with a copy of its audited financial statements[7] for the year ended December 31, 2011.

On June 13, 2013, petitioner filed with the BIR through eFPS its Amended Annual ITR[8] for CY 2011 using the new BIR Form No. 1702.

In both its manually and electronically-filed Annual ITRs[9] for CY 2011 petitioner indicated its option to claim for refund of its excess and unutilized CWT for CY 2011.

On April 13, 2012, petitioner filed with respondent a letter[10] signifying its intent to claim for refund of its excess and unutilized CWT for CY 2011.

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[3] Par. 2, JSFI, Docket (Vol. I), p. 289.
[4] Par. 3, JSFI, Docket (Vol. I), p. 290; Exhibit "P-1".
[5] Exhibit "P-3".
[6] Exhibit "P-4".
[7] Exhibit "P-5".
[8] Exhibit "P-6".
[9] Exhibits "P-3", "P-4", and "P-6".
[10] Exhibit "P-10".

Thereafter, on February 28, 2014, petitioner submitted a letter[11] dated February 12, 2014 to the BIR, Large Taxpayers Services, supplementing its claim for refund and expounding on the legal and factual bases thereof.

On April 1, 2014, petitioner filed with the BIR, Large Taxpayers Services, an Application for Tax Credits/Refunds (BIR Form No. 1914)[12], praying for the refund of its excess and unutilized CWT for CY 2011 in the amount of ₱477,269,935.23.

To date, respondent has neither approved nor denied petitioner's administrative claim for refund of its excess and unutilized CWT for CY 2012. Hence, the instant Petition for Review filed on April 11, 2014.

Within the extended time granted by the Court[13], respondent filed his Answer[14] on June 6, 2014, interposing the following Special and Affirmative Defenses:

> "**SPECIAL AND AFFIRMATIVE DEFENSES**
>
> On the basis of the foregoing allegations and in further support of the Specific Denials herein set forth, respondent respectfully alleges as her affirmative defenses that:
>
> 4. Taxes collected are presumed to be in accordance with laws and regulations.
>
> 5. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau of Internal Revenue. A claim for refund is not *ipso facto* granted because respondent CIR still has to investigate and ascertain the validity of the claim.
>
> 6. Taxes are essential to government's very existence; **(CIR v. Solidbank Corporation, G.R. No.**

[11] Exhibit "P-11".
[12] Exhibit "P-12".
[13] Order dated May 6, 2014, Docket (Vol. I), p. 98.
[14] Docket (Vol. I), pp. 99-106.

**148191, November 25, 2003)** hence, the dictum that taxes are the lifeblood of the government." For this reason, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority. **(CIR v. Fortune Tobacco Corporation, G.R. Nos. 167274-75, July 21, 2008)** Since tax refunds are regarded as tax exemptions therefore, these are to be construed ***strictissimi juris*** against the person or entity claiming the exemption. **(Philippine Phospate Fertilizer Corporation vs. Commissioner of Internal Revenue G.R 141973, June 28, 2005)**

7. In an action for refund, the burden of proof is on the taxpayer who claims the exemption and he must justify his claim by the clearest grant under the Constitutional or statutory law and cannot be permitted by vague implications **(BPI Leasing Corporation vs. Honorable Court of Appeals, G.R 127624, November 18, 2003)** The taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund. **(Commissioner of Internal Revenue vs. Eastern Telecommunications Philippines, Inc. G.R. 163835 July 7, 2010)**

8. Petitioner must prove that it filed the corresponding administrative and judicial claim for refund within the two-year prescriptive period pursuant to Sections 204 and 229 of the National Internal Revenue Code of 1997, as amended.

9. The amount of Php477,269,935.23 being claimed by petitioner as alleged excess and unutilized Creditable Withholding Taxes for the calendar year ended December 31, 2011 is not properly documented.

10. In the foregoing case, it should be noted that nowhere in the petition did petitioner aver that it

complied with the required submission of supporting documents to justify its claim for refund.

11. In relation thereto, petitioner must prove compliance with the prescribed checklist of requirements to be submitted involving claims for creditable withholding tax pursuant to Revenue Memorandum Order (RMO) No. 53-98 (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), otherwise there would be no sufficient compliance with the filing of an administrative claim for refund, the administrative claim thereof being merely pro-forma.

12. RMO No. 53-98 was issued to identify the documents required from a taxpayer during audit of the application for refund. For Income Tax/Withholding Tax, the specific documents that need to be submitted are as follows:

INCOME TAX/ WITHHOLDING TAX

A) Requirements from Taxpayer

1) Certified Financial Statements, including comparative Profit and Loss Statement with Statement of Cost of Goods Manufactured and Sold, if applicable.

2) Proof of claimed tax credit if applicable.

3) Proof of the claimed 'Interest Expense', if applicable.

4) Proof of claimed Bad Debts/ worthlessness of credits, if applicable.

5) Reconciliation of 'Book Income' and 'Taxable Income'.

6) Certificate of Registration issued by the appropriate regulatory agency, together with

the conditions attached to such registration, if applicable.

7) Proof of Exemption under special laws, if applicable.

8) Certification of the appropriate regulatory agency as to taxpayer's entitlement to tax incentives, if applicable.

9) Xerox copy of used Tax Credit Certificate with annotation of issued TDM at the back, if applicable.

10) Proof of payment of deficiency tax, if any/applicable.

a) current year / period
b) previous year / period

11) Reports submitted to applicable regulatory agency that reflects the financial condition and result of operation of the taxpayer e.g., Annual Statement prepared by insurance companies submitted to the Insurance Commission etc., if applicable.

13. Further, Revenue Regulations (R.R.) 2-2006 (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 Alpha list 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) provides:

Section 2. MANDATORY SUBMISSION OF SUMMARY ALPHALIST OF WITHHOLDING AGENTS OF INCOME PAYMENTS SUBJECTED TO CREDITABLE WITHHOLDING TAXES (SAWT) BY THE PAYEE/INCOME RECIPIENT AND OF MONTHLY ALPHALIST OF PAYEES

(MAP) SUBJECTED TO WITHHOLDING TAX BY THE WITHHOLDING AGENT INCOME PAYOR AS ATTACHMENT TO THEIR FILED RETURNS.

A. xxx ... xxx ... xxx

B. Persons required to submit Summary Alphalist of Withholding Agents of Income Payments subjected to Withholding-Taxes (SAWT)

1. All persons claiming refund or applying their creditable tax withheld at source against the tax due with not more than ten (10) withholding agents-payor of income payment per return period are strictly required to submit SAWT in hard copy as attachment to the required tax return;

2. All persons claiming for refund or applying their creditable tax withheld at source against the tax due with more than ten (10) withholding agents-payor of income payment per return period are strictly required to submit SAWT electronically in 3.5 inch floppy diskette following the format to be prescribed by the BIR;

xxx ... xxx ... xxx

14. In its claim for refund for the calendar year 2011, petitioner clearly failed to submit the pertinent documents required pursuant to RMO No. 53-98 and R.R. 2-2006.

15. Likewise, petitioner must prove that it has fully complied with the requisites to sustain a claim for refund or tax credit of excess and unutilized creditable Withholding Tax as ruled by the Supreme Court in Citibank N.A. vs. Court of Appeals, et al. quoted herewith, to wit:

a.) That the claim for refund was filed within the two year prescriptive period as provided under Section 204(c) in relation to Section 229 of the NIRC of 1997;

b.) That the fact of withholding is 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.

c.) That the income upon which the taxes were withheld was included in the return of the recipient.

16. Petitioner must also prove that it did not carry-over the excess creditable withholding taxes against the Quarterly and Annual Income Tax Returns in the succeeding taxable years as provided under Section 76 of the 1997 Tax Code.

17. In the alternative, if petitioner opted to choose a tax refund instead of tax credit certificates or to be carried over as tax credit next year/quarter for the alleged excess and unutilized Creditable Withholding Taxes, such option should be indicated in its Annual Income Tax Return by shading the circle of its choice provided for in Part II, Line 37 of the said return.

18. Unfortunately for the petitioner, it never made a choice in its Annual Income Tax Return filed for the calendar year 2011. Upon scrutiny of the aforesaid document, all the options were left blank. Petitioner did not shade the option to be refunded in Line 37 of the said return. Hence, it never signified that it chose to be refunded.

19. For ease of reference, Section 76 of the NIRC, as amended is quoted herewith as follows:

SEC. 76. Final Adjustment Return.- Every corporation liable to tax under Section 27 shall file a final adjustment return covering the taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

(A) Pay the balance of tax still due; or
(B) Carry-over the excess credits; 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 therefore.

20. Following the premise above-mentioned, petitioner has the burden of proving that the right to such tax refund indubitably exists and well-founded doubt is fatal to the claim."

A pre-trial conference was scheduled on July 17, 2014.[15] Subsequently, the Respondent's Pre-Trial Brief[16] was filed on July 3, 2014 while the Petitioner's Pre-Trial Brief[17] was filed on September 8, 2014.

Thereafter, the parties filed their Joint Stipulation of Facts and Issues[18] on September 29, 2014, which was approved and adopted by the Court in the Pre-Trial Order dated October 8, 2014[19].

[15] Notice of Pre-Trial Conference, Docket (Vol. I), p. 108.
[16] Docket (Vol. I), pp. 109-113.
[17] Docket (Vol. I), pp. 265-276.
[18] Docket (Vol. I), pp. 289-296.
[19] Docket (Vol. I), pp. 299-303.

Upon motion[20] of petitioner, the Court commissioned Ms. Katherine O. Constantino as the Independent Certified Public Accountant (ICPA).

In support of its claim for refund, petitioner presented the following witnesses: Mr. Joel R. Ducut[21], petitioner's Assistant Corporate Controller; and Ms. Katherine O. Constantino[22], the Independent Certified Public Accountant (ICPA).

Petitioner filed its Formal Offer of Evidence[23] on May 13, 2015, which was resolved by the Court in the Resolution dated September 15, 2015[24].

On October 5, 2015, petitioner filed a Motion for Reconsideration with Motion to Admit[25], which was partially granted by the Court in the Resolution[26] dated April 14, 2016.

Thereafter, respondent presented his lone witness, Revenue Officer Ma. Theresa L. Espino[27].

Respondent filed his Formal Offer of Documentary Evidence[28] on June 24, 2016. In the Resolution[29] dated June 28, 2016, the Court admitted all of respondent's evidence.

On July 11, 2016, respondent filed a Manifestation[30] stating that in lieu of filing a Memorandum, he is adopting his Answer dated June 5, 2014 as his Memorandum.

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[20] Docket (Vol. I), pp. 304-307.
[21] Exhibit "P-17", Sworn Statement of Mr. Joel R. Ducut to Questions Propounded by Atty. Gelina Rose E. Recio, and Supplemental Sworn Statement of Mr. Joel R. Ducut to Questions Propounded by Atty. Gelina Rose E. Recio, Docket (Vol. I), pp. 252-262 and 371-473, respectively; Minutes of the Hearing dated October 20, 2014 and April 13, 2015, respectively, Docket (Vol. I), p. 321 and 657.
[22] Exhibit "P-6", Sworn Statement of Ms. Katherine O. Constantino to Questions Propounded by Atty. Gelina Rose E. Recio, Docket (Vol. I), pp. 351-366; Minutes of the Hearing dated March 18, 2015, Docket (Vol. I), p. 367.
[23] Docket (Vol. II), pp. 662-680.
[24] Docket (Vol. II), pp. 830-879.
[25] Docket (Vol. II), pp. 882-893.
[26] Docket (Vol. II), pp. 1018-1048.
[27] Exhibit "R-9", Judicial Affidavit of Revenue Officer Ma. Theresa L. Espino, Docket (Vol. II), pp. 819-824; Minutes of the Hearing dated May 11, 2016, docket vol. II, p. 1050.
[28] Docket (Vol. II), p. 1053-1060.
[29] Docket (Vol. II), pp. 1070-1071.
[30] Docket (Vol. II), pp. 1072-1075.

Petitioner, on the other hand, filed its Memorandum[31] on August 30, 2016. The case was then considered submitted for decision in the Resolution[32] dated September 6, 2016.

The parties stipulated that the main issue[33] to be resolved in this case is:

> "'WHETHER OR NOT PETITIONER IS ENTITLED TO ITS CLAIM FOR REFUND OF ALLEGED EXCESS AND UNUTILIZED CWT FOR CY 2011 IN THE AMOUNT OF ₱477,269,935.23.'
>
> The issue may be broken down in the following sub-issues:
>
> 1. Whether or not petitioner's alleged excess and unutilized CWT for CY 2011 in the amount of ₱477,269,935.23 are duly substantiated by documentary evidence.
>
> 2. Whether or not the income from which the CWT's being claimed for refund were withheld was reported as part of the revenues declared in petitioner's Annual ITR.
>
> 3. Whether or not petitioner exercised the option to carry over its alleged excess and unutilized CWT for CY 2011 to the succeeding taxable periods.
>
> 4. Whether or not petitioner filed its administrative and judicial claims for refund of alleged excess and unutilized CWT for CY 2011 within the two-year prescription period provided under Sections 204(C) and 229, National Internal Revenue Code of 1997 (the 'Tax Code')."

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[31] Docket (Vol. II), pp. 1085-1111.
[32] Docket (Vol. II), p. 1112.
[33] Issues, JSFI, Docket (Vol. I), p. 290.

Based on relevant jurisprudence and BIR Revenue Regulations,[34] in order for a taxpayer to be entitled to a refund of or an issuance of tax credit certificate for its unutilized excess CWT, the following three (3) basic requisites must be sufficiently established:

1. the claim for refund must be filed within the two-year prescriptive period as provided under Sections 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended;

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 declared as part of the gross income of the recipient.

As to the first requisite, Sections 204(C) and 229 of the NIRC of 1997, as amended, provide as follows:

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

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[34] *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; *United International Pictures AB vs. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012; *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; Section 2.58, Revenue Regulations No. 2-98, as amended.

> 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."
>
> "SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid."

In applying the foregoing provisions, the Supreme Court in the case of *ACCRA Investments Corporation vs. Court of Appeals, et al.,*[35] held that the two-year prescriptive period for claiming a refund of overpaid income tax/CWT commences to run on the date of filing of the Final Adjustment Return. It is only when the Final 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.[36] This ruling was reiterated in the case of *Commissioner of Internal Revenue vs. Primetime Property,*[37] where the Supreme Court held that the two-year prescriptive period is reckoned from the filing of the final adjusted return.

The present claim pertains to taxable CY 2011 for which petitioner filed its original Annual Income Tax Return (AITR) through the BIR's Electronic Filing and Payment System (EFPS) on April 16,

[35] G.R. No. 96322, December 20, 1991, 204 SCRA 957.
[36] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, G.R. No. 83736, January 15, 1992.
[37] G.R. No. 162155, August 28, 2007.

2012[38]. Counting from this date, petitioner had until April 16, 2014 within which to file a claim for refund of its 2011 excess CWT both in the administrative and judicial levels.

Petitioner's letter-claim for refund[39] filed with the respondent on April 13, 2012, supplemental letter-claim for refund[40] and Application for Tax Credits/Refunds[41] filed with the BIR's Large Taxpayers Service on February 28, 2014 and April 1, 2014, respectively, as well as its subsequent appeal via a Petition for Review filed before this Court on April 11, 2014 fell within the two-year prescriptive period under Sections 204(C) and 229 of the NIRC of 1997, as amended.

With regard to the second and third requisites, Section 2.58.3 (B) of Revenue Regulations (RR) No. 02-98, as amended, states:

> **"Sec. 2.58.3.** ***Claim for tax credit or refund.*** —
>
> xxx xxx xxx
>
> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom**." (*Emphasis supplied*)

To prove the fact of withholding of the claimed CWT of ₱477,269,935.23, petitioner presented its Schedule[42] of Creditable Withholding Tax and the related Certificates[43] of Creditable Tax Withheld at Source for CY 2011. Upon examination of these documents, the Court-commissioned Independent CPA firm, Constantino Guadalquiver & Co., through its Partner, Ms. Katherine O. Constantino, summarized its findings as follows:[44]

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[38] Exhibit "P-3".
[39] Exhibit "P-10".
[40] Exhibit "P-11".
[41] Exhibit "P-12".
[42] Exhibit "P-23-a".
[43] Exhibits "P-39" to "P-5043" and "P-354706" to "P-366467".
[44] Exhibit "P-19", p. 7.

| Findings | Annex Reference (Exh. "P-19") | Income Payment | Tax Withheld |
|---|---|---|---|
| CWT duly supported by original Certificate of Creditable Tax Withheld at Source (BIR Form 2307) | Annex 1-a | ₱ 43,249,700,267.27 | ₱ 441,220,333.92 |
| CWT duly supported by original Certificate of Creditable Tax Withheld at Source (BIR Form 2307) with incorrect Petitioner's TIN indicated therein | Annex 1-b | 847,817,242.41 | 9,822,185.21 |
| CWT duly supported by original Certificate of Creditable Tax Withheld at Source (BIR Form 2307) with unclear date | Annex 1-c | 2,752,283.81 | 24,449.26 |
| CWT supported by photocopies certificate with correct name, TIN and date | Annex 1-d | 743,610,625.61 | 7,545,434.24 |
| CWT certificates not yet provided | | | 18,657,143.95 |
| **Total** | | **₱44,843,880,419.10** | **₱477,269,546.58** |

The Court noted that the amount of ₱477,269,546.58 is lower by ₱388.65 when compared with petitioner's claimed CWT of ₱477,269,935.23. Thus, the said discrepancy of ₱388.65 shall be disallowed from petitioner's claim for being unsupported.

Moreover, the CWT in the amounts of ₱9,822,185.21, ₱24,449.26, ₱7,545,434.24 and ₱18,657,143.95 aggregating to ₱36,049,212.66 shall be disallowed. While the amount of ₱9,822,185.21 was duly supported by original Certificate of Creditable Tax Withheld at Source (BIR Form 2307), it has incorrect petitioner's TIN, and the date indicated in BIR Form 2307 was unclear. On the other hand, the amount ₱7,545,434.24 was only supported by photocopies of certificates with correct name, TIN and date. Finally, the amount ₱18,657,143.95 is disallowed because the same was not supported with CWT Certificates.

In addition, petitioner's claim should be reduced by the following CWT in the total amount of ₱786,401.46 for also not being properly substantiated with BIR Forms No. 2307:

| Exhibit | Customer Name | Income Payment | CWT |
|---|---|---|---|
| ***CWT supported by BIR Forms No. 2307 but not in the name of the petitioner*** | | | |
| P-254 | Argent Business Consultants and Stores Specialist, Inc. | ₱ 1,400.00 | ₱ 14.00 |
| P-365 | Argent Business Consultants and Stores Specialist, Inc. | 26,977.60 | 269.78 |

| | | | |
|---|---|---|---|
| ***CWT supported by BIR Forms No. 2307 but without signature of the payor/payor's authorized representative*** | | | |
| P-3643 | Majesty Pharmacy, Inc. | 3,422,350.23 | 34,223.52 |
| P-358746 | Drugman Drug House | 85,773.75 | 857.74 |
| P-358771 | Drugman Drug House | 216,321.92 | 2,163.22 |
| P-362567 | New Sacred Heart Pharmacy - Dumaguete Branch | 113,811.56 | 1,016.17 |
| P-363929 | Rufino Brodeth & Co., Inc./Luz Pharmacy | 713,954.80 | 7,139.55 |
| ***CWT supported by BIR Forms No. 2307 but with different petitioner's TIN indicated therein*** | | | |
| P-358233 | Dagupan Doctors Villaflor Memorial Hospital, Inc. | 1,009,389.69 | 9,012.38 |
| P-358234 | Dagupan Doctors Villaflor Memorial Hospital, Inc. | 1,646,455.02 | 14,700.48 |
| P-358235 | Dagupan Doctors Villaflor Memorial Hospital, Inc. | 3,415,526.61 | 30,495.78 |
| P-358237 | Dagupan Doctors Villaflor Memorial Hospital, Inc. | 2,411,579.22 | 21,531.96 |
| P-358244 | Dagupan Doctors Villaflor Memorial Hospital, Inc. | 1,268,977.16 | 11,330.13 |
| P-361298 | LTS Supermarkets, Inc. | 23,564,047.00 | 235,640.47 |
| ***CWT supported by BIR Forms No. 2307 but dated outside the period of claim*** | | | |
| P-359666 | First Lane Supertraders Co., Inc. | 767,290.00 | 7,672.90 |
| P-359667 | First Lane Supertraders Co., Inc. | 316,718.00 | 3,167.18 |
| P-359668 | First Lane Supertraders Co., Inc. | 199,794.00 | 1,997.94 |
| ***CWT supported by BIR Forms No. 2307 but without petitioner's TIN indicated therein*** | | | |
| P-363038 | Philhealthcare, Inc. | 404,462.71 | 4,044.63 |
| P-363039 | Philhealthcare, Inc. | 654,743.82 | 6,547.44 |
| P-363040 | Philhealthcare, Inc. | 1,094,030.23 | 10,940.30 |
| P-365467 | Tai-Pan Dev't. Inc. Gaisano Capital San Carlos | 16,327.00 | 163.27 |
| P-365468 | Tai-Pan Dev't. Inc. Gaisano Capital San Carlos | 17,430.00 | 174.30 |
| ***Supporting BIR Forms No. 2307 which do not pertain to the claimed CWT*** | | | |
| P-361523 | Mactan Doctors Hospital, Inc. | 2,164,518.00 | 21,645.18 |
| P-361524 | Mactan Doctors Hospital, Inc. | 1,810,106.00 | 18,101.06 |
| ***CWT supported by BIR Forms No. 2307 which were claimed twice by petitioner*** | | | |
| P-1696; P-1697 | Capitol Medical Center, Inc. | 14,681,104.00 | 146,811.04 |
| P-1490; P-4191 | Professional Services, Inc. (The Medical City) | 21,244,791.35 | 189,685.66 |
| P-356821; P-356822 | Cebu Fedco Marketing Corp. | 790,203.00 | 7,055.38 |
| **Total Additional Disallowed CWT** | | | **₱786,401.46** |

As to the third requisite, records disclose that the claimed CWT pertain to petitioner's sales of goods and services for the CY 2011.

In ascertaining that the total amounts of sale of goods and services which were booked by petitioner in its sales register and general ledger (GL) for the CY 2011 tally with the sale of goods and services declared as taxable income per petitioner's AITR for the same year, the ICPA prepared the following reconciliations:

*On the Sale of Goods:*

"We compared the net sales per sales register generated by the Petitioner's BIR-registered system (to be presented as ***Exhibit P-31, Folder 12 to 77, Box 7 to 14***), with the general ledger balances of total revenue for the year 2011 (previously presented as ***Exhibit P-25, Folder 5, Box 1***), with the net sales reported in the audited financial statements for the year 2011 (previously presented as ***Exhibit P-5***) and with the net sales amount of the amended annual income tax return for the CY 2011 (previously presented as ***Exhibit P-6***). A detailed tabular presentation is presented in ***Annex 3***. Summarized details follows:

| **Particulars** | **Amount of sales** |
|---|---|
| Per sales register | ₱ 57,915,958,134.46 |
| Per general ledger of all sales | 58,031,790,982.54 |
| Per audited financial statements | 57,985,824,408.00 |
| Per amended annual income tax return | 58,012,576,794.00 |

Comparison disclosed the following differences:

| | Differences |
|---|---|
| a. Sales register and general ledger | (₱ 115,832,848.08) |
| b. General ledger and audited financial statements | 45,966,574.54 |
| c. Audited financial statements and amended annual income tax return | (26,752,386.00) |
| d. Sales register and annual income tax return | 96,618,659.54 |

a. Reconciliation of Sales Register and General Ledger amount

The discrepancy of ₱115,832,848.16 pertains to the following amounts which were not included in the sales register because these do not relate to the sale of goods:

| **Account Code** | **Account Name** | **General Ledger Balance** | |
|---|---|---|---|
| 40101 | Accrued Tax T/P | (₱217,250,159.30) | |
| 41202 | Financial Discounts | (83,778,665.26) | |
| 42001 | Services T/P | 399,261,189.10 | |
| 42002 | Services I/C | 182,780.00 | ₱98,415,144.54 |

Add adjustment for timing differences:

| | |
|---|---|
| Undelivered sales for CY 2010 reported as sales in GL 2011 (***Exhibit 34, Folder 80, Box 1***) | 25,128,948.63 |
| Trade Returns for 2010 recorded in 2011 (***Exhibit 37, Folder 80, Box 1***) | 11,162,033.18 |
| Trade Returns of 2011 not yet recorded in GL (***Exhibit 35, Folder 80, Box 1***) | (18,471,733.37) |

| | | |
|---|---|---|
| Undelivered sales of 2011 recorded in 2012 (***Exhibit 36, Folder 80, Box 1***) | (401,544.82) | 17,417,703.62 |
| | | 115,832,848.16 |

b. The difference of ₱45,966,574.54 between the general ledger and audited financial statements pertains to clinical trial management service income, recorded in the general ledger under Account code 42001 Service T/P account, which was treated as an outright reduction to non-operating expenses under Account Code 48605, Other N-OP inc/exp with GL balance amounting to ₱47,639,031.33 (₱45,966,574.54 clinical trial management and ₱1,672,456.79 pertaining to others). Entry details of ₱45,966,574.54 were provided by the Petitioner (to be presented as ***Exhibit P-26, Folder 6, Box 1***).

Accordingly, the difference between the sales reported in the sales register and the audited financial statements amounting to ₱69,866,273.60 was due to the following:

| | |
|---|---|
| Difference between sales register and general ledger as shown in a. above | ₱115,832,848.16 |
| Clinical trial management services income treated as outright reduction | (45,966,574.54) |
| **Total** | **₱69,866,273.62** |

c. The difference of 26,752,386.00 between sales per income tax return and audited financial statements pertains to the excess municipal taxes accrual which was an additional to the taxable **income in the annual income tax return per Petitioner-prepared reconciliation (to be presented as *Exhibit P-27, Folder 7, Box 1*).**

d. Accordingly, the difference of net sales per sales register with the sales per amended return of 96,618,659.60 was due to the following:

| | |
|---|---|
| Difference between sales register and general ledger as shown in a. above | ₱115,832,848.16 |
| Clinical trial management services income treated as outright reduction as shown in b. above | (45,966,574.54) |
| Excess Municipal taxes accrual stated above | 26,752,386.00 |
| **Total** | **₱96,618,659.60** |

"

*On the Sale of Services:*

"Reconciliation between general ledger and amended annual income tax return as follows:

| | | SALES AMOUNT | | |
|---|---|---|---|---|
| **Account** | **Description** | **per GL** | **per ITR** | **Difference** |
| 40001 | VAT SALES T/P | (64,838,920,385.00) | (64,838,920,385.48) | 0.48 |
| 40101 | ACCRUED TAX T/P | 217,250,159.30 | 190,497,773.43 | 26,752,385.87 |
| 40201 | VAT ON SALES T/P | 6,905,544,547.00 | 6,905,544,547.46 | (0.46) |
| 41202 | FINANCIAL DISCOUNTS | 83,778,665.26 | 83,778,665.26 | - |
| 42001 | SERVICES T/P | (399,261,189.10) | (353,294,614.94) | (45,966,574.16) |
| 42002 | SERVICES I/C | (182,780.00) | (182,780.00) | - |
| **TOTAL** | | **(58,031,790,982.54)** | **(58,012,576,794.27)** | **(19,214,188.27)** |

Accordingly, the difference of total sales per general ledger with the sales per amended annual income tax return of 19,214,188.27 was due to the following:

| | |
|---|---|
| Clinical trial management services income treated as outright reduction (to be presented as **Exhibit P-26, Folder 6, Box 1**) | (₱45,966,574.54) |
| Excess Municipal taxes accrual stated above (to be presented as **Exhibit P-27, Folder 9, Box 1**) | 26,752,386.00 |
| **Total** | **(₱19,214,185.54)*** |

**Difference of ₱2.73 (₱19,214,188.27 – ₱19,214,185.54) is due to rounding decimals."*

Certainly, the total taxable sales of goods and services per petitioner's sales register and GL were the same amounts reported by petitioner in its 2011 AITR.

The income payments related to the claimed CWT were recorded in petitioner's sales register and GL. The ICPA was able to trace the income payments related to the claimed CWT to the sales register and GL, except for the following sales of goods in the amount of ₱969,074,728.83 and sales of services in the amount of ₱618,630,611.39, detailed as follows:

| **SALE OF GOODS** | | | | |
|---|---|---|---|---|
| | **Per BIR Form 2307** | | **ICPA's Computation of Sales Amount per Sales Register** | |
| **Customer Name** | **Income Payment (A)** | **Tax Withheld** | **(B)** | **Difference (A-B)** |
| **INCOME PAYMENT WITH NO CORRRESPONDING RECORD IN THE SALES REGISTER** | | | | |
| Barili District Hospital | 75,661.00 | 756.61 | - | 75,661.00 |
| Benguet Provincial Government | 18,670.00 | 166.70 | - | 18,670.00 |
| Cebu Doctors College Inc. | 152,678.57 | 1,526.79 | - | 152,678.57 |
| Cypress Manufacturing Limited | 1,045,200.00 | 10,452.00 | - | 1,045,200.00 |
| Daanbantayan District Hospital | 1,618.00 | 16.18 | - | 1,618.00 |

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| | | | | |
|---|---|---|---|---|
| DOH - Regional Health Office - CAR | 257,142.86 | 2,571.43 | - | 257,142.86 |
| Dynasty Management & Development Corp | 75,382,233.93 | 735,017.49 | - | 735,017.49 |
| Emilus Supermarket Systems Inc. | 49,894.69 | 498.95 | - | 49,894.69 |
| Everlink Distribution Group, Inc. | 30,775.44 | 30,775.44 | - | 30,775.44 |
| Far East Noble House | 38,638,763.36 | 383,286.13 | - | 38,638,763.36 |
| FMC Renalcare Corp. | 431,125.00 | 4,311.25 | - | 431,125.00 |
| Gaisano Dadaingas Inc. | 66,893.25 | 668.94 | - | 66,893.25 |
| Handyman Express Mart, Inc. | 73,275.00 | 732.75 | - | 73,275.00 |
| Lion Commercial Corp. | 294,308.02 | 2,943.08 | - | 294,308.02 |
| Provincial Government Of Cavite | 780,535.89 | 7,369.44 | - | 780,535.89 |
| Riviera Mercantile Sys., Inc. | 4,044,159.00 | 40,441.59 | - | 4,044,159.00 |
| Sara Lee Philippines Inc. | 89,285.71 | 1,785.71 | - | 89,285.71 |
| Shogun Management & Development Corp. | 40,030,611.29 | 399,260.26 | - | 40,030,611.29 |
| Shopmore Commercial Corp. | 245,319.64 | 2,453.18 | - | 245,319.64 |
| Waltermart Handyman, Inc. | 124,625.00 | 1,246.25 | - | 124,625.00 |
| ***Subtotal*** | ***161,832,775.65*** | ***1,626,280.17*** | **-** | ***161,832,775.65*** |
| | | | | |
| **INCOME PAYMENT PER SALES REGISTER IS LESS THAN THE INCOME PAYMENT REFLECTED IN THE CWT CERTIFICATES** | | | | |
| AB Pharma Inc. | 20,381,040.24 | 203,810.41 | 20,233,930.44 | 147,109.80 |
| Ace Hardware Phil's Inc. | 11,179,300.00 | 111,793.00 | 11,025,551.42 | 153,748.58 |
| Ace Med Inc. | 2,954,419.83 | 29,544.20 | 2,580,027.64 | 374,392.19 |
| Act General Merchandise & Drug, Inc. | 144,780,830.81 | 1,447,808.32 | 144,670,718.92 | 110,111.89 |
| Adela Serra Ty Memorial Medical Center | 691,370.57* | 6,913.70 | 522,706.14 | 168,664.43 |
| Allah Valley Medical Specialists Center Inc. | 5,854,536.00 | 58,545.36 | 5,576,733.70 | 277,802.30 |
| Antipolo City Hospital Inc. | 1,473,385.94 | 14,733.87 | 1,356,312.03 | 117,073.91 |
| Asia Renal Care (Phils.) | 1,468,286.22 | 14,682.86 | 516,492.10 | 951,794.12 |
| Asociacion Benevola De Cebu, Inc. (Chong Hua Hospital) | 214,552,762.01 | 2,145,527.65 | 206,176,602.34 | 8,376,159.67 |
| Benguet General Hospital | 4,513,965.49* | 45,148.57 | 4,252,494.34 | 261,471.15 |
| Botica Real | 34,709,394.08 | 336,657.61 | 10,312,376.74 | 24,397,017.34 |
| Bureau Of Corrections | 2,588,471.00 | 25,884.71 | 2,483,890.32 | 104,580.68 |
| Cagayan De Oro Medical Center Inc. | 17,852,832.00 | 178,528.32 | 16,969,829.26 | 883,002.74 |
| Cagayan Valley Medical Center | 10,912,837.60 | 232,944.64 | 9,053,476.24 | 1,859,361.36 |
| Cebu Far Eastern Drug Inc. | 2,163,237.24 | 19,341.77 | 1,884,554.97 | 278,682.27 |
| Center For Health Development Iv-B | 229,906.03 | 2,052.73 | 86,284.32 | 143,621.71 |
| Christ The King Medical Services, Inc. | 11,544,341.00 | 115,443.41 | 356,523.16 | 11,187,817.84 |
| City Government Of Pasig | 45,690,051.00 | 456,900.51 | 18,256,901.26 | 27,433,149.74 |
| City Government Of Bago | 51,339.29 | 513.39 | 47,767.86 | 3,571.43 |
| City Government Of Binan | 1,571,429.00* | 15,714.29 | 136,562.50 | 1,434,866.50 |
| City Government Of Makati | 29,713,385.71 | 297,133.86 | 21,333,043.66 | 8,380,342.05 |
| City Government Of Muntinlupa | 2,008,928.57 | 20,089.29 | 1,169,709.18 | 839,219.39 |
| City Supermarket Incorporated | 51,544,719.99 | 515,447.18 | 50,543,219.22 | 1,001,500.77 |
| Colinas Verdes Hospital Managers Corp. | 123,829,568.00 | 1,238,295.68 | 119,035,961.00 | 4,793,607.00 |
| Commission On Audit | 2,428,261.00 | 24,282.61 | 137,573.71 | 2,290,687.29 |

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| | | | | |
|---|---|---|---|---|
| Commission On Elections | 160,039.20 | 1,453.03 | 155,012.68 | 5,026.52 |
| Complete Solution Pharmacy And Gen. Mer. | 91,798,776.00 | 917,987.76 | 76,510,309.92 | 15,288,466.08 |
| CVC Supermarket Inc. | 738,512.00 | 7,385.12 | 735,418.37 | 3,093.63 |
| Davao Adventist Hospital, Inc. | 3,205,653.65 | 30,932.35 | 2,618,366.10 | 587,287.55 |
| Davao Central Warehouse Club, Inc. | 10,101,256.00 | 101,012.65 | 1,671,797.18 | 8,429,458.82 |
| Davao Regional Hospital | 30,485,949.18 | 304,859.50 | 30,352,181.41 | 133,767.77 |
| De Los Santos Med.Ctr. Diagnostic Corp. | 15,232,920.78 | 152,329.21 | 14,163,576.80 | 1,069,343.98 |
| Dranix Distributor Inc.Iloilo | 10,310,756.00 | 108,196.38 | (1,206,667.24) | 11,517,423.24 |
| E. Berlin Pharmacy | 4,851,894.00 | 48,518.94 | 4,077,860.92 | 774,033.08 |
| Erlinda G. Germar/ Farmacia Fatima & Fatima Soda Founta | 15,451,062.84 | 154,510.62 | 10,535,625.73 | 4,915,437.11 |
| Ever Commonwealth Center, Inc. | 44,764,014.47 | 447,640.07 | 36,906,409.12 | 7,857,605.35 |
| Evercare Pharmacy | 296,745.57 | 3,631.49 | 206,136.46 | 90,609.11 |
| Everplus Superstore, Inc. | 107,054,277.70 | 1,070,552.93 | 76,910,417.45 | 30,143,860.25 |
| Extract Sales Incorporated | 102,659,130.47 | 1,026,591.32 | 78,820,886.01 | 23,838,244.46 |
| FEB Cuisine Corp. | 3,331,046.11 | 30,110.01 | 3,010,996.18 | 320,049.93 |
| FEU - Dr. Nicanor Reyes Medical Foundation | 8,130,608.00 | 81,306.08 | 8,031,427.66 | 99,180.34 |
| Gaisano Bros. Mdsg., Inc. | 15,084,981.00 | 150,849.81 | 15,078,129.00 | 6,852.00 |
| Grand Union Supermarket Inc., Operator | 28,603,984.71 | 286,039.85 | 20,342,184.64 | 8,261,800.07 |
| Inter-Medical Unified System, Inc. | 13,359,095.27 | 133,590.96 | 13,355,251.11 | 3,844.16 |
| ISS Facility Services Phil., Inc. | 1,093,587.21 | 10,935.87 | 150,296.25 | 943,290.96 |
| Jemstar Trading Corporation | 14,283,673.00 | 142,836.22 | 13,499,641.94 | 784,031.06 |
| Juliano, Susan G. | 84,000.00 | 1,680.00 | 6,447.26 | 77,552.74 |
| K2 Drug & Medical Supplies | 10,381,614.12 | 103,816.14 | 5,323,076.74 | 5,058,537.38 |
| Larrazabal, Susanna Ortega | 108,432,225.46 | 1,084,545.61 | 106,784,231.16 | 1,647,994.30 |
| LTS Affiliates, Inc. | 61,824,609.38 | 618,246.09 | 9,648,673.07 | 52,175,936.31 |
| Lucena United Doctors Incorporated | 12,455,928.00 | 124,559.28 | 12,333,856.68 | 122,071.32 |
| Manson Drug Corp. | 347,337,544.82 | 3,473,375.69 | 246,640,598.58 | 100,696,946.24 |
| Marionnaud Philippines, Inc. | 26,710,298.00 | 267,102.98 | 26,672,619.64 | 37,678.36 |
| Mary Johnston Hospital Inc. | 1,781,627.77 | 17,816.27 | 1,461,365.65 | 320,262.12 |
| Medical Mission Group Hospital & Health Services Cooper | 158,017.92 | 1,580.17 | 118,004.15 | 40,013.77 |
| Metropolitan Pharmaceutical Products Inc. | 17,856.47 | 257.12 | 15,943.28 | 1,913.19 |
| Mindanao Sanitarium Ad Hospital | 25,287,731.24 | 136,521.59 | 15,908,113.44 | 9,379,617.80 |
| Mount Carmel Diocesan General Hospital | 32,028,938.00 | 320,289.38 | 31,301,758.99 | 727,179.01 |
| Negros Union Drug Co., Inc. | 30,342,354.11 | 303,423.53 | 29,755,646.84 | 586,707.27 |
| Norvic Drugs Corporation | 54,556,608.66 | 545,566.09 | 54,500,131.63 | 56,477.03 |
| Nueva Ecija Prohealth Inc./Heart Of Jesus Hospital | 300,785.66 | 3,007.87 | (29,619.72) | 330,405.38 |
| Oslob District Hospital | 18,000.00 | 160.71 | 16,071.43 | 1,928.57 |
| Perpetual Succor Hospital & Maternity, Inc. | 58,770,014.28 | 587,700.15 | 54,026,909.59 | 4,743,104.69 |
| Philex Mining Corporation | 7,601,762.08 | 76,017.61 | 6,162,002.66 | 1,439,759.42 |
| Philippine Long Distance Telephone Company | 139,984,747.45 | 1,399,847.48 | 132,244,275.27 | 7,740,472.18 |
| Philippine Heart Center | 294,471,060.57 | 3,776,666.97 | 137,624,178.74 | 156,846,881.83 |
| Province Of Pampanga | 2,678,348.21 | 26,783.48 | 2,187,098.21 | 491,250.00 |

| | | | | |
|---|---|---|---|---|
| Provincial Government Of Negros Occidental | 3,372,840.00 | 33,728.40 | 2,530,189.39 | 842,650.61 |
| Provincial Government Of Nueva Vizcaya- Nueva Vizcaya | 314,065.00 | 2,804.15 | 283,640.18 | 30,424.82 |
| Provincial Government Of Or. Neg. | 1,868,680.08 | 17,421.92 | 1,486,520.11 | 382,159.97 |
| Puregold Junior Supermarket Inc. | 109,971,961.92 | 1,099,719.66 | 60,160,645.38 | 49,811,316.54 |
| Research Institute For Tropical Medicine | 18,780,384.92 | 187,737.62 | 16,784,499.05 | 1,995,885.87 |
| Right Choice Supermarket | 330,641,059.97 | 3,306,387.59 | 325,551,286.74 | 5,089,773.23 |
| Rilem Pharma Corp. | 233,134.67 | 2,331.34 | 233,134.60 | 0.07 |
| Rivera Medical Center, Inc. | 24,567,322.17 | 244,230.89 | 18,957,477.40 | 5,609,844.77 |
| Roldan, Kenneth Bautista- Netnet | 6,343,721.00* | 63,437.21 | 6,342,824.78 | 896.22 |
| Royal Duty- Free Shops, Inc. | 10,635,565.00 | 106,355.73 | 10,472,530.83 | 163,034.17 |
| Rustan Supercenters Inc. | 127,323,391.00 | 1,273,233.91 | 12,740,561.88 | 114,582,829.13 |
| San Pedro Doctors Hospital Inc. | 6,823,716.27 | 68,237.16 | 6,517,936.44 | 305,779.83 |
| Super 8 Retail Systems Inc. | 29,549,624.00 | 295,496.24 | 28,405,611.84 | 1,144,012.16 |
| Suy Sing Commercial Corp | 35,528,582.00 | 355,285.82 | 35,449,835.41 | 78,746.59 |
| The Landmark Corporation | 47,922,257.00 | 479,222.57 | 43,927,289.23 | 3,994,967.77 |
| Vaduz Marketing Inc. | 165,275,664.38 | 1,652,756.64 | 161,868,769.29 | 3,406,895.09 |
| Veterans Memorial Medical Center | 45,815,791.00 | 408,936.17 | 38,498,667.54 | 7,317,123.46 |
| Waltermart Supermarket, Inc. | 63,669,284.14 | 636,691.95 | 52,213,056.54 | 11,456,227.60 |
| Watsons Personal Care Stores (Phils.), Inc. | 1,889,289,750.00 | 18,892,897.50 | 1,846,923,169.36 | 42,366,580.64 |
| Wing An Marketing Inc. | 10,366,943.01 | 103,669.42 | 5,268,888.92 | 5,098,054.09 |
| ***Subtotal*** | ***5,409,204,731P19.51*** | ***54,868,554.21*** | ***4,601,962,418.33*** | ***807,241,953.18*** |
| | | | | |
| **TOTAL** | **₱5,571,037,147.16** | **₱56,494,834.38** | **₱4,601,962,418.33** | **₱969,074,728.83** |

*Income payment per BIR Form No. 2307 included VAT amount. Independently computed income payment based on tax withheld.

| **SALE OF SERVICES** | | | | |
|---|---|---|---|---|
| | **Per BIR Form 2307** | | **Service Income per General Ledger** | |
| **Customer Name** | **Income Payment (A)** | **Tax Withheld** | **(B)** | **Difference (A-B)** |
| **INCOME PAYMENT PER SALES REGISTER IS LESS THAN THE INCOME PAYMENT REFLECTED IN THE CWT CERTIFICATES** | | | | |
| Abbott Laboratories | 237,571,740.90 | 5,526,721.13 | 25,002,625.57 | 212,569,115.33 |
| Alkem Laboratories Inc. | 159,777.76 | 3,195.56 | 137,450.19 | 22,327.57 |
| B. Braun Medical Supplies | 6,581,894.42 | 88,666.62 | 917,383.47 | 5,664,510.96 |
| Bayer Philippines Inc. | 12,477,307.25 | 508,149.29 | 9,705,279.35 | 2,772,027.90 |
| Fresenius Kabi Philippines Inc. | 10,100,859.16 | 204,030.19 | 9,286,767.80 | 814,091.36 |
| Galderma Philippines Inc. | 1,334,800.50 | 26,696.01 | 185,091.04 | 1,149,709.46 |
| Glaxosmithkline Philippines Inc. | 75,573,915.50 | 1,417,195.47 | 32,490,214.39 | 43,083,701.11 |
| Msd (I.A) Corp Ph | 22,417,495.87 | 448,349.93 | 12,335,460.20 | 10,082,035.67 |
| Novartis Healtcare Philippines, Inc. | 89,228,264.81 | 1,754,719.18 | 37,736,808.38 | 51,491,456.43 |
| Oep Philippines, Inc. | 3,497,199.98 | 69,180.59 | 3,319,125.72 | 178,074.26 |
| Pascual Laboratories Inc. | 55,910,118.00 | 559,101.18 | 5,747,749.48 | 50,162,368.52 |
| Pfizer, Inc. | 80,051,571.00 | 1,587,316.28 | 27,605,441.69 | 52,446,129.31 |
| Reckitt Benckiser Healthcare (Phil), Inc. | 103,198,827.70 | 2,746,302.20 | 3,528,596.62 | 99,670,231.08 |
| Sandoz Philippines Corp. | 9,869,251.00 | 197,385.02 | 7,779,982.91 | 2,089,268.09 |

| | | | | |
|---|---|---|---|---|
| Sanofi- Aventis Philippines Inc. | 19,920,254.50 | 398,405.09 | 12,322,163.26 | 7,598,091.24 |
| Sanofi Pasteur Inc. | 28,667,725.50 | 482,299.15 | 5,453,826.65 | 23,213,898.85 |
| Schering- Plough Corp. | 59,966,008.98 | 1,199,269.09 | 4,342,434.71 | 55,623,574.27 |
| **TOTAL** | **₱816,527,012.83** | **₱17,216,981.98** | **₱197,896,401.44** | **₱618,630,611.39** |

Consequently, petitioner's claimed CWT in the amounts of ₱10,121,236.91 and ₱13,090,532.87 related to the unverified sales of goods and services in the amounts of ₱969,074,728.83 and ₱618,630,611.39, respectively, shall be denied as follows:

| **SALE OF GOODS** | | | | |
|---|---|---|---|---|
| **Customer Name** | **Tax Withheld (A)** | **ICPA's Computation of Sales Amount per Sales Register (B)** | **Income Payment per BIR Form 2307 (C)** | **Deduction from Petitioner's CWT Claim [D=A-(A x B/C)** |
| **INCOME PAYMENT WITH NO CORRRESPONDING RECORD IN THE SALES REGISTER** | | | | |
| Barili District Hospital | ₱ 756.61 | - | ₱ 75,661.00 | ₱ 756.61 |
| Benguet Provincial Government | 166.70 | - | 18,670.00 | 166.70 |
| Cebu Doctors College Inc. | 1,526.79 | - | 152,678.57 | 1,526.79 |
| Cypress Manufacturing Limited | 10,452.00 | - | 1,045,200.00 | 10,452.00 |
| Daanbantayan District Hospital | 16.18 | - | 1,618.00 | 16.18 |
| DOH - Regional Health Office - CAR | 2,571.43 | - | 257,142.86 | 2,571.43 |
| Dynasty Management & Development Corp | 735,017.49 | - | 75,382,233.93 | 735,017.49 |
| Emilus Supermarket Systems Inc. | 498.95 | - | 49,894.69 | 498.95 |
| Everlink Distribution Group, Inc. | 30,775.44 | - | 30,775.44 | 30,775.44 |
| Far East Noble House | 383,286.13 | - | 38,638,763.36 | 383,286.13 |
| FMC Renalcare Corp. | 4,311.25 | - | 431,125.00 | 4,311.25 |
| Gaisano Dadaingas Inc. | 668.94 | - | 66,893.25 | 668.94 |
| Handyman Express Mart, Inc. | 732.75 | - | 73,275.00 | 732.75 |
| Lion Commercial Corp. | 2,943.08 | - | 294,308.02 | 2,943.08 |
| Provincial Government Of Cavite | 7,369.44 | - | 780,535.89 | 7,369.44 |
| Riviera Mercantile Sys., Inc. | 40,441.59 | - | 4,044,159.00 | 40,441.59 |
| Sara Lee Philippines Inc. | 1,785.71 | - | 89,285.71 | 1,785.71 |
| Shogun Management & Development Corp. | 399,260.26 | - | 40,030,611.29 | 399,260.26 |
| Shopmore Commercial Corp. | 2,453.18 | - | 245,319.64 | 2,453.18 |
| Waltermart Handyman, Inc. | 1,246.25 | - | 124,625.00 | 1,246.25 |
| *Subtotal* | ***₱ 1,626,280.17*** | - | ***₱ 161,832,775.65*** | ***₱ 1,626,280.17*** |
| | | | | |
| **INCOME PAYMENT PER SALES REGISTER IS LESS THAN THE INCOME PAYMENT REFLECTED IN THE CWT CERTIFICATES** | | | | |
| AB Pharma Inc. | ₱ 203,810.41 | ₱ 20,233,930.44 | ₱ 20,381,040.24 | ₱ 1,471.10 |
| Ace Hardware Phil's Inc. | 111,793.00 | 11,025,551.42 | 11,179,300.00 | 1,537.49 |
| Ace Med Inc. | 29,544.20 | 2,580,027.64 | 2,954,419.83 | 3,743.92 |

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| | | | | |
|---|---|---|---|---|
| Act General Merchandise & Drug, Inc. | 1,447,808.32 | 144,670,718.92 | 144,780,830.81 | 1,101.12 |
| Adela Serra Ty Memorial Medical Center | 6,913.70 | 522,706.14 | 774,335.04 | 2,246.68 |
| Allah Valley Medical Specialists Center Inc. | 58,545.36 | 5,576,733.70 | 5,854,536.00 | 2,778.02 |
| Antipolo City Hospital Inc. | 14,733.87 | 1,356,312.03 | 1,473,385.94 | 1,170.74 |
| Asia Renal Care (Phils.) | 14,682.86 | 516,492.10 | 1,468,286.22 | 9,517.94 |
| Asociacion Benevola De Cebu, Inc. (Chong Hua Hospital) | 2,145,527.65 | 206,176,602.34 | 214,552,762.01 | 83,761.60 |
| Benguet General Hospital | 45,148.57 | 4,252,494.34 | 5,055,641.35 | 7,172.37 |
| Botica Real | 336,657.61 | 10,312,376.74 | 34,709,394.08 | 236,634.54 |
| Bureau Of Corrections | 25,884.71 | 2,483,890.32 | 2,588,471.00 | 1,045.81 |
| Cagayan De Oro Medical Center Inc. | 178,528.32 | 16,969,829.26 | 17,852,832.00 | 8,830.03 |
| Cagayan Valley Medical Center | 232,944.64 | 9,053,476.24 | 10,912,837.60 | 39,689.79 |
| Cebu Far Eastern Drug Inc. | 19,341.77 | 1,884,554.97 | 2,163,237.24 | 2,491.73 |
| Center For Health Development Iv-B | 2,052.73 | 86,284.32 | 229,906.03 | 1,282.34 |
| Christ The King Medical Services, Inc. | 115,443.41 | 356,523.16 | 11,544,341.00 | 111,878.18 |
| City Government Of Pasig | 456,900.51 | 18,256,901.26 | 45,690,051.00 | 274,331.50 |
| City Government Of Bago | 513.39 | 47,767.86 | 51,339.29 | 35.71 |
| City Government Of Binan | 15,714.29 | 136,562.50 | 1,760,000.00 | 14,494.98 |
| City Government Of Makati | 297,133.86 | 21,333,043.66 | 29,713,385.71 | 83,803.42 |
| City Government Of Muntinlupa | 20,089.29 | 1,169,709.18 | 2,008,928.57 | 8,392.20 |
| City Supermarket Incorporated | 515,447.18 | 50,543,219.22 | 51,544,719.99 | 10,015.01 |
| Colinas Verdes Hospital Managers Corp. | 1,238,295.68 | 119,035,961.00 | 123,829,568.00 | 47,936.07 |
| Commission On Audit | 24,282.61 | 137,573.71 | 2,428,261.00 | 22,906.87 |
| Commission On Elections | 1,453.03 | 155,012.68 | 160,039.20 | 45.64 |
| Complete Solution Pharmacy And Gen. Mer. | 917,987.76 | 76,510,309.92 | 91,798,776.00 | 152,884.66 |
| CVC Supermarket Inc. | 7,385.12 | 735,418.37 | 738,512.00 | 30.94 |
| Davao Adventist Hospital, Inc. | 30,932.35 | 2,618,366.10 | 3,205,653.65 | 5,666.92 |
| Davao Central Warehouse Club, Inc. | 101,012.65 | 1,671,797.18 | 10,101,256.00 | 84,294.66 |
| Davao Regional Hospital | 304,859.50 | 30,352,181.41 | 30,485,949.18 | 1,337.68 |
| De Los Santos Med. Ctr. Diagnostic Corp. | 152,329.21 | 14,163,576.80 | 15,232,920.78 | 10,693.44 |
| Dranix Distributor Inc. Iloilo | 108,196.38 | (1,206,667.24) | 10,310,756.00 | 120,858.60 |
| E. Berlin Pharmacy | 48,518.94 | 4,077,860.92 | 4,851,894.00 | 7,740.33 |
| Erlinda G. Germar/ Farmacia Fatima & Fatima Soda Founta | 154,510.62 | 10,535,625.73 | 15,451,062.84 | 49,154.37 |
| Ever Commonwealth Center, Inc. | 447,640.07 | 36,906,409.12 | 44,764,014.47 | 78,576.04 |
| Evercare Pharmacy | 3,631.49 | 206,136.46 | 296,745.57 | 1,108.85 |
| Everplus Superstore, Inc. | 1,070,552.93 | 76,910,417.45 | 107,054,277.70 | 301,441.46 |
| Extract Sales Incorporated | 1,026,591.32 | 78,820,886.01 | 102,659,130.47 | 238,382.45 |
| Feb Cuisine Corp. | 30,110.01 | 3,010,996.18 | 3,331,046.11 | 2,893.00 |
| Feu - Dr. Nicanor Reyes Medical Foundation | 81,306.08 | 8,031,427.66 | 8,130,608.00 | 991.80 |
| Gaisano Bros. Mdsg., Inc. | 150,849.81 | 15,078,129.00 | 15,084,981.00 | 68.52 |
| Grand Union Supermarket Inc., Operator | 286,039.85 | 20,342,184.64 | 28,603,984.71 | 82,618.00 |
| Inter-Medical Unified System, Inc. | 133,590.96 | 13,355,251.11 | 13,359,095.27 | 38.44 |
| ISS Facility Services Phil., Inc. | 10,935.87 | 150,296.25 | 1,093,587.21 | 9,432.91 |
| Jemstar Trading Corporation | 142,836.22 | 13,499,641.94 | 14,283,673.00 | 7,840.28 |

| | | | | |
|---|---|---|---|---|
| Juliano, Susan G. | 1,680.00 | 6,447.26 | 84,000.00 | 1,551.05 |
| K2 Drug & Medical Supplies | 103,816.14 | 5,323,076.74 | 10,381,614.12 | 50,585.37 |
| Larrazabal, Susanna Ortega | 1,084,545.61 | 106,784,231.16 | 108,432,225.46 | 16,483.34 |
| Lts Affiliates, Inc. | 618,246.09 | 9,648,673.07 | 61,824,609.38 | 521,759.36 |
| Lucena United Doctors Incorporated | 124,559.28 | 12,333,856.68 | 12,455,928.00 | 1,220.71 |
| Manson Drug Corp. | 3,473,375.69 | 246,640,598.58 | 347,337,544.82 | 1,006,969.53 |
| Marionnaud Philippines, Inc. | 267,102.98 | 26,672,619.64 | 26,710,298.00 | 376.78 |
| Mary Johnston Hospital Inc. | 17,816.27 | 1,461,365.65 | 1,781,627.77 | 3,202.62 |
| Medical Mission Group Hospital & Health Services Cooper | 1,580.17 | 118,004.15 | 158,017.92 | 400.14 |
| Metropolitan Pharmaceutical Products Inc. | 257.12 | 15,943.28 | 17,856.47 | 27.55 |
| Mindanao Sanitarium Ad Hospital | 136,521.59 | 15,908,113.44 | 25,287,731.24 | 50,638.01 |
| Mount Carmel Diocesan General Hospital | 320,289.38 | 31,301,758.99 | 32,028,938.00 | 7,271.79 |
| Negros Union Drug Co., Inc. | 303,423.53 | 29,755,646.84 | 30,342,354.11 | 5,867.07 |
| Norvic Drugs Corporation | 545,566.09 | 54,500,131.63 | 54,556,608.66 | 564.77 |
| Nueva Ecija Prohealth Inc./Heart Of Jesus Hospital | 3,007.87 | (29,619.72) | 300,785.66 | 3,304.07 |
| Oslob District Hospital | 160.71 | 16,071.43 | 18,000.00 | 17.22 |
| Perpetual Succor Hospital & Maternity, Inc. | 587,700.15 | 54,026,909.59 | 58,770,014.28 | 47,431.05 |
| Philex Mining Corporation | 76,017.61 | 6,162,002.66 | 7,601,762.08 | 14,397.59 |
| Philippine Long Distance Telephone Company | 1,399,847.48 | 132,244,275.27 | 139,984,747.45 | 77,404.72 |
| Philippine Heart Center | 3,776,666.97 | 137,624,178.74 | 294,471,060.57 | 2,011,601.54 |
| Province Of Pampanga | 26,783.48 | 2,187,098.21 | 2,678,348.21 | 4,912.50 |
| Provincial Government Of Negros Occidental | 33,728.40 | 2,530,189.39 | 3,372,840.00 | 8,426.51 |
| Provincial Government Of Nueva Vizcaya- Nueva Vizcaya | 2,804.15 | 283,640.18 | 314,065.00 | 271.65 |
| Provincial Government Of Or. Neg. | 17,421.92 | 1,486,520.11 | 1,868,680.08 | 3,562.92 |
| Puregold Junior Supermarket Inc. | 1,099,719.66 | 60,160,645.38 | 109,971,961.92 | 498,113.18 |
| Research Institute For Tropical Medicine | 187,737.62 | 16,784,499.05 | 18,780,384.92 | 19,951.82 |
| Right Choice Supermarket | 3,306,387.59 | 325,551,286.74 | 330,641,059.97 | 50,897.38 |
| Rilem Pharma Corp. | 2,331.34 | 233,134.60 | 233,134.67 | 0.00 |
| Rivera Medical Center, Inc. | 244,230.89 | 18,957,477.40 | 24,567,322.17 | 55,769.10 |
| Roldan, Kenneth Bautista-Netnet | 63,437.21 | 6,342,824.78 | 7,045,642.41 | 6,327.99 |
| Royal Duty- Free Shops, Inc. | 106,355.73 | 10,472,530.83 | 10,635,565.00 | 1,630.34 |
| Rustan Supercenters Inc. | 1,273,233.91 | 12,740,561.88 | 127,323,391.00 | 1,145,828.29 |
| San Pedro Doctors Hospital Inc. | 68,237.16 | 6,517,936.44 | 6,823,716.27 | 3,057.80 |
| Super 8 Retail Systems Inc. | 295,496.24 | 28,405,611.84 | 29,549,624.00 | 11,440.12 |
| Suy Sing Commercial Corp | 355,285.82 | 35,449,835.41 | 35,528,582.00 | 787.47 |
| The Landmark Corporation | 479,222.57 | 43,927,289.23 | 47,922,257.00 | 39,949.68 |
| Vaduz Marketing Inc. | 1,652,756.64 | 161,868,769.29 | 165,275,664.38 | 34,068.95 |
| Veterans Memorial Medical Center | 408,936.17 | 38,498,667.54 | 45,815,791.00 | 65,310.16 |
| Waltermart Supermarket, Inc. | 636,691.95 | 52,213,056.54 | 63,669,284.14 | 114,562.12 |
| Watsons Personal Care Stores (Phils.), Inc. | 18,892,897.50 | 1,846,923,169.36 | 1,889,289,750.00 | 423,665.81 |
| Wing An Marketing Inc. | 103,669.42 | 5,268,888.92 | 10,366,943.01 | 50,980.54 |
| *Subtotal* | ***₱54,868,554.21*** | ***₱4,601,962,418.33*** | ***₱5,410,719,504.25*** | ***₱ 8,494,956.74*** |
| | | | | |

| | | | | |
|---|---|---|---|---|
| **TOTAL** | **₱56,494,834.38** | **₱4,601,962,418.33** | **₱5,572,552,279.90** | **₱10,121,236.91** |

| **SALE OF SERVICES** | | | | |
|---|---|---|---|---|
| **Customer Name** | **Tax Withheld (A)** | **Service Income per General Ledger (B)** | **Income Payment per BIR Form 2307 (C)** | **Deduction from Petitioner's CWT Claim [D=A-(A x B/C)** |
| **INCOME PAYMENT PER SALES REGISTER IS LESS THAN THE INCOME PAYMENT REFLECTED IN THE CWT CERTIFICATES** | | | | |
| Abbott Laboratories | 5,526,721.13 | 25,002,625.57 | 237,571,740.90 | 4,945,075.61 |
| Alkem Laboratories Inc. | 3,195.56 | 137,450.19 | 159,777.76 | 446.55 |
| B. Braun Medical Supplies | 88,666.62 | 917,383.47 | 6,581,894.42 | 76,308.28 |
| Bayer Philippines Inc. | 508,149.29 | 9,705,279.35 | 12,477,307.25 | 112,893.27 |
| Fresenius Kabi Philippines Inc. | 204,030.19 | 9,286,767.80 | 10,100,859.16 | 16,444.07 |
| Galderma Philippines Inc. | 26,696.01 | 185,091.04 | 1,334,800.50 | 22,994.19 |
| Glaxosmithkline Philippines Inc. | 1,417,195.47 | 32,490,214.39 | 75,573,915.50 | 807,924.61 |
| Msd (I.A) Corp Ph. | 448,349.93 | 12,335,460.20 | 22,417,495.87 | 201,640.72 |
| Novartis Healthcare Philippines, Inc. | 1,754,719.18 | 37,736,808.38 | 89,228,264.81 | 1,012,605.66 |
| Oep Philippines, Inc. | 69,180.59 | 3,319,125.72 | 3,497,199.98 | 3,522.61 |
| Pascual Laboratories Inc. | 559,101.18 | 5,747,749.48 | 55,910,118.00 | 501,623.69 |
| Pfizer, Inc. | 1,587,316.28 | 27,605,441.69 | 80,051,571.00 | 1,039,937.05 |
| Reckitt Benckiser Healthcare (Phil), Inc. | 2,746,302.20 | 3,528,596.62 | 103,198,827.70 | 2,652,400.04 |
| Sandoz Philippines Corp. | 197,385.02 | 7,779,982.91 | 9,869,251.00 | 41,785.36 |
| Sanofi- Aventis Philippines Inc. | 398,405.09 | 12,322,163.26 | 19,920,254.50 | 151,961.82 |
| Sanofi Pasteur Inc. | 482,299.15 | 5,453,826.65 | 28,667,725.50 | 390,545.24 |
| Schering- Plough Corp. | 1,199,269.09 | 4,342,434.71 | 59,966,008.98 | 1,112,424.10 |
| **TOTAL** | **₱17,216,981.98** | **₱197,896,401.44** | **₱816,527,012.83** | **₱13,090,532.87** |

In fine, petitioner complied with the three basic requisites for refund of excess CWT for taxable CY 2011 to the extent of only ₱417,222,162.68, computed as follows:

| | | |
|---|---|---|
| Amount of Claimed CWT | | ₱ 477,269,935.23 |
| Less: Disllowances | | |
| 1) CWT without proper BIR Forms No. 2307 | | |
| Per ICPA report | ₱36,049,212.66 | |
| Per this Court's further verification | 786,401.46 | |
| Discrepancy between the CWT per petitioner's schedule and CWT per Petition for Review | 388.65 | 36,836,002.77 |
| 2) CWT the related income payments of which were not traced to the sales register and general ledger | | |

| | | |
|---|---|---|
| Sales of goods | ₱10,121,236.91 | |
| Sales of services | 13,090,532.87 | 23,211,769.78 |
| **Properly Substantiated CWT** | | **₱417,222,162.68** |

We now proceed to determine whether the aforesaid CWT of ₱417,222,162.68 are unutilized and may be the proper subject of a claim for refund or issuance of tax credit certificate pursuant to Section 76 of the NIRC of 1997, as amended, which reads:

> "SEC. 76. *Final Adjustment Return.* — Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:
>
> (A) Pay the balance of tax still due; or
> (B) Carry-over the excess credit; or
> (C) Be credited or refunded with the excess amount paid, as the case may be.
>
> In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income 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."

The above provision prescribes two options to a taxable corporation whose total quarterly income tax payments in a given taxable year exceed its total income tax due. The taxpayer may either file a tax refund (either in the form of cash or tax credit certificate) or avail of a tax credit. However, once the carry-over option is taken actually or constructively it becomes irrevocable for that taxable period.[45] The phrase "for that taxable period" refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[46]

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[47].

A perusal of petitioner's Amended Income Tax Return (AITR)[48] for CY 2011 filed on June 13, 2013 shows that petitioner had income tax credits in the total amount of ₱1,084,014,135.33[49] consisting of the prior year's excess credits other than the Minimum Corporate Income Tax (MCIT) in the amount of ₱606,744,200.10[50] and creditable withholding taxes accumulated during the four (4) quarters of CY 2011 in the aggregate amount of ₱477,269,935.23[51], to wit:

| | | |
|---|---|---|
| Prior Year's Excess Credits other than MCIT | | ₱ 606,744,200.10 |
| Creditable Tax Withheld for the First Three Quarters | ₱269,508,749.26 | |
| Creditable Tax Withheld for the Fourth Quarter | 207,761,185.97 | 477,269,935.23 |
| **Total Tax Credits** | | **₱1,084,014,135.33** |

Petitioner claims that its 2011 income tax due in the amount of ₱286,241,875.50[52] was paid using a portion of its prior year's excess credits of ₱606,744,200.10 leaving the prior year's excess credits in the amount of ₱320,502,324.60 (₱606,744,200.10 less ₱286,241,875.50) and creditable taxes withheld during the year 2011 in the amount of ₱477,269,935.23 totaling ₱797,772,259.83[53] unutilized as of December 31, 2011, as shown below:

[45] *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.
[46] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.
[47] *Philippine Bank of Communications vs. Commissioner of Internal Revenue*, et al., G.R. No. 112024, January 28, 1999.
[48] Exhibit "P-6".
[49] Exhibit "P-6", line 33R.
[50] Exhibit "P-6", line 33A.
[51] Exhibit "P-6", lines 33F and 33H.
[52] Exhibit "P-6", line 32.
[53] Exhibit "P-6", line 34B.

| | |
|---|---|
| Income Tax Due | ₱ 286,241,875.50 |
| Less: Prior Year's Excess Credits | 606,744,200.10 |
| Balance of Prior Year's Excess Credits | ₱ 320,502,324.60 |
| Add: Creditable Taxes Withheld – 2011 | 477,269,935.23 |
| Excess Creditable Taxes Withheld as of December 31, 2011 | **₱797,772,259.83** |

As illustrated below, the prior year's excess credits of ₱606,744,200.10 arose from the years 2003 to 2010, thus:

| **Exh.** | **Taxable Year** | **Income Tax Due** (a) | **Prior Year's Excess Credits** (b) | **(Income Tax Still Due)/Balance of Prior Year's Excess Credits** (c) = (b) less (a) | **CWT for the Year** | **Excess CWT at the end of the Year** |
|---|---|---|---|---|---|---|
| "P-33-a" | 2003 | 230,768,665.60 | 81,872,706.00 | (148,895,959.60) | 201,932,078.00 | 53,036,118.40 |
| "P-33-b" | 2004 | 132,913,922.24 | 53,036,118.00 | (79,877,804.24) | 268,776,166.00 | 188,898,361.76 |
| "P-33-c" | 2005 | 241,944,558.70 | 188,898,362.00 | (53,046,196.70) | 287,973,112.00 | 234,926,915.30 |
| "P-33-d" | 2006 | 231,799,757.70 | 234,926,915.00 | 3,127,157.30 | 304,484,366.00 | 307,611,523.30 |
| "P-33-e" | 2007 | 341,664,169.70 | 307,611,523.00 | (34,052,646.70) | 389,190,279.00 | 355,137,632.30 |
| "P-33-f" | 2008 | 376,397,087.50 | 355,137,632.00 | (21,259,455.50) | 392,075,751.00 | 370,816,295.50 |
| "P-33-g" | 2009 | 279,561,489.90 | 370,816,295.00 | 91,254,805.10 | 417,215,892.00 | 508,470,697.10 |
| "P-33-h" | 2010 | 337,760,187.90 | 508,470,697.00 | 170,710,509.10 | 436,033,691.00 | 606,744,200.10 |

To prove the existence of its prior year's excess credits, petitioner submitted BIR Forms No. 2307. However, only those pertaining to taxable year 2010 in the total amount of ₱436,033,691.27, was accounted by the ICPA, to wit:

| **Summary of Findings** | **Annex Reference (Exh. "P-19")** | **Income Payment** | **Tax Withheld** |
|---|---|---|---|
| 1. CWT duly supported by original BIR Form 2307 | Annex 8-a | ₱ 29,618,642,348.35 | ₱ 296,832,700.36 |
| 2. CWT duly supported by certified true copy of BIR Form 2307 | Annex 8-b | 4,217,889,832.61 | 43,942,418.50 |
| 3. CWT duly supported by original BIR Form 2307 with incorrect Petitioner's TIN indicated therein | Annex 8-c | 294,131,240.34 | 2,902,371.19 |
| 4. CWT duly supported by original BIR Form 2307 with unclear date | Annex 8-d | 213,227.48 | 1,903.81 |
| 5. CWT certificate supported by photocopies with correct name, TIN and date | Annex 8-e | 1,939,236,066.22 | 19,055,743.90 |
| 6. CWT certificates not provided | | | 73,298,553.51 |
| **Total** | | **₱36,070,112,715.00** | **₱436,033,691.27** |

Based on the foregoing, only the amounts of ₱296,832,700.36 and ₱43,942,418.50 totaling ₱340,775,118.86 were properly supported by BIR Forms No. 2307. However, these CWT do not represent petitioner's excess CWT for CY 2010 since petitioner reflected in its AITR for the said year an income tax due of ₱337,760,187.90. Deducting this income tax due of ₱337,760,187.90 from the CWT of ₱340,775,118.86, yields to an amount of only ₱3,014,930.96 excess tax credits for CY 2010.

As stated earlier, petitioner reflected in its 2011 AITR an income tax due of ₱286,241,875.50 which when offset against the prior year's (CY 2010) excess tax credits in the amount of ₱3,014,930.96, there still remains an income tax due of ₱283,226,944.54 which shall be deducted against the substantiated CWT of ₱417,222,162.68. Consequently, petitioner's unutilized excess CWT for CY 2011 amounted only to ₱133,995,218.14, computed as follows:

| | |
|---|---|
| Income Tax Due for CY 2011 | ₱ 286,241,875.50 |
| Less: Prior Year's (CY 2010) Excess Credits | 3,014,930.96 |
| Balance of Income Tax Due for CY 2011 | ₱ 283,226,944.54 |
| Less: Properly Substantiated CWT for CY 2011 | 417,222,162.68 |
| **Refundable Excess CWT for CY 2011** | **₱133,995,218.14** |

In its original 2011 AITR[54] electronically filed on April 16, 2012, petitioner marked the option "To be refunded". Moreover, in its subsequent manual filing of the said return on April 30, 2012, petitioner also marked the option "To be refunded"[55]. These, together with petitioner's submission of a letter-claim for refund [56] with the respondent's office on April 13, 2012, supplemental letter-claim for refund[57] and Application for Tax Credits/Refunds[58] with the BIR's Large Taxpayers Service on February 28, 2014 and April 1, 2014, respectively, and the fact that petitioner did not carry-over the present claim to the subsequent CY 2012[59] served as an expression of its choice to have the CWT for CY 2011 refunded.

Clearly, petitioner sufficiently proved that it is entitled to a refund of unutilized excess CWT for CY 2011 but in the reduced amount of ₱133,995,218.14.

[54] Exhibit "P-3", line 37.
[55] Exhibit "P-4", line 37.
[56] Exhibit "P-10".
[57] Exhibit "P-11".
[58] Exhibit "P-12".
[59] Exhibits "P-13", "P-14", "P-15", line31A, "P-16", line 33A.

**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to **REFUND** in favor of petitioner the amount of ₱133,995,218.14, representing its excess and unutilized creditable withholding taxes for CY ending December 31, 2011.

**SO ORDERED.**

**CAESAR A. CASANOVA**
Associate Justice

WE CONCUR:

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**CATHERINE T. MANAHAN**
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.

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice
Chairperson, Second Division

## 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.

**ROMAN G. DEL ROSARIO**
Presiding Justice