22-000254-0051

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10869

GLOBAL BUSINESS POWER CORPORATION,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. BRYAN ANTHONY C. DIEGO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ROMULO MABANTA BUENAVENTURA SAYOC & DE LOS ANGELES
21st Floor, AIA Tower (formerly Philamlife Tower)
8767 Paseo de Roxas, Makati City

GREETINGS:

You are hereby notified by these presents that on **February 25, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 27, 2025.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

GLOBAL BUSINESS POWER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10869

Members:

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

Promulgated:

FEB 25 2025 2:05PM

x- x

RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Partial Reconsideration (Re: Decision promulgated on 18 November 2024)* filed personally and via electronic mail (e-mail) on November 29, 2024, with petitioner's *Comment (on Respondent's Motion for Partial Reconsideration (Re: Decision promulgated on 18 November 2024) dated 29 November 2024)* filed through an accredited courier on January 13, 2025 and via e-mail on January 14, 2025.

Respondent prays for the denial of petitioner's entire refund claim and seeks the reversal and setting aside of the *Decision* dated November 18, 2024 (assailed *Decision*), which partially granted petitioner's claim for refund. The *fallo* reads:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.
>
> Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, the amount of **₱11,248,774.96**, representing the latter's excess and unutilized CWTs for taxable year 2019.
>
> **SO ORDERED.**

Respondent argues that petitioner failed to comply with the requirements set forth under Revenue Memorandum Order (RMO) No. 53-98 and Revenue Regulations (RR) No. 2-2006. Respondent asserts that had petitioner submitted all relevant documents to substantiate its claim, there would have been an opportunity for respondent to verify its accuracy before issuing a refund or tax credit certificate (TCC).

Additionally, respondent claims that petitioner should have presented evidence to prove the actual remittance of the alleged withheld taxes to the Bureau of Internal Revenue (BIR), as this is indispensable in a claim for a refund of creditable withholding taxes (CWTs). Finally, respondent submits that claims for refunds, being in the nature of tax exemptions, must be strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language.

Petitioner counters that respondent's claim regarding the necessity of proving actual remittance of withholding taxes for a valid refund lacks legal basis. Citing Supreme Court rulings, petitioner asserts that such proof is not required to establish withholding and remittance of taxes.

Moreover, petitioner challenges the applicability of RMO No. 53-98 in this case, arguing that it is irrelevant to claims for refunds. Petitioner asserts that respondent's reliance on RR No. 2-2006 was already addressed in the assailed *Decision*, rendering those arguments without merit.

The *Motion* must be denied.

The arguments in this *Motion* are mere reiterations of matters already resolved in the assailed *Decision*.

Contrary to respondent's assertions, there is nothing in RMO No. 53-98[1] and RR No. 2-2006[2] that requires the submission of all the documents specified therein before a taxpayer may be entitled to a refund. The assailed *Decision* has

---

[1] 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, June 1, 1998.

[2] 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, December 1, 2005.

already addressed respondent's misplaced reliance on these issuances, in this wise:

> In *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*,[3] the Supreme Court held that failure to submit "complete documents" as required by RMO No. 53-98 and RR No. 2-2006 does not render a petition before this Court dismissible for lack of jurisdiction. Moreover, respondent's inaction on a refund claim does not preclude this Court from considering evidence not presented in the administrative claim with the BIR. The pertinent portion of the decision is hereunder quoted:
>
> > Petitioner CIR argued that failure of the respondent to submit the required complete documents as required by Revenue Memorandum Order No. 53-98 and Revenue Regulations No. 2-2006 rendered the petition with the CTA dismissible on the ground of lack of jurisdiction. It reasoned out that when a taxpayer prematurely filed a judicial claim with the CTA, the latter has no jurisdiction over the appeal.
> >
> > In the instant case, **respondent's failure to submit the complete documents at the administrative level did not render its petition for review with the CTA dismissible for lack of jurisdiction.**
> >
> > ....
> >
> > **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:

---

[3] G.R. No. 231581, April 10, 2019 [Per J. Reyes, Jr., J., Second Division].

> 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.
>
> ....
>
> 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 x x x to the Court of Tax Appeals all evidence x x x required for the successful prosecution of its administrative claim.' Consequently, **the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.** (*Emphasis added*)

> Accordingly, there is no merit in respondent's contention that the failure of petitioner to submit relevant documents, particularly those required under RMO No. 53-98 and RR No. 2-2006, on the administrative level makes its claim for tax refund dismissible.

Furthermore, there is no basis in law, regulations, or jurisprudence for respondent's claim that proof of actual tax remittance is required to claim a refund of unutilized tax credits. The Certificate of Creditable Tax Withheld at Source (BIR Forms No. 2307) serves as competent proof that taxes were withheld.[4]

It is evident that petitioner has met all the requirements for claiming a tax credit or refund of CWT. *First*, both administrative and judicial claims were filed within the two-year prescriptive period. *Second*, petitioner included the relevant income payments in its gross income (except for the amount of ₱265,252.58). *Third*, the fact of withholding was substantiated through the submission of BIR Forms No. 2307.

---

4 *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division].

Given that petitioner has sufficiently established its partial entitlement to a refund, there are no valid grounds to deny its claim.

WHEREFORE, premises considered, the instant *Motion for Partial Reconsideration (Re: Decision promulgated on 18 November 2024)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice