REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

STAGES PRODUCTION SPECIALISTS, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9817

Members:

DEL ROSARIO, *P.J., Chairperson, and,*
MANAHAN, *JJ.*

Promulgated:
AUG 3 1 2021 11:35 a.m.

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D E C I S I O N

MANAHAN, J.:

This is a Petition for Review filed by petitioner, Stages Production Specialists, Inc., seeking the judicial refund of its alleged excess income tax payments amounting to ₱3,585,949.00 pertaining to the taxable year (TY) ending December 31, 2015.[1]

THE PARTIES

Petitioner Stages Production Specialists, Inc. is a domestic corporation with business address at 606 Greenbelt Mansion, 106 Perea St., Legaspi Village, Makati.[2] It is engaged in the business of entertainment, promotion and advertising, such as but not limited to, packaging of total entertainment concepts, from idea stage to show time, and management of talents and artists required in the production

[1] Statement of the Case, Pre-Trial Order dated July 26, 2019, Docket – Vol. I, p. 513.
[2] Par. II(A)(1), Summary of Admitted Facts, Pre-Trial Order dated July 26, 2019, p. 514.

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of shows locally and internationally. It is a registered taxpayer in the Bureau of Internal Revenue (BIR) Revenue District Office No. 47 with Tax Identification Number 200-417-566-000.[3]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) vested under the law with the authority to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide, approve and grant refunds and/or tax credits of overpaid and erroneously paid or collected internal revenue taxes.

THE FACTS

On April 6, 2018, petitioner filed with the BIR an administrative claim for refund through an Application for Tax Credits/Refunds (BIR Form No. 1914) and the letter dated April 4, 2018,[4] requesting for the refund or the issuance of a tax credit certificate (TCC) in the amount of ₱3,585,949.00, allegedly representing excess income tax payments for TY 2015.

Petitioner then filed the instant Petition for Review with this Court on April 16, 2018 which was originally raffled to the Second Division.

On July 6, 2018, respondent posted his Answer to the Petition for Review.[5]

The Pre-Trial Conference was initially set on August 30, 2018.[6] However, in view of the absence of respondent's counsel and without objection from petitioner's counsel, the Pre-Trial Conference was reset to October 11, 2018.[7]

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[3] Par. II(A)(4), Summary of Admitted Facts, Pre-Trial Order dated July 26, 2019, Docket – Vol. I, p. 514.
[4] Exhibits "P-14" and "P-14-a", Docket – Vol. II, pp. 1264 to 1266.
[5] Docket – Vol. I, pp. 197 to 199.
[6] *Notice of Pre-Trial Conference* dated July 26, 2018, Docket – Vol. I, pp. 201 to 202.
[7] Minutes of the hearing held on, and Order dated August 30, 2018, Docket – Vol. I, pp. 218 to 219.

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In the meantime, respondent's Pre-Trial Brief was posted on August 11, 2018,[8] while petitioner's Pre-Trial Brief was posted on August 24, 2018.[9]

Pursuant to the Order dated September 24, 2018,[10] the instant case was transferred to this Court's First Division. Correspondingly, the Pre-Trial Conference was again reset to January 31, 2019 by the said Division.[11] However, the same was ultimately reset to, and was held on, April 4, 2019.[12]

The Court then issued the Pre-Trial Order dated July 26, 2019,[13] and deemed the pre-trial terminated.

During trial, petitioner presented documentary and testimonial evidence. As part of its testimonial evidence, petitioner offered the testimonies of the following individuals, namely: (1) Ms. Evangeline G. Agustin,[14] petitioner's Accountant; and (2) Ms. Michele Lacsamana,[15] petitioner's Accounting Assistant.

Petitioner then filed its Offer of Exhibits on December 4, 2019.[16] Respondent failed to comment thereon.[17]

In the Resolution dated June 3, 2020,[18] the Court admitted petitioner's exhibits, *except* for Exhibits "P-10-l", "P-10-m", "P-10-u", "P-10-v", "P-10-ii", "P-10-xx", "P-10-bbb", "P-10-ccc", "P-10-eee", "P-10-fff", "P-10-iii", "P-10-mmm", "P-10-nnn", "P-10-ppp", "P-10-sss", "P-10-aaaa", "P-10-bbbb", "P-10-cccc", "P-10-dddd", "P-10-eeee", "P-10-ffff", "P-10-gggg", "P-10-llll", "P-10-nnnn", "P-10-oooo", "P-10-pppp", "P-

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[8] Docket – Vol. I, pp. 203 to 205.
[9] Docket – Vol. I, pp. 220 to 225.
[10] Docket – Vol. I, p. 228.
[11] Resolution dated October 29, 2018, Docket – Vol. I, p. 231.
[12] *Notice of Resetting* dated January 24, 2019, Docket – Vol. I, p. 232; *Notice of Resetting* dated February 20, 2019, Docket – Vol. I, p. 234; Minutes of the Pre-Trial Conference held on, and Order dated, April 4, 2019, Docket – Vol. I, pp. 235 to 238, and 241 to 243, respectively.
[13] Docket – Vol. I, pp. 513 to 536.
[14] Exhibit "P-17", Docket – Vol. I, pp. 552 to 562; Minutes of the hearing held on, and Order dated, August 27, 2019, Docket – Vol. II, pp. 771 to 774.
[15] Exhibit "P-18", Docket – Vol. II, pp. 778 to 788; Minutes of the hearing held on, and Order dated, October 29, 2019, Docket – Vol. II, pp. 1031 to 1036.
[16] Docket – Vol. II, pp. 1045 to 1051.
[17] Records Verification dated January 3, 2020 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 1298.
[18] Docket – Vol. II, pp. 1302 to 1303.

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10-qqqq", "P-10-wwww", "P-10-yyyy", "P-10-zzzz", "P-10-ddddd", "P-10-hhhhh", "P-10-iiiii", "P-10-jjjjj", "P-10-mmmmm", and "P-10-ooooo", for failure to present the originals for comparison.

On the other hand, respondent, through counsel, manifested that he will no longer present any evidence.[19]

The Memorandum of respondent was posted on July 30, 2020,[20] while petitioner's Memorandum was posted on August 19, 2020.[21]

On September 16, 2020, this case was submitted for decision.[22]

THE ISSUE

For resolution is the following sole issue; to wit:

> "Whether petitioner is entitled to a refund of excess income tax payments amounting to Three Million Five Hundred Eighty-Five Thousand Nine Hundred Forty-Nine Pesos (₱3,585,949.00) for taxable year 2015."[23]

Petitioner's arguments:

Petitioner asserts that the requirements for refund of excess income tax payments have been complied with, to wit:

a. That both the administrative and judicial claims for refund have been filed within the two (2)-year prescriptive period pursuant to Section 229 of the 1997 National Internal Revenue Code (NIRC), as amended;

b. That its 2015 Amended Income Tax Return (ITR) shows that the income payments which were subjected to withholding tax were declared as part of its income; and

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[19] Minutes of the hearing held on, and Order dated, October 29, 2019, Docket – Vol. II, pp. 1031 to 1036.
[20] Docket – Vol. II, pp. 1318 to 1321.
[21] Docket – Vol. II, pp. 1323 to 1331.
[22] Resolution dated September 16, 2020, Docket – Vol. II, p. 1335.
[23] Issue to be Tried or Resolved, Pre-Trial Order dated July 26, 2019, Docket – Vol. I, p. 514.

c. The fact of withholding has been duly proven as shown by the creditable withholding taxes (CWT) or BIR Forms 2307.

Respondent's counter-arguments:

Respondent disagrees with petitioner's claim that it has fulfilled all the requirements for entitlement to the refund of its excess income tax payments because it failed to submit proof of actual remittance to the BIR of the withheld taxes, whether by testimonial or documentary evidence.

Respondent also asserts that in claims of this nature, petitioner must prove that it did not carry-over its 2015 alleged unutilized creditable withholding taxes to the succeeding taxable quarters/years, which petitioner failed to do.

Lastly, respondent cites the oft-repeated doctrine that tax refunds are in the nature of tax exemptions, and as such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the exemption.

THE RULING OF THE COURT

We shall first proceed to determine the timeliness of the filing of the administrative and judicial claims for refund.

Sections 204(C) and 229 of the 1997 NIRC, as amended, provide for the period of filing of the administrative claim for refund with the BIR and the judicial claim for refund with the CTA for recovery of tax erroneously or illegally collected, to wit:

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

"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." (Emphasis supplied)

The above-stated provisions mandate that the administrative and judicial remedies of filing a claim for refund of erroneously or excessively paid tax must be done within two (2) years from the date of payment of the tax.

While the law provides that the two (2)-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that the two-year prescriptive period to claim a refund actually commences to run, at the earliest, on the date of the filing of the adjusted final tax return[24] because this is where the figures of the gross receipts and deductions have been audited and adjusted, reflective of the results of the operations of a business enterprise.[25] Thus, it is only when the Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a

[24] *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.,* G.R. No. 231581, April 10, 2019, citing *ACCRA Investments Corp. v. Court of Appeals*, 281 Phil. 1060, 1068-1069 (1991).

[25] *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.,* supra; *Commissioner of Internal Revenue v. TMX Sales, Inc.*, 282 Phil. 199, 207 (1992).

refund can be claimed based on the adjusted and audited figures.[26]

The present claim covers calendar year 2015, and involves the following dates, to wit:

Period	***Date of Filing of final adjustment return***	***Last Day to File Both Administrative and Judicial Claims***	***Date of Filing of the Administrative Claim***	***Date of Filing of the Judicial Claim***
2015	April 15, 2016[27]	April 15, 2018	April 6, 2018[28]	April 16, 2018[29]

As the administrative claim was filed on April 6, 2018, the same was made well within the two (2)-year prescriptive period. With respect to the judicial claim, since April 15, 2018 fell on a Sunday, the instant Petition for Review was filed on the next working day, April 16, 2018. Correspondingly, the same was likewise seasonably filed, within the same two (2)-year prescriptive period.

As to the substantive merits of the claim for refund, we find that petitioner was not able to prove that it is entitled to a refund of its alleged excess income tax payments amounting to ₱3,585,949.00 for TY 2015.

Section 76 of the 1997 NIRC, as amended, reads as follows:

> "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:
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> (A) Pay the balance of tax still due; or
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> (B) Carry-over the excess credit; or

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[26] *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.,* G.R. No. 231581, April 10, 2019; *Commissioner of Internal Revenue v. TMX Sales, Inc.*, supra.
[27] Exhibit "P-1-a", Docket – Vol. II, pp. 1062 to 1069.
[28] Exhibits "P-14" and "P-14-a", Docket – Vol. II, pp. 1264 to 1266.
[29] Since April 15, 2018 fell on Sunday, petitioner filed the instant *Petition for Review* on the next working day; Docket – Vol. I, p. 10.

> (C) Be credited or refunded with the excess amount paid, as the case may be.
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> 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."

The above provision states the two (2) options of a taxable corporation whose total quarterly income tax payments in a given taxable year exceed its total income tax due. The taxpayer may either: (1) carry-over the excess amount to the succeeding taxable quarters/years until it is fully utilized; or (2) file a claim for refund in the form of cash or tax credit certificate. However, once the carry-over option is taken actually or constructively it becomes irrevocable for that taxable period.[30] The phrase *"for that taxable period"* refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[31]

In exercising its option, the concerned corporation must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention either to carry over the excess credit or to claim a refund. To ease the administration of tax collection, these remedies are in the alternative and the choice of one precludes the other.[32]

A perusal of petitioner's amended Annual Income Tax Return (ITR) for 2015[33] shows that petitioner had an income tax due of ₱1,922,354.00. The said amount was supposedly paid using its income tax credits of ₱12,074,501.00, which consisted of prior year's excess credits in the amount of

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[30] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue,* G.R. Nos. 156637 & 162004, December 14, 2005; *Systra Philippines, Inc vs. Commissioner of Internal Revenue* G.R. No. 176290, September 21, 2007.

[31] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands,* G.R. No. 178490, July 7, 2009.

[32] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.

[33] Exhibit "P-1", Docket – Vol. II, pp. 1054 to 1061.

₱8,488,552.00 and accumulated Creditable Withholding Taxes (CWT) during the four (4) quarters of 2015 in the total amount of ₱3,585,949.00 (₱2,540,234.00 plus ₱1,045,715.00).[34] Thus, this leaves a balance in the amount of ₱10,152,147.00 which remained unutilized as of December 31, 2015, as shown below:

Income Tax Due other than MCIT			₱ 1,922,354.00
Less: Tax Credits/Payments[35]			
Prior Year's Excess Credits Other Than MCIT		₱ 8,488,552.00	
Creditable Tax Withheld from Previous Quarter/s	₱ 2,540,234.00		
Creditable Tax Withheld for the 4th Quarter	1,045,715.00	3,585,949.00	12,074,501.00
Total Tax Overpayment			**₱ 10,152,147.00**

The importance of determining the excess and unutilized CWT is emphasized by the nature of the CWT. In one case,[36] the Supreme Court explained that "money is a fungible property" and the amount to be applied against the income tax due in the final adjustment return of petitioner may be taken from its excess credits in a prior year or from those withheld in the current year or from both. Thus, a "Tax Overpayment" is composed of the taxpayer's prior year's credits; current year's tax payments; creditable taxes withheld for the current year; and even foreign tax credits (if applicable).

However, the Court notes that petitioner did not present any evidence to prove its Prior Year's Excess Credits in the amount of ₱8,488,552.00 as declared in its amended Annual ITR for calendar year 2015. Relative thereto, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[37] Correspondingly, at this juncture, it must already be stated that there is no prior year's excess

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[34] Exhibit "P-1", Docket – Vol. II, at p. 1059.

[35] As reflected in Schedule 7 of the amended Annual ITR for 2015, Exhibit "P-1", Docket – Vol. II, p. 1059.

[36] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 and 162004, December 14, 2005.

[37] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, etseq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

credits which may be utilized to pay for petitioner's income tax due for TY 2015.

Furthermore, petitioner manifested its intention to claim a refund by marking the box corresponding to the option "To be refunded"[38] in its original and amended Annual ITRs for calendar year 2015. Conversely, a perusal of petitioner's original Annual ITR for 2016[39], as well as the original quarterly ITR for the 2nd quarter of 2016[40], indicated the amount of ₱8,488,552.00 as *"Prior Year's Excess Credits"*.[41] Evidently, out of the ₱3,585,949.00 CWT for TY 2015 being claimed by petitioner for refund, only the amount of ₱1,663,595.00, as shown below, was not carried-over in the succeeding taxable period/s, *viz.*:

Total Tax Overpayment for 2015[42] (**including** the subject claimed amount of ₱3,585,949.00 CWT for 2015)	₱10,152,147.00
Less: Prior Year's Excess Credits carried over in the succeeding taxable period/s[43]	8,488,552.00
CWT for 2015 not carried over in the succeeding taxable period/s	**₱1,663,595.00**

On the other hand, part of the claimed CWT for calendar year 2015 in the amount of ₱1,922,354.00 was indeed carried over to the succeeding taxable period/s, to wit:

Claimed CWT for 2015	₱3,585,949.00
Less: CWT for 2015 not carried over in the succeeding taxable period/s	1,663,595.00
CWT for 2015 carried over in the succeeding taxable period/s	**₱1,922,354.00**

Therefore, based on Section 76 of the 1997 NIRC, as amended, petitioner is precluded from claiming a refund which corresponds to the 2015 excess tax credits of ₱1,922,354.00, which were carried-over. The subsequent amendments made by petitioner in its ITRs declaring the amount of ₱6,566,197.56,[44] as prior year's excess credits, excluding the carried-over amount of CWT for 2015, do not

[38] Exhibits "P-1-a" and "P-1", Line 21, Docket – Vol. II, pp. 1062 and 1054.
[39] Exhibit "P-6-a", Docket – Vol. II, pp. 1095 to 1102.
[40] Exhibit "P-8-a", Docket – Vol. II, pp. 1111 to 1112.
[41] As reflected in Schedule 7 of the original Annual ITR for 2016, Exhibit "P-6-a", Docket – Vol. II, p. 1100; Exhibit "P-8-a", Line 31A, Docket – Vol. II, p. 1112.
[42] Exhibit "P-1", Docket – Vol. II, p. 1054
[43] Exhibits "P-6-a" and "P-8-a", Docket – Vol. II, pp. 1100 and 1112, respectively.
[44] Line 31A, Exhibits "P-7", "P-8", and "P-9", Docket – Vol. II, pp. 1105, 1110 and 1115, respectively.

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change the fact that petitioner has effectively chosen and exercised the option to carry over the excess tax credits to the succeeding taxable period/s. Section 76 of the 1997 NIRC, as amended, remains clear and unequivocal.

To stress, once the carry-over option is taken, actually or constructively, it becomes irrevocable. Considering that petitioner actually exercised the option of carry-over of its 2015 excess tax credits in the amount of ₱1,922,354.00 in its original Annual ITR for 2016[45], as well as the original quarterly ITR for the 2nd quarter of 2016, it is already barred from claiming a tax refund corresponding thereto. Accordingly, only the amount of ₱1,663,595.00 may be the proper subject of a claim for refund under Section 76 of the 1997 NIRC, as amended.

Nevertheless, the said amount of ₱1,663,595.00 cannot represent petitioner's excess CWT for 2015. In the instant case, since petitioner has opted to claim a refund of its excess CWT for 2015, it is incumbent upon petitioner to prove that it has sufficient prior year's excess CWT to cover its income tax liability for 2015. As already observed, petitioner failed to substantiate that it had prior year's excess credits, and reflected in its amended Annual ITR for 2015, an income tax due in the amount of ₱1,922,354.00.[46] Deducting this income tax liability of ₱1,922,354.00 from the said amount of ₱1,663,595.00, would result to an income tax still due as of the end of 2015, computed below:

Income Tax Due for 2015	₱ 1,922,354.00
Less: CWT for 2015 (as adjusted)	1,663,595.00
Income Tax still due	**₱ 258,759.00**

Such being the case, petitioner has no excess tax credits for calendar year 2015 which may be refunded.

It must be emphasized that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the

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45 Exhibit "P-6-a", Docket – Vol. II, pp. 1095 to 1102.
46 Exhibit "P-1", Line 16, Docket – Vol. II, p. 1054.

conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[47]

WHEREFORE, in view of the foregoing, the instant *Petition for Review* filed by petitioner on April 16, 2018 is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

(See Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

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[47] *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

STAGES PRODUCTION SPECIALISTS, INC., Petitioner,	**CTA CASE NO. 9817**
	Members:
- versus -	DEL ROSARIO, *P.J.*, Chairperson, and MANAHAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 31 2021 ; 11:35 a.m.

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CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur in the denial of petitioner's refund claim amounting to ₱3,585,949.00 on the following grounds:

(i) petitioner failed to substantiate its prior year's tax credits amounting to ₱8,488,552.00;

(ii) considering that petitioner's prior year's tax credits were unsubstantiated, the current taxes withheld for taxable year (TY) 2015 amounting to ₱3,585,949.00 shall be made to cover the current income tax due of ₱1,922,354.00, leaving a refundable balance of ₱1,663,595.00; and,

(iii) the amount of ₱1,663,5995.00 cannot be refunded as petitioner petitioner failed to prove that it was not included in the ₱6,566,198.00 which was carried over to TY 2016.

As regards, the *ponencia*'s findings that petitioner has an income tax still due for TY 2015, amounting to ₱258,759.00, I submit that it is erroneous. It must be noted that the amount of ₱1,663,595.00 is the **net difference** of the total current income tax due of ₱1,922,354.00 and the total current creditable taxes withheld of ₱3,585,949.00. To deduct the current income tax due of ₱1,922,354.00 from the excess tax credits of ₱1,663,595.000 would be tantamount to double deduction.

Nonetheless, the refund claim of petitioner must still be denied for the afore-stated reasons.

All told, I **CONCUR** in the result.

ROMAN G. DEL ROSARIO
Presiding Justice