REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2952** (CTA Case No. 10287)
-versus-	Present: **RINGPIS-LIBAN,** *Acting P.J.,* **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
NOVABALA JV CORP., *Respondent.*	Promulgated: OCT 10 2025 4:20 pm

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a Petition for Review,[1] filed via registered mail on July 29, 2024, under *Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*,[2] seeking the reversal and setting aside of the Decision[3] ("Assailed Decision"), promulgated on January 4, 2024, and the Resolution[4] ("Assailed Resolution"), dated June 19, 2024, both issued by the Court's Special First Division ("Court in Division"); and the rendering of a new decision dismissing the original Petition for Review filed by respondent for an alleged lack of factual and legal basis.[5]

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[1] Petition for Review, *Rollo*, pp. 6-67, with annexes.
[2] A.M. No. 05-11-07-CTA, 22 November 2005.
[3] Decision, dated January 4, 2024 ("Assailed Decision"), *Rollo*, pp. 29-58.
[4] Resolution, dated July 19, 2024 (Assailed Resolution"), *id.* at 60-67.
[5] See Prayer, Petition for Review, *id.* at 22.

The Parties

Petitioner Commissioner of Internal Revenue ("CIR" or "petitioner") is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") who is vested with the authority to carry out all the functions, duties and responsibilities of said office, such as the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising out of the *National Internal Revenue Code of 1997, as amended* ("*Tax 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.[6]

On the other hand, respondent Novabala JV Corp. ("Novabala" or "respondent") is a corporation duly organized and existing under the laws of the Philippines, with principal office address at Building 4, First Balfour Bldg., Km. 19, West Service Road, Marcelo Green Village, Fourth District Parañaque City.[7]

As evidenced by Certificate of Registration ("COR") No. 2018-134 dated June 28, 2018,[8] respondent is registered with the Board of Investments ("BOI") for the Novaliches-Balara Aquedact 4 ("NBAQ4") Project covered by a service contract with Manila Water Company, Inc. ("MWCI"). In relation thereto, and pursuant to the income tax holiday (ITH) entitlement granted by the BOI,[9] the BIR issued on December 13, 2018, a Certificate of Tax Exemption, exempting it from payment of income tax on revenues directly attributable to its BOI-registered project.[10]

The Facts

On August 18, 2017, Novabala commenced the operations of the NBAQ4 Project.[11] For the rest of the year until September 2018, various payments were made by MWCI related to progress billings issued by respondent. MWCI correspondingly withheld 2% Creditable Withholding Tax ("CWT") from these payments and issued CWT certificates (BIR Form 2307).

On April 3 and 4, 2018, respondent filed its original and amended Annual Income Tax Returns ("AITRs"), respectively.[12] Under line 21 thereof, respondent ticked the box "to be carried over as tax credit next year/quarter," allegedly because at the time the return was filed, its COR from the BOI granting entitlement for ITH

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6 See Par. 2, The Parties, Petition for Review, *id.*, at 6; Par. 2, The Facts, Assailed Decision, *id.* at 29.
7 See Par. 3, The Parties, Petition for Review, *id.*, at 7; Par. 1, The Facts, Assailed Decision, *id.* at 29
8 Exhibit "P-15", Division Docket Vol. I, p. 473.
9 See Certificate of Income Tax Holiday Entitlement, Exhibit "P-16", *id.* at 478.
10 Exhibit "P-19", *id.* at 489.
11 Exhibit "P-22-a," Docket, Vol. II, p. 1154.
12 Exhibits "P-37" and "P-38", *id.* at 593 and 601.

had yet to be issued.[13] On the other hand, respondent chose the refund option under line 21 in its 2018 AITR.[14]

Regardless of having chosen such option to carry over for 2017, respondent, in its letter dated June 18, 2019,[15] requested for the approval of its claim for income tax refund of the following alleged erroneous overpayments:

Excess from erroneous withholding in 2017	Php 17,527,898.00
Unapplied erroneous withholding in 2018	2,853,234.00
Total	Php 20,381,132.00

On July 25, 2019, the BIR issued Letter of Authority No. eLA201600070445/LOA-052-2019-00000625, authorizing Revenue Officer Cherry Mae Sanchez and Group Supervisor Nestor Chan to examine Novabala's books and other accounting records for income taxes for the taxable year 2018.[16]

Due to petitioner's inaction,[17] respondent elevated its refund claim to the Court through the original Petition for Review filed on June 29, 2020.[18]

After a full-blown trial, the Court in Division issued the Assailed Decision on January 4, 2024,[19] denying the refund of CWTs for the year 2017 and granting the refund only to the extent of excess CWTs claimed for the year 2018, to wit:

> **WHEREFORE**, in light of the foregoing consideration, the present Petition for Review is **PARTIALLY GRANTED**. Respondent is hereby ordered to refund petitioner the amount **P2,853,239.96**, representing the latter's excess creditable withholding taxes for taxable year 2018.

Both parties moved for the reconsideration of the Assailed Decision but were denied through the Assailed Resolution.[20]

Undeterred, the CIR filed the present Petition for Review before the Court *En Banc* on July 29, 2024.[21] Respondent, on the other hand, filed its Comment on September 16, 2024.[22]

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[13] Par. 35, Petition for Review dated June 22, 2020, *id.* at 15-16.
[14] Exhibit "P-62", *id.* at 621A
[15] Exhibit "P-7", "P-7-a" to "P-7-k", *id.* at 452-463.
[16] Par. 3, Summary of Admitted Facts, Joint Stipulation of Facts and Issues, Division Docket Vol. II, p. 953.
[17] Par 4, *id.*
[18] Division Docket Vol I, pp. 7-40.
[19] *Supra* note 3.
[20] *Supra* note 4.
[21] *Supra* note 1.
[22] Comment (To the Petition for Review), *Rollo*, pp. 69-79.

On October 10, 2024 the Court *En Banc* submitted the instant case for decision.[23]

The Issues

The issues, as raised by petitioner, are as follows:

I. WHETHER THE COURT IN DIVISION ERRED IN PARTIALLY GRANTING RESPONDENT'S PETITION FOR REVIEW BY ORDERING THE REFUND OF THE AMOUNT OF PHP2,853,239.96 REPRESENTING REPONDENT'S ALLEGED EXCESS CREDITABLE WITHHOLDING TAXES FOR TAXABLE YEAR 2018; and

II. WHETHER THE COURT IN DIVISION ERRED IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION.[24]

The Arguments

In the Petition for Review,[25] petitioner argues that respondent did not completely declare in its AITRs the entire income payments it received from MWCI for taxable years 2017 and 2018, resulting in the non-compliance with the third requirement for refund of alleged excess creditable withholding tax ("CWT").

Specifically, the CIR emphasizes that the allegation that the cumulative balance amounting to Php769,707,802.00 of contractual advances as of December 3, 2018 has formed part of respondent's reported revenues in taxable year 2019 cannot cure the lack of the said requirement since the Supreme Court has made clear that the entire income from which the taxes were withheld should be completely declared in the corresponding income tax return. Otherwise stated, according to petitioner, the subsequent declaration of income by respondent will not make respondent compliant with the requirements for CWT refund since the declaration of income was made on a different year and not in the year wherein the income payments were received by respondent and the taxes were withheld.

Further, the CIR posits that the payments made by MWCI to respondent for taxable years 2017 and 2018 are considered income of respondent for the said years. Hence, the same should have been completely reported in the AITRs of respondent for the same period.

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[23] See Notice, dated October 10, 2024, *id.* at 102.
[24] See Issue/s, Petition for Review, *Rollo*, p. 9-10.
[25] *Supra* note 1.

In addition, petitioner insists that the allegation of respondent that the undeclared portion of the income payments received from MWCI refers to advances, hence, the exclusion from revenues declared per AITRs, is untenable. This is because a scrutiny of the evidence presented by respondent shows that all of the original receipts ("ORs") issued by respondent to MWCI were based on the progress billings issued by respondent to MWCI.

On the other hand, respondent, in its Comment[26] counters that contrary to petitioner's argument, respondent complied with the third requirement for the grant of refund of excess unutilized CWT for taxable year 2018.

Novabala highlights the report of the Independent Certified Public Accountant ("ICPA"), Emmanuel Y. Mendoza, wherein it was explained that since respondent is engaged in long term construction contracts, it is allowed to report its revenues on a percentage of completion basis. Meaning, it may spread its revenue throughout the duration of the construction project. Thus, not all payments received for a particular taxable year are reported as revenue in the same period.

The Ruling of the Court

The instant Petition for Review was timely filed before the Court En Banc

We shall first look into the timeliness of the filing of the present Petition for Review before the Court *En Banc*.

Under *Section 3 (b), Rule 8 of the RRCTA,* a party adversely affected by a decision or resolution of a Division of the CTA on a motion for reconsideration or new trial may appeal to the Court *En Banc* by filing a petition for review within 15 days from receipt of the assailed decision or resolution.

Here, the Assailed Resolution was received by the petitioner on June 27, 2024.[27] Counting 15 days therefrom, petitioner originally had until July 12, 2024 within which to file an appeal. However, on July 11, 2024, petitioner posted a Motion for Extension of Time (To File Petition for Review).[28] On July 23, 2024, the same was granted by the Court En Banc, giving petitioner until July 27, 2024 within which to elevate his appeal.[29] As the extended deadline falls on a Saturday, the instant Petition for Review was timely posted on the next business day, July 29, 2024.[30]

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[26] *Supra* note 22.
[27] See Notice of Resolution stamped "Received" by the Legal Division of BIR RR No. 8B-South NCR, on June 27, 2024, Division Docket Vol. III, p. 1629.
[28] *Rollo*, pp. 1-3.
[29] See Notice dated July 23, 2024, *id.* at 5.
[30] *Supra* note 1.

We shall now proceed to determine the merits of the instant case.

Respondent Novabala failed to prove compliance with the requirement that the income upon which the taxes were withheld were included in the AITR as part of the gross income.

Respondent's refund claim for the year 2017 was denied by the Court in Division upon noting that petitioner ticked the box "*to be carried over as tax credit next year/quarter*" in its original and amended 2017 AITRs. Applying the irrevocability rule, it was held that respondent was not allowed to refund the amount of Php17,527,898.00. Such ruling will not be revisited as it was not put into issue in the instant Petition.

Contrarily, for the year 2018, the Court in Division held that the same can be properly subjected to a refund claim upon initial determination that respondent opted for a refund by marking the box corresponding to the option "*to be refunded.*"

Upon further review, the Court in Division found respondent compliant with the three basic requirements on refund of excess/unutilized CWT enumerated below:

1. The claim for refund was filed within the two-year prescriptive period as provided under *Section 204 (C) in relation to Section 229 of the Tax Code*;

2. The fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. The income upon which the taxes were withheld were included in the return of the recipient, i.e., declared as part of the gross income.[31]

Anent the first two requisites, these remain uncontested by petitioner. Hence, findings of the Court in Division in relation thereto shall likewise not be disturbed.

Meanwhile, petitioner focused his contentions on the third requirement, insisting respondent's non-compliance thereof due to an alleged failure to completely declare in its AITRs the entire income payments received from MWCI for taxable years 2017 and 2018.

[31] Commissioner of Internal Revenue vs. Philippine Bank of Communications, G.R. No. 211348, 23 February 2022; Rhombus Energy Inc. vs. Commissioner of Internal Revenue, G.R. No. 206362, 1 August 2018; Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206526, 28 January 2015; Republic of the Philippines vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation), G.R. No. 188016, 14 January 2015.

Respondent avers that the construction project from which it generated revenue is a long-term construction contract. It then argues that pursuant to *Section 48 of the Tax Code,*[32] it spread its revenue for the duration of the project such that all income payments collected during the year would not necessarily be reported as revenue in the same year. The same section provides for the use of percentage of completion ("PoC") method in calculating reportable income for tax purposes.

Consistent thereto, ICPA Mendoza reported that respondent used PoC for its financial and tax reporting, although with different base amounts. For AFS purposes, respondent used total project cost while for AITR, it used the total contract price.[33] Nevertheless, ICPA Mendoza stated that the revenue recognized in the AFS for taxable years 2017 and 2018 conform with Philippine Accounting Standards (PAS) 11 "Construction Contracts" and Philippine Financial Reporting Standards (PFRS) 15 "Revenue from Contracts with Customers" which is based on the PoC. On the other hand, according to the ICPA, revenue reported in its AITRs for taxable years 2017 and 2018 conformed *with Section 44 of RR No. 2-40*, which also mandates the use of PoC.[34]

As for the CWTs reported in 2017 and 2018, these were based on BIR Form 2307 issued by MWCI for taxes withheld upon various payments to respondent, as summarized below:

PAYMENT FOR	DATE	INCOME AMOUNT	2% CWT
5% Advance Payment	September 28, 2017	P240,361,021.22	P4,807,220.42[35]
Progress Billing No. 1	October 13, 2017	153,678,137.02	3,073,562.74[36]
Progress Billing No. 2	November 22, 2017	57,736,191.24	1,154,723.82[37]
Progress Billing No. 3	December 12, 2017	371,610,755.40	7,432,215.11[38]

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[32] Sec. 48. Accounting for Long-Term Contracts. — Income from long-term contracts shall be reported for tax purposes in the manner as provided in this Section. As used herein, the term 'long-term contracts' means building, installation or construction contracts covering a period in excess of one (1) year. ***Persons whose gross income is derived in whole or in part from such contracts shall report such income upon the basis of percentage of completion.*** The return should be accompanied by a return certificate of architects or engineers showing the percentage of completion during the taxable year of the entire work performed under contract. There should be deducted from such gross income all expenditures made during the taxable year on account of the contract, account being taken of the material and supplies on hand at the beginning and end of the taxable period for use in connection with the work under the contract but not yet so applied. If upon completion of a contract, it is found that the taxable net income arising thereunder has not been clearly reflected for any year or years, the Commissioner may permit or require an amended return." (Emphasis supplied.)

[33] Question No. 74, Judicial Affidavit of Emmanuel Mendoza, Exhibit "P-104", Division Docket Vol III, p. 1305.

[34] Question No. 75, *id.*

[35] Exhibits "P-23" and "P-24", Docket, Vol. I, pp. 531 and 580.

[36] Exhibits "P-25", "P-26", and "P-27", *id.* at 580A to 583.

[37] Exhibits "P-28", "P-29", and "P-30", *id.* at 584 to 586.

[38] Exhibits "P-31", "P-32", and "P-33", *id.* at 587 to 589.

Progress Billing No. 4	December 20, 2017	276,351,275.40	5,527,025.51[39]
TOTAL FOR 2017		**P1,099,737,380.28**	**P21,994,747.60**
Progress Billing No. 5	February 9, 2018	P20,781,872.93	P415,637.46[40]
Progress Billing No. 6	March 15, 2018	20,137,464.12	402,749.28[41]
Progress Billing No. 7	April 13, 2018	30,513,530.89	610,270.62[42]
Progress Billing No. 8	May 29, 2018	28,418,135.91	568,362.72[43]
Progress Billing No. 9	June 18, 2018	15,554,079.76	311,081.60[44]
Progress Billing No. 10	July 18, 2018	17,404,167.45	348,083.35[45]
Progress Billing No. 11	September 7, 2018	9,852,746.55	197,054.93[46]
TOTAL FOR 2018		**P142,661,997.61**	**P2,853,239.96**

For the same period, Novabala's reported revenues per AFS versus per AITR, as well as the amounts of income and CWTs corresponding to the CWT certificates issued by MWCI are encapsulated as follows:

	AFS (based on PoC; total project cost as base amount)	**AITR (based on PoC; total contract price as base amount)**	**CWT Certificates (based on BIR Form 2307 issued by MWCI)**	
			Income	**CWT**
2017	P178,660,481.10	P193,876,615.00	P1,099,737,380.28	P21,994,747.60
2018	P800,036,502.54	P966,021,732.00	P142,661,997.61	P2,853,239.96

[39] Exhibits "P-34", "P-35", and "P-36", *id.* at 590 to 592.
[40] Exhibits "P-41", and "P-43", Docket, Vol. I, pp. 579 and 603, respectively; Exhibit "P-42", Docket, Vol. II, p. 1196.
[41] Exhibits "P-44" and "P-46", Docket, Vol. I, pp. 604 and 606, respectively; Exhibit "P-45", Docket, Vol. II, p. 1197.
[42] Exhibits "P-47" and "P-49", Docket, Vol. I, pp. 607 and 609, respectively; Exhibit "P-48", Docket, Vol. II, p. 1198.
[43] Exhibits "P-50", "P-51" and "P-52", Docket, Vol. I, pp. 610 to 612.
[44] Exhibits "P-50", "P-51" and "P-52", *id.* at 610 to 612.
[45] Exhibits "P-56" and "P-58", Docket, Vol. I, pp. 616 and 618, respectively; Exhibit "P-57", Docket, Vol. II, p. 1199.
[46] Exhibits "P-59" and "P-61", Docket, Vol. I, pp. 619 and 621, respectively; Exhibit "P-60", Docket, Vol. II, p. 1200

ICPA Mendoza compared the above amounts of revenue subjected to CWT *vis-à-vis* the amount of revenues reported in the AITRs for 2017 and 2018, and noted a difference of Php82,501.031.00[47], thus:

TAXABLE YEAR	REVENUE PER ITR	REVENUE PER CWT	DIFFERENCE
2017	P193,876,615	1,099,737,380	(P905,860,765)
2018	966,021,732	142,661,998	823,359,734
TOTAL	**P1,159,898,347**	**1,242,399,378**	**(P82,501,031)**

For the said difference of Php82,501,031.00, the following were presented as reconciling items[48]:

Advance downpayments reported as Customer Advances (a liability account treated as unearned income) in the 2018 AFS Note 9, but reported as revenue per ITR	(P769,707,802)
2018 Revenues/Billings not subjected to withholding tax	506,005,407
Temporary differences between the Revenue per AFS/General Ledger and the Revenue per ITR	181,201,364
TOTAL	**(P82,501,031)**

Ultimately, in the Assailed Decision, the Court in Division highlighted ICPA Mendoza's report and found that the resulting timing difference between revenues subjected to withholding tax versus income per AFS/GL were accounted as reconciling item in the 2017 and 2018 AITRs; and the contractual advances were deemed to have been reported in the subsequent year 2019, to wit:

> The ICPA ascertained that the revenues subjected to withholding tax were based on the income payments (down payment and payments of progress billings) reported by Manila Water Company, Inc. per CWT Certificates issued to petitioner, while the revenue reported in the AFS and GLs were based on the PoC resulting in a timing difference of Php263,702,394.00. This amount was reported as reconciling item in both Annual ITRs for taxable years 2017 and 2018. Thus, the cumulative balance of the "contractual advances" amounting to Php769,707,802.00 (including the Php82,501,031.00 difference) as of December 31, 2018 is deemed to have formed part of petitioner's reported revenues in taxable year 2019 amounting to Php960,291,593.00.

Upon revisit of the records and other documents submitted by the parties, however, We find the CIR's contentions meritorious.

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[47] Question No. 70, Judicial Affidavit of Emmanuel Mendoza, Exhibit "P-104", Division Docket Vol III, p. 1304.
[48] *Id.*

To reiterate, petitioner insists that the subsequent recognition of the contractual advances amounting to Php769,707,802, as part of respondent's revenue in 2019 would not make respondent compliant with the requirements for CWT refund since the declaration of income was made on a different year and not in the year when the income payments were received by respondent and the taxes were withheld.

The Court *En Banc* recognizes that such argument goes against the ruling in *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*[49] where the Supreme Court acknowledged that timing differences between revenue recognition and withholding of tax could occur. Although the factual circumstances here are different in that Novabala's CWTs were withheld ahead of the alleged year of revenue recognition, as opposed to the delayed income payment and withholding in the *Univation case*, We believe that guidance can still be drawn from the High Court's pronouncement below regarding instances when period of withholding and revenue recognition differ, to wit:

> The CTA *En Banc* correctly appreciated the explanation of the independent CPA (ICPA) why the income payments from which the CWT amounting to P12,729,617.90 were withheld, were declared in its returns covering the years 2006, 2008, 2009 and 2010. In gist, the ICPA suggests that there were delays in collection of certain income payments to respondent. For one, certain sales made by respondent to its dealers in 2008 and 2009 were only paid in 2010. In other words, *there were certain income payments which, although respondent expected to receive in 2006, 2008 and 2009, were only remitted to it in 2010.* As concluded by the CTA *En Banc*, *the delay in collection of certain income payments of respondent caused the timing difference between the actual reporting of the income by respondent and the actual withholding of the corresponding creditable income tax by respondent's customers.* What is important is that the ***creditable withholding taxes corresponding to the related income in the respondent's books for CY's 2006, 2008 and 2009 were not yet claimed as income tax credits in respondent's annual ITRs corresponding to the said years***. Hence, it is just proper that these income payments should form part of respondent's tax credit for 2010.
> (Emphasis and italics supplied)

Gleaning from the foregoing, aside from clearly confirming that the CWTs were not yet claimed as credits, it remains important to establish that the income related to the CWT payment is duly recognized in the taxpayer's AITR, regardless of the difference in taxable periods.

Here, We find that respondent failed to prove that the contractual advances amounting to Php769,707,802 as of December 31, 2018, were actually reported as part of income in the 2019 AITR. While the Court in Division concluded that the same amount "is deemed to have formed part of petitioner's reported revenues in taxable year 2019 amounting to P960,291,593.00," we found this lacking factual basis not just from the findings of ICPA but also from the evidence submitted by respondent.

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[49] G.R. No. 231581, April 10, 2019.

There was no discussion in the ICPA report on whether the revenue per books, as well as the breakdown of income reported per AITR, in the year 2019 were obtained from respondent and duly reviewed. Likewise and as such, the Court *En Banc* is unable to determine the alleged subsequent recognition of contractual advances to income from the documents submitted during trial.

Meanwhile, as for the years 2017 and 2018, We observed a gap in the procedure performed by ICPA Mendoza to determine respondent's compliance with the third requisite. In the ICPA report, it was discussed that the procedures performed include the following:

> 6. We traced the CWTs to the amount reported in the general ledger (GL) (Exhibit P-90-27 to P-90-28) to ascertain if the CWTs which are being claimed are reported in the CY ended December 31, 2017 and 2018;
>
> 7. We also traced the revenues subjected to CWT to the GL (Exhibits P-90-29 to P-[9]0-30) to ascertain if the related income payments from which the CWTs which is being claimed for refund were duly reported as revenues in the CY ended December 31, 2017 and 2018;

The above-mentioned Exhibits P-90-29 to P-90-30[50] pertain to the general ledger (GL) of revenue for 2017 and 2018, respectively.

For the year 2017, We note that the recorded transactions relate directly to progress billing numbers 1 to 4. Aside from the fact that the amounts recorded as revenue match with those in the billings, the "transaction" column in the GL clearly indicate the corresponding progress billing number (e.g., Progress billing no. 1, Progress billing no. 2). The Court *En Banc* was therefore able to trace the progress billing to the corresponding official receipt, then to the relevant CWT certificate. As concluded, the income for the CWTs claimed in 2017 were indeed reported by respondent as part of revenue. By year-end, an adjusting entry was made seemingly to arrive at the should-be revenue based on PoC. The table below shows the extracted relevant details from the 2017 revenue GL, counterchecked with the amounts per progress bill.

Per 2017 Revenue General Ledger[51]				**Per 2017 Progress Billings**	
Date	**Doc. No.**	**Transaction**	**Php**	**Bill No.**	**Php**
27-Sep-17	JV-SEP002	Progress billing no. 1	(153.678,137.03)	Progress billing no. 1	153,678,137.03[52]
26-Oct-17	JV-OCT007	Progress billing no. 2	(57,736,191.26)	Progress billing no. 2	57,736,191.26[53]
29-Nov-17	JV-NOV003	Progress billing no. 3	(371.610,755.51)	Progress billing no. 3	371,610,755.51[54]

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[50] USB of ICPA Exhibits.
[51] Exhibits P-90-29, USB of ICPA Exhibits.
[52] Exhibits "P-26", Docket, Vol. I, p. 582.
[53] Exhibits "P-29", *id.* at 585.
[54] Exhibits "P-32", *id.* at 588.

29-Dec-17	JV-DEC005	Progress billing no. 4	(276,351,275.40)	Progress billing no. 4	276,351,275.40[55]
31-Dec-17	JV-DEC036	Adjust revenue take up	680,715,878.10		
Total for the period ending December 31, 2017			(178,660,481.10)		

The same pattern of entries cannot be observed for the year 2018. The monthly entries therein no longer correspond to a specific progress billing, and the "transaction" column indicates "revenue take-up". It thus appear to the Court *En Banc* that the transactions in the 2018 revenue GL were credit entries against the "contractual advances" account and/or were entries to reverse the 2017 year-end adjustment. In any case, the Court is unable to determine whether the revenue related to progress billing numbers 5 to 11 were recorded in the revenue GL account. None of the entries for 2018 match with any progress billing, and the transaction description in the GL account lack reference to any of such document.

Per 2018 Revenue General Ledger[56]			
Date	**Doc No.**	**Transaction**	**Php**
31-Jan-18	JV-JAN022	Revenue take-up Jan 2018	(13,260,538.00)
28-Feb-18	JV-FEB031	Revenue take-up Feb 2018	(22,499,424.30)
31-Mar-18	JV-MAR028	Revenue take-up Mar 2018	(21,994,654.18)
30-Apr-18	JV-APR027	Revenue take-up Apr 2018	(17,759,470.40)
31-May-18	JV-MAY032	Revenue take-up May 2018	(35,704,519.33)
29-Jun-18	JV-JUN036	Revenue take-up Jun 2018	(18,482,135.06)
31-Jul-18	JV-JUL031	Revenue take-up Jul 2018	(40,671,875.12)
31-Aug-18	JV-AUG032	Revenue take-up Aug 2018	(21,535,162.10)
30-Sep-18	JV-SEP042	Revenue take-up Sep 2018	(32,055,266.15)
31-Oct-18	JV-OCT035	Revenue take-up Oct 2018	(26,752,721.20)
30-Nov-18	JV-NOV042	Revenue take-up Nov 2018	(48,230,393.56)
31-Dec-18	JV-DEC064	Revenue take-up Dec 2018	(501,090,343.13)
Total for the period ending December 31, 2018			(800,036,502.54)

Per 2018 Progress Billings	
Bill No.	**Php**
Progress Billing No. 5	20,781,872.94[57]
Progress Billing No. 6	20,137,464.12[58]
Progress Billing No. 7	30,513,530.89[59]
Progress Billing No. 8	28,418,135.91[60]
Progress Billing No. 9	15,554,079.76[61]
Progress Billing No. 10	17,404,167.45[62]
Progress Billing No. 11	9,852,746.57[63]

[55] Exhibits "P-35", *id.* at 591.
[56] Exhibits P-90-30, USB of ICPA Exhibits.
[57] Exhibits "P-42", *id.* at 602.
[58] Exhibits "P-45", *id.* at 605.
[59] Exhibits "P-48", *id.* at 608.
[60] Exhibits "P-51", *id.* at 611.
[61] Exhibits "P-54", *id.* at 614.
[62] Exhibits "P-57", *id.* at 617.
[63] Exhibits "P-60", *id.* at 620.

In sum, We find merit in petitioner's argument that Novabala failed to prove compliance with the requirement that the income upon which the taxes were withheld were included in the latter's AITR as part of the gross income. While extensive discussion was provided by ICPA Mendoza and by respondent regarding the reconciliation of revenue per books versus per ITR, this is deemed insufficient if there is a failure to clearly show that the same revenues to which the CWTs pertain were, in the first place, actually recorded in the revenue account in Novabala's books. At the very least, respondent should have presented to the Court how the 2018 billings, payments, and CWTs were recorded, and how and when the corresponding income were eventually credited to the revenue GL account, regardless of possible timing difference in CWT claim and revenue recognition.

At this juncture, the Court *En Banc* reiterates that tax refunds are in the nature of a claim for exemption and, therefore, the law is construed in *strictissimi juris* against the taxpayer. Accordingly, the pieces of evidence presented entitling a taxpayer to an exemption must also *strictissimi* scrutinized and must be duly proven.[64] In this case, respondent was not able to prove with competent evidence its entitlement to a refund or issuance of a TCC.

ACCORDINGLY, premises considered, the instant Petition for Review is hereby **GRANTED**. The Decision, dated January 4, 2024, and the Resolution, dated June 19, 2024, of the Court's Special First Division are hereby **REVERSED AND SET ASIDE**. The dispositive portion of the Decision, dated January 4, 2024, on respondent's Petition for Review in CTA Case No. 10287 is hereby **MODIFIED** as follows:

> **WHEREFORE**, the present Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[64] Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue, G.R. No. 159490, February 18, 2008.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice