REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

MCKINSEY & CO. (PHILS.),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9332

Members:

CASTAÑEDA, JR., *Chairperson,*
and
MANAHAN, *JJ.*

Promulgated:

JAN 17 2019

9:50 a.m.

x- x

DECISION

CASTAÑEDA, JR., *J.*:

STATEMENT OF THE CASE

This resolves the Petition for Review[1] filed by McKinsey & Co. (Phils.) on April 14, 2016, seeking the refund or issuance of tax credit certificate (TCC) in the amounts of ₱36,610,118.00 and ₱37,547,131.00, allegedly representing its excess and unutilized creditable withholding taxes (CWT) for calendar years (CYs) 2013 and 2014, respectively, pursuant to Section 76 of the National Internal Revenue Code (NIRC) of 1997, as amended, in relation to Sections 204 and 229 of the same Code.

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[1] Docket, vol. I, pp. 10-20.

STATEMENT OF FACTS

Petitioner McKinsey & Co. (Phils.) is a corporation organized and existing under the laws of the State of Delaware, United States of America, with principal place of business at 1209 Orange Street, Wilmington, Delaware 19801 U.S.A. It is authorized to transact business in the Philippines as a branch office primarily to engage in management consultancy services pursuant to Securities and Exchange Commission (SEC) Registration No. A1998-675. The branch office is located at the 7th Floor Zuellig Building, Makati Avenue corner Paseo de Roxas, Makati City, 1226. Petitioner is a registered taxpayer at the Bureau of Internal Revenue – Revenue District Office (RDO) No. 50 (South Makati), with Taxpayer Identification Number (TIN) 005-649-679-000.[2]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue who has the power to decide on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner filed its Annual Income Tax Return (ITR) for CY 2013 on April 15, 2014, declaring a creditable withholding tax in the amount of ₱36,610,118.00. Petitioner indicated on the face of its Annual ITR for CY 2013 its choice to be refunded of the alleged excess and unutilized CWT for CY 2013 by marking the option "To be refunded".[3]

On April 15, 2015, petitioner filed its Annual ITR for CY 2014, declaring a creditable withholding tax in the amount of ₱37,547,131.00. Similarly, petitioner indicated on the face of its Annual ITR for CY 2014 its choice to be refunded of its alleged excess and unutilized CWT by marking the option "To be refunded".[4]

On April 8, 2016, petitioner filed with the BIR RDO No. 50 an administrative claim for refund or issuance of TCC for its alleged

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[2] Pars. 1 and 2, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), docket, vol. I, pp. 580-581.
[3] Exhibits "P-7-a" and "P-7-b", docket, vol. I, p. 248.
[4] Exhibits "P-11-a" and "P-11-b", docket, vol. I, p. 262.

excess and unutilized CWT in the amounts of ₱36,610,118.00 and ₱37,547,131.00 for CYs 2013 and 2014, respectively.[5]

Due to respondent's inaction on petitioner's administrative claim, petitioner filed the instant Petition for Review before this Court on April 14, 2016.

Respondent filed his Answer[6] on May 6, 2016, interposing the following Special and Affirmative Defenses:

"**SPECIAL AND AFFIRMATIVE DEFENSES**

4) Respondent reiterates and repleads the preceding paragraphs of the Answer as part of the Special and Affirmative Defenses;

5) Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;

6) Taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence, not refundable;

7) It is incumbent upon the Petitioner to show that it has complied with the provision of Section 204 (C) in relation to Section 229 of the 1997 Tax Code, as amended;

8) Petitioner's claim for refund or issuance of tax credit certificate in the amounts of Php36,610,118.00 and Php37,547,131.00 as alleged excess and unutilized creditable withholding taxes for the years 2013 and 2014, respectively, from the income payments on services rendered was not fully substantiated by proper documents, such as sales invoices, official receipts and others;

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[5] Exhibits "P-56" and "P-57", docket, vol. I, pp. 392-400.
[6] Docket, vol. 1, pp. 130-133.

9) In a claim for tax refund or tax credit, taxpayer must prove not only entitlement to the grant of the claim under substantive law, it must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit;

10) Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation and as such, they are looked upon with disfavour." *(Citation omitted)*

Petitioner filed its Pre-trial Brief[7] on June 20, 2016; while respondent filed his Pre-trial Brief[8] through registered mail on June 10, 2016, and was received by the Court on June 23, 2016. The pre-trial conference was held on September 15, 2016.[9]

The parties filed their Joint Stipulation of Facts and Issues[10] on September 30, 2016 and was approved by the Court upon issuance of the Pre-Trial Order[11] on October 14, 2016.

Petitioner presented Ms. Elena D. Cabahug as its lone witness.[12] Afterwards, petitioner filed its Formal Offer of Evidence (with Motion to Re-mark Exhibits and Correct Sworn Statement)[13] on February 23, 2017, offering Exhibits "P-1" to "P-54", "P-56" to "P-73", "P-75" to "P-81", "P-83" to "P-115", "P-117" to "P-119", "P-121" to "P-128-1", inclusive of submarkings.

The Court granted petitioner's Motion to Re-mark Exhibits and Correct Sworn Statement on September 15, 2017.[14] Hence, on October 18, 2017, petitioner's witness, Ms. Elena D. Cabahug, appeared in open court for the correction of her Sworn Statement and re-marking of exhibits.[15]

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[7] Docket, vol. I, pp. 141-152.
[8] Docket, vol. I, pp. 156-159.
[9] Minutes of the Hearing, docket, vol. I, p. 560.
[10] Docket, vol. I, pp. 580-589.
[11] Docket, vol. I, pp. 590-600.
[12] Minutes of the Hearing held on February 13, 2017, docket, vol. II, p. 634.
[13] Docket, vol. II, pp. 637-659.
[14] Docket, vol. II, pp. 746-747.
[15] Minutes of the Hearing, docket, vol. II, p. 755.

In a Resolution dated November 22, 2017, the Court admitted petitioner's documentary exhibits, except for Exhibit "P-17" for failure to present the original for comparison.[16]

During the hearing on December 4, 2017, counsel for respondent manifested that she will no longer present evidence.[17] The parties likewise stipulated in open court on the existence of the denied Exhibit "P-17". As a result, Exhibit "P-17" was admitted by the Court as part of petitioner's documentary evidence. The parties were given thirty (30) days from December 4, 2017 to file their respective memoranda.

Respondent filed his Memorandum[18] through registered mail on December 20, 2017, and was received by the Court on January 3, 2018. On the other hand, petitioner filed its Memorandum[19] on January 29, 2018, after it was granted two extensions of time by the Court to file memorandum.[20] Accordingly, the Court declared the case submitted for decision on February 1, 2018.[21]

STATEMENT OF THE ISSUES

The parties agreed that the main issue[22] to be resolved by this Court is:

> Whether or not petitioner is entitled to its claim for refund of or issuance of TCC for excess and unutilized CWT in the amounts of ₱36,610,118.00 and ₱37,547,131.00 for CYs 2013 and 2014, respectively.

This issue may be broken down into the following sub-issues:

> 1. Whether petitioner's excess and unutilized CWT in the amounts of ₱36,610,118.00 and ₱37,547,131.00 for CYs 2013 and 2014 are duly substantiated by documentary evidence.

[16] Docket, vol. II, pp. 758-759.
[17] Minutes of the Hearing, docket, vol. II, p. 760.
[18] Docket, vol. II, pp. 762-766.
[19] Docket, vol. II, pp. 778-796.
[20] Orders dated January 5, 2018 and January 23, 2018, docket, vol. II, pp. 772 and 777, respectively.
[21] Resolution, docket, vol. II, p. 798.
[22] Issues, JSFI, docket, vol. I, p. 581.

2. Whether the income from which the CWTs being claimed for refund were withheld was reported as part of the revenues declared in petitioner's Annual ITR.

3. Whether petitioner carried over its excess and unutilized CWT for CY 2013 to the succeeding taxable periods.

4. Whether petitioner carried over its excess and unutilized CWT for CY 2014 to the succeeding taxable periods.

5. Whether petitioner filed its administrative and judicial claims for refund of excess and unutilized CWT for CYs 2013 and 2014 within the two-year prescriptive period provided under Sections 204(C) and 229, Tax Code.

THE COURT'S RULING

Pertinent to the resolution of the present case is Section 76 of the National Internal Revenue Code of 1997, as amended, which is quoted hereunder for ready reference:

> "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 tax credit certificate shall be allowed therefor."

Section 76 of the NIRC of 1997, as amended, prescribes two options to a taxable corporation whose total quarterly income tax payments in a given taxable year would 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 carry over the excess credit. However, once the carry-over option is taken actually or constructively, it becomes irrevocable for that taxable period.[23] 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.[24]

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, whether to request for a refund or claim for an automatic tax credit for the succeeding taxable year. To ease the administration of tax collection, these remedies are in the alternative, and the choice of one precludes the other.[25]

A perusal of petitioner's Annual ITRs for CYs 2013[26] and 2014[27] disclosed that petitioner had Minimum Corporate Income Tax (MCIT) due in the respective amounts of ₱1,164,387.00 and ₱320,232.00, totaling ₱1,484,619.00. Petitioner alleges that these MCIT liabilities were paid using a portion of its reported prior year's excess credits of ₱80,662,196.00, thus, leaving the balance of the prior year's excess credits of ₱79,177,577.00 and creditable taxes withheld in 2013 and 2014 in the respective amounts of ₱36,610,118.00 and

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[23] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 and 162004, December 14, 2005; *Systra Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.

[24] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.

[25] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.

[26] Exhibit "P-7", docket, vol. I, pp. 248-255.

[27] Exhibit "P-11", docket, vol. I, pp. 262-271.

₱37,547,131.00 or a total of ₱153,334,826.00 unutilized as of December 31, 2014, as shown below:

	CY 2013	CY 2014	Total
	Exhibit "P-7"	*Exhibit "P-11"*	
Net Sales/Revenues/Receipts/Fees	₱575,652,971.00	₱ 529,303,739.00	₱1,104,956,710.00
Less: Cost of Sales of Services	521,958,744.00	518,363,954.00	1,040,322,698.00
Gross Income from Operation	₱ 53,694,227.00	₱ 10,939,785.00	₱ 64,634,012.00
Add: Other Taxable Income Not Subjected to Final Tax	4,525,132.00	5,071,833.00	9,596,965.00
Total Gross Income	₱ 58,219,359.00	₱ 16,011,618.00	₱ 74,230,977.00
Less: Ordinary Allowable Itemized Deductions	75,483,384.00	128,558,804.00	204,042,188.00
Net Taxable Income	₱(17,264,025.00)	₱(112,547,186.00)	₱(129,811,211.00)
Minimum Corporate Income Tax (MCIT)	₱ 1,164,387.00	₱ 320,232.00	₱ 1,484,619.00
Less: Prior Year's Excess Credits	80,662,196.00	79,497,809.00	80,662,196.00
Balance of Prior Year's Excess Credits	₱ 79,497,809.00	₱ 79,177,577.0	₱ 79,177,577.00
Add: Creditable Taxes Withheld During the Year	36,610,118.00	37,547,131.00	74,157,249.00
Total Excess Tax Credits as of December 31	₱116,107,927.00	₱ 116,724,708.00	₱ 153,334,826.00

To prove the existence of its prior year's excess credits of ₱80,662,196.00, petitioner presented Certificates of Creditable Tax Withheld At Source (BIR Form No. 2307)[28] for CYs 2004 to 2006. Upon examination of these certificates, the Court noted that there were instances when the sum of the CWTs reflected in the certificates exceeded those reported per petitioner's ITR for the same year or vice-versa. Applying Section 76 of the NIRC of 1997, as amended, which requires that the CWT be reflected on the ITR, any amount, therefore, in the supporting withholding tax certificates that exceeds the amount declared in the ITR cannot be allowed. Accordingly, petitioner's allowable tax credits for CYs 2004 to 2006 amounted only to ₱33,254,767.50, computed as follows:

Exhibit	Payor's Name	Covered Period	Amount of CWT per Certificate	Amount of CWT per ITR	Difference	Allowable CWT
For CY 2004						
"P-38"	Jollibee Foods Corporation	01-Apr-04 to 30-Jun-04	₱ 138,928.50			
			6,476,456.25			
"P-39"	Ayala Corporation	01-Jul-04 to 30-Sep-04	2,433,912.00			
"P-40"	Jollibee Foods Corporation	01-Jul-04 to 30-Sep-04	62,912.25			
			5,671,321.88			
"P-41"	Ayala Corporation	01-Oct-04 to 31-Dec-04	870,947.40			
Subtotal			₱ 15,654,478.28	₱ 15,647,735.00[29]	₱ 6,743.28	₱ 15,647,735.00

[28] Exhibits "P-38" to "P-46", docket, vol. I, pp. 353-363.
[29] Exhibit "P-47", Lines 27C and 27D (the sum of ₱14,777,746.00 and ₱869,989.00), docket, vol. II, p. 708.

For CY 2005						
"P-42"	Bank of the Philippine Islands	01-Dec-05 to 31-Dec-05	₱ 5,625,637.50	5,855,400.00[30]	(229,762.50)	5,625,637.50
For CY 2006						
"P-43"	PLDT	01-Apr-06 to 30-Jun-06	₱ 3,207,493.50			
"P-44"	Globe Telecom, Inc.	01-Oct-06 to 31-Dec-06	1,449,870.00			
"P-45"	Smart Communications, Inc.	01-Oct-06 to 31-Dec-06	6,602,376.00			
"P-46"	Smart Communications, Inc.	01-Oct-06 to 31-Dec-06	6,602,376.00			
Subtotal			₱ 17,862,115.50	11,981,395.00[31]	5,880,720.50	11,981,395.00
Total			**₱39,142,231.28**	**₱33,484,530.00**		**₱33,254,767.50**

After deducting the aforesaid CWTs of ₱33,254,767.50 from petitioner's MCIT liabilities for CYs 2004 to 2012 in the total amount of ₱12,355,243.47, there still remains an amount of ₱20,899,524.03 which is sufficient to cover petitioner's MCIT liabilities for CYs 2013 and 2014 in the total amount of ₱1,484,619.00, as shown below:

Allowable CWTs for CYs 2004 to 2006			₱ 33,254,767.50
Less: MCIT Due for CYs 2004 to 2012			
Exhibit	*Taxable CY*	*MCIT Due*	
"P-47"	2004	₱ 946,882.00	
"P-48"	2005	1,614,475.00	
"P-49"	2006	82,634.00	
"P-50"	2007	2,721,265.00	
"P-51"	2008	2,388,293.00	
"P-52"	2009	926,359.00	
"P-53"	2010	1,952,092.00	
"P-54"	2011	614,393.14	
"P-16"	2012	1,108,850.33	12,355,243.47
Excess CWTs as of December 31, 2012			₱ 20,899,524.03
Exhibit	*Taxable CY*	*MCIT Due*	
"P-7"	2013	₱ 1,164,387.00	
"P-11"	2014	320,232.00	1,484,619.00
Excess CWTs as of December 31, 2014			**₱19,414,905.03**

[30] Exhibit "P-48", Line 28D, docket, vol. I, p. 367.
[31] Exhibit "P-49", Line 28D, docket, vol. I, p. 370.

Considering that only the prior year's excess credits were carried over to the subsequent quarters[32]/year[33], the unutilized CWTs for CYs 2013 and 2014 in the respective amounts of ₱36,610,118.00 and ₱37,547,131.00, totaling ₱74,157,249.00, which petitioner marked in its ITRs as "To be refunded"[34], may be the proper subject of a claim for refund under Section 76 of the NIRC of 1997, as amended.

However, in addition to the requisites provided under Section 76 of the Tax Code, jurisprudence and pertinent BIR Revenue Regulations provide that the following requisites must be complied with in order that the refund claim may be granted:

1. The claim for refund must be filed within the two-year prescriptive period as provided under Sections 204(C) and 229 of the Tax Code, 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 included in the return of the recipient.[35]

Anent the first requisite, the pertinent provisions are Sections 204(C) and 229 of the NIRC of 1997, as amended, which provide:

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

[32] Exhibits "P-8", "P-9", and "P-10", Line 31A (₱79,497,809.00) and "P-12", "P-13", and "P-14", Line 31A (₱79,177,577.00), docket, vol. I, pp. 256, 258, 259, 272, 274, and 276.

[33] Exhibits "P-11", Schedule 7, Line 1 (₱79,497,809.00) and "P-15", Schedule 7, Line 1 (₱79,177,577.00), docket, vol. I, p. 268 and docket, vol. II, p. 700.

[34] Exhibits "P-7-a" and "P-11-a".

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

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty:** *Provided, however*, that a return filed showing an overpayment shall be considered as a written claim for credit or refund." *(Emphasis supplied)*

"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." *(Emphasis supplied)*

It is well-settled that the reckoning of the two-year prescriptive period for the filing of a claim for refund/tax credit of excess income tax paid/withheld, both in the administrative and judicial levels, commences from the date of filing of the Final Adjustment Return.[36] ✓

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[36] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; *Commissioner of Internal Revenue vs. TMX Sales, Inc. and the Court of Tax*

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.[37]

Moreover, in the case of *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*[38], the Supreme Court held that it is only logical to reckon the two-year prescriptive period from the time the Final Adjustment Return or the Annual Income Tax Return was filed, since it is only at that time that it would be possible to determine whether the corporate taxpayer paid an amount exceeding its annual income tax liability.

Based on the afore-cited cases, petitioner has two years from the date of filing of the Final Adjustment Return within which to file a claim for refund or issuance of TCC for its excess creditable withholding taxes both in the administrative and judicial levels.

The present claim covers CYs 2013 and 2014 for which petitioner filed its ITRs on April 15, 2014[39] and on April 15, 2015[40], respectively. Counting from these dates, the administrative claim which was filed on April 8, 2016[41] and the Petition for Review which was filed on April 14, 2016 fell within the two-year prescriptive period. Clearly, petitioner satisfied the first requisite.

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

> "SECTION 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**

Appeals, G.R. No. 83736, January 15, 1992; *Commissioner of Internal Revenue vs. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, May 29, 1995.

[37] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, G.R. No. 83736, January 15, 1992.

[38] G.R. No. 182582, April 17, 2017.

[39] Exhibit "P-7-b", docket, vol. I, p. 248.

[40] Exhibit "P-11-b", docket, vol. I, p. 262.

[41] Exhibits "P-56" and "P-57", docket, vol. I, pp. 392-400.

> **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)*

Petitioner submitted several BIR Forms No. 2307, duly issued by its various clients for CYs 2013 and 2014, proving the withholding of creditable income taxes in the respective amounts of ₱36,610,118.25 and ₱37,547,130.50 or in the sum of ₱74,157,248.75, detailed as follows:

Exhibit	Payor's Name	Covered Period		Income Payments	Amount of CWT
For Calendar Year 2013					
"P-18"	Globe Telecom, Inc.	01-Jan-13	31-Mar-13	₱ 38,425,700.00	₱ 5,763,855.00
"P-19"	Globe Telecom, Inc.	01-Apr-13	30-Jun-13	45,574,300.00	6,836,145.00
"P-20"	S.C. Johnson Philippines ROHQ	01-Jan-13	31-Mar-13	24,396,000.00	3,659,400.00
"P-21"	Maynilad Water Services, Inc.	01-Jan-13	31-Mar-13	40,000,000.00	6,000,000.00
"P-22"	Maynilad Water Services, Inc.	01-Apr-13	30-Jun-13	27,000,000.00	4,050,000.00
"P-23"	Ayala Corporation	01-Jul-13	30-Sep-13	25,706,940.00	3,856,041.00
"P-24"	S.C. Johnson Philippines ROHQ	01-Oct-13	31-Dec-13	21,323,115.00	3,198,467.25
"P-25"	S.C. Johnson Philippines ROHQ	01-Oct-13	31-Dec-13	21,641,400.00	3,246,210.00
Subtotal				**₱244,067,455.00**	**₱36,610,118.25**
For Calendar Year 2014					
"P-26"	Globe Telecom, Inc.	01-Oct-13	31-Dec-13	₱ 73,000,000.00	₱ 10,950,000.00
"P-27"	Globe Telecom, Inc.	01-Jan-14	31-Mar-14	30,000,000.00	4,500,000.00
"P-28"	Holcim Philippines, Inc.	01-Jan-14	31-Mar-14	33,487,750.00	5,023,162.50
"P-29"	Holcim Philippines, Inc.	01-Jan-14	31-Mar-14	12,014,750.00	1,561,917.50
"P-30"	Holcim Philippines, Inc.	01-Oct-13	31-Dec-13		240,295.00
"P-31"	Globe Telecom, Inc.	01-Apr-14	30-Jun-14	52,704,750.00	7,905,712.50
"P-32"	Vicsal Development Corp.	01-Apr-14	30-Jun-14	17,820,000.00	2,673,000.00
"P-33"	Holcim Philippines, Inc.	01-Apr-14	30-Jun-14	11,203,750.00	1,680,562.50
"P-34"	Ayala Corporation	01-Apr-14	30-Jun-14	2,851,550.00	427,732.50
"P-35"	Ayala Corporation	01-Jul-14	31-Jul-14	14,507,250.00	2,176,087.50
"P-36"	Globe Telecom, Inc.	01-Oct-14	31-Dec-14	671,070.00	100,660.50
"P-37"	Sanofi-Aventis Philippines, Inc.	01-Oct-14	31-Dec-14	15,400,000.00	308,000.00
Subtotal				**₱263,660,870.00**	**₱37,547,130.50**
TOTAL					**₱74,157,248.75**

Petitioner likewise complied with the third requisite as the income payments related to the CWTs of ₱74,157,248.75 were traced to petitioner's invoices, official receipts, and general ledgers (GLs) for CYs 2012, 2013, and 2014, and in turn were reported in petitioner's ITRs for the said years.

Petitioner's ITRs for CYs 2012, 2013, and 2014 reflected "Net Sales/Revenues/Receipts/Fees" in the amounts of ₱750,257,727.60[42], ₱575,652,971.00[43], and ₱529,303,739.00[44], respectively. In the Audited Statements of Comprehensive Income of petitioner for the same calendar years, the said amounts were broken down as follows:

	CY 2012 *(Exhibit "P-58")*	**CY 2013** *(Exhibit "P-58")*	**CY 2014** *(Exhibit "P-59")*
Billing Revenue			
Consultancy Services	₱ 486,597,601.00	₱ 372,198,318.00	₱ 261,518,297.00
Shared Services Center	202,333,119.00	159,737,124.00	186,544,432.00
Loaned Services	61,327,007.00	43,717,529.00	81,241,010.00
Total Revenue	**₱750,257,727.00**	**₱575,652,971.00**	**₱529,303,739.00**

On the other hand, the certificates[45] with the related invoices and official receipts[46] as well as the Sworn Statement of petitioner's Accounting Officer, Ms. Elena D. Cabahug[47], disclosed that the claimed CWTs pertain to professional fees received by petitioner in CYs 2013 and 2014 which were verified to have been booked/recorded under "Consultancy Services" in its GLs[48] for CYs 2012, 2013, and 2014. The total amount of revenues from consultancy services per petitioner's GLs for CYs 2012, 2013, and 2014 were the same amounts reported by petitioner in its ITRs for the said years.

In fine, the Court finds that petitioner has sufficiently proven its entitlement to a refund or issuance of TCC for its unutilized excess CWTs for calendar years 2013 and 2014 in the respective amounts of ₱36,610,118.00 and ₱37,547,131.00, or in the total amount of ₱74,157,249.00.

WHEREFORE, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱74,157,249.00** in favor of petitioner, representing its excess and unutilized creditable withholding taxes for calendar years 2013 and 2014. gr

[42] Exhibit "P-55", Line 16C, docket, vol. I, p. 388.
[43] Exhibit "P-7", Line 30.
[44] Exhibit "P-11", Line 30.
[45] Exhibits "P-18" to "P-37", docket, vol. I, pp. 333-352.
[46] Exhibits "P-65" to "P-125", "P-126", and "P-127, docket, vol. II, pp. 711-740 and docket, vol. I, pp. 558 and 559.
[47] Exhibit "P-128", docket, vol. I, pp. 172-229.
[48] Exhibits "P-60" to "P-62", docket, vol. I, pp. 496-498.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

I CONCUR:

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

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