22-000269-0044

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10877

FORD GROUP PHILIPPINES, INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. FELIX PAUL R. VELASCO III
ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

EMMANUEL C. ALCANTARA AND ASSOCIATES LAW OFFICES
5th Floor, SGV I Building
6760 Ayala Avenue, 1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **April 15, 2025.** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 21, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST DIVISION

FORD GROUP PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10877

Members:

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

Promulgated:
APR 15 2025, 9:10AM

x - x

DECISION

BACORRO-VILLENA, J.:

Before the Court is a Petition for Review[1] filed by petitioner Ford Group Philippines, Inc. (formerly, FGP, Incorporated) (**petitioner/ FGPI**) pursuant to Section 3(a)(2)[2], Rule 4 of the Revised Rules of the

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1 Filed on 08 June 2022, Division Docket, pp. 6-196, with exhibits.

2 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

...

(2) **Inaction by the Commissioner of Internal Revenue** in cases involving disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in

Court of Tax Appeals (**RRCTA**), in relation to Section 7(a)(2)[3] of Republic Act (**RA**) No. 1125[4], as amended by RA 9282.[5] It seeks the refund of the amount of **₱281,089,863.00**, allegedly representing petitioner's excess and unutilized creditable withholding taxes (**CWTs**) for the taxable year (**TY**) 2019.

PARTIES TO THE CASE

Petitioner is a foreign corporation organized and existing under the laws of the State of Delaware, U.S.A., and was issued a "License to Transact Business" dated 22 February 2000 by the Securities and Exchange Commission (**SEC**). This license authorizes petitioner to establish a branch office in the Philippines for the purpose of engaging in wholesale distribution and importation of automotive vehicles, parts and components, as well as providing related services.[6] It is also duly registered with the Bureau of Internal Revenue (**BIR**) under Taxpayer Identification No. (**TIN**) 206-377-654-00000[7], with address at 8F Filinvest One Building, Northgate Cyberzone, Filinvest City, Alabang, City of Muntinlupa, NCR, Fourth District, Philippines 1780.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**), who is empowered to perform the duties of his or her office, including acting on protest cases and approval of claims refund or tax credit as provided by law and implementing regulations. He or she may be served with

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the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code[.] (Emphasis supplied)

3 **SEC. 7.** *Jurisdiction.* — The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
...
(2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial[.] (Emphasis supplied)

4 AN ACT CREATING THE COURT OF TAX APPEALS.

5 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

6 Exhibits "P-1" to "P-3", and "P-5", Division Docket, pp. 423-459.

7 Exhibit "P-4", id., pp. 460-461.

pleadings, notices and other processes at Room 703, Litigation Division, BIR National Office Building, BIR Road, Diliman, Quezon City.[8]

FACTS OF THE CASE

On 11 June 2020, petitioner filed its Annual Income Tax Return (ITR) (BIR Form No. 1702-RT) for TY 2019[9], which reflected the following tax credits or payments:[10]

Schedule 7 - Tax Credits/Payments	
Prior Year's Excess Credits Other Than Minimum Corporate Income Tax (**MCIT**)	₱433,237,144.00
Creditable Tax Withheld from Previous Quarter/s *per* BIR Form No. 2307	186,837,868.00
Creditable Tax Withheld *per* BIR Form No. 2307 for the 4th Quarter	94,251,995.00
Total Tax Credits/Payments	**₱714,327,007.00**

Petitioner's 2019 Annual ITR also reflected an overpayment of ₱679,016,646.00, computed as follows:[11]

Part II – Total Tax Payable	
Total Income Tax Due (Overpayment)	₱35,310,361.00
Less: Total Tax Credits/Payments	714,327,007.00
Total Amount Payable (Overpayment)	**(₱679,016,646.00)**

Petitioner also marked the option "**To be refunded**" for the overpayment indicated in its 2019 Annual ITR.[12]

On 21 September 2021, petitioner filed with the BIR an "Application for Tax Credits/Refunds" (BIR Form No. 1914)[13] and a

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8 Paragraph 1, Part A, Joint Stipulation of Facts and Issues (**JSFI**), id., p. 256.
9 Exhibit "P-6", id., pp. 462-469.
10 Exhibit "P-6-1" (Schedule 7 – Tax Credits/Payments), id., p. 467.
11 Exhibit "P-6-2" (Line No. 16, Part II – Total Tax Payable), id., p. 462.
12 Exhibit "P-6-3" (Line No. 21 Part II – Total Tax Payable), id.
13 Exhibit "P-11", id., p. 537.

Letter-Application dated 20 September 2021[14] (**administrative claim**), requesting a refund of its excess and unutilized CWTs for CY 2019 in the total amount of ₱281,089,863.00.

PROCEEDINGS BEFORE THE COURT

With respondent's inaction on its administrative claim for refund[15] and to toll the two (2)-year prescriptive period under Section 229[16] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, petitioner elevated the matter to this Court by filing the instant Petition for Review[17] on 08 June 2022. The same was raffled to the Second Division and docketed as CTA Case No. 10877.[18]

On 13 June 2022, the Court issued Summons[19] ordering respondent to file an Answer within thirty (30) days from service. Respondent received the said Summons on 16 June 2022.[20]

After the Second Division granted an extension of time to respondent[21], the Answer was filed on 12 August 2022.[22]

In the Answer, respondent cited the following special and affirmative defenses: (1) petitioner is not entitled to a refund of the alleged excess and unutilized CWTs for TY 2019, as it failed to provide supporting documents proving that the income from which CWT is being claimed was declared in petitioner's 2019 Annual ITR; (2) petitioner also failed to establish the actual remittance of the alleged withheld taxes to the BIR; (3) petitioner's claim for refund is merely *pro forma,* as it did not submit relevant documents at the administrative level to substantiate its claim; and (4) since tax refunds are regarded as tax exemptions, they must be construed *strictissimi juris* against the taxpayer-claimant.

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14 Exhibit "P-12", id., pp. 538-540.
15 Exhibits "P-11" and "P-12", supra at notes 13 and 14.
16 **SEC. 229**. *Recovery of Tax Erroneously or Illegally Collected.*
17 Supra at note 1.
18 The Second Division is composed of Associate Justice Juanito C. Castañeda, Jr. (Ret.), as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.
19 Division Docket, p. 197.
20 Id.
21 See Order dated 14 July 2022, id., p. 204.
22 Id., pp. 205-215.

On 17 August 2022, the Second Division issued a Notice of Pre-Trial Conference[23] and scheduled the case for pre-trial on 09 November 2022. In compliance with the Court's order, petitioner filed its Pre-Trial Brief[24] on 01 September 2022, while respondent filed his or her Pre-Trial Brief[25] on 07 November 2022. However, the pre-trial was later rescheduled to 15 March 2023, due to the closure of all collegiate courts for the 09 November 2022 bar examinations.[26]

On 21 September 2022, respondent forwarded to the Second Division the entire BIR Records of the present case consisting of 119 pages in one (1) folder.[27] The Second Division noted the same in the Minute Resolution dated 27 September 2022.[28]

During the 15 March 2023 Pre-Trial Conference, the Second Division granted both parties 30 days, or until 14 April 2023, within which to file their Joint Stipulation of Facts and Issues (**JSFI**).[29] On 14 April 2023, the parties submitted their JSFI.[30]

In the Resolution dated 20 April 2022[31], the Second Division admitted and approved the parties' JSFI, granted petitioner's "Motion for Extension of Time to File Motion to Commission [Independent Certified Public Accountant (**ICPA**)]"[32], deemed terminated the pre-trial and set the initial presentation of petitioner's evidence on 08 August 2023.

Within the extension period that the Second Division granted, petitioner filed its "Motion to Commission (An [ICPA])", requesting the appointment of Atty. Conrad M. Briones (**Atty. Briones**) as the ICPA for this case.[33] The First Division granted the requested commissioning during the 08 August 2023 hearing.[34]

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23 Id., pp. 217-218.
24 Id., pp. 219-230.
25 Id., pp. 236-239.
26 See Notice of Resetting dated 02 November 2022, id., p. 241.
27 See Compliance dated 21 September 2022, id., pp. 231-233.
28 Id., p. 235.
29 See Minutes of the Hearing and Order, both dated 15 March 2023, id., pp. 248 and 250-251, respectively.
30 Id., pp. 256-263.
31 Id., p. 265.
32 Id., pp. 252-255.
33 Filed on 24 April 2023, id., pp. 266-272.
34 See Order dated 08 August 2023, id., pp. 295-296.

On 09 May 2023, the Second Division issued a Pre-Trial Order[35] approving the parties' JSFI and terminating the pre-trial. Subsequently, in view of the reorganization of the three (3) Divisions of the Court effective 29 May 2023[36], the present case was transferred to the First Division.[37]

In the trial that ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Jo-Anne T. Matas (**Matas**), petitioner's Tax Manager; and (2) Atty. Briones, the Court-commissioned ICPA.

During the 08 August 2023 hearing, Matas identified her Judicial Affidavit dated 07 June 2022, in which she essentially declared that: (1) she has been petitioner's Tax Manager since November 2015; (2) as Tax Manager, her responsibilities include the general supervision of petitioner's tax compliance; (3) petitioner filed both administrative and judicial claims for a tax refund within the two (2)-year prescriptive period; (4) the fact of withholding was established through copies of the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307), issued by various payors to petitioner for the period in question, showing the amounts paid and the corresponding taxes withheld; (5) petitioner's received income during TY 2019 was declared as part of its gross income for the said taxable period; (6) petitioner did not carry-over its claimed excess CWT for TY 2019 to the succeeding taxable period; and (7) petitioner indicated its intention to avail itself of the option to be refunded for the excess and unutilized CWTs for TY 2019 in its 2019 Annual ITR.[38]

On cross-examination, Matas stated that she prepared petitioner's administrative claim for refund which was later on filed with the BIR. She affirmed that all the documents referenced in her Judicial Affidavit were submitted to the BIR. She also acknowledged that petitioner was asked to provide additional documents. However, despite petitioner's

[35] Id., pp. 286-290.
[36] See Notice dated 29 May 2023, id., p. 291.
[37] The First Division is composed of Presiding Justice Roman G. Del Rosario, as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.
[38] See Judicial Affidavit of Jo-Anne T. Matas, Exhibit "P-14", Division Docket, pp. 30-196, with attached exhibits.

submission of the requested documents, the BIR did not render any decision on its administrative claim.[39]

On 03 October 2023, the First Division received ICPA Briones' Report[40], along with a USB[41] containing the supporting documents for the ICPA Report.

At the 10 October 2023 hearing, ICPA Briones identified his Judicial Affidavit dated 05 October 2023 in which he declared that: (1) he reviewed the Petition for Review to determine the nature and amount of the excess and unutilized CWTs subject of petitioner's refund claim; (2) he personally examined and reviewed all the original and duplicate copies of the documents cited in his ICPA Report and verified that the soft copies were faithful reproductions of the originals; (3) he reviewed all the information contained in the original copies of the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307); (4) he traced the amount of CWT declared in the Annual ITR and Summary Alphalist of Withholding Taxes (**SAWT**) for TY 2019 to the amount of CWT reflected in each original BIR Form No. 2307; (5) he compared the amount of excess CWT reflected in the Annual ITR for TY 2019 to the amount of excess CWT disclosed in Note 6 of petitioner's Audited Financial Statements (**AFS**) for the same year; (6) he compared the amount of revenues declared in the Annual ITR for TY 2019 to the total income payments reflected in the original copies of BIR Form No. 2307; (7) he compared the amount of revenues declared in the Annual ITR for TY 2019 to the amount of revenues reflected in the AFS and recorded in the General Ledger (**GL**); and (8) based on his review, the amount of excess and unutilized CWTs for TY 2019 that may be refunded is ₱280,499,070.00.[42]

On cross-examination, ICPA Briones confirmed that some of the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) referenced in his ICPA Report contained the suppliers' corrections. According to him, the suppliers verified these corrections and issued the corresponding certifications for them. He added that he examined the said corrections. As to the photocopies of petitioner's documents, he confirmed that he had compared them with the originals. Lastly, he

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39 TSN dated 08 August 2023, pp. 14-15.
40 Exhibit "P-16", Division Docket, pp. 304-392.
41 Exhibit "P-16-2".
42 See Judicial Affidavit of Atty. Conrad M. Briones, Exhibit "P-38", Division Docket, pp. 396-408.

stated that petitioner informed him that the documents he examined had been submitted to the BIR.[43]

Petitioner did not conduct any redirect examination.[44]

On 12 October 2023, after completing the presentation of its testimonial evidence, petitioner filed its "Formal Offer of Evidence"[45] (**FOE**) consisting of Exhibits "P-1" to "P-38-1", inclusive of sub-markings. Respondent filed his or her Comment[46] thereto on 13 October 2023.

In the Resolution dated 01 December 2023[47], the First Division admitted all the exhibits in petitioner's FOE and set the presentation of respondent's evidence to 15 February 2024.

On 08 February 2024, respondent filed a Manifestation[48], stating that he or she will not be presenting any witness in this case. Thus, in a Minute Resolution dated 13 February 2024[49], the First Division noted respondent's Manifestation, cancelled the 15 February 2024 hearing and granted the parties a 30-day period within which to submit their respective memoranda.

On 05 March 2024, respondent filed his or her Memorandum.[50] Petitioner, on the other hand, filed its Memorandum[51] on 14 March 2024. Accordingly, on 16 April 2024, the First Division considered the case submitted for decision.[52]

ISSUE

As the parties so stipulated[53], the sole issue for this Court's determination is —

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43 TSN dated 10 October 2023, pp. 9-11.
44 Id., p. 11.
45 Division Docket, pp. 413-421.
46 Id., pp. 545-547.
47 Id., pp. 557-558.
48 Id., pp. 559-561.
49 Id., p. 563.
50 Id., pp. 565-571.
51 Id., pp. 573-595.
52 See Minute Resolution dated 16 April 2024, id., p. 597.
53 Part B, JSFI, supra at note 30, p. 256.

WHETHER PETITIONER FORD GROUP PHILIPPINES, INC. IS ENTITLED TO A TAX REFUND IN THE AMOUNT OF ₱281,089,863.00, ALLEGEDLY REPRESENTING ITS EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAXES (CWTs) FOR THE TAXABLE YEAR (TY) 2019.

ARGUMENTS

Petitioner argues that its refund claim should be granted because all the necessary elements are present. It asserts that its total tax credit exceeds its tax liability for TY 2019, giving it the option to either carry over the excess and unutilized CWTs for that period or claim a refund. Petitioner explicitly indicated in its 2019 Annual ITR that it chose to claim the excess CWTs as a refund. Furthermore, an examination of its Quarterly Returns and Annual ITR for TY 2020 confirms that it did not carry over the excess tax credits to the succeeding year.

Petitioner also contends that it filed both the administrative claim and the present judicial claim within the two (2)-year prescriptive period provided under Section 229[54] of the NIRC of 1997, as amended. It maintains that the fact of withholding can be established through the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by various payors, which reflect the amounts paid and the corresponding tax withheld.

According to petitioner, a total of ₱281,089,863.00 in CWTs was withheld from income payments amounting to ₱28,061,900,366.00. These amounts were declared as part of its total gross income (sales and other taxable income) in its 2019 Annual ITR. Petitioner further argues that in 2019, the sizable amount of prior year tax credits was more than sufficient to cover and fully pay the income tax due for that year. As a result, the CWTs for 2019 remained unutilized and should be properly refunded.

Finally, petitioner emphasizes that it unequivocally expressed its intention to avail itself of the option to be refunded for the excess and unutilized CWTs for TY 2019 by marking the box labeled "**To be refunded**" in its 2019 Annual ITR.

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[54] Supra at note 16.

Respondent, on the other hand, counter-argues that petitioner is not entitled to a refund for the alleged excess and unutilized CWTs for TY 2019. It asserts that the burden is on petitioner to prove that the refund claim was filed within the two (2)-year prescriptive period under Section 229[55] of the NIRC of 1997, as amended.

Additionally, respondent contends that petitioner failed to demonstrate that the income related to the CWTs was declared in its 2019 Annual ITR. Moreover, respondent points out that the present refund claim is procedurally flawed due to petitioner's failure to submit complete supporting documents for its administrative claim.

<u>RULING OF THE COURT</u>

Before the Court proceeds to examine the merits of the case, it is necessary to first address respondent's assertion in his or her Answer[56] that petitioner's failure to submit the required documents under Revenue Memorandum Order (**RMO**) No. 53-98[57] and Revenue Regulations (**RR**) No. 02-2006[58] deprived him or her of the opportunity and sufficient time to properly evaluate petitioner's claim and fully discharge his or her duties.

THE SUBMISSION OF COMPLETE DOCUMENTS STATED IN REVENUE MEMORANDUM ORDER (RMO) NO. 53-98 AND REVENUE REGULATIONS (RR) NO. 2-2006 IS NOT A REQUIREMENT FOR THE GRANT OF A TAX REFUND.

Respondent asserts that a taxpayer's failure to provide the necessary documents at the administrative level renders the

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55 Supra at note 16.

56 Supra at note 22.

57 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.

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

administrative claim for refund *pro forma* and should be deemed as if no claim had been filed at all.

Respondent's position lacks merit.

A cursory reading of both RMO No. 53-98[59] and RR No. 02-2006[60] reveals that nowhere is it stated that the non-submission of the documents enumerated therein would *ipso facto* result in the denial of a claim for a tax refund or credit. In fact, RR No. 02-2006 merely imposes a fine as a penalty for failing to submit the required information or statements but does not mandate the outright denial of any claim for a tax refund or credit.

Moreover, in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[61] (**Total Gas**), the Supreme Court, citing *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*[62], emphasized that RMO No. 53-98 does not contain any provision requiring the submission of complete documents as a prerequisite for granting a tax refund or credit, to wit:

> ...
>
> As can be gleaned from the above, RMO No. 53-98 is addressed to internal revenue officers and employees, for purposes of equity and uniformity, to guide them as to what documents they may require taxpayers to present **upon audit of their tax liabilities.** **<u>Nothing stated in the issuance would show that it was intended to be a benchmark in determining whether the documents submitted by a taxpayer are *actually* complete to support a claim for tax credit or refund of excess unutilized excess VAT.</u>** As expounded in *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*:
>
>> The CIR's reliance on RMO 53-98 is misplaced. <u>There is nothing in Section 112 of the NIRC, RR 3-88 or RMO 53-98 itself that requires submission of the complete documents enumerated in RMO 53-98 for a grant of a refund or credit of input VAT.</u> The subject of RMO 53-98 states that it is a "Checklist of Documents to be Submitted by a Taxpayer upon **Audit** of his Tax Liabilities . . . ." In this case, TSC was applying

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[59] Supra at note 57.
[60] Supra at note 58.
[61] G.R. No. 207112, 08 December 2015; Citation omitted, italics in the original text, emphasis and underscoring in the original text and supplied.
[62] G.R. No. 205055, 18 July 2014.

> for a grant of refund or credit of its input tax. There was no allegation of an audit being conducted by the CIR. Even assuming that RMO 53-98 applies, it specifically states that some documents are required to be submitted by the taxpayer "if applicable."
>
> Moreover, if TSC indeed failed to submit the complete documents in support of its application, the CIR could have informed TSC of its failure, consistent with Revenue Memorandum Circular No. (RMC) 42-03. However, the CIR did not inform TSC of the document it failed to submit, even up to the present petition. The CIR likewise raised the issue of TSC's alleged failure to submit the complete documents only in its motion for reconsideration of the CTA Special First Division's 4 March 2010 Decision. Accordingly, we affirm the CTA EB's finding that TSC filed its administrative claim on 21 December 2005, and submitted the complete documents in support of its application for refund or credit of its input tax at the same time.
>
> ...
>
> As explained earlier and underlined in *Team Sual* above, taxpayers cannot simply be faulted for failing to submit the complete documents enumerated in RMO No. 53-98, absent notice from a revenue officer or employee that other documents are required. Granting that the BIR found that the documents submitted by Total Gas were inadequate, it should have notified the latter of the inadequacy by sending it a request to produce the necessary documents in order to make a just and expeditious resolution of the claim.
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> **Indeed, a taxpayer's failure with the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund of excess unutilized excess** VAT. This holds especially true when the application for tax credit or refund of excess unutilized excess VAT has arrived at the judicial level. After all, in the judicial level or when the case is elevated to the Court, the Rules of Court governs. Simply put, the question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court.
>
> ...

It should be noted that although the above-cited case involves a claim for a tax refund or credit of unutilized value-added tax (**VAT**), the principle enunciated therein is also applicable to claims for a tax refund or the issuance of a Tax Credit Certificate (**TCC**) for unutilized CWTs.

As held in *Total Gas*, RMO No. 53-98 serves merely as a guide for revenue officers (**ROs**) in determining which documents they may require taxpayers to present during an audit of their tax liabilities. It was never intended to serve as a definitive benchmark for assessing whether a taxpayer's submitted documents are sufficiently complete to support a claim for a tax credit or refund. Moreover, the Supreme Court categorically ruled that a taxpayer's failure to submit all the requirements listed under RMO No. 53-98 is not fatal to its claim for a tax refund or credit.

In any case, even if this Court were to disregard the ruling in *Total Gas*, and petitioner had indeed failed to submit the required documents at the administrative level, such an omission is of no moment. In *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*[63], the Supreme Court ruled as follows:

> ...
>
> In this case, it was the inaction of petitioner CIR which prompted respondent to seek judicial recourse with the CTA. Petitioner CIR did not send any written notice to respondent informing it that the documents it submitted were incomplete or at least require respondent to submit additional documents. As a matter of fact, petitioner CIR did not even render a Decision denying respondent's administrative claim on the ground that it had failed to submit all the required documents.
>
> Considering that the administrative claim was never acted upon, there was no decision for the CTA to review on appeal *per se*. However, this does not preclude the CTA from considering evidence that was not presented in the administrative claim with the BIR. Thus, RA No. 1125 states:
>
> > Section 8. *Court of record; seal; proceedings.* — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

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[63] G.R. No. 231581, 10 April 2019; Citations omitted, italics in the original text, emphasis and underscoring supplied.

> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.
>
> Cases filed in the CTA are litigated *de novo* as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting ... to the Court of Tax Appeals all evidence ... required for the successful prosecution of its administrative claim." Consequently, **the CTA may give credence to all evidence presented by respondent, <u>including those that may not have been submitted to the CIR</u> as the case is being essentially decided in the first instance.**
>
> ...

Since this case is essentially being decided in the first instance—as respondent's inaction on petitioner's refund claim prompted petitioner to seek judicial recourse—this Court may consider all evidence presented by petitioner, including those that may not have been submitted at the administrative level. Consequently, this Court cannot give weight to respondent's argument regarding petitioner's alleged failure to submit the required documents at the administrative level.

PETITIONER HAS COMPLIED WITH SECTION 76 OF THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED, AND HAS NOT CARRIED OVER THE EXCESS CREDITABLE WITHHOLDING TAXES (CWTs) BEING CLAIMED FOR A REFUND.

Relevant to the resolution of this case is Section 76 of the NIRC of 1997, as amended, which outlines the mechanisms and remedies that a corporate taxpayer may opt to exercise, *viz*:

> ...
>
> SEC. 76. *Final Adjustment Return*. — Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the

sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

(A) Pay the balance of tax still due; or
(B) Carry-over the excess credit; or
(C) Be credited or refunded with the excess amount paid, as the case may be.

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

...

The above provision discusses the two (2) options available to a corporate taxpayer when its total quarterly income tax payments for a given TY exceed its total income tax due. The taxpayer may either: (1) carry-over the excess amount to the succeeding taxable quarters or years until it is fully utilized, or (2) file a claim for a refund in the form of cash or a TCC. However, once the carry-over option is exercised, whether actually or constructively, it becomes irrevocable for that taxable period.[64] 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.[65]

When exercising this option, a corporate taxpayer must signify its choice in its annual corporate adjustment return (*by marking the option box provided in the BIR form*)—either to carry over the excess tax credit

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64 *Rhombus Energy, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206362, 01 August 2018, citing the case of *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, 14 January 2015; *Systra Philippines, Inc v. Commissioner of Internal Revenue*, G.R. No. 176290 (Resolution), 21 September 2007; *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 156637 & 162004, 14 December 2005.

65 *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, id.; *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, 07 July 2009.

or to claim a refund. To facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other.[66]

A perusal of petitioner's 2019 Annual ITR shows that petitioner had total income tax credits amounting to ₱714,327,007.00, consisting of: (*i*) prior year's excess credits other than MCIT in the amount of ₱433,237,144.00; and (*ii*) CWTs accumulated during the four (4) quarters of TY 2019, in the aggregate amount of ₱281,089,863.00, detailed as follows:[67]

Prior Year's Excess Credits Other Than MCIT		₱433,237,144.00
Add: Creditable Taxes Withheld – TY 2019		
For the First Three (3) Quarters	₱186,837,868.00	
For the 4th Quarter	94,251,995.00	281,089,863.00
Total Tax Credits		**₱714,327,007.00**

Petitioner claims that it utilized a portion of its "Prior Year's Excess Credits Other Than MCIT" amounting to ₱433,237,144.00 to pay for its MCIT due for TY 2019, which totaled ₱35,310,361.00.[68] As a result, petitioner's remaining prior year's excess credits amounted to ₱397,926,783.00. Adding the creditable taxes withheld during TY 2019, which totaled ₱281,089,863.00, the total excess and unutilized amount as of 31 December 2019 was ₱679,016,646.00[69], as shown below:

Prior Year's Excess Credits Other Than MCIT	₱433,237,144.00
Less: Income Tax Due (MCIT)	35,310,361.00
Balance of Prior Year's Excess Credits	**₱397,926,783.00**
Add: Creditable Taxes Withheld – TY 2019	**281,089,863.00**
Excess Tax Credits as of 31 December 2019	₱679,016,646.00

Under Section 2.58.3 of RR No. 02-98[70], as amended, quoted below, the submission of petitioner's 2018 Annual ITR is sufficient to

66 *Philippine Bank of Communications v. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, 28 January 1999.
67 Exhibit "P-6-1" (Schedule 7 – Tax Credits/Payments), supra at note 10.
68 Exhibit "P-6-2" (Line No. 16, Part II – Total Tax Payable), supra at note 11.
69 Id.
70 Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.

substantiate its "Prior Year's Excess Credits Other Than MCIT" in the amount of ₱433,237,144.00.00, *viz*:

> ...
>
> 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.[71]
>
> ...

Based on the foregoing, excess CWTs from a given taxable period, once opted to be carried over to the succeeding taxable period, automatically serve as credits against the income tax due for such succeeding taxable period. This remains valid as long as the excess CWTs are duly evidenced by the ITR for the taxable period in which they arose.

In this case, petitioner presented its 2018 Annual ITR, which reflects excess tax credits totaling ₱695,311,325.00. This amount comprises ₱433,237,144.00 in excess tax credits carried over from periods prior to TY 2018, and ₱262,074,181.00 unutilized creditable taxes withheld during TY 2018, as detailed below:[72]

Prior Year's Excess Credits Other Than MCIT		₱465,807,210.00
Less: Income Tax Due (MCIT)		32,570,066.00
Balance of Prior Year's Excess Credits		**₱433,237,144.00**
Add: Creditable Taxes Withheld – TY 2018		
For the First Three (3) Quarters	₱180,864,958.00	
For the 4th Quarter	81,209,223.00	262,074,181.00
Excess Tax Credits as of 31 December 2018		**₱695,311,325.00**

71 Emphasis supplied and italics in the original text.

72 Exhibit "P-28-b" (Line No. 20, Part II – Total Tax Payable and Schedule 7 – Tax Credits/Payments), USB (marked as Exhibit "P-16-2").

Clearly, petitioner's "Prior Year's Excess Credits Other Than MCIT" for TY 2018, amounting to ₱433,237,144.00, was more than enough to cover its MCIT due for TY 2019, which totaled ₱35,310,361.00. Thus, the reported CWTs for TY 2019, amounting to ₱281,089,863.00, remained unutilized at the end of TY 2019.

Since petitioner marked the "***To be refunded***" option in its 2019 Annual ITR[73], the CWTs for TY 2019, amounting to ₱281,089,863.00, *may* be a proper subject of a cash refund claim pursuant to Section 76[74] of the NIRC of 1997, as amended.

Petitioner further affirmed this refund option when it carried over only ₱397,926,783.00[75] as "Prior Year's Excess Credits Other Than MCIT" in its Quarterly[76] and Annual[77] ITRs for the succeeding year, TY 2020. This amount excludes the CWTs being claimed for refund in this case amounting to ₱281,089,863.00.

REQUISITES FOR CLAIMING A TAX REFUND OF EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAXES (CWTs).

In addition to the requisites provided under Section 76 of the NIRC of 1997, as amended, jurisprudence and pertinent provisions of RR No. 02-98[78], as amended, establish that, for a taxpayer to be entitled to a refund or the issuance of a TCC for excess and unutilized CWTs, the following three (3) requisites must also be satisfied:

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

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[73] Exhibit "P-6-3" (Line No. 21 Part II – Total Tax Payable), supra at note 12.
[74] Supra at pp. 14-15.
[75] "Prior Year's Excess Credits Other Than MCIT" for the Taxable Year (**TY**) 2018 of ₱433,237,144.00 less MCIT due for TY 2019 of ₱35,310,361.00.
[76] Exhibits "P-7", "P-8" and "P-9" (Line No. 31A), Division Docket, pp. 526-528 (back page).
[77] Exhibit "P-28-d" (Line No. 44, Part IV – Computation of Tax), USB (marked as Exhibit "P-16-2").
[78] Supra at note 70.

to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. The income upon which the taxes were withheld must be included in the return of the recipient.[79]

Thus, it behooves petitioner to establish the foregoing requisites.

PETITIONER'S ADMINISTRATIVE AND JUDICIAL CLAIMS FOR REFUND WERE TIMELY FILED.

Anent the ***1st requisite***, Sections 204 and 229 of the NIRC of 1997, as amended, provide for the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.[80] Thus:

> ...
>
> **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 <u>with the Commissioner</u> a claim for credit or refund <u>within two (2) years after the payment of the tax or penalty</u>**: *Provided, however,* that a return filed showing an overpayment shall be considered as a written claim for credit or refund. [81]
>
> ...

[79] *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, supra at note 64; *United International Pictures AB v. Commissioner of Internal Revenue*, G.R. No. 168331, 11 October 2012; *Citibank, N.A. v. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 107434, 10 October 1997; *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*, G.R. No. 96322, 20 December 1991; Section 2.58, Revenue Regulations No. 02-98, as amended.

[80] *CBK Power Company Limited v. Commissioner of Internal Revenue*, G.R. Nos. 193383-84, 14 January 2015.

[81] Italics in the original text, emphasis and underscoring supplied.

Relative thereto, Section 229 of the NIRC of 1997, as amended, provides:

> ...
>
> **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.[82]
>
> ...

It is well settled that the two (2)-year prescriptive period for claiming a refund of overpaid income tax or CWTs commences to run from the date of filing the Final Adjustment Return (**FAR**)[83] (or the Annual ITR). This rule applies because it is only upon filing the FAR—which covers the entire taxable year—that the taxpayer can determine whether a tax is due or if a refund may be claimed based on adjusted and audited figures.[84] In other words, it is logical to compute the two (2)-year prescriptive period from the time the FAR or Annual ITR is filed, as only then can a corporate taxpayer ascertain whether it has paid an amount exceeding its annual income tax liability.[85]

Here, petitioner filed its 2019 Annual ITR through the BIR's Electronic Filing and Payment System (**eFPS**) on 11 June 2020.[86] Thus,

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82 Emphasis supplied and italics in the original text.

83 *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*, supra at note 79; *Commissioner of Internal Revenue v. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, 29 May 1995; *Commissioner of Internal Revenue v. TMX Sales, Inc. and The Court of Tax Appeals*, G.R. No. 83736, 15 January 1992.

84 *Commissioner of Internal Revenue v. TMX Sales, Inc. and The Court of Tax Appeals*, id.

85 *Metropolitan Bank & Trust Company v. The Commissioner of Internal Revenue*, G.R. No. 182582, 17 April 2017.

86 Exhibit "P-6", Division Docket, pp. 462-469; Exhibit "P-28-c", USB (marked as Exhibit "P-16-2").

counting from 11 June 2020, petitioner had **until 11 June 2022**, within which to file both its administrative and judicial claims.

Considering that petitioner filed its administrative claim for refund with the BIR on **21 September 2021**[87] and the present judicial claim was filed on **08 June 2022**[88], both claims for refund of excess and unutilized CWTs were seasonably filed within the two (2)-year prescriptive period.

PETITIONER ESTABLISHED THE FACT OF WITHHOLDING BUT ONLY TO THE EXTENT OF ₱280,458,045.00.

As regards the *2nd* and ***3rd requisites***, Section 2.58.3(B) of RR No. 02-98[89], as amended, provides:

> ...
> SEC. 2.58.3. *Claim for Tax Credit or Refund.* —
> ...
>
> (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.**[90]
>
> ...

The ***2nd requisite*** requires petitioner to establish the fact of withholding for the claimed CWTs by presenting a copy of the withholding tax statement duly issued by the payor (withholding agent) to the payee. This statement must clearly indicate the names of the payor and payee, the income payment amount, and the corresponding tax withheld.

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[87] Exhibits "P-11" and "P-12", supra at notes 13 and 14.
[88] Petition for Review, supra at note 1.
[89] Supra at note 70.
[90] Emphasis supplied and italics in the original text.

In *Commissioner of Internal Revenue v. Philippine National Bank*[91] (**PNB**), the Supreme Court ruled that a Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307), when complete with all relevant details, constitutes competent proof to establish that taxes were withheld, to wit:

> ...
>
> **The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates.**
>
> In *Banco Filipino Savings and Mortgage Bank v. Court of Appeals*, this court declared that a certificate is complete in the relevant details that would aid the courts in the evaluation of any claim for refund of excess creditable withholding taxes:
>
> ...
>
> Moreover, as correctly held by the Court of Tax Appeals En Banc, the figures appearing in the withholding tax certificates can be taken at face value since these documents were executed under the penalties of perjury, pursuant to Section 267 of the 1997 National Internal Revenue Code, as amended, which reads:
>
> ...
>
> Thus, upon presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly.
>
> ...

Based on the foregoing jurisprudential pronouncements, it is undeniable that the fact of withholding may be established through the presentation of BIR Form No. 2307, provided that it is complete with all relevant details. However, respondent argues that proof of actual remittance of the withheld taxes to the BIR is indispensable for a claim seeking a refund of excess and unutilized CWTs.[92]

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91 G.R. No. 180290, 29 September 2014; Citations omitted and emphasis supplied.

92 Respondent's Memorandum, supra at note 50, p. 569.

We disagree with respondent.

In *PNB*, the Supreme Court contradicts respondent's contention, as follows:

> ...
>
> Petitioner's posture that respondent is required to establish actual remittance to the Bureau of Internal Revenue deserves scant consideration. **<u>Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits.</u> Under Sections 57 and 58 of the 1997 National Internal Revenue Code, as amended, 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.**
>
> This court's ruling in *Commissioner of Internal Revenue v. Asian Transmission Corporation*, citing the Court of Tax Appeals' explanation, is instructive:
>
>> **[P]roof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner.** Section 2.58.3 (B) of Revenue Regulation No. 2-98 clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. **In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Sections 57 and 58 of the NIRC of 1997, as amended, the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent . . . has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents.**[93]
>
> ...

[93] Supra at note 91; Citations omitted, italics in the original text, emphasis and underscoring supplied.

Clearly, respondent's assertion that proof of actual remittance of the withheld taxes to the BIR is indispensable has no leg to stand on.

To establish the fact of withholding for the claimed CWTs during TY 2019, amounting to ₱281,089,863.00, petitioner presented various BIR Forms No. 2307[94] issued by its clients, the SAWT[95], and the Schedule of Creditable Withholding Tax Certificates[96] for TY 2019. All these documents were all examined by the Court-commissioned ICPA.

Based on ICPA Briones' verification, the total CWTs reflected in the supporting BIR Forms No. 2307 amounted to ₱282,494,390.00.[97] Upon comparing the CWTs claimed in petitioner's 2019 Annual ITR and the SAWT, totaling ₱281,089,863.00, with the CWTs reflected in the supporting BIR Forms No. 2307, which amounted to ₱282,494,390.00, ICPA Briones noted a discrepancy of ₱1,404,527.00[98], broken down as follows:

Particulars	Amount	Exhibit Ref.
Unclaimed CWTs		
Fairlane Automotive Ventures, Inc.	₱636,823.00	"P-22"
Ford EDSA Inc	86,167.00	
Global Cars Philippines	505,987.00	
Millennium Cars Mindanao Inc	435,600.00	
Palawan Global Business Ventures Inc	296,851.00	
Subtotal	**₱1,961,428.00**	
Overclaiming of CWTs		
Autopremium Inc	(₱41,974.00)	"P-22"
Dearborn Motors Co., Inc	(18.00)	
Eastbay Automotive Inc	(484,103.00)	
Subtotal	**(₱526,095.00)**	
No CWT Certificates Provided		
CNRG Incorporated	(₱1,506.00)	"P-21"
East West Banking Corporation	(476.00)	
NYK Auto Logistics Philippines Inc	(28,824.00)	
Subtotal	**(₱30,806.00)**	
Total	**₱1,404,527.00**	

94 Exhibits "P-18", "P-19-a" to "P-19-d", and "P-20-a to "P-20-lt", USB (marked as Exhibit "P-16-2").
95 Exhibits "P-13" to "P-13-3", Division Docket, pp. 541-544.
96 Exhibit "P-17", USB (marked as Exhibit "P-16-2").
97 Exhibit "P-16", supra at note 40, p. 311.
98 Exhibit "P-16", supra at note 40, pp. 311-312.

Notably, the unclaimed CWTs, in the total amount of ₱1,961,428.00, shall have no effect on petitioner's claim since these pertain to CWTs supported by BIR Forms No. 2307 but are not part of the claimed CWTs *per* 2019 Annual ITR and SAWT.

However, the amount of ₱30,806.00 shall be disallowed as this represents claimed CWTs without supporting BIR Forms No. 2307.

With regard to the amount of ₱526,095.00, the same represents the overclaimed portion of the CWTs *per* 2019 Annual ITR and SAWT *vis-à-vis* the amount of CWTs reflected *per* BIR Forms No. 2307, computed by the ICPA as follows:[99]

Customer Name	**CWT *per* SAWT**	**CWT *per* BIR Form No. 2307**	**Difference**
AUTOPREMIUM INC	₱2,108,729.18	₱2,066,754.88	₱41,974.30
DEARBORN MOTORS CO., INC	49,336,897.14	49,336,879.14	18.00
EASTBAY AUTOMOTIVE INC.	7,171,657.52	6,687,554.62	484,102.90
TOTAL	**₱58,617,283.84**	**₱58,091,188.64**	**₱526,095.20**

However, this Court finds that the overclaimed CWTs should be ₱572,356.00 (instead of ₱526,095.00). There was also an overclaimed CWT amounting to ₱46,260.80 or ₱46,261.00, relative to petitioner's sales to Blue Oval Automotive Corporation, computed as follows:

Period Covered (TY 2019)	***Per* SAWT**		***Per* BIR Form No. 2307**		**Difference**
	Exhibit No.	**Amount of CWT**	**Exhibit No.**	**Amount of CWT**	
2nd Quarter	"P-13-1"[100]	₱698,111.83	"P-22-b"[101]	₱1,757,698.60	(₱1,059,586.77)
3rd Quarter	"P-13-2"[102]	472,341.98	-	1,451,354.26	(979,012.28)
4th Quarter	"P-13-3"[103]	3,936,543.32	"P-22-d"[104]	1,851,683.47	2,084,859.85
		₱5,106,997.13		**₱5,060,736.33**	**₱46,260.80**

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99 Exhibit "P-22" (Tie up of CWTs declared in the Annual ITR and SAWT and CWTs), USB (marked as Exhibit "P-16-2").
100 Supra at note 95, p. 542.
101 USB (marked as Exhibit "P-16-2").
102 Supra at note 95, p. 543.
103 Supra at note 95, p. 544.
104 USB (marked as Exhibit "P-16-2").

Parenthetically, the breakdown of the ₱5,060,736.33 in CWTs *per* BIR Forms No. 2307 for TY 2019 is as follows:

Exhibit No.	Period Covered		ATC *per* BIR Form No. 2307	Amount of CWT *per* BIR Form No. 2307
	From	To		
2nd Quarter of TY 2019				
"P-20-bg"	01 April 2019	30 April 2019	WC158	₱128,819.18
"P-20-bg"	01 April 2019	30 April 2019	WC160	2,794.98
"P-20-bh"	01 April 2019	30 April 2019	WC158	421,030.37
"P-20-ct"	01 May 2019	31 May 2019	WC158	169,975.92
"P-20-ct"	01 May 2019	31 May 2019	WC160	107.30
"P-20-cu"	01 May 2019	31 May 2019	WC158	199,506.79
"P-20-dm"	01 June 2019	30 June 2019	WC158	399,316.73
"P-20-dm"	01 June 2019	30 June 2019	WC160	107.30
"P-20-dn"	01 June 2019	30 June 2019	WC158	436,040.03
Subtotal				**₱1,757,698.60**
3rd Quarter of TY 2019				
"P-20-ek"	01 July 2019	31 July 2019	WC160	₱121.69
"P-20-ek"	01 July 2019	31 July 2019	WC158	149,362.49
"P-20-el"	01 July 2019	31 July 2019	WC160	2,283.32
"P-20-el"	01 July 2019	31 July 2019	WC158	407,376.58
"P-20-gg"	01 August 2019	31 August 2019	WC160	1,097.57
"P-20-gg"	01 August 2019	31 August 2019	WC158	143,885.27
"P-20-gh"	01 August 2019	31 August 2019	WC158	222,304.28
"P-20-hi"	01 September 2019	30 September 2019	WC160	2,794.98
"P-20-hi"	01 September 2019	30 September 2019	WC158	128,819.18
"P-20-hj"	01 September 2019	30 September 2019	WC158	393,308.90
Subtotal				**₱1,451,354.26**
4th Quarter of TY 2019				
"P-20-ig"	01 October 2019	31 October 2019	WC158	₱246,050.76
"P-20-ig"	01 October 2019	31 October 2019	WC160	107.30
"P-20-ih"	01 October 2019	31 October 2019	WC158	323,843.02
"P-20-jz"	01 November 2019	30 November 2019	WC158	132,652.13
"P-20-jz"	01 November 2019	30 November 2019	WC160	107.30
"P-20-ka"	01 November 2019	30 November 2019	WC158	304,300.54
"P-20-lb"	01 December 2019	31 December 2019	WC158	329,999.84
"P-20-lb"	01 December 2019	31 December 2019	WC160	107.30
"P-20-lc"	01 December 2019	31 December 2019	WC158	513,957.30
"P-20-lc"	01 December 2019	31 December 2019	WC160	557.98
Subtotal				**₱1,851,683.47**
Total CWTs from Blue Oval Automotive Corporation				**₱5,060,736.33**

Considering that no BIR Forms 2307 supported the overclaimed portion of CWTs in the amount of ₱572,356.00, the same shall be disallowed.

Moreover, the following claimed CWTs in the amount of ₱28,656.43 or ₱28,656.00 shall be disallowed because the supporting BIR Forms No. 2307 bear a TIN different from that shown in petitioner's Certificate of Registration (**COR**)[105] with the BIR, *viz*:

Exhibit No.	Period Covered		Payor's Name	Income Payment	CWT
	From	To			
"P-19-a"	01 June 2019	30 June 2019	MT OLYMPUS MOTOR CORP	₱407,430.57	₱8,148.61
"P-19-b"	01 June 2019	30 June 2019	MT OLYMPUS MOTOR CORP	407,430.57	8,148.61
"P-19-c"	01 November 2019	30 November 2019	MT OLYMPUS MOTOR CORP	133,453.12	2,669.06
"P-19-d"	01 November 2019	30 November 2019	MT OLYMPUS MOTOR CORP	484,507.38	9,690.15
			TOTAL	**₱1,432,821.64**	**₱28,656.43**

Thus, petitioner has demonstrated compliance with the ***2nd requisite***, *i.e.*, the establishment of the fact of withholding, but only to the extent of the amount of ₱280,458,045.00, as computed below:

Amount of CWT claim *per* petitioner's 2019 Annual ITR/Petition for Review	₱281,089,863.00
Less: Disallowances	
CWT claim without supporting BIR Forms No. 2307	₱30,806.00
Overclaimed portion of CWTs	572,356.00
CWT claim supported by BIR Forms No. 2307 which bear a TIN different from petitioner's registered TIN	28,656.00
Total Disallowances	₱631,818.00
CWT Claim Properly Supported with BIR Forms No. 2307	**₱280,458,045.00**

NEVERTHELESS, PETITIONER FAILED TO ESTABLISH THAT THE INCOME PAYMENTS SUBJECTED TO CREDITABLE WITHHOLDING TAXES (CWTs) WERE REPORTED AS PART OF ITS GROSS INCOME IN ITS ANNUAL INCOME TAX RETURN (ITR).

[105] Exhibit "P-4", supra at note 7.

The *3rd requisite* requires petitioner to establish that its income payments subjected to CWTs were reported as part of its gross income in its 2019 Annual ITR.

An examination of petitioner's 2019 Annual ITR and 2019 AFS reveals a discrepancy in reported total sales. Petitioner declared ₱29,338,307,169.00[106] in its 2019 Annual ITR, while its 2019 AFS reflects ₱29,338,307,000.00.[107]

To prove that the income payments corresponding to the claimed CWTs were declared as part of the reported sales in its 2019 Annual ITR, petitioner offered in evidence its General Ledger (**GL**) for TY 2019. The said GL reflects the following revenue or net sales account balances, amounting to ₱29,338,307,169.50:[108]

Account Description	Account Code	Account Balance
Rev Veh-Dealer Gross	23A01A00	(₱28,930,015,642.11)
Rev Veh-Dealer Gross	23A01A00	(19,696,252.22)
Rev Veh-Dealer Floor Plan	23A01A12	85,190,288.26
Rev Veh-Var Mktg Retail	23A01A21	341,785.70
Rev Veh-Var Mktg Retail	23A01A21	2,077,304.20
Rev Veh-Var Mktg Retail	23A01A21	800,650,335.74
Rev Veh-Var Mktg Fleet	23A01A23	-
Rev Veh-Var Mktg Fleet	23A01A23	31,891,103.61
Rev Veh-SP DOM-Var Mktg	23A01B21	244,269,286.28
Rev Dhd - Dealers Gross	23A03A00	(70,068,465.71)
Rev P&A-Dealers Gross	23A21A40	(1,520,057,936.54)
Rev PCA Interco	23A21L40	209,715.00
Rev PCA Interco	23A21L41	(2,312,197.60)
Rev PCA Interco	23A21L42	-
Rev P&A Interco	23A21L43	(793,643.92)
Rev P&A Interco	23A21L44	(52,590.73)
Rev P&A Interco	23A21L45	(103,338.62)
Rev Extd Serv Plan-Dealer	23A50A40	(27,362,438.00)
Rev Extd Serv Plan-Dealers	23A50A40	(24,946,495.67)
Rev OtherSales-Outside Cust.	23A55G00	(128,496.43)
RevSalesCommission-Outside	23A55G00	4,896.00

106 Exhibit "P-6-4" (Line 30, Part IV – Computation of Tax), Division Docket, p. 463.
107 Exhibit "P-29", Note 15-Net Sales, p. 45, USB (marked as Exhibit "P-16-2").
108 Exhibit "P-30" (pages 4, 5, and 11), USB (marked as Exhibit "P-16-2").

Account Description	Account Code	Account Balance
COS-Customer Appreciation	23B53A00	14,471,433.49
COS-Outside Customer	23B55G00	-
O/Ded-Sundry-Other	26W99	78,124,179.77
	Total	**(₱29,338,307,169.50)**

However, in the absence of detailed transaction records supporting the reported revenue or net sales account balances, this Court cannot trace or verify whether the income payments associated with the claimed CWTs indeed formed part of its reported sales in its 2019 Annual ITR. Thus, without this crucial information, it is impossible for this **Court** to determine whether petitioner complied with the ***3rd requisite*** for entitlement to a refund of excess and unutilized CWTs. Consequently, due to its failure to establish compliance with the ***3rd requisite***, petitioner has not sufficiently proven its entitlement to the present refund claim.

The Supreme Court's ruling in the recent case of *Tullett Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*[109] emphasizes that to satisfy the ***3rd requisite*** for a CWT refund, taxpayers must submit an expanded GL or any other detailed documentation linking specific income payments subjected to withholding directly to the amounts reported in their ITRs, as presenting only summary figures like total revenue or net sales is insufficient, *viz*:

> ...
> **[T]he Court is not inclined to adopt as doctrine that the third requisite may be proved by the mere fact that the income from which CWT is withheld is *less* than the total income reported by the taxpayer-claimant. This goes against the elementary principle that cases before the CTA are litigated *de novo* and that parties "should prove every minute aspect of their cases." This is particularly true in refund cases as tax refunds are strictly construed against the taxpayer.** Even so, while not absolutely determinative of the third requisite, *when the total reported sales/income is* ***greater*** *than the income corresponding to the CWT withheld, this should prompt the CTA to be* ***more circumspect*** *in its evaluation of the evidence on record*, especially when there is other

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109 G.R. No. 257219, 15 July 2024; Citations omitted, italics in the original text, emphasis in the original text and supplied, and underscoring supplied.

evidence that could point to the **breakdown of the gross income reported**, as in this case.

The CTA Special Third Division also erred in not allowing Tullett Prebon to submit the expanded ledger in its motion for reconsideration of its April 12, 2019 Decision, especially when the crux of its Decision rested on the insufficiencies of the earlier ledger.

Although "it is true that strict procedural rules generally frown upon the submission of documents after the trial, the law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence and that *the paramount consideration remains the ascertainment of truth.*" Rules of procedure should not preclude courts from considering undisputed facts to arrive at a just ruling.

Accordingly, the case should be remanded and Tullett Prebon should be allowed to **present and submit the expanded general ledger as evidence to prove the third requisite**. The Court leaves the determination of the extent of the effects thereof on the amount of CWT to be refunded to the CTA.

...

Clearly from the foregoing, it is the obligation of taxpayers to maintain and present comprehensive records that clearly demonstrate the inclusion of income subjected to withholding in their reported gross income. Failure to provide such detailed documentation undermines the validity of tax refund claims related to excess and unutilized CWTs.

It must be emphasized that the taxpayer-claimant bears the burden of proof in establishing the factual basis of a claim for a tax credit or refund.[110] Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.[111] Thus, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[112] Strict adherence to the conditions prescribed by law is required of the taxpayer. Tax refunds

[110] *Citibank N.A. v. Court of Appeals and Commissioner of Internal Revenue*, supra at note 79.

[111] *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc. and Court of Appeals*, G.R. No. 127105, 25 June 1999.

[112] *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, 25 March 2015, citing *J.R.A. Philippines, Inc. vs. CIR*, G.R. No. 171307, 28 August 2013.

must be substantiated with proper evidence and raised in the right manner as required by law.[113]

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Ford Group Philippines, Inc. on 08 June 2022, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

113 *Steag State Power, Inc. (Formerly State Power Development Corporation) v. Commissioner of Internal Revenue*, G.R. No. 205282 (Resolution), 14 January 2019.