REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

RENOIR IMPLEMENTATION SERVICES, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10840

Members:
RINGPIS-LIBAN, *PJ, Chairperson,*
MODESTO-SAN PEDRO, *and,*
FERRER-FLORES, *JJ.*

Promulgated:

2,50 p.m.

x -- x

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before this Court is a Petition for Review[1] ("Petition"), filed on April 20, 2022 by petitioner Renoir Implementation Services, Inc. ("RISI") against respondent Commissioner of Internal Revenue ("CIR"), praying that judgment be rendered ordering respondent to refund a total amount of Php33,047,403.21, representing unutilized creditable withholding taxes ("CWT") for the calendar year ("CY") 2019.[2]

The Parties

Petitioner RISI is a corporation organized and existing under the laws of the Philippines. It holds office at 28th Floor, Tower 2, The Enterprise Center 6766 Ayala Avenue, Paseo de Roxas, Makati City. RISI is primarily engaged in the business of management and consulting, more specifically designing, developing, modifying, manufacturing, installing and implementing know-how solutions related to performance improvement, profitability enhancement, asset optimization and generally to perform all acts connected

---

[1] Docket Vol. 1, pp. 7-341, with annexes.

[2] See Statement of the Case, Pre-Trial Order, Docket Vol. 1, p. 450.

with the business. It is registered with the Bureau of Internal Revenue ("BIR") under Tax Identification Number ("TIN") 212-335-168-000.[3]

On the other hand, respondent is the Commissioner of the BIR, vested under appropriate laws with authority to carry out all the functions, duties and responsibilities of his office, including, *inter alia*, the power to decide, approve and grant claims for refund or tax credit of internal revenue taxes.[4]

The Facts

On June 14, 2020, petitioner filed with the BIR, through Electronic Filing and Payment System ("eFPS"), its Annual Income Tax Return ("ITR") or BIR Form No. 1702-RT for CY 2019.[5] The same Annual ITR was later amended on November 25, 2020. Under the Amended Annual ITR for CY 2019, an income tax overpayment of Php53,579,808.30 was reflected.[6]

For the 1st to 4th quarters of CY 2019, petitioner reflected in its Quarterly ITR and Amended ITR an accumulated excess CWT amounting to Php33,047,403.21, broken down, as follows:

Quarter	Amount
1st[7]	Php9,293,532.98
2nd[8]	5,795,194.29
3rd[9]	6,895,719.61
4th[10]	11,062,956.33
Total	Php33,047,403.21

On July 21, 2021, petitioner filed an administrative claim for refund of excess CWT before the BIR.[11]

Thereafter, on April 20, 2022, petitioner filed its judicial claim for refund via the instant Petition filed before this Court.[12]

[3] See Admitted Facts, Pre-Trial Order, Docket Vol. 1, p. 451; Exhibits "P-1", "P-2" and "P-3".
[4] See Admitted Facts, Pre-Trial Order, Docket Vol. 1, p. 451.
[5] Exhibit "P-7.
[6] Exhibit "P-8.
[7] Exhibits "P-4" and "P-4-1".
[8] Exhibits "P-5" and "P-5-1".
[9] Exhibits "P-6" and "P-6-1".
[10] Exhibits "P-8.
[11] Exhibits "P-10" and "P-11".
[12] Docket Vol. 1, pp. 7-341.

On June 16, 2022, this Court issued Summons requiring respondent to file an Answer to the Petition.[13] As such, on September 1, 2022, respondent filed his Answer.[14] Meanwhile, on September 6, 2022, respondent elevated the BIR Records.[15]

On March 1, 2023, respondent filed his Pre-Trial Brief.[16] On same date, petitioner filed its Pre-Trial Brief.[17] Likewise, on same date, petitioner submitted a Supplemental Judicial Affidavit of its witness, Bernadette F. Absolor, in addition to her Judicial Affidavit attached to the Petition.[18]

On March 7, 2023, a Pre-Trial Conference was held.[19] Then, on April 5, 2023, the parties filed their Joint Stipulation of Facts and Issues.[20] Accordingly, on April 24, 2023, the Pre-Trial Order was issued.[21] Petitioner, however, on April 2, 2023, filed a Motion to Amend Pre-Trial Order noting that not all of its Exhibits to be presented in support of its claim has been included in the Pre-Trial Order.[22] And these have been allowed by this Court to be included in the Pre-Trial Order in a Resolution, dated July 5, 2023.[23]

Meanwhile, on March 8, 2023, petitioner filed a Motion for Commissioning of Independent Certified Public Accountant ("ICPA") seeking to commission Ms. Krista V. Bambao as ICPA for the present case.[24] As such, on April 18, 2023, the commissioning hearing for Ms. Bambao was conducted wherein she she was appointed as ICPA for the instant case.[25] On May 18, 2023, Ms. Bambao initially submitted an ICPA Report.[26] However, on July 20, 2023, petitioner filed a Motion for Leave of Court to File an Amended Report (Of the Independent Certified Public Accountant),[27] which was allowed by this Court in a Resolution, dated September 4, 2023.[28] On September 15, 2023, Ms. Bambao submitted her Amended ICPA Report.[29] On same date, petitioner submitted Ms. Bambao's testimony in relation to her Amended ICPA Report.[30] Thereafter, on September 26, 2023, petitioner presented Ms. Bambao on the witness stand to be cross-examined in relation to her testimony on the Amended ICPA Report.[31]

---

[13] Docket Vol. 1, p. 353 and 359.
[14] Docket Vol. 1, pp. 365-373.
[15] Docket Vol. 1, p. 364.
[16] Docket Vol. 1, pp. 376-379.
[17] Docket Vol. 1, pp. 402-410.
[18] Exhibit "P-214", Docket Vol. 1, pp. 380-401.
[19] Docket Vol. 1, pp. 414-417.
[20] Docket Vol. 1, pp. 435-440.
[21] Docket Vol. 1, pp. 449-455.
[22] Docket Vol. 1, pp. 456-459.
[23] Docket Vol. 2, pp. 532-535.
[24] Docket Vol, 1, pp. 420-434.
[25] Docket Vol. 1, p. 447.
[26] Docket Vol. 1, pp. 470-491.
[27] Docket Vol. 2, pp. 527-531.
[28] Docket Vol. 2, pp. 562-564.
[29] Docket Vol. 2, pp. 565-566; Exhibit "P-277".
[30] Exhibit "P-279", Docket Vol. 2, pp. 567-597.
[31] Docket Vol. 2, pp. 598-599.

On June 20, 2023, petitioner filed a Motion to Admit Supplemental Judicial Affidavit of Bernadette F. Absolor to supplement the latter's testimony attached to the Petition.[32] Subsequently, on July 18, 2023, petitioner presented its witnesses, Bernadette Absolor, and Harold Ocampo, before the witness stand.[33] During the Hearing, dated September 26, 2023, wherein Ms. Bambao testified on her Amended ICPA Report, Ms. Bambao recommended a zero refund against petitioner considering that the presented BIR Forms No. 2307 conforme portions were not signed by petitioner's authorized representative.[34] Petitioner then requested to recall Ms. Absolor to the witness stand to address the aforesaid issue.[35] On January 29, 2024, petitioner submitted another Judicial Affidavit of Ms. Absolor[36] and the Judicial Affidavit of Atty. Joseph Shelner N. Songco[37] to address the issue of the unsigned conforme portions of the presented BIR Forms No. 2307. On February 1, 2024, petitioner once again placed Ms. Absolor to the witness stand to be cross-examined on the above issue.[38] Meanwhile, petitioner presented Atty. Songco before the Court on March 21, 2024 to testify on the same matter.[39]

Thereafter, on April 22, 2024, petitioner filed its Formal Offer of Evidence.[40] In a Resolution, dated July 30, 2024, this Court admitted all of petitioner's Exhibits.[41]

On the other hand, on October 3, 2023, respondent submitted the Judicial Affidavit of Ms. Chastine Grace Calapatia-Lontoc, his witness for the present case[42]. On September 10, 2024, Ms. Calapatia-Lontoc was placed on the witness stand.[43] Thereafter, on September 13, 2024, respondent filed his Formal Offer of Evidence.[44] In a Resolution, dated Nov. 29, 2024, this Court admitted all of respondent's Exhibits.[45]

Then, on February 3, 2025, petitioner filed his Memorandum.[46] Respondent, however, failed to file his Memorandum.[47] Thus, in a Resolution, dated February 11, 2025, the instant case was submitted for Decision.[48]

---

32 Exhibit "P-215", Docket Vol. 2, pp. 518-526
33 Docket, Vol. 2, pp. 536-539.
34 See TSN, Hearing, dated September 26, 2023.
35 *Ibid.*
36 Exhibit "P-283", Docket Vol. 2, pp. 622-728.
37 Exhibit "P-284", Docket Vol. 2, pp. 729-836.
38 Docket Vol. 2, pp. 842-843.
39 Docket Vol. 2, p. 850.
40 Docket Vol, 2, pp. 871-1028.
41 Docket Vol. 2, pp. 1035-1040.
42 Exhibit "R-3", Docket Vol. 2, pp. 605-619.
43 Docket Vol. 3, p. 872.
44 Docket Vol. 3, pp. 874-884.
45 Docket Vol. 3, pp. 887-889.
46 Docket Vol. 3, pp. 891-914.
47 Docket Vol. 3, p. 915.
48 Docket Vol. 3.

The Issue

The sole issue for this Court's resolution is:

> WHETHER OR NOT THE PETITIONER IS ENTITLED TO ITS CLAIM FOR REFUND IN THE AMOUNT OF PHP33,047,403.21 REPRESENTING ITS ALLEGED EXCESS AND UNUTILIZED CWT FOR CY 2019.[49]

Arguments of the Parties

Petitioner's Arguments[50]

Petitioner argues that it is entitled to the claimed refund due to its compliance with all the requisites to claim a refund or credit for unutilized excess CWT. Specifically, petitioner raises that:

1) The claim for refund was filed within the two (2)-year prescriptive period prescribed under the *Sections 204 (C) and 229 of the NIRC;*

2) Petitioner established the fact of withholding of the unutilized excess CWT for CY 2019 which it seeks to refund and that the income payment has been declared as part of its gross income;

3) Petitioner expressly manifested its intention to exercise the refund option in its Annual ITR under *Section 76 of the NIRC*; and

4) The erroneously paid tax should be refunded to the petitioner following the principle of *solutio indebiti.*

Respondent's Counter-Arguments[51]

On the other hand, respondent counter-argues that petitioner failed to show that the income covered by Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307) were declared part of the petitioner's income claimed for CY 2019. A claim for refund is strictly construed against the taxpayer for the same partakes the nature of tax exemption.

---

[49] See Stipulated Issues, Pre-Trial Order, Docket Vol. 1, p. 451.
[50] See petitioner's Memorandum, Docket Vol. 3, pp. 895-909.
[51] See Answer, Docket Vol. 1, pp. 366-369.

The Ruling of the Court

The instant Petition is meritorious.

Section 76 of the Tax Code enumerates the options given to a taxpayer in the event that the sum of the quarterly tax payments during the taxable year is not equal to the total tax due on the entire taxable income for the year, to wit:

> 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 the total tax due on the entire taxable income of that year, the corporation shall either:*
>
> (A) Pay the balance of the 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 a tax credit certificate shall be allowed therefor.
> (Italics supplied.)

Based on the foregoing, when a corporation overpays its income tax liability, as shown on its final adjustment return, it has the option to either (1) carry over and apply the overpayment as tax credits against the income tax liabilities of the succeeding taxable years; or (2) apply for a cash refund or issuance of a tax credit certificate within the prescribed period.[52] Such overpayment of income is usually occasioned by the over-withholding of taxes on the income payments to the corporate taxpayer.[53]

In exercising its option, the corporation must signify in its Annual ITR, by marking the option box provided in the BIR Form, its intention to either carry-over the excess credits or claim a refund.[54] These remedies are in the

---

[52] University Physicians Services, Inc. – Management, Inc. vs. Commissioner of Internal Revenue, G.R. No. 205955, 7 March 2018.
[53] *Ibid.*
[54] Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206526, 28 January 2015, citing Philippine Bank of Communications vs. Commissioner of Internal Revenue, G.R. No. 112024, 28 January 1999.

alternative, and the choice of one precludes the other.[55] Moreover, once the carry-over option is taken actually or constructively, it becomes irrevocable for the taxable period.[56] The phrase "for the taxable period" refers to the taxable year when the excess income, subject of the option, was acquired by the taxpayer.[57]

A perusal of petitioner's original[58] and amended Annual ITR[59] for CY 2019 shows that it had total tax credits of Php89,388,558.00, broken down as follows:

Prior Year's Excess Credits Other Than Minimum Corporate Income Tax ("MCIT")		Php56,341,155.00
Add: Creditable Taxes Withheld – CY 2019		
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	21,984,447.00	
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	11,062,956.00	33,047,403.00
TOTAL TAX CREDITS		Php89,388,558.00

Petitioner utilized its "prior year's excess credits" for CY 2019 in the amount of Php56,341,155.00 to pay for its income tax liability for the same period in the amount of Php36,031,592.00 (*i.e.,* under the original Annual ITR) and Php35,808,750.00 (*i.e.,* under the amended Annual ITR). Hence, the resulting overpayment in the amount of Php53,356,966.00 and Php53,579,808.00 under the original and amended Annual ITR, respectively. as shown in both the original and amended Annual ITR comprise of the balance of the "prior year's excess credit" of Php20,309,563.00[60] for the original Annual ITR and Php20,532,405[61] for the amended Annual ITR and the accumulated CWT during CY 2019 in the amount of Php33,047,403.00.

Moreover, both the CY 2019 original and amended Annual ITR duly show that petitioner marked the box corresponding to the option "To be refunded" clearly manifesting its intention to claim a refund of its excess CWTs for the period. *f*

---

55 Republic of the Philippines vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation), G.R. No. 188016, 14 January 2015, citing Philam Asset Management, Inc. vs. Commissioner of Internal Revenue, G.R. Nos 156637 & 162004, 14 December 2005.

56 Axia Power Holdings Philippines Corporation vs. Commissioner of Internal Revenue, G.R. No. 230847, 14 October 2020, citing Asiaworld Properties Philippine Corporation vs. Commissioner of Internal Revenue, G.R. No. 171766, 29 July 2010.

57 Commissioner of Internal Revenue vs. Bank of the Philippine Islands, G.R. No. 178490, 7 July 2009.

58 Exhibit "P-7".

59 Exhibit "P-8".

60 Prior year's excess credits of Php56,341,155 less income tax due of Php36,031,592.

61 Prior year's excess credits of Php56,341,155 less income tax due of Php35,808,750.

Further, as can be gleaned from its amended Annual ITR for the subsequent period (*i.e.,* CY 2020),[62] petitioner reflected only the amount of Php20,532,405 as "prior year's excess credits". Thus, the excess CWTs for CY 2019 in the amount of Php33,047,403.00 were not carried over in the succeeding taxable period and, therefore, may be the subject of a claim for refund or issuance of a tax credit certificate under *Section 76 of the NIRC.*

However, as emphasized by this Court in several cases, the refund of excess/unutilized CWT is dependent on the taxpayer-claimant's compliance with the following three basic requirements:

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 NIRC;*

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.[63]

We shall now proceed with the determination of petitioner's compliance with the foregoing requisites for claiming a refund of excess CWTs.

First requisite: The claim for refund was filed within the two-year prescriptive period

The prescriptive periods for the filing of refund claim in the administrative and judicial levels are covered by *Section 204 (C)* in relation to *Section 229 of the Tax Code*. These provisions respectively state:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* —
>
> . . .
>
> (C) Credit or refund of taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue

[62] Exhibit "P-15"; See also Exhibits "P-12", "P-13" and "P-14" for the Quarterly ITR.

[63] 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.

> 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 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."
> (Italics supplied.)

Based on the foregoing, it is clear that a taxpayer-claimant must first file an administrative claim with the CIR within two years from the date of payment of tax. The subsequent judicial claim must likewise be filed within the two-year reglementary period. The timeliness of the filing of the claim is mandatory and jurisdictional. Thus, the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time.[64]

Moreover, it is well-settled that the reglementary period commences to run on the date of filing of the Final Adjustment Return or Annual ITR.

In the case at bar, petitioner filed its original CY 2019 Annual ITR[65] on June 14, 2020. Under the *NIRC,* the mandatory deadline for filing and payments of the previous year's ITR is every April 15. However, due to the restrictions on movement (*i.e.,* enhanced community quarantine) brought about by the COVID-19 pandemic and to implement the Bayanihan to Heal as One Act,[66] the BIR moved the deadline for the CY 2019 Annual ITR to May 15, 2020.[67] However, due to the extensions on the community quarantine to curtail the COVID-19 pandemic, this deadline was once again moved to

---

[64] Commissioner of Internal Revenue vs. San Miguel Corporation, G.R. No. 180740, 11 November 2019.
[65] Exhibit "P-7".
[66] Republic Act No. ("RA") 11469, Section 4 (z).
[67] Revenue Regulation No. ("RR") 7-2020, March 30, 2020.

May 30, 2020[68] and finally to June 14, 2020.[69] Accordingly, petitioner timely filed its original Annual ITR on June 14, 2020. As such, it will be the reckoning period upon which the mandatory two-year period for filing both administrative and judicial claims for refund will start. Thus, counting two years therefrom, petitioner had until June 14, 2022 to file both its administrative and judicial claims.

It appearing that petitioner's administrative claim[70] was filed on July 21, 2021, while the judicial claim via the instant Petition for Review[71] was filed on April 20, 2022, it is clear that both claims for refund were timely filed. *Thus, the first requisite has been complied with.*

Second requisite: The fact of withholding is established by certificates of withholding tax

Section 2.58.3 (B) of RR No. 2-98, as amended, provides:

> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course *only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement* duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.
>
> Proof of remittance is the responsibility of the withholding agent. (Italics supplied.)

Gleaning from the foregoing, the fact of withholding is established by a copy of the withholding tax statement duly issued by the withholding agent to the payee, showing the amount paid and the amount of tax withheld therefrom.

In the case at bar, RISI presented the Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307) issued by its income payors and attached to its Annual ITR[72], its Annual ITRs for CY 2019,[73] General Ledger of Sales for CY 2019,[74] and Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax ("SAWT") for CY 2019[75] to prove the fact of withholding.

---

[68] RR 10-2020, April 14, 2020.
[69] RR 11-2020, April 30, 2020.
[70] Exhibits "P-10" and "P-11".
[71] Docket Vol. 1, pp. 7-341.
[72] Exhibits "P-143" to "P-212".
[73] Exhibits "P-7" and "P-8" for the original and amended ITR, respectively.
[74] Exhibit "P-18".
[75] Exhibit "P-19".

An issue arose during trial when the ICPA testified that she is recommending a zero grant of refund considering that the BIR Forms No. 2307 presented by petitioner initially did not contain a signature on the conforme portion.[76] However, this matter will not affect petitioner's claim for refund especially since it later on remedied, and signed the conforme portion (through a duly authorized representative),[77] the BIR Forms No. 2307 it submitted in evidence to support its CWT refund claim.

Usually, the conforme portion is signed by the income recipient, or his or her authorized representative, to signify him or her agreeing to the details contained in the aforesaid BIR Form No. 2307 (*i.e.,* name of income payor and recipient, TIN, address, amount of income received, and amount of withholding tax, among others). Failing to sign the conforme portion is not fatal to a taxpayer claiming a CWT refund, considering that signing the same is not specifically required by the *NIRC* as a requisite for claiming CWT refund.

More importantly, the fact that a taxpayer presented BIR Form No. 2307 as basis for his or her CWT refund claim shows that such taxpayer is amenable to the details contained in said BIR Form No. 2307. Such that, even if the conforme portion is unsigned, the act of using such unsigned BIR Form No. 2307 signifies the taxpayer-claimant's acceptance of the details contained in said BIR Form No. 2307. It is as if the taxpayer-claimant has actually signed such BIR Form No. 2307.

Considering that the ICPA found, and as verified by the Court, that the CWT declared in the BIR Forms No. 2307 submitted in evidence by petitioner totals its claimed CWT refund (*i.e.,* Php33,047,403.21), petitioner has adequately proven the fact of withholding of taxes on its income. *Accordingly, the second requisite has been complied with.*

Third requisite: Petitioner proved that the income from which taxes were withheld were declared part of the gross income

Anent the *third requirement*, petitioner must prove that the income payments from which the substantiated CWTs were withheld were declared part of its gross income. With this, it becomes necessary to trace the revenues recorded in the general ledger book to ascertain that the related income was duly reported as revenues for CY 2019.

---

[76] TSN, Hearing, dated September 26, 2023.

[77] Judicial Affidavit of Ms. Absolor, Exhibit "P-283", Docket Vol. 2, pp. 622-728; Judicial Affidavit of Atty. Joseph Shelner N. Songco, Exhibit "P-284", Docket Vol. 2, pp. 729-836.

To determine whether the income upon which the taxes were withheld (*i.e.,* the subject matter of the present claim) was included and/or declared as part of petitioner's gross income for the covered period, the ICPA traced the aforesaid income[78] in petitioner's Annual ITR[79] and Audited Financial Statements ("AFS")[80] for CY 2019, petitioner's General Ledger of Sales for CY 2019[81], and SAWT for CY 2019.[82]

As part of the above verification, the income per Annual ITR for CY 2019[83] was reconciled with the income per AFS of CY 2019[84] with the difference (*i.e.,* Php4,459,682.00) being discovered as pertaining to revenues in CY 2019 which were deferred from preceding (*i.e.,* Php7,822,120.51) and to succeeding (*i.e.,* Php12,281,803.00) taxable periods.[85]

Furthermore, the total income per AFS was matched with the total income per General Ledger of Sales for CY 2019.[86] The values of the two accounts are similar (*i.e.,* Php237,608,992.38). From this, the ICPA determined whether the composition of the General Ledger of Sales for CY 2019 can be substantiated. Billing invoices and official receipts[87] were provided by petitioner to support the same. Consequently, the ICPA made the following findings on the make-up of the General Ledger of Sales for CY 2019, to wit:[88]

Findings	Amount
Accrued Revenue	-888,641.00
Deferred Revenue	5,998,366.49
Reversal of incorrect entry	-13,765,420.38
Supported by billing invoice and official receipt	-233,910,326.75
Supported by billing invoice but supported by undated official receipt	-3,618,951.12
Supported by official receipt but unsupported by billing invoice	-5,189,440.00
Unsupported accounts receivable invoice - cancellation	32,798,333,528.85
Unsupported by billing invoice & official receipt; with corresponding "A/R Invoice – Cancellation"	-32,784,568,108.47
Total	-237,608,992.38

[78] Exhibits "P-279" and "P-17".
[79] Exhibit "P-8".
[80] Exhibit "P-9".
[81] Exhibit "P-18".
[82] Exhibit "P-19".
[83] Exhibit "P-8".
[84] Exhibit "P-9".
[85] Table 4 and 5, Exhibit "P-279" and "P-17".
[86] Exhibit "P-18", Table 6, Exhibit "P-279" and "P-17".
[87] Exhibits "P-20" to "P-55", "P-56" to "P-142" and "P-213" to "P-276".
[88] Table 7, Exhibit "P-279" and "P-17".

Thereafter, the ICPA compared the total CWT reported per Annual ITR for CY 2019 (*i.e.*, Php33,047,403.00)[89] as against the CWT reported per SAWT for the covered period (*i.e.*, Php33,047,403.21).[90] This disclosed no difference.[91]

However, when the ICPA compared the total revenues/income per SAWT for CY 2019[92] with its corresponding client accounts per General Ledger of Sales for CY 2019,[93] she noted certain differences:[94]

Client	Revenue per SAWT	Revenue per General Ledger of Sales	Difference
Philippine Span Asia Carrier Corp.	31,127,486.93	31,620,757.90	-493,270.97
PLDT, Inc.	132,873,557.20	130,645,455.27	2,228,101.93
PRG Prince Management Services Corporation	18,665,559.27	25,314,574.50	-6,648,975.23
RAFI Microfinance, Inc.	22,874,610.53	27,223,145.16	-4,348,534.63
SMEDD Corp.	4,878,646.00	4,842,128.05	36,517.95
Vitarich Corporation	6,796,121.47	5,816,606.61	979,514.86
Zuellig Pharma Corporation	3,100,000.00	3,100,000.00	
Total	220,316,021.40	228,562,667.49	-8,246,646.09

These variances were then reconciled by petitioner to be pertaining to foreign exchange translation adjustments, revenues which should have been grossed up at 2% instead of 15%, revenues recorded in other taxable years, revenue collected in other taxable years, and reversing entries made on the General Ledger.[95]

After this, the ICPA made a comparison of the total revenues subjected to withholding per SAWT[96] and the corresponding BIR Forms No. 2307 issued to petitioner.[97] It showed the following:[98]

[89] Exhibit "P-8".
[90] Exhibit "P-19".
[91] Table 8, Exhibit "P-279" and "P-17".
[92] Exhibit "P-19".
[93] Exhibit "P-18".
[94] Table 9, Exhibit "P-279" and "P-17".
[95] Table 9-a, Exhibit "P-279" and "P-17"; Exhibit "P-279" and "P-17".
[96] *Ibid.*
[97] Exhibits "P-143" to "P-212".
[98] Table 10, Exhibit "P-279" and "P-17".

Client	Per BIR Form No. 2307	Per SAWT	Difference: BIR Form No. 2307 > SAWT	Difference: BIR Form No. 2307 < SAWT
Philippine Span Asia Carrier Corp.	32,016,084.48	31,127,486.93	888,597.55	
PLDT, Inc.	132,873,557.27	132,873,557.20	0.07	
PRG Prince Management Services Corporation	18,665,599.25	18,665,559.27		0.02
RAFI Microfinance, Inc.	26,282,420.08	22,874,610.53	3,407,809.55	
SMEDD Corp.	4,878,646.02	4,878,646.00	0.02	
Vitarich Corporation	6,796,121.44	6,796,121.47		0.03
Zuellig Pharma Corporation	3,100,000.00	3,100,000.00		
Total	224,612,428.54	220,316,021.40		

The variances noted in both Philippine Span Asia Carrier Corp. and RAFI Microfinance, Inc. were explained by petitioner as pertaining to revenue that should have been grossed up at 2% instead of 15%.[99]

However, in Table 11 of the ICPA Report,[100] the ICPA performed an additional procedure[101] by tracing which of the CWT under the submitted BIR Forms No. 2307[102] was reported in the General Ledger of Sales.[103] This resulted in a finding that not the entire income subject of the present CWT

---

[99] Table 9-a and 9-b, Exhibit "P-279" and "P-17".
[100] Exhibit "P-279" and "P-17".
[101] Annex "3", Exhibit "P-17".
[102] Exhibits "P-143" to "P-212".
[103] Exhibit "P-18".

refund was actually declared as part of the gross income subject to income tax, *viz.*:

Findings	CWT per BIR Form No. 2307
Reported in the General Ledger (Exhibits "P-143" to "P-204")	27,635,179.25
Not Reported in the General Ledger (Exhibits "P-205" to "P-212")	5,412,223.96
Total	33,047,403.21

From the above findings of the ICPA, to which this Court agrees, only the income pertaining to the Php27,635,179.25 of the total CWT claimed for refund (*i.e.,* Php33,047,403.21) has been shown to have indeed been declared as part of petitioner's gross income subjected to income tax. Thus, the *third requisite has been complied with*, although it has resulted in the disallowance of a portion of the claimed CWT refund.

ACCORDINGLY, premises considered, the Petition for Review is **PARTIALLY GRANTED.** Respondent **COMMISSIONER OF INTERNAL REVENUE** is hereby **ORDERED** to **REFUND** or **ISSUE** a Tax Credit Certificate in petitioner's favor in the total amount of Php27,635,179.25 representing unutilized CWT for CY 2019.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice

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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice