REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

SERVICE RESOURCES, INC.
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2776
(CTA Case No. 10158)

Present:
DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
SEP 20 2024
9:34 a.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a *Petition for Review* ("Petition"), filed on June 29, 2023.[1] The Petition assails the January 9, 2023 Decision[2] of the Court's Special Second Division which only partially granted its claim for refund, as well as the May 29, 2023 Resolution[3] denying its Motion for Reconsideration.

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[1] *Rollo*, pp. 1-16.
[2] Division Docket, Vol. III, pp. 1043-1066.
[3] *Id.* at 1096-1102.

The Parties

Petitioner Service Resources, Inc. ("SRI" or "petitioner") is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Ground Floor, First Capitol Place, 1st St., cor. Phil-am Street, Bo. Kapitolyo, Pasig City.[4]

On the other hand, respondent is the Commissioner of the Bureau of Internal Revenue ("BIR").[5]

The Facts

The case began on September 27, 2018, when petitioner filed its letter requesting for the refund or issuance of a tax credit certificate of its unutilized creditable taxes withheld for taxable year 2017, in the amount of P16,779933.699.[6] This was supported by the corresponding Application for Tax Credits/Refunds (BIR Form No. 1914).[7]

Alleging inaction, petitioner filed a Petition for Review[8] before the Court in Division on September 3, 2019, to which respondent filed his Answer[9] on February 4, 2020 on an extended period.

Following trial, the Court, acting through its Special Second Division, issued the assailed Decision partially granting the Petition and ordering the refund of petitioner's unutilized creditable withholding taxes for taxable year 2017 in the reduced amount of P7,186,172.83. Petitioner's Motion for Reconsideration,[10] filed on January 26, 2023, was denied per the May 29, 2023 Resolution. Incidentally, respondent also filed a Motion for Reconsideration[11] on February 9, 2023, but this was also denied in the above-mentioned Resolution.

Having received said Resolution on June 13, 2023, petitioner filed the instant Petition for Review on June 29, 2023 before the Court *En Banc*.

The Court *En Banc* then issued a Resolution, dated July 5, 2023, directing respondent to file his Comment to the Petition within 10 days from notice.[12] However, a Records Verification notice was issued on August 29,

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4 See Petition for Review, *id.* at 2.
5 *Id.* at 3.
6 Exhibit "P-14", Division Docket Vol. II, pp. 777-780.
7 Exhibit "P-15", *id.* at 781.
8 Division Docket Vol. I, pp. 12-24.
9 *Id.* at 387-390.
10 *Id.* at 1067-1076.
11 *Id.* at 1079-1082.
12 *Rollo*, p. 54.

2023, stating that respondent had failed to comply with the said Resolution and had not filed any Comment on the Petition for Review.[13]

On September 26, 2023, this Court *En Banc* issued a Resolution submitting the instant case for Decision.[14]

Hence, this Decision.

The Issue

The sole issue for this Court's resolution is whether the Court in Division erred in disallowing petitioner's full claim for tax refund for taxable year 2017.

Petitioner's Arguments

Petitioner insists that BIR Form No. 2307 must only comply and indicate the following details:

1. It must emanate from the payor himself and not merely from the payee; and
2. It must indicate the name of the payor, the income payment basis, the amount of income tax withheld and the nature of the tax paid.

It argues that the law and revenue regulations do not specifically provide that BIR Form No. 2307 must contain the name, taxpayer identification number ("TIN"), and address of the payee before it becomes sufficient in proving the fact of withholding.

The Ruling of the Court

Before discussing the merits of the case, it must be pointed out that the Petition for Review was timely filed.

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[13] *Id.* at 55.
[14] *Id.* at 56.

The records would show that petitioner received a copy of the assailed Decision on January 11, 2023.[15] Accordingly, petitioner had 15 days, or until January 26, 2023, within which to file a Motion for Reconsideration. Petitioner did file said Motion on even date.[16]

On June 13, 2023, petitioner received a copy of the assailed Resolution denying its Motion for Reconsideration.[17] It thus had 15 days, or until June 28, 2023, within which to file a Petition for Review. Considering that June 28, 2023 was a holiday, petitioner timely filed the instant Petition for Review on June 29, 2023.

Although the Petition for Review was timely filed, the same must nevertheless be denied.

To begin with, a reading of the allegations in the instant Petition for Review would show that the arguments relied upon are *exactly the same allegations* contained in the Discussion portion of the Motion for Reconsideration petitioner filed before the Court in Division.

These arguments were already met and discussed in the May 29, 2023 Resolution of the Court in Division denying said Motion for Reconsideration.

On this score, alone, the Petitioner already fails.

Still, We shall afford the Petition yet another chance to understand the futility of its appeal.

In *Commissioner of Internal Revenue v. Philippine Bank of Communications*,[18] the requisites for claiming a tax credit or a refund of CWT were laid down as follows:

> 1) The claim must be filed with the CIR within the two (2)-year period from the date of payment of the tax;
> 2) It must be shown on the return that the income received was declared as part of the gross income; and
> 3) The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld.

[15] See Notice of Decision, Division Docket, Vol. III, p. 1042.
[16] *Id.* at 1067-1076.
[17] See Notice of Resolution, *id.* at 1095.
[18] G.R. No. 211348, February 23, 2022.

The timely filing of petitioner's claim is not in issue, and there is no doubt that the first requisite has been complied with.[19] So, too, has the second requisite been complied with.[20]

It is compliance with the third requisite that is the lone issue before Us.

While petitioner submitted in evidence the required Creditable Withholding Tax Certificates ("BIR Forms No. 2307" or "CWT Certificates") for Calendar Year 2017,[21] a number of these were disregarded by the Court in Division due to the following defects:

1. Incorrect TIN of petitioner;
2. No TIN of petitioner indicated;
3. No address of petitioner indicated;
4. Not issued in petitioner's name; and
5. Without signature of payor's authorized signatory.[22]

In the instant Petition, SRI is now insisting that the Court *En Banc* should overlook the lack of information and/or the incorrect details mentioned above. It submits that these defects do not render the CWT Certificates insufficient in proving the fact of withholding.

We disagree.

As mentioned above, the third requisite mandates that the CWT Certificate must be duly issued by the payor to the payee. It must thus be emphasized that the **identity of both parties must be clearly established in these certificates**. Failure to do so would necessarily affect the credibility of the said BIR forms.

To determine the credibility of the documentary evidence presented by petitioner, the same were read in conjunction with the Certificates of Registration of the petitioner.[23] This is to ensure the basic fact of identity. And the details petitioner hoped to be overlooked, namely its name, TIN, and address, are the very ones vital to establish such identity and consequently, the credibility of corresponding BIR Forms No. 2307 as submitted.

Clearly, then, the Court in Division unerringly disallowed the amount of P16,874,956.31 covered by the defective CWT Certificates.

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[19] See Decision, pp. 9-10, Division Docket, Vol. III, pp. 1051-1052.
[20] Decision, pp. 18-23, *id.* at 1060-1065.
[21] Exhibits "P-20" to "P-20-274".
[22] See Decision, pp. 13-18, Division Docket, Vol. III, pp.1055-1060.
[23] Exhibit "P-4", "P-36" to "P-41".

It is settled that an applicant for a tax refund or credit must prove not only entitlement to the grant of the claim under substantive law, but must also show compliance with all the documentary and evidentiary requirements thereto.[24]

In only partially granting the refund claim of petitioner following its astute identification of the defects in the aforementioned relevant details in the submitted BIR Forms No. 2307, the Court in Division exercised its wisdom and expertise in its appreciation of such evidence. It is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.[25] With no such showing of grave abuse of discretion by the Court in Division, the Court En Banc upholds its findings on this score.

In so ruling, the Court is guided by the pronouncement of the Supreme Court in *Tanduay Distillers, Inc. v. Commissioner of Internal Revenue*[26], where it stressed as follow:

> The Court reiterates the time-honored principle that tax refunds are construed strictly against the taxpayer, and liberally in favor of the State. Hence, the law upon which the claim of refund is made, and the documents presented to prove such entitlement to the refund are construed *strictissimi juris* against the taxpayer and are *strictissimi* scrutinized. Accordingly, it is incumbent upon the claimant to establish the factual basis of his or her claim for tax credit or refund. This petitioner failed to do.

FOR THESE REASONS, the Petition for Review, filed on June 29, 2023, is hereby **DENIED** for lack of merit. The Assailed Decision, dated January 9, 2023, and the Assailed Resolution, dated May 29, 2023, of the Court in Division are hereby **AFFIRMED.**

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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24 *Tanduay Distillers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256740 (Notice), February 13, 2023.

25 *Republic Of The Philippines, Represented By The Commissioner Of Internal Revenue vs. Team (Phils.) Energy Corporation (Formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015.

26 G.R. No. 256740 (Notice), February 13, 2023.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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 before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice