REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CITADEL HOLDINGS, INC.,
Petitioner,

CTA CASE NO. 8631

- versus-

Members:

Castañeda, Jr., *Chairperson*
Casanova, and
Cotangco-Manalastas, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUL 29 2015 3:25 p.m.

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D E C I S I O N

COTANGCO-MANALASTAS, *J.:*

In this Petition, Citadel Holdings, Inc. seeks the issuance of a tax credit certificate or the refund of the amount of Three Million Seventy-Eight Thousand Four Hundred Ninety-Nine Pesos (₱3,078,499.00), allegedly representing its excess and unutilized creditable withholding taxes (CWT) for taxable year ended December 31, 2010.

FACTS

Petitioner Citadel Holdings, Inc. is a corporation primarily engaged in the business of investing in, purchase, exchange, or otherwise dispose of real and personal property of every kind and description, including shares of stock, subscriptions, bonds and other securities or obligations.[1]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), who is empowered to perform the duties of her office, including among others, the

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[1] Par. 1, Statement of Agreed Facts, Joint Motion to Approve Stipulation of Facts and Issues and Identification of Documents and Witnesses, docket, p. 117.

power to decide, approve and grant refunds or tax credits of erroneously paid taxes, as provided by law.

On April 15, 2011, petitioner filed its Annual Income Tax Return (ITR) for taxable year 2010, showing prior years' excess credits in the amount of ₱12,450,514.00 and CWT for the first three quarters and for the fourth quarter of 2010 in the respective amounts of ₱2,217,233.00 and ₱861,266.00 or a total of ₱3,078,499.00 for taxable year 2010.[2]

On August 22, 2011, an administrative claim for issuance of tax credit certificate was filed by petitioner with the BIR corresponding to the alleged excess CWT amounting to ₱3,078,499.00 for taxable year 2010.[3] Subsequently, petitioner filed the instant Petition[4] on April 11, 2013 to toll the running of the two-year prescriptive period.

In her Answer[5] filed on July 4, 2013, respondent raised the following Special and Affirmative Defenses:

> "7. Respondent reproduces and repleads all the foregoing allegations insofar as they are relevant to her defenses which are discussed hereunder and incorporates them herein by way of reference and, in addition thereto, most respectfully avers THAT:
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> 8. Petitioner's alleged claim for issuance of tax credit certificate is still subject to administrative routinary investigation/examination by the respondent's Bureau.
>
> 9. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable.
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> 10. Petitioner's claim for refund or issuance of tax credit certificate in the amount of Php3,078,499.00, representing alleged unutilized creditable withholding tax credits or overpaid income tax for the taxable year ending December 31, 2010, were not fully substantiated by proper documents, such as sales invoices, official receipts and others pursuant to Revenue Regulations No. 7-95 in relation to Section 113 and 237 of the 1997 Tax Code.
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> 11. In an action for refund/credit, the burden of proof is on the petitioner to establish its right to the claimed

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[2] Exhibit "P-5".
[3] Exhibit "P-13".
[4] Docket, pp. 7-15.
[5] Docket, pp. 70-72.

> refund and failure to adduce sufficient proof is fatal to the claim for tax refund/credit.
>
> 12. It is incumbent upon the latter to show that it has complied with the provisions under Section 204 (c) in relation to Section 229 of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund.
>
> 13. Claims for refund are construed strictly against herein petitioner since the same partakes the nature of exemption from taxation ***(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)*** and as such, they are looked upon with disfavor ***(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211).***"

During trial, petitioner presented the following witnesses: Mr. Rene C. Kabigting[6] – petitioner's Financial Controller from June 1, 2002 to July 7, 2013, and Ms. May Von T. Patingo[7] – petitioner's Chief Accountant.

Petitioner likewise formally offered its documentary evidence on March 3, 2014.[8] On April 1, 2014, the Court issued a Resolution[9] admitting as evidence, Exhibits "P-1" to "P-1-B", "P-4" to "P-12", "P-13-A" to "P-152", and "P-154" to "P-169-A", but denied the admission of Exhibits "P-2", "P-3", "P-13", "P-152-A", "P-153", and "P-169-B". However, in a Resolution[10] dated May 7, 2014, Exhibits "P-2", "P-3", "P-13", "P-152-A", "P-153", and "P-169-B" were also admitted, there being no objection from respondent's counsel.

On the other hand, during the hearing on May 7, 2014, respondent's counsel manifested that he has no evidence to present.[11]

The case was submitted for decision on August 20, 2014,[12] considering petitioner's Memorandum[13] filed on July 7, 2014 and respondent's failure to file her Memorandum.

[6] Minutes of the Hearing, docket, p. 139.
[7] Minutes of the Hearing, docket, p. 777.
[8] Formal Offer of Evidence, docket, pp. 781-848.
[9] Docket, pp. 852-853.
[10] Docket, p. 864.
[11] Minutes of the Hearing, docket, p. 862.
[12] Resolution, docket, p. 888.
[13] Docket, pp. 872-882.

ISSUE

The parties submitted the following issue[14] for this Court's resolution:

> Whether or not petitioner is entitled to a refund or issuance of tax credit certificate in the amount of ₱3,078,499.00[15], allegedly representing its unutilized creditable withholding tax for taxable year 2010.

DISCUSSION/RULING

Petitioner argues that it is entitled to a refund or issuance of tax credit certificate for its unutilized creditable withholding taxes as it complied with all the requirements for such refund. It contends that the claim was filed with the BIR within the two-year period from payment of the tax, as prescribed under Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended. Petitioner asserts that it filed its 2010 Annual ITR on April 15, 2011, as shown by the computerized receipt of the return itself, while it filed an administrative claim for the refund or issuance of tax credit certificate through a letter-request on August 22, 2011.[16]

Petitioner also posits that the income from which the creditable taxes were withheld was declared as part of its gross income for taxable year 2010, and that its claim is duly supported by withholding tax certificates.[17]

In cases of claims for refund or tax credit of excess corporate income taxes paid, Section 76 of the NIRC of 1997, as amended, is the applicable law, 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

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[14] Statement of Issue, Joint Motion to Approve Stipulation of Facts and Issues and Identification of Documents and Witnesses, docket, p. 118.

[15] Amended by petitioner in its Memorandum to be ₱2,755,403.08, as it states that the original claim of ₱3,078,499.00 in the Petition for Review cannot be supported by certificates.

[16] Memorandum for the Petitioner, Discussion, docket, p. 876.

[17] Memorandum for the Petitioner, Discussion, docket, p. 877.

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."

Pursuant to the above-quoted provision, the corporate taxpayer's excess tax credits or overpaid income tax in a given taxable year may either be refunded in the form of cash or tax credit certificate or carried over/applied to the succeeding taxable years. However, once the carry-over option has been chosen, it is irrevocable for that taxable period and no application for a tax refund or issuance of a tax credit certificate shall be allowed.[18]

A scrutiny of petitioner's Annual ITR[19] for taxable year 2010 filed with the BIR on April 15, 2011 shows that petitioner had an income tax liability of ₱449,767.26, which was applied against its CWT from Prior Year's Excess Credits Other Than MCIT in the amount of ₱12,450,514.00; leaving the amount of ₱15,079,245.74 CWT unutilized as of December 31, 2010 that includes the CWT withheld during taxable year 2010 in the total amount of ₱3,078,499.00, computed as follows:

Sales/Revenues/Receipts/Fees	₱ 26,795,814.00
Less: Cost of Sales/Services	9,376,114.00
Gross Income from Operation	₱ 17,419,700.00
Add: Non-Operating and Taxable Other Income	5,068,663.00
Total Gross Income	₱ 22,488,363.00
Less: Deductions	24,611,061.00
Taxable Income	₱ (2,122,698.00)
Tax Rate	30%

[18] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 and 162004, December 14, 2005.
[19] Exhibit "P-5".

Income Tax	-
Minimum Corporate Income Tax (MCIT)	₱ 449,767.26
Tax Due	₱ 449,767.26
Less: Tax Credits/Payments	
Prior Year's Excess Credits other than MCIT	12,450,514.00
CTW for the First Three Quarters	2,217,233.00
CTW per BIR Form No. 2307 for the Fourth Quarter	861,266.00
Total Tax Credits/Payments	15,529,013.00
Tax Payable/(Overpayment)	**(₱15,079,245.74)**

Petitioner's Annual ITR also reveals that petitioner marked the box corresponding to the option "To be issued a Tax Credit Certificate"[20], indicating its intention to apply for issuance of tax credit certificate for its excess/unutilized CWT for taxable year 2010. This means that the excess CWT for taxable year 2010 in the amount of ₱3,078,499.00 may be a proper subject of a claim for tax credit certificate pursuant to Section 76 of the NIRC of 1997, as amended.

The following requisites[21] must be complied with in order that the subject claim may be granted:

1. The claim for refund must be filed within the two-year prescriptive period as provided under Section 204(C), in relation to Section 229 of the NIRC of 1997, as amended;

2. The fact of withholding must be established by a copy of a statement duly issued by the payor (withholding agent) 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.

Refund claim must be filed within the two-year prescriptive period

Anent the first requisite, Sections 204(C) and 229 of the NIRC of 1997, as amended, provide as follows:

[20] Exhibit "P-5", Line 33.
[21] Section 2.58, Revenue Regulations No. 2-98, as amended; *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.

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

The above provisions mandate that the administrative and the judicial remedies of filing a claim for refund of erroneously or excessively paid tax must be done within two years from the date of payment of the tax. For actions for refund of excess corporate income tax, the Supreme Court ruled that the two-year prescriptive period should be counted from the filing of the final adjustment return, because it is only during that date that the exact tax liability or refundability of the tax can be determined.[22]

Records show that the claimed excess creditable withholding taxes involve taxable year ended December 31, 2010, for which petitioner filed its corresponding Annual ITR on April 15, 2011. Counting from the said date, petitioner had until April 15, 2013 to file its claim for refund or issuance of tax credit certificate, both in the administrative and judicial levels. Petitioner's administrative claim for refund was filed on August 22, 2011[23], while its judicial claim or Petition for Review was filed on April 11, 2013.[24] Clearly, both the administrative and the judicial claims for refund were filed well within the two-year prescriptive period provided by law.

The fact of withholding is established by a copy of a statement duly issued by the Payor (Withholding Agent) to the Payee, with Amount Paid and Tax Withheld

In compliance with the second requisite, petitioner presented Certificates of Creditable Tax Withheld at Source (CCTWS)[25] duly issued by Aero Pacific GSA Co. Inc., Air Cargo Partners Corp., Citadel Air Services Corp., Citadel Shipping Service, Inc., Isla Corporation, Miascor Aircraft Maintenance Corp., Miascor Clark Aviation Services Corporation, Miascor Groundhandling Corporation, Miascor Logistics Corporation, Miascor Kalibo Corporation, Mindanao Airport Services Corporation, Nordisk Aviation Services Philippines Corporation, Rapid Inc. (Formerly Rapid Airfreight, Inc.), Outsource Advantage Corporation, Trans Pacific Air Service Corporation, Visayas Airport Services Corporation, Global Air Services Corporation, Miascor Holdings, Inc., Swissport Philippines, Inc., and United Coconut Planters Life Assurance Corporation. The Certificates indicate CWT in the total amount of ₱2,755,403.16, broken down as follows:

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[22] *Commissioner of Internal Revenue vs. TMX Sales, Inc. and the Court of Tax Appeals*, G.R. No. 83736, January 15, 1992; *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991.
[23] Exhibit "P-13".
[24] Docket, pp. 7-15.
[25] BIR Form No. 2307.

Exhibit	Payor	Income Payments	Tax Withheld
"P-14-A"	Aero Pacific GSA Co. Inc.	₱172,500.00	₱17,250.00
"P-15"	Aero Pacific GSA Co. Inc.	77,499.99	1,550.00
"P-16"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-17"	Aero Pacific GSA Co. Inc.	25,833.33	516.67
"P-18"	Aero Pacific GSA Co. Inc.	25,833.50	516.67
"P-19"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-20"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-21"	Aero Pacific GSA Co. Inc.	25,833.33	516.67
"P-22"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-23"	Aero Pacific GSA Co. Inc.	25,833.33	516.67
"P-24"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-25"	Aero Pacific GSA Co. Inc.	25,833.33	516.67
"P-26"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-27"	Aero Pacific GSA Co. Inc.	25,833.33	516.67
"P-28"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-29"	Aero Pacific GSA Co. Inc.	25,833.33	516.67
"P-30"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-31"	Aero Pacific GSA Co. Inc.	25,833.33	516.67
"P-32"	Aero Pacific GSA Co. Inc.	57,500.00	5,750.00
"P-33"	Aero Pacific GSA Co. Inc.	25,832.00	516.64
"P-35"	Air Cargo Partners Corp.	333,333.33	50,000.00
"P-36"	Air Cargo Partners Corp.	333,333.33	50,000.00
"P-37"	Air Cargo Partners Corp.	248,333.34	37,250.00
"P-38"	Air Cargo Partners Corp.	84,999.99	1,700.00
"P-39"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-40"	Air Cargo Partners Corp.	28,333.33	566.67
"P-41"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-42"	Air Cargo Partners Corp.	28,333.33	566.67
"P-43"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-44"	Air Cargo Partners Corp.	28,333.33	566.67
"P-45"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-46"	Air Cargo Partners Corp.	28,333.33	566.67
"P-47"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-48"	Air Cargo Partners Corp.	28,333.33	566.67
"P-49"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-50"	Air Cargo Partners Corp.	28,333.33	566.67
"P-51"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-52"	Air Cargo Partners Corp.	28,333.33	566.67
"P-53"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-54"	Air Cargo Partners Corp.	28,333.33	566.67
"P-55"	Air Cargo Partners Corp.	305,000.00	45,750.00
"P-56"	Air Cargo Partners Corp.	28,332.00	566.64
"P-58"	Citadel Air Services Corp.	24,999.90	2,499.99
"P-59"	Citadel Air Services Corp.	24,999.90	2,499.99
"P-60"	Citadel Air Services Corp.	24,999.90	2,499.99
"P-61"	Citadel Air Services Corp.	25,000.00	2,500.00
"P-63"	Citadel Shipping Service, Inc.	137,499.99	2,750.00

"P-64"	Citadel Shipping Service, Inc.	137,499.99	2,750.00
"P-65"	Citadel Shipping Service, Inc.	137,499.99	2,750.00
"P-66"	Citadel Shipping Service, Inc.	137,499.99	2,750.00
"P-68"	Isla Corporation	12,499.50	249.99
"P-69"	Isla Corporation	12,499.50	249.99
"P-70"	Isla Corporation	12,499.50	249.99
"P-71"	Isla Corporation	12,499.50	249.99
"P-73"	Miascor Aircraft Maintenance Corp.	600,000.01	88,375.00
"P-74"	Miascor Aircraft Maintenance Corp.	600,000.12	88,374.99
"P-75"	Miascor Aircraft Maintenance Corp.	600,000.12	88,374.99
"P-76"	Miascor Aircraft Maintenance Corp.	400,000.08	58,916.66
"P-77"	Miascor Aircraft Maintenance Corp.	200,001.37	29,458.36
"P-79"	Miascor Clark Aviation Services Corporation	300,000.00	30,000.00
"P-81"	Miascor Groundhandling Corporation	3,210,000.00	481,500.00
"P-82"	Miascor Groundhandling Corporation	490,001.50	9,800.03
"P-84"	Miascor Logistics Corporation	1,922,000.00	264,900.00
"P-86"	Miascor Kalibo Corporation	720,000.00	72,000.00
"P-88"	Mindanao Airport Services Corporation	35,000.01	3,500.01
"P-89"	Mindanao Airport Services Corporation	35,000.01	3,500.01
"P-90"	Mindanao Airport Services Corporation	35,000.01	3,500.01
"P-91"	Mindanao Airport Services Corporation	595,000.01	59,499.97
"P-93"	Nordisk Aviation Services Philippines Corporation	217,499.99	30,350.00
"P-94"	Nordisk Aviation Services Philippines Corporation	11,667.00	233.34
"P-96"	Outsource Advantage Corporation	900,000.00	127,200.00
"P-98"	Rapid Inc. (Formerly Rapid Airfreight, Inc.)	1,017,500.00	152,625.00
"P-99"	Rapid Inc. (Formerly Rapid Airfreight, Inc.)	107,500.00	2,150.00
"P-100"	Rapid Inc. (Formerly Rapid Airfreight, Inc.)	1,017,500.00	152,625.00
"P-101"	Rapid Inc. (Formerly Rapid Airfreight, Inc.)	107,500.50	2,150.01
"P-102"	Rapid Inc. (Formerly Rapid Airfreight, Inc.)	1,017,500.00	152,625.00
"P-103"	Rapid Inc. (Formerly Rapid	107,500.50	2,150.01

	Airfreight, Inc.)		
"P-104"	Rapid Inc. (Formerly Rapid Airfreight, Inc.)	1,017,500.00	152,625.00
"P-105"	Rapid Inc. (Formerly Rapid Airfreight, Inc.)	107,499.00	2,149.98
"P-107"	Trans Pacific Air Service Corporation	125,000.00	2,500.00
"P-108"	Trans Pacific Air Service Corporation	41,666.50	833.33
"P-109"	Trans Pacific Air Service Corporation	41,666.50	833.33
"P-110"	Trans Pacific Air Service Corporation	41,666.50	833.33
"P-111"	Trans Pacific Air Service Corporation	41,666.50	833.33
"P-112"	Trans Pacific Air Service Corporation	41,666.50	833.33
"P-113"	Trans Pacific Air Service Corporation	41,666.50	833.33
"P-114"	Trans Pacific Air Service Corporation	41,666.67	833.33
"P-115"	Trans Pacific Air Service Corporation	41,666.63	833.33
"P-116"	Trans Pacific Air Service Corporation	41,668.00	833.36
"P-118"	Visayas Airport Services Corporation	19,166.70	1,916.67
"P-119"	Visayas Airport Services Corporation	95,833.50	9,583.35
"P-120"	Visayas Airport Services Corporation	19,166.70	1,916.67
"P-121"	Visayas Airport Services Corporation	575,000.00	5,750.00
"P-122"	Visayas Airport Services Corporation	38,333.40	3,833.34
"P-123"	Global Air Services Corporation	4,188.00	83.76
"P-124"	Global Air Services Corporation	17,926.50	358.53
"P-125"	Isla Corporation	34,013.00	680.26
"P-126"	Isla Corporation	7,179.50	143.59
"P-127"	Isla Corporation	7,888.00	157.76
"P-128"	Miascor Holdings, Inc.	4,000.00	200.00
"P-129"	Swissport Philippines, Inc.	444,215.00	8,884.30
"P-130"	United Coconut Planters Life Assurance Corporation	2,486.58	248.66
"P-131"	United Coconut Planters Life Assurance Corporation	629.75	62.98
TOTAL		₱22,841,192.25	₱2,755,403.16[26]

[26] Difference in centavos is due to rounding off.

In the Judicial Affidavit[27] of Ms. May Von T. Patingo, petitioner's Chief Accountant, she explained that the total amount of CWT accumulated for the year 2010 was ₱3,075,719.84 and not ₱3,078,499.00, which is the amount being claimed per petition, and only the amount of ₱2,755,403.08 is properly substantiated by certificates, to wit:

> "Q66: Petitioner's petition before the Court of Tax Appeals or CTA of which you said you have personal knowledge is for issuance of TCC or refund of Petitioner's accumulated CWTs for 2010. My question is, how much is Petitioner's CWTs for 2010?
>
> A66: ₱3,075,719.84
>
> Q67: In its petition it stated that its total CWTs withheld by its payors for 2010 was ₱3,078,499.00 and not ₱3,075,719.84 as you mentioned. Can you please explain the discrepancy between these two figures?
>
> A67: The ₱2,779.16 difference is due to erroneous entry. The ₱2,729.25 came from a cancelled check in which the reversal of expanded withholding tax was recorded as creditable tax withheld. The ₱50.49 was unsupported by certificates. And ₱0.58 was the rounding off difference. This is shown in the Schedule of Sales, Revenues, Receipts, Fees & Other Income that I prepared. In our petition, we used the alphalist which still included the wrong entry. Our former Controller, Mr. Kabigting also used the same figure because that is what is in our original alphalist and records but when we re-checked we learned that the ₱2,000 plus is a wrong entry.
>
> xxx xxx xxx
>
> Q68: Do you have proof that this amount of ₱3,075,719.84 was actually withheld by your income payors from income payments to the Petitioner?
>
> A68: Yes, ma'am, but to the extent of only ₱2,755,403.08. We have the Certificates of Creditable Tax Withheld at Source issued to us by the income payors."

An examination of the CCTWS confirms that petitioner complied with the second requisite. Hence, the amount of

[27] Exhibit "P-169".

₱2,755,403.17 may be a proper subject of a claim for refund or issuance of tax credit certificate.

Income upon which taxes were withheld must be included in the return of the recipient

The Court will now discuss the third requisite, *i.e.*, whether or not the income upon which the subject taxes were withheld were included and reported by petitioner in its Annual ITR for 2010.

As reflected in the Annual ITR for taxable year 2010, petitioner declared under the line "Sales/Revenues/ Receipts/Fees" the total amount of ₱26,795,814.00. Based on petitioner's Schedule of Sales, Revenues, Receipts, Fees and Other Income[28], said amount comprises of Management Fees and Service Fees in the respective amounts of ₱23,675,813.58 and ₱3,120,000.00. Both amounts are also shown in petitioner's 2010 Independent Auditors Report[29] and are broken down as follows:

Management Fee	
Management Fee - Collected	₱ 16,060,000.44
Management Fee - Uncollected as of 2010	2,130,000.00
Management Fee - Collected	2,489,998.81
Management Fee - Collected NV	250,000.00
Management Fee - (Accrual) Uncollected	2,745,814.33
Subtotal	*23,675,813.58*
Service Fee	
Service Fee - Collected	3,079,165.51
Service Fee - Uncollected as of 2010	40,834.49
Subtotal	*3,120,000.00*
Total	**₱26,795,813.58**

The Certificates indicate that the claimed creditable withholding taxes in the amount of ₱2,755,403.17 were withheld on income payments in the amount of ₱22,841,192.25 received by petitioner in the year 2010. The said amount was derived from Management and Service Fees, and is included in petitioner's Annual ITR for taxable year

[28] Exhibit "P-132".
[29] Exhibit "P-168".

2010 as part of its "Sales/Revenues/Receipts/Fees". Thus, petitioner had properly declared the income related to the CWT of ₱2,755,403.17.

Based on the foregoing, petitioner has sufficiently complied with all the requisites for entitlement to a refund or issuance of tax credit certificate.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** or **TO REFUND** in favor of petitioner the reduced amount of ₱2,755,403.17, representing petitioner's excess creditable withholding tax for taxable year 2010.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice