Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 1182** (CTA Case No. 8354)
	Present: DEL ROSARIO, P.J., CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, JJ.
-versus-	
SUTHERLAND GLOBAL SERVICES PHILIPPINES, INC., *Respondent.*	Promulgated: OCT 28 2015 3:35 p.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review for the Court *en banc* under *Section 2(a)(1), Rule 4*, in relation to *Section 4(b), Rule 8 of the 2005 Revised Rules of the Court of Tax* Appeals (RRCTA)*, as amended*, seeking the reversal of the Decision[1] and Resolution[2] rendered by the Second Division of this Court on February 27, 2014 and May 20, 2014, respectively, which partially granted respondent's claim for refund in the reduced amount of ₱18,199,066.08, representing its erroneously paid 5% gross income tax for the fiscal year ending June 30, 2009.

The antecedent facts taken from the assailed Decision of the Second Division of this Court are as follows:

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[1] Penned by Associate Justice Amelia R. Cotangco Manalastas and concurred in by Associate Justices Juanito C. Catañeda, Jr. and Caesar A. Casanova; *En Banc* Docket, pp. 10 28.
[2] *Id.*, at 30 31.

"[Respondent] Sutherland Global Services Philippines, Inc. is an existing, non-pioneer Information Technology (IT) locator enterprise registered as an ECOZONE IT Enterprise by virtue of the Philippine Economic Zone Authority (PEZA) Certificate of Registration No. 05-10-IT. It is also registered with the Clark Special Economic Zone (CSEZ) as an ECOZONE IT Enterprise on December 6, 2006.

[Petitioner] is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), vested with authority to carry out all the functions, duties and responsibilities of said office, including, inter alia, the power to decide, approve, and grant refunds or tax credits of overpaid or erroneously paid or collected internal revenue taxes. She holds office at the BIR National Office Building, Diliman, Quezon City.

On December 20, 2006, [respondent] and PEZA executed a Registration Agreement dated November 22, 2006, authorizing [respondent] to conduct and operate its business inside the Clark Special Economic Zone. The agreement granted tax incentives to [respondent] under Republic Act (RA) No. 7916, as amended, and the PEZA IT Guidelines, more particularly, to 'pay 5% tax on gross income, in lieu of all national and local taxes, subject to PEZA and BIR rules and regulations' and 'Tax and duty exemption on importation of capital equipment, raw materials and supplies'.

The PEZA Board passed Resolution No. 07-037 on January 18, 2007, approving the grant of full PEZA Incentives to CSEZ export-oriented and IT locator enterprises.

As a result, [respondent] and PEZA executed a Supplemental Agreement on February 2, 2007, stating, among others, that [respondent] shall be entitled to a four (4)-year Income Tax Holiday (ITH) under non-pioneer status and upon the expiration of the ITH incentive, [respondent] shall be entitled to 5% gross income tax (GIT) incentive and to other incentives under the PEZA Law. Further, it was agreed that said Agreement shall form an integral part of the original contract.

[Respondent] alleged that from the time it started its commercial operation on August 9, 2006, it had erroneously paid the 5% preferential tax granted to it under the Registration Agreement on its gross income instead of the ITH given under the Supplemental Agreement. [Respondent] pointed out that during fiscal

> year July 1, 2008 to June 30, 2009, it paid the total amount of P18,311,565.00.
>
> On October 13, 2011, [respondent] filed an administrative claim for refund with the BIR Revenue Region No. 44. Receiving no affirmative relief from [petitioner], [respondent] filed a Petition for Review with this Court on October 14, 2011 or one (1) day after filing the administrative claim with the BIR."[3]

In her answer,[4] petitioner argues, among others, that respondent's claim for refund failed to comply with Section 229 of the 1997 Tax Code considering that its claim for refund was filed on October 13, 2011, and only after the lapse of one (1) day or on October 14, 2011, respondent immediately filed the instant judicial claim without giving her ample time to resolve its claim, thereby denying the latter of due process and depriving this court of jurisdiction over the case.

After hearing, the case was then submitted for decision on October 22, 2013.[5]

On February 27, 2014, the Court *a quo* promulgated a Decision[6] partially granting respondent's claim for refund in the reduced amount of ₱18,199,066.08, representing petitioner's erroneously paid 5% gross income tax for the fiscal year ending June 30, 2009.

Petitioner thereafter filed a "Motion for Reconsideration"[7] which was denied by the Court *a quo* in a Resolution[8] dated May 20, 2014 for lack of merit.

Hence, petitioner filed this instant Petition for Review.

Petitioner raises the following arguments, to wit:[9]

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[3] *En Banc* Docket, pp. 10-12.
[4] Filed on December 22, 2011; Division Docket, 88-91.
[5] Division Docket, p. 404.
[6] *Supra* note 1.
[7] Posted on March 19, 2014; Division Docket, pp. 425-431.
[8] *Supra* note 2.
[9] *En Banc* Docket, p. 3.

1. Whether the Honorable Second Division of the CTA erred in granting respondent's Petition for Review and ordering the refund in the amount of ₱18,199,066.00, representing respondent's erroneously paid 5% gross income tax for the fiscal year ending June 30, 2009.

2. Whether the Honorable Second Division of the CTA erred in denying herein petitioner's Motion for Reconsideration.

The principal issue to be resolved in this case is whether respondent is entitled to a tax refund of its alleged erroneous payment of 5% gross income tax for the fiscal year ending June 30, 2009 in the reduced amount of ₱18,199,066.00.

Petitioner reiterates her argument that respondent's claim for refund must be denied for failure to establish that its income is actually derived from its PEZA-registered business activities within the CSEZ. Petitioner asserts that the documentary evidence presented by respondent such as (1) the various computer-generated billing invoices it issued to non-resident customers; (2) debit memo; (3) the breakdown of time and cost charges, and (4) schedule of revenue for the Company's facility in the CSEZ are not enough proof to substantiate its claim that its income is actually derived from its PEZA-registered business activities within the CSEZ. Petitioner added that in order for respondent to be exempt from the payment of income tax by virtue of the Income Tax Holiday, it must present proof of payment of other taxes such as Value-Added Tax (VAT) or Percentage Tax, and filing of the corresponding VAT/Percentage Tax returns.

In its comment,[10] respondent counter-argues that it is entitled to its claim for refund in the amount of ₱18,199,066.08, representing the 5% gross income tax erroneously paid to the BIR for the period July 1, 2008 until June 30, 2009. Respondent argues that it has established with sufficient proof that its income for the fiscal year ended

[10] Filed on August 4, 2014; *En Banc* Docket, pp. 42-55.

June 30, 2009 was actually derived from its PEZA-registered business activities. Moreover, respondent contends that its filing of an Income Tax Return is not an admission that it is not exempt from payment of income taxes. Considering that its claim is for refund of income taxes erroneously paid, it has no duty to present evidence of payment of VAT and other taxes.

The instant petition is bereft of merit.

Sections 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, apply only to instances of erroneous payment or illegal collection of internal revenue taxes.[11] Notably, these provisions set a two-year prescriptive period, reckoned from the date of payment of the tax or penalty, for the filing of a claim of refund or tax credit,[12] thus:

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

[11] Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc., G.R. No. 184823, October 6, 2010.
[12] *Id.*

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.]

Moreover, in claims for refund of erroneously or illegally paid corporate income tax, the two-year prescriptive period should be computed from the time of filing of the Adjustment Return or Annual Income Tax Return and final payment of income tax because it is only on such date that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.[13] Corollary thereto, Section 77 (B) and (C) of the NIRC of 1997, as amended,[14] provides that the final adjustment return shall be filed and paid on or before the fifteenth (15^{th}) day of April, or on or before the 15^{th} day of the fourth (4^{th}) month following the close of the fiscal year, as the case may be.

In the instant case, respondent filed its original[15] and amended[16] Annual Income Tax Returns on October 14, 2009 and November 11, 2009, respectively, and paid the corresponding 5% gross income tax in the total amount of ₱18,311,565.00 for fiscal year ending June 30, 2009. *C*

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

[14] SEC. 77. Place and Time of Filing and Payment of Quarterly Corporate Income Tax. —

xxx

(B) Time of Filing the Income Tax Return. — The corporate quarterly declaration shall be filed within sixty (60) days following the close of each of the first three (3) quarters of the taxable year. The final adjustment return shall be filed on or before the fifteenth (15th) day of April, or on or before the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year, as the case may be.

(C) Time of Payment of the Income Tax. — The income tax due on the corporate quarterly returns and the final adjustment income tax returns computed in accordance with Sections 75 and 76 shall be paid at the time the declaration or return is filed in a manner prescribed by the Commissioner.

[15] Exhibit "Z-4".

[16] Exhibit "Q".

Consequently, counting the two-year prescriptive period from the date when respondent filed and paid its original Annual Income Tax Return pursuant to Sections 204(C) and 229 of the NIRC of 1997, as amended, or on October 14, 2009, it is clear that respondent timely filed its administrative claim before the petitioner on October 13, 2011[17] and its judicial appeal before this Court on October 14, 2011.[18]

Section 23 [19] of Republic Act (RA) No. 7916, as amended by RA 8748,[20] otherwise known as "The Special Economic Zone Act of 1995," entitles a PEZA-registered enterprise, like respondent, the option to choose between two sets of fiscal incentives, to wit: (a) The five percent (5%) preferential tax rate on its gross income under RA No. 7916, as amended; and (b) the income tax holiday provided under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, as amended.

Section 24 of RA No. 7916 grants a five percent (5%) preferential rate on gross income earned by all business enterprises operating within the ECOZONE in lieu of all national and local taxes, thus:

> **SEC. 24.** Exemption from National and Local Taxes.- Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:
> (a) Three percent (3%) to the National Government;
> (b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's C

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[17] Exhibit "H".
[18] Petition for Review, Division Docket, pp. 1-76.
[19] SEC. 23. Fiscal Incentives. - Business establishments operating within the ECOZONES shall be entitled to the fiscal incentives as provided for under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987.
[20] An Act Providing For The Legal Framework And Mechanisms For The Creation, Operaton, Administration, And Coordination Of Special Economic Zones In The Philippines, Creating For This Purpose, The Philippine Economic Zone Authority (Peza), And For Other Purposes.

> office of the municipality or city where the enterprise is located.

On the other hand, Title III, Article 39(a)(1) of Book VI of Executive Order (EO) No. 226, otherwise known as "The Omnibus Code of 1987," grants a four (4) to six (6) years Income Tax Holiday (ITH) from commercial operation to a registered pioneer and non-pioneer enterprises, respectively, thus:

> **Article 39.** Incentives to Registered Enterprises. All registered enterprises shall be granted the following incentives to the extent engaged in a preferred area of investment;
>
> (a) Income Tax Holiday.
>
> (1) For six (6) years from commercial operation for pioneer firms and four (4) years for non-pioneer firms, new registered firms shall be fully exempt from income taxes levied by the National Government. Subject to such guidelines as may be prescribed by the Board, the income tax exemption will be extended for another year in each of the following cases:
>
> i. the project meets the prescribed ratio of capital equipment to number of workers set by the Board;
>
> ii. utilization of indigenous raw materials at rates set by the Board;
>
> iii. the net foreign exchange savings or earnings amount to at least US$500,000.00 annually during the first three (3) years of operation.
>
> The preceding paragraph notwithstanding, no registered pioneer firm may avail of this incentive for a period exceeding eight (8) years.

In this case, respondent executed a Registration Agreement [21] with PEZA on December 20, 2006, which entitles the former to conduct and operate its business inside CSEZ, and enjoy the fiscal incentives under RA No. 7916, *i.e.,* entitlement to 5% tax on gross income incentive, in lieu of all national and local taxes and tax and duty exemption on importation of capital equipment, raw

[21] Exhibit "D".

materials and supplies. The pertinent portion of the said grant reads:

> **ARTICLE XIII**
> **INCENTIVES**
>
> 13. The REGISTRANT'S project shall be entitled to the following incentives under R.A. 7916, as amended, and the PEZA IT Guidelines, subject to the following terms and conditions:
>
> 13.1 The REGISTRANT shall pay 5% tax on gross income, in lieu of all national and local taxes, subject to PEZA and BIR rules and regulations.
>
> 13.2 Tax and duty exemption on importation of capital equipment, raw materials and supplies;

Thereafter, respondent executed a Supplemental Agreement[22] with PEZA on February 2, 2007, by which it was entitled to a 4-year ITH under non-pioneer status, the pertinent portion of which reads:

> "**1. The REGISTRANT shall be entitled to four (4) years Income Tax Holiday (ITH) under non-pioneer status and upon the expiration of the ITH incentive, the REGISTRANT shall be entitled to 5% gross income tax (GIT) incentive and to other incentives under the PEZA law.**
>
> 2. The REGISTRANT shall automatically revert to the enjoyment of incentives for CSEZ once the pertinent law is enacted by Congress.
>
> 3. Nothing herein contained shall be construed as amending or modifying any of the terms and conditions of the Original Contract except as herein expressly provided.
>
> 4. This Agreement shall form an integral part of the Original Contract." [Emphasis supplied.]

From the foregoing, it is clear that respondent was granted full PEZA incentives, *i.e.,* entitlement to 4 years ITH under non-pioneer status from its commercial operations on August 9, 2006[23] or until August 9, 2010. Thereafter, upon expiration of the ITH incentive, respondent shall be entitled

[22] Exhibit "E".
[23] Exhibit "F".

to 5% gross income tax (GIT) incentive and to other incentives under the PEZA law.

However, it must be underscored that the 4-year ITH granted to respondent under the Supplemental Agreement shall apply only to its registered operations and only during the period of its registration with PEZA.[24] Therefore, it is incumbent upon the respondent to prove that the total revenue relating to the subject tax refund was actually earned from its PEZA-registered activities within the CSEZ for the fiscal year ending June 30, 2009.

Notwithstanding the afore-mentioned ITH incentive, records disclosed that for fiscal year ending June 30, 2009, respondent paid and remitted to the BIR the 5% GIT in the total amount of ₱18,311,565.00, broken down as follows:

INCOME TAX RETURN PERIOD	REFERENCE	AMOUNT PAID
1ST QUARTER	EXHIBIT "Z-1 / J-3"	₱ 3,007,881.00
2ND QUARTER	EXHIBIT "Z-2 / J-2"	4,306,509.00
3RD QUARTER	EXHIBIT "Z-3 / J-1"	4,491,094.00
ORIGINAL ANNUAL INCOME TAX RETURN	EXHIBITS "Z-4 / J"	6,506,081.00
AMENDED ANNUAL INCOME TAX RETURN	EXHIBIT "Q"	
		₱18,311,565.00

The Independent CPA (ICPA) Report[25] reveals that respondent's total revenue in the amount of ₱4,177,461,000.00 declared in its Amended 2009 Income Tax Return[26] was derived from its various facilities with the following assigned business unit codes:

Business Unit Code per Site	Location
PHL01	ExportBank Plaza Building, Makati City
PHL02	CSEZ
PHL03	Burgundy Corporate Tower, Makati City
PHL04	Camarines Sur Information Technology Park
PHL05	Davao City – TESDA

[24] Part VII, Rule XIII, Rules and Regulations to Implement Republic Act No. 7916 which reads:
PART VII - INCENTIVES TO ECOZONE ENTERPRISES
Rule XIII - Application and Entitlement
xxx
SECTION 5. Limitation of Entitlement to Incentives - Incentives granted by the PEZA shall apply only to registered operations of the ECOZONE Enterprise and only during the period of its registration with PEZA.
[25] Exhibit "O", pp. 4-5; Division Docket, pp. 255-256.
[26] Exhibit "Q".

PHL06	Luisa Avenue Square IT Park, Davao City
PHL07	Tarlac Provincial Information Technology Park II, Tibag, Tarlac City
PHL08	Total Corporate Center 1, Taguig City

The ICPA compared the amount per Breakdown of Revenues per Site as against the Revenues per Amended 2009 Annual Income Tax Return as follows:

	ITH / "Exempt" Column *(Sites: PHL01, PHL03, PHL04, PHL05, PHL06, PHL07, PHL08)*	**GIT / "Special Rate" Column** *(Site: PHL02)*
Revenue per Breakdown of Revenues per Site	₱ 2,807,099,691.00	₱ 1,370,361,308.00
Revenue per Amended 2009 Annual Income Tax Return	2,807,099,692.00	1,370,361,308.00
Discrepancy	**₱ (1.00)**	**₱ 0.00**

The revenues from the PEZA-registered activities within the CSEZ (PHL02) under the "Special Rate" column in its Amended 2009 Annual Income Tax Return in the total amount of ₱1,370,361,308.00 is the subject of the present claim for refund.

Upon review of the supporting documents of respondent's income from PEZA-registered activities within the CSEZ (PHL02), the ICPA verified that the total revenues of ₱1,369,986,519.39 were actually earned from its PEZA-registered activities within the CSEZ for the fiscal year ending June 30, 2009. The said amount is computed as follows:[27]

Nature	**Reference**	**Amount**
Revenues generated from the Company's registered activities within the CSEZ reported in the 2009 Audited Financial Statements *(Exhibit U)* and reported under the 5% Special Rate per Amended 2009 Annual Income Tax Return *(Exhibit Q)* which are supported with computer-generated billing invoices dated within the period July 1, 2008 to June 30, 2009, issued by the Company to non-resident customers *(Exhibit X)*.	*Annex A, Page 17*	₱ 1,361,942,357.33
Revenues generated from the Company's registered activities within the CSEZ reported in the 2009 Audited Financial Statements *(Exhibit U)* and reported under the 5% Special Rate per Amended 2009 Annual Income Tax Return *(Exhibit Q)* which are supported with Breakdown of Time and Cost Charges *(Exhibit CC)* for non-resident customers covering the period July 1, 2008 to June 30, 2009.	*Annex B, Page 18*	8,044,162.06
Total		**₱1,369,986,519.39**

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[27] Exhibit "O", pp. 7-8; Division Docket, pp. 258-259.

The ICPA noted that the difference in the reported revenue amounting to ₱374,788.61 are either supported with computer-generated billing invoices but not dated within the fiscal period ending June 30, 2009, or with no supporting documents available during the time of review, as shown below:[28]

Nature	Reference	Amount
Adjustment to revenues generated from the Company's registered activities within the CSEZ reported in the 2009 Audited Financial Statements *(Exhibit U)* and reported under the 5% Special Rate per Amended 2009 Annual Income Tax Return *(Exhibit Q)* which are supported with computer-generated billing invoices not dated within the period July 1, 2008 to June 30, 2009, issued by the Company to non-resident customers *(Exhibit DD)*.	*Annex D, Page 21*	₱ 3,872,713.58
Accrued revenues generated from the Company's registered activities within the CSEZ reported in the 2009 Audited Financial Statements *(Exhibit U)* and reported under the 5% Special Rate per Amended 2009 Annual income Tax Return *(Exhibit Q)* where supporting documents are not available during the time of review.		382,242.43
Total		**₱ 374,788.61**

The ICPA therefore concludes that out of ₱1,370,361,308.00 total revenue reported in the Amended 2008 Annual Income Tax Return under the 5% Special Rate, only the total revenue amounting to ₱1,369,986,519.39 were properly supported by documents and/or schedules that these were the actual earnings of respondent from its PEZA-registered activities within the fiscal period of June 30, 2009. Consequently, the corresponding income tax paid for the said revenue is ₱18,306,556.85.[29]

Nonetheless, We affirm the findings of the Second Division of this Court in the assailed Decision that the amount of ₱8,044,162.06 included in the recommended amount of the ICPA that was supported with Breakdown of Time and Cost Charges[30] should be further disallowed as this merely showed computation and did not establish the fact that respondent actually billed the said amount to a certain

[28] *Id.*, at 8; Division Docket, p. 259.
[29] *Id.*, at 10; Division Docket, p. 261.
[30] Exhibit "CC".

customer for services rendered by it within the CSEZ. We quote:[31]

> "However, this Court finds that out of the P1,369,986,519.39 revenues verified by the Independent CPA as pertaining to petitioner's PEZA-registered activities within the CSEZ, the amount of P8,044,162.06 that was supported with Breakdown of Time and Cost Charges should be disallowed. The Court cannot give credence to the Breakdown of Time and Cost Charges as this merely showed computation and did not establish that a particular amount was actually billed to a certain customer for services rendered by petitioner within the CSEZ.
>
> In sum, out of the P1,370,361,308.00 total revenues subjected to the 5% gross income tax, only the amount of P1,361,942,357.33 which was supported with computer-generated billing invoices was proved to have been earned by petitioner from its PEZA-registered activities within the CSEZ for the fiscal year ending June 30, 2009. Since petitioner is exempt from income tax for the fiscal year ending June 30, 2009 on income earned from its PEZA-registered activities within the CSEZ, only the amount of P18,199,066.08, representing the 5% income tax on its fiscal year 2009 CSEZ revenues of P1,361,942,357.33, shall constitute as erroneously paid tax which is refundable pursuant to Sections 204 (C) and 229 of the NIRC of 1997, as amended. Below is the computation of the erroneous income tax payment of P18,199,066.08:

Income Tax Claimed for Refund	₱ 18,311,565.00
Multiplied by: Allocation Factor	
Validly Substantiated CSEZ Revenues	₱ 1,361,942,357.33
Total Revenues Subjected to 5% Special Rate	1,370,361,308.00
Allocation Factor	0.993856401
Refundable Erroneously Paid Income Tax	**₱ 18,199,066.08**

Anent petitioner's argument that respondent needs to prove its payment of other taxes such as VAT or Percentage Tax Returns in order to claim its refund for erroneous payment of 5% GIT instead of the ITH incentive pursuant to the Supplemental Agreement it executed with PEZA, the

[31] *En Banc* Docket, p 26.

same is bereft of any factual or legal basis. This argument merely imposes unnecessary burden on the part of the respondent not sanctioned by the law.

It bears stressing that RA 7916, as amended, declared that by creating the PEZA and integrating the special economic zones, the government shall actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people specially those in the rural areas, increase their productivity and their individual and family income, and thereby improve the level and quality of their living condition through the establishment, among others, of special economic zones in suitable and strategic locations in the country and through measures that shall effectively attract legitimate and productive foreign investments.

In fine, We see no cogent reason to deviate from the factual findings of the Court *a quo* that respondent is entitled to its claim for refund in the reduced amount of ₱18,199,066.08, representing its erroneously paid 5% gross income tax for the fiscal year ending June 30, 2009.

WHEREFORE premises considered, the petition is **DENIED**. The Decision of the Second Division of this Court in CTA Case No. 8354 dated February 27, 2014 and its Resolution dated May 20, 2014 are hereby **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(on leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen S L
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation among the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court *En Banc*.

ROMAN G. DEL ROSARIO
Presiding Justice