REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

CASAS+ARCHITECTS, INC., *Petitioner,*	**CTA CASE NO. 9806**
	Members:
-versus-	**DEL ROSARIO**, *P.J., Chairperson, and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 17 2021

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DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review filed by petitioner Casas+Architects, Inc. on April 11, 2018 against respondent Commissioner of Internal Revenue, pursuant to Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Section 7(a)(2) of Republic Act (R.A.) No. 1125, as amended by R.A. 9282, in relation to Section 3(a)(2), Rule 4 of A.M. No. 05-11-07-CTA, known as the Revised Rules of the Court of Tax Appeals (RRCTA), claiming for refund in the amount of ₱19,421,706.00 allegedly representing unutilized and excess creditable withholding taxes (CWTs) for taxable year (TY) 2015.

THE PARTIES

Petitioner Casas+Architects, Inc. is a corporation duly organized and existing under Philippine laws with principal office address at 6th Floor Paseo Center Bldg., 8757 Paseo de Roxas, Salcedo Village, Makati City. It is registered with the Securities and Exchange Commission (SEC). Petitioner is engaged, among others, in providing various architectural services.[1] It is also registered with the Bureau of Internal Revenue (BIR) with Certificate of Registration No. OCN

[1] Paragraphs 1 and 2 of Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI); Docket, p. 221.

9RC0000379155 and Tax Identification Number (TIN) 008-552-446-000.[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) empowered under the relevant provisions of law to perform the duties of the said office, including, but not limited to, power to decide, approve and grant claims for refund or tax credit of erroneously or excessively paid taxes. Respondent holds office at BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

THE FACTS

On April 15, 2016, petitioner filed with the BIR Revenue District Office (RDO) No. 50, Revenue Region No. 8 – Makati its Annual Income Tax Return (ITR) for TY 2015 or BIR Form No. 1702-RT, declaring the following:[4]

Net Sales/Revenues/Receipts/Fees		₱ 160,401,166.00
Less: Cost of Sales/Services		68,926,458.00
Gross Income from Operation		91,474,708.00
Add: Other Taxable Income Not Subjected to Final Tax		437,649.00
Total Gross Income		91,912,357.00
Less: Ordinary Allowable Itemized Deductions		74,634,314.00
Net Taxable Income		17,278,043.00
Income Tax Rate		30%
Income Tax Due		5,183,413.00
Less: Total Tax Credits/Payments		
Prior Year's Excess Credits Other Than MCIT	₱ 2,832,401.00	
Income Tax Payment under Regular/Normal Rate from Previous Quarter/s	820,874.00	
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	14,864,241.00	
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	6,087,603.00	24,605,119.00
Net Tax Payable (Overpayment)		(19,421,706.00)

On February 27, 2017, petitioner filed before BIR RDO 50 its Letter dated January 27, 2017 and BIR Form No. 1914 or the Application for Tax Credits/Refunds, requesting for the refund of its alleged unutilized CWTs for TY 2015 in the amount of ₱19,421,706.00.[5]

Claiming inaction on the part of the respondent and considering that the statutory period of two (2) years was about to expire, petitioner

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[2] Exhibit "P-3"; Docket, p. 358.
[3] Paragraph 4 of Summary of Admitted Facts, JSFI; Docket, pp. 221-222.
[4] Exhibit "P-4"; Docket, pp. 359-369.
[5] Exhibits "P-9" and "P-10", Docket, pp. 398-399.

filed the present Petition for Review on April 11, 2018.[6] The case was raffled to this Court's Second Division.

In response to the Summons issued on April 19, 2018,[7] respondent filed his Answer on May 22, 2018[8] with the following Special and Affirmative Defenses, *viz.:*

1. Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;

2. Taxes paid and collected are presumed to be made in accordance with laws and regulations, hence, not refundable;

3. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204(C) in relation to Section 229 of the NIRC of 1997, as amended;

4. Petitioner's claim for refund or issuance of tax credit certificate in the amount of ₱19,421,706.00 representing alleged unutilized CWT for TY 2015 as prior year's excess credits should be denied considering that petitioner carried it over to the succeeding taxable year. Petitioner cannot get a tax refund and a tax credit at the same time for the same excess income taxes paid;

5. In a claim for tax refund or tax credit, a taxpayer must prove not only its entitlement to the grant of the claim under substantive law, but it must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for refund or tax credit; and,

6. Claims for refund are construed strictly against the claimant, and the same partake the nature of exemption from taxation, as such, they are looked upon with disfavor.

Respondent's Pre-Trial Brief was filed on July 25, 2018.[9]

Initially, this case was dismissed for failure of petitioner's counsel to appear on the scheduled pre-trial conference held on August 2, 2018, and for failure to file his pre-trial brief.[10] Petitioner filed its Motion for Reconsideration on September 18, 2018 stating that its counsel

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[6] Docket, pp. 10-21, 12.
[7] Docket, p. 52.
[8] Answer attached to respondent's Manifestation with Motion to Admit Answer filed on May 22, 2018, which motion was granted in the Court's Resolution dated July 13, 2018; Docket, pp. 53-60, and 66-67.
[9] Docket, pp. 70-72.
[10] Docket, p. 74.

was unaware of said pre-trial conference and received the notice of such pre-trial conference only on August 20, 2018.[11] After verifying the veracity of petitioner's claim regarding its receipt of aforesaid notice on August 20, 2018, the Court granted petitioner's Motion for Reconsideration and reinstated the case in the Resolution dated November 29, 2018.[12]

Incidentally, this case was transferred to this Division, in an Order dated September 25, 2018, pursuant to CTA Administrative Circular No. 02-2018, dated September 18, 2018, reorganizing the Three (3) Divisions of the Court.[13] The order of transfer was reiterated in the November 29, 2018 Resolution.[14]

Petitioner filed its Pre-Trial Brief on March 15, 2019.[15]

Pre-Trial Conference was held on April 11, 2019.[16] The parties filed their Joint Stipulation of Facts and Issues on May 2, 2019,[17] which was approved in the Resolution dated May 14, 2019.[18] The Pre-Trial Order was issued on July 15, 2019.[19]

During trial, petitioner presented testimonial and documentary evidence. It presented Ms. Bernadith Bersabe-Nañaga, petitioner's Head of Finance and Accounting,[20] and the Court-commissioned Independent Certified Public Accountant (ICPA), Ms. Maria Teresita Zuniga-Dimaculangan.[21]

Petitioner filed its Formal Offer of Exhibits on December 11, 2019,[22] while respondent's Comment thereon (with Manifestation) was filed through registered mail on December 23, 2019.[23] Petitioner's documentary evidence were admitted in the Resolution dated February 4, 2020, save for Exhibit "13" which was denied admission for not being

[11] Docket, pp. 80-82.
[12] Docket, pp. 91-92.
[13] Docket, p. 84.
[14] Docket, pp. 91-92.
[15] Docket, pp. 98-104.
[16] Docket, pp. 209-212, 215-217.
[17] Docket, pp. 221-222.
[18] Docket, p. 236.
[19] Docket, pp. 261-267.
[20] Docket, pp. 268-272.
[21] Docket, pp. 327-332.
[22] Docket, pp. 335-348.
[23] Docket, pp. 414-416.

found in the records.[24] Respondent's Manifestation that he will no longer present any evidence was noted in the same February 4, 2020 Resolution.

In the Resolution dated June 15, 2020,[25] this Court denied petitioner's Motion for Partial Reconsideration of the Court's February 4, 2020 Resolution, filed on February 28, 2020,[26] for being filed out of time.[27] This Court noted, in the August 26, 2020 Resolution,[28] petitioner's Tender of Excluded Evidence filed on July 16, 2020.[29]

The Memorandum for Respondent was filed through registered mail on March 12, 2020, and received by the Court on June 2, 2020,[30] while petitioner's Memorandum was filed through registered mail on August 12, 2020, and received by the Court on September 3, 2020.[31]

This case was submitted for decision on September 17, 2020.[32]

THE ISSUE

Whether petitioner is entitled to a refund in the amount of ₱19,421,706.00 representing excess and unutilized CWT for TY 2015.[33]

THE PARTIES' ARGUMENTS

Petitioner argues that:

1. The CTA has jurisdiction to hear and decide the present Petition for Review;

2. Both the administrative and judicial claims were timely filed;

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[24] Docket, pp. 420-422.
[25] Docket, pp. 484-485.
[26] Docket, pp. 423-426.
[27] Docket, pp. 484-485.
[28] Docket, p. 495.
[29] Docket, pp. 489-492.
[30] Docket, pp. 477-481.
[31] Docket, pp. 510-521.
[32] Docket, p. 525.
[33] Issue, JSFI; Docket, p. 222.

3. Petitioner is entitled to be refunded of the excess and unutilized CWTs/income tax for TY 2015 in the amount of ₱19,421,706.00; and,

4. The excess and unutilized CWTs earned in TY 2015 in the amount of ₱19,421,706.00 are duly supported by BIR Forms No. 2307 and other documents and the income upon which the taxes were withheld was duly reported by petitioner.[34]

On the other hand, respondent asserts the following:

1. Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected. Taxes paid and collected are presumed to be made in accordance with laws and regulations, hence, not refundable. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204(C), in relation to Section 229, of the NIRC of 1997, as amended;

2. Petitioner's claim for refund or issuance of tax credit certificate in the amount of ₱19,421,706.00 representing alleged excess and unutilized CWTs for TY 2015 should be denied for failure of the petitioner to fully substantiate its claim. Further, there were credits claimed by petitioner that pertain to periods other than when the income was earned and received;

3. Claims for refund are construed strictly against the claimant, and the same partake the nature of exemption from taxation, as such, they are looked upon with disfavor;

4. Tax refunds are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the exemption;

5. Petitioner has to prove with the required quantum of evidence its entitlement to the refund claimed, and the court will render its decision on the basis of the facts proven and the evidence presented applying the law and jurisprudence applicable to the issue under consideration, even if no controverting evidence was ever presented by respondent; and,

6. The fact that petitioner failed to fully substantiate its claim by proper documents, the same must necessarily fail.[35]

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[34] Petitioner's Memorandum, Docket, pp. 510-521, 513, 514, 518, and 520.
[35] Memorandum for Respondent, Docket, pp. 477-481, 479-480.

THE COURT'S RULING

Jurisdiction over the case

The cause of action presented in this case is the inaction of respondent on petitioner's claim for refund of excess and unutilized CWTs for TY 2015 which is reviewable by this Court on appeal. Section 7(a)(2) of R.A. No. 1125, as amended by R.A. 9282 vests the Court of Tax Appeals (CTA) of exclusive appellate jurisdiction to review inaction of respondent in cases involving refunds of internal revenue taxes.[36]

Timeliness of the administrative claim and the Petition for Review

A refund of tax paid by the taxpayer, which was erroneously or illegally collected by the BIR is sanctioned by the NIRC of 1997, as amended. Sections 204 and 229 thereof provide:

> "**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.
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> 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

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[36] "Sec. 7. Jurisdiction. - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided: xxx
2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;
xxx."

overpayment shall be considered as a written claim for credit or refund."

xxx xxx xxx

"**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."

Section 204 of the NIRC of 1997, as amended, applies to administrative claims for refund, while Section 229 of the same Code pertains to judicial claims for refund.[37]

A claimant for refund must first file an administrative claim for refund before the CIR, prior to filing a judicial claim before the CTA. Notably, both the administrative and judicial claims for refund should be filed within the two (2)-year prescriptive period indicated therein, and that the claimant is allowed to file the latter even without waiting for the resolution of the former in order to prevent the forfeiture of its claim through prescription. The primary purpose of filing an administrative claim is to serve as a notice of warning to the CIR that court action would follow unless the tax or penalty alleged to have been collected erroneously or illegally is refunded.[38]

While the law provides that the two (2)-year period is counted from the date of payment of the tax, the Supreme Court clarified in ***ACCRA Investments Corporation vs. Court of Appeals, et al.,***[39]

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[37] CIR vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.), GR No. 231581, April 10, 2019.
[38] Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue, G.R. No. 182582, April 17, 2017.
[39] G.R. No. 96322, December 20, 1991.

that the two-year prescriptive period for claiming a refund of overpaid income tax/CWT commences to run on the date of filing of the Final Adjustment Return.[40] This guiding principle was reiterated in ***Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)***,[41] where it was held that the two-year prescriptive period is reckoned from the filing of the final adjustment return. It is only when the Final Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.[42]

In the present case, petitioner filed its Annual ITR for TY 2015 on April 15, 2016; thus, it had until April 15, 2018 to file its administrative and judicial claims for refund. Clearly, the filing of petitioner's administrative claim on February 27, 2017 and its judicial claim on April 11, 2018 were made within the two-year prescriptive period provided under Sections 204(C) and 229 of the NIRC of 1997, as amended. As the judicial claim was seasonably filed, the Court therefore has jurisdiction to take cognizance of this case.

Entitlement to refund of excess CWT

Section 76 of the NIRC of 1997, as amended, gives a corporate taxpayer options when its quarterly income tax payments exceed its total tax due, *viz.:*

> "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 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

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[40] Commissioner of Internal Revenue vs. TMX Sales, Inc., et al., G.R. No. 83736, January 15, 1992.
[41] G.R. No. 231581, April 10, 2019.
[42] Commissioner of Internal Revenue vs. TMX Sales, Inc., et al., G.R. No. 83736, January 15, 1992.

> 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 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." *(Boldfacing supplied)*

When a corporation overpays its income tax liability as adjusted at the close of the taxable year, it has two options: *(1)* to be refunded or issued a tax credit certificate, or *(2)* to carry over such overpayment to the succeeding taxable quarters to be applied as tax credit against any income tax due in the succeeding year/s or quarter/s.[43] In exercising its option, the 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.[44] The carry-over option, however, once taken actually or constructively, becomes irrevocable and no application for a tax refund or issuance of a tax credit certificate shall then be allowed.[45]

In this case, petitioner marked the box corresponding to the option *"To be refunded"* in its Annual ITR for TY 2015.[46] Moreover, examination of the *"Prior Year's Excess Credits Other Than MCIT"* found in petitioner's Annual ITR for TY 2016[47] shows a zero balance, which means that the amount prayed to be refunded in this case has not been carried over to the succeeding TY 2016. The presentation of the annual ITR would suffice in proving that prior year's excess credits were not utilized for the taxable year.[48] As petitioner did not choose the carry-over option in its 2015 ITR nor constructively exercised the same in its ITR for the succeeding year 2016, its unutilized CWTs for TY 2015 in the amount of ₱19,421,706.00 may be the subject of a claim for refund under Section 76 of the NIRC of 1997, as amended.

A taxpayer claiming for a tax credit or refund of CWT must comply with the following requisites:

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[43] University Physicians Services Inc. – Management, Inc. vs. Commissioner of Internal Revenue, G.R. No. 205955, March 7, 2018.
[44] Systra Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 176290, September 21, 2007.
[45] Philam Asset Management, Inc. vs. Commissioner of Internal Revenue, G.R. Nos. 156637 and 162004 December 14, 2005.
[46] Exhibit "P-4', CTA Docket, p. 359.
[47] Exhibit "P-8", CTA Docket, p. 394.
[48] Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206526, January 28, 2015.

(1) The claim must be filed within the two-year period from the date of payment of the tax (or from the filing of the final adjustment return, as discussed earlier);

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

(3) It must be shown on the return of the recipient that the income received was declared as part of the gross income.[49]

The Court shall proceed to determine petitioner's compliance with the above-stated requirements.

First Requisite: The administrative and judicial claims were filed on time

As afore-discussed, petitioner was able to file its administrative and judicial claims within the two-year period as provided under Sections 204(C) and 229 of the NIRC of 1997, as amended; hence, petitioner was able to comply with the first requirement.

Second Requisite: Fact of withholding is established by competent evidence

The second requisite mandates petitioner to prove the fact of withholding of the claimed CWT by a copy of the statement duly issued by the payor, acting as the withholding agent, to the payee, showing the names of the payor and payee, the income payment, the amount of tax withheld, and the nature of the tax paid.

As held by the Supreme Court in the case of ***Commissioner of Internal Revenue vs. Philippine National Bank***,[50] the Certificate of

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[49] Commissioner of Internal Revenue vs. Team (Philippines) Operations Corporation, G.R. No. 185728, October 16, 2013.
[50] G.R. No. 180290, September 29, 2014.

Creditable Tax Withheld at Source *(BIR Form No. 2307)* is competent proof to establish the fact of withholding, *viz.*:

> **The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates.**
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> In *Banco Filipino Savings and Mortgage Bank v. Court of Appeals*, this court declared that **a certificate is complete in the relevant details that would aid the courts in the evaluation of any claim for refund of excess creditable withholding taxes**:
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> > In fine, the document which may be accepted as evidence of the third condition, that is, the fact of withholding, must emanate from the payor itself, and not merely from the payee, and must indicate the name of the payor, the income payment basis of the tax withheld, the amount of the tax withheld and the nature of the tax paid.
> >
> > At the time material to this case, the requisite information regarding withholding taxes from the sale of acquired assets can be found in BIR Form No. 1743.1. As described in Section 6 of Revenue Regulations No. 6-85, BIR Form No. 1743.1 is a written statement issued by the payor as withholding agent showing the income or other payments made by the said withholding agent during a quarter or year and the amount of the tax deducted and withheld therefrom. It readily identifies the payor, the income payment and the tax withheld. It is complete in the relevant details which would aid the courts in the evaluation of any claim for refund of creditable withholding taxes. xxx
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> Moreover, as correctly held by the Court of Tax Appeals *En Banc*, **the figures appearing in the withholding tax certificates can be taken at face value since these documents were executed under the penalties of perjury**, pursuant to Section 267 of the 1997 National Internal Revenue Code, as amended, which reads:
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> > SEC. 267. *Declaration under Penalties of Perjury.* – Any declaration, return and other statements required under this Code, shall, in lieu of an oath, contain a written statement that they are made under the penalties of perjury. Any person who willfully files a declaration, return or statement containing information which is not true and correct as to every material matter shall, upon conviction, be subject to the penalties prescribed for perjury under the Revised Penal Code.

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> Thus, upon **presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury**, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly. (*Boldfacing supplied*)

Other competent proof, however, may be appreciated to establish the fact of withholding. In ***Philippine National Bank vs. Commissioner of Internal Revenue***,[51] it was declared that in claims for excess and unutilized creditable withholding tax, the submission of BIR Forms 2307 is to prove the fact of withholding of the excess creditable withholding tax being claimed for refund, but the information contained in that BIR Form No. 2307 can also be gathered from Withholding Tax Remittance Returns (BIR Form No. 1606). In that case, refund was granted despite non-presentation of BIR Form No. 2307. The language of the Supreme Court is instructive, *viz.:*

> "All in all, the evidence presented by petitioner sufficiently proved its entitlement to the claimed refund. **There is no need** for PNB **to present** Gotesco's **BIR Form No. 2307**, as insisted by the First Division, **because the information contained in the said form may be very well gathered from other documents** already presented by PNB. Thus, the presentation of BIR Form No. 2307 would be in the final analysis a superfluity, of little or no value." *(Boldfacing supplied)*

To be sure, it is settled that the document which may be accepted as evidence to prove the fact of withholding, must emanate from the payor itself, and not merely from the payee, and must indicate the name of the payor, the income payment which is the basis of the tax withheld, the amount of the tax withheld and the nature of the tax paid.[52]

Moreover, the withholding tax certificates which indicate petitioner's name and address, and the amount of CWT withheld by the payor, *albeit* without petitioner's TIN, may be considered complete in relevant details necessary to aid the Court in evaluating the subject refund claim. For one, petitioner's name and address appearing on said certificates may be cross-referenced with petitioner's BIR Certificate of Registration[53] which states therein petitioner's registered

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[51] G.R. No. 206019, March 18, 2015.
[52] Banco Filipino Savings and Mortgage Bank vs. Court of Appeals, et. al., G.R. No. 155682, March 27, 2007.
[53] Exhibit "P-3", CTA Docket, p. 358.

name and address as well as its TIN. Meanwhile, if there are discrepancies in, or absence of, the TIN of the income payors in the withholding tax certificates, the Court cannot ascertain the identity of said payors as reported by petitioner in its Summary Alphalist of Withholding Taxes (SAWT). As the issuer of the withholding tax certificate, it is the payor who has the responsibility to provide its correct TIN.

To be considered as valid evidence of the fact of withholding of tax, the withholding tax certificates must contain the correct TIN of petitioner's clients as income payors. In addition, the certificates must be signed by the income payor's authorized representative.

Upon evaluation of the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) offered in evidence by petitioner,[54] the following certificates with total CWTs of ₱1,983,065.44 shall be disallowed based on the grounds stated hereunder:

EXHIBIT NO.	MONTH	PAYOR	INCOME PAYMENT	CWT	GROUND FOR DISALLOWANCE
P-38	Jan-15	FERN REALTY CORPORATION	₱ 81,026.79	₱ 1,620.54	Incomplete payor's TIN
P-42	Apr-15 Jun-15	UNIVERSITY OF SANTO TOMAS	4,419,643.00	662,946.45	Signature of payor's representative digitally attached
P-47	May-15	FERN REALTY CORPORATION	25,000.00	500.00	Incomplete payor's TIN
P-61	Jun-15	FERN REALTY CORPORATION	54,017.86	1,080.36	Incomplete payor's TIN
P-71	Oct-15	NUVOPIAZZA VENTURES INC	669,642.85	100,446.43	Unreadable figures; no payor signature
P-76	Jul-15	TRAVELLERS INTERNATIONAL HOTEL GROUP INC.	5,139,804.46	770,970.67	No payor signature
			11,442.86	228.86	
P-80	Oct-15	BONIFACIO ART FOUNDATION INC.	49,660.71	993.21	No payor signature
P-86	Oct-15	FAR EASTERN UNIVERSITY	3,475,999.58	69,519.99	No countersignature in correction of payee's TIN
P-88	Oct-15	THE INSULAR ASSURANCE CO., LTD.	2,072,857.13	310,928.57	No payor signature
P-89	Dec-15	THE INSULAR ASSURANCE CO., LTD.	425,535.73	63,830.36	No payor signature
TOTAL			₱ 16,424,630.97	₱ 1,983,065.44	

The Court notes that in the Amended Report of the Court-commissioned Independent Certified Public Accountant (ICPA), the

[54] Exhibits "P-35" to "P-103".

following CWTs of petitioner in the total amount of ₱3,805,248.40, were disallowed: [55]

ITEM	AMOUNT
CWTs of fees collected in 2015 pertaining to 2014 sales per summary	₱ 2,977,569.83
Collections in 2014 but CWT dated 2015 used in 1st quarter SAWT	
Manila Bay Shore Property Holdings, Inc. per OR No. 0112	225,000.00
Brittany Corporation per OR No. 0137	602,678.57
CWTs deducted in 2015 but for 2014 revenues	₱ 3,805,248.00

Revalidation by the Court of the above computation with petitioner's Summary of Sales Receipts[56] shows that the amount of ₱2,977,569.83 pertained to CWTs on fees collected in TY 2015 but pertained to sales made in TY 2014. The said CWTs should have been claimed in TY 2014 at the time the sales were made or rendered. Thus, the Court finds it proper to sustain such disallowance.

With regard to the ICPA's findings on collections in TY 2014 but CWTs were dated in 2015 and used in 1st quarter SAWT of TY 2015 specifically for sales made to Manila Bay Shore Property Holdings, Inc. with CWTs in the amount of ₱225,000.00 and to Brittany Corporation in the amount of ₱602,678.57, review of the SAWT for the 1st quarter of TY 2015 shows that the purported CWTs were not actually claimed in the 1st quarter of TY 2015. The SAWT for the first quarter of TY 2015 did not include the said income payors. Moreover, the ICPA failed to point out the basis for such disallowance, as there is nothing in the records which show that CWTs in the said amounts were claimed by petitioner in TY 2015.

Thus, the Court finds that the total disallowances to the CWTs of petitioner for TY 2015 amounts to ₱4,960,635.27, computed as follows:

ITEM	AMOUNT
Disallowances per the Court's verification	₱ 1,983,065.44
Disallowances per ICPA findings	2,977,569.83
Total Disallowances to CWTs for TY 2015	₱ 4,960,635.27

Records show that petitioner reported a total of ₱20,951,844.00 representing creditable taxes withheld for the four quarters of TY 2015 per its BIR Form Nos. 2307.[57] Considering the aforestated

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[55] Exhibit "P-278", CTA Docket, p. 293.
[56] Exhibit "P-34".
[57] Exhibit "P-4", CTA Docket, p. 364.

disallowances determined by the ICPA and the Court, the total valid CWTs of petitioner for TY amounts to ₱15,991,208.73, as follows:

ITEM	AMOUNT
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	₱ 14,864,241.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	6,087,603.00
Total CWTs for TY 2015	₱ 20,951,844.00
Less: Total Disallowances to CWTs for TY 2015	4,960,635.27
Total Valid CWTs for TY 2015	₱ 15,991,208.73

Third Requisite: The income which was subjected to CWT was declared as part of the gross income

To prove that petitioner declared as part of its gross income the income that was subjected to CWT, petitioner offered in evidence its Audited Financial Statements (AFS) for TY 2015,[58] Quarterly ITRs for TY 2015 together with the SAWT,[59] Annual ITR for TY 2015,[60] Summary of Analysis of Billings/Revenues/VAT and Withholding Taxes,[61] and official receipts issued by petitioner to its clients.[62]

The income payments appearing in each of the CWT certificates were verified against the relevant documents such as the official receipts issued by petitioner in TY 2015. Said income payments appearing in the said documents were individually traced to the Summary of Analysis of Billings/Revenues/VAT and Withholding Taxes. The ending balance of the said Summary corresponds with the amounts reported in the AFS and Quarterly and Annual ITRs for TY 2015. Thus, petitioner was able to establish that the income payments upon which the taxes were withheld were properly reported and formed part of the gross income declared in its Annual ITR for TY 2015.

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58 Exhibit "P-19".
59 Exhibits "P-20" to "P-25".
60 Exhibit "P-26".
61 Exhibit "P-34".
62 Exhibits "P-111" to "P-277", with submarkings.

OM

Determination of Excess CWT/ Overpaid Income Tax

In its Annual ITR for TY 2015,[63] petitioner reported an income tax due of ₱5,183,413.00, and total tax credits of ₱24,605,119.00, broken down as follows:

Item	Amount
Prior Year's Excess Credits other than MCIT	₱ 2,832,401.00
Income Tax Payment under Regular/Normal Rate from Previous Quarters	820,874.00
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	14,864,241.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	6,087,603.00
Total Tax Credits/Payments	₱ 24,605,119.00

The claimed excess and unutilized CWTs amounting to ₱19,421,706.00 corresponds to the tax overpayment reflected in petitioner's Annual ITR for TY 2015, which represents the difference between the total tax credits of ₱24,605,119.00 and the income tax due of ₱5,183,413.00.

To determine the refundable amount to petitioner, the Court needs also to verify the correctness or incorrectness of petitioner's income tax payment as refund of CWT is only allowed when the same exceeds the tax liability for the year. This is necessary to resolve the issue of whether petitioner is indeed entitled to a refund.[64]

Besides, it is settled that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund.[65] Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.[66] The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[67]

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[63] Exhibit "P-4", Docket, pp. 359-369.
[64] SMI-ED Philippines Technology, Inc. Vs. Commissioner of Internal Revenue, G.R. No. 175410, November 12, 2014.
[65] Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue, G.R. No. 107434, October 10, 1997.
[66] Commissioner of Internal Revenue vs. S.C. Johnson and Son, Inc., G.R. No. 127105, June 25, 1999.
[67] Kepco Philippines Corp. vs. Commissioner of Internal Revenue, G.R. No. 179961, January 31, 2011.

In the computation of the taxable income for TY 2015, the ICPA observed in her Amended Report that petitioner had an overstatement of its expenses claimed as allowable deductions from its gross income. The ICPA noted that the total amount of ₱9,490,629.61 represented payments made to software providers which were applicable for a period ranging from one to three years. The ICPA considered as tax deductible only those pertaining to the number of months applicable for TY 2015, and the balance was considered as prepayments.[68]

The Court finds the observations of the ICPA proper. The expenses made by petitioner to its software provider covering periods beyond TY 2015 should have been accounted for as prepaid expenses which should be recognized only as expenses in the succeeding periods. This is supported by petitioner's General Ledger entries on its "Software Tools" account.[69] Thus, the Court finds it proper to add back the amount of ₱9,490,629.61 to petitioner's gross income.

Considering the addition of the overstated expenses of petitioner back to its taxable income, the income tax due of petitioner for TY 2015 is ₱8,030,601.78, computed as follows:

ITEM	AMOUNT
Taxable Income per Annual ITR and AFS for TY 2015	₱ 17,278,043.00
Add back: Non-deductible expenses claimed in TY 2015	9,490,629.61
Adjusted Taxable Income, TY 2015	₱ 26,768,672.61
Tax Rate	30%
Income Tax Due, TY 2015	₱ 8,030,601.78

One of the deductions to the income tax due reported by petitioner for TY 2015 is its "Prior Year's Excess Credits other than MCIT" in the amount of ₱2,832,401.00. In support thereof, petitioner submitted in evidence its Annual ITR for TY 2014.[70]

Review of petitioner's Annual ITR for TY 2014 shows that petitioner had total tax credits in the amount of ₱11,015,312.00 composed of income taxes paid during the four quarters of TY 2014 in the amount of ₱2,513,210 and creditable taxes withheld for the four quarters in the total amount of ₱8,502,102.00. For TY 2014, petitioner reported total income tax due of ₱8,183,560.00, thus petitioner has an income tax overpayment of ₱2,831,752.00. Petitioner then chose to carry-over said balance to the succeeding taxable periods by marking

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[68] Exhibit "P-278", CTA Docket, p. 294.
[69] Exhibit "P-104".
[70] Exhibit "P-26".

the box corresponding to the "To be carried over as a tax credit for next year/quarter".

The Court finds the submission of petitioner's Annual ITR for TY 2014 sufficient to prove petitioner's "Prior Year's Excess Credits other than MCIT" in TY 2015 but only in the amount of ₱2,831,752.00. In the language of ***Philam Asset Management, Inc. vs. Commissioner of Internal Revenue,***[71] any refundable amount indicated in the FAR of the preceding taxable year may be credited against the estimated income tax liabilities for the taxable quarters of the succeeding taxable year.

As aforestated, petitioner submitted in evidence a copy of its Annual ITR for TY 2014 which shows the balance of ₱2,831,752.00 representing its income tax overpayments for the period. Likewise, the 2014 Annual ITR shows that petitioner validly selected the carry-over option by marking the box corresponding to the "To be carried over as a tax credit for next year/quarter". Thus, the amount of ₱2,831,752.00 representing the balance of petitioner's total tax credits for TY 2014 may be carried over and allowed as a credit for the income tax due for TY 2015.

Upon computation, petitioner's total refundable excess CWTs for TY 2015 amounts only to ₱11,613,232.95, computed as follows:

ITEM	AMOUNT
Income Tax Due, TY 2015	₱ 8,030,601.78
Less: Prior Year's Excess Credits (Carry-over)	2,831,752.00
Income Tax Payment under Regular/Normal Rate from Four Quarters of TY 2015	820,874.00
Balance of IT Due, TY 2015	₱ 4,377,975.78
Less: Total Valid CWTs for TY 2015	15,991,208.73
Excess and Unutilized CWTs for TY 2015	₱ 11,613,232.95

In fine, petitioner has sufficiently proven that it is entitled to a refund in the amount of ₱11,613,232.95 representing its excess and unutilized CWTs for TY 2015.

Claims for refund are civil in nature and as such, petitioner, as claimant, though having a heavy burden of showing entitlement, need only prove preponderance of evidence in order to recover excess

[71] G.R. Nos. 156637/162004, December 14, 2005.

credit.[72] Verily, with petitioner having offered both testimonial and documentary evidence to prove its entitlement for refund, *sans* any contrary evidence offered by the respondent, the burden of proof of establishing the propriety of the portion of the claim for refund has been sufficiently discharged. Hence, the grant of refund of excess CWTs in the reduced amount of ₱11,613,232.95 is proper.

WHEREFORE, premises considered, the Petition for Review is **PARTIALLY GRANTED.** Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** in favor of petitioner Casas+Architects, Inc. the amount of ₱11,613,232.95, representing its excess and unutilized creditable withholding taxes for taxable year 2015.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice

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[72] Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206526, January 28, 2015.