Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

AXIA POWER HOLDINGS PHILIPPINES CORP.,
Respondent.

CTA EB No. 1411
(CTA Case No. 8249)

x---x

AXIA POWER HOLDINGS PHILIPPINES CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1416
(CTA Case No. 8249)

Present:
DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, JJ.

Promulgated:

APR 03 2018 2:30p.m.

x- x

RESOLUTION

CASANOVA, J.:

Submitted for resolution are the following:

1. The Commissioner of Internal Revenue's (CIR) Motion for Reconsideration[1] filed on October 24, 2017, with Axia Power Holdings Philippines Corporation's (Axia) Motion to Admit Attached Comment/Opposition (To CIR's Motion for Reconsideration)[2], filed on November 27, 2017; and

2. Axia's Motion for Reconsideration filed on October 27, 2017, sans CIR's Comment, as per Records Verification dated February 8, 2018.

Both parties seek reconsideration of this Court's Decision[3] promulgated September 28, 2017, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petitions for Review are **DENIED** for lack of merit. The Assailed Decision and Resolution of this Court's Third Division in CTA Case No. 8249 are **AFFIRMED** in toto.
>
> **SO ORDERED.**"

In his Motion, CIR argues that the absence of any entry in the "Creditable Tax Withheld" column in Axia's 2008 Annual ITR would mean that no part of the gross income reported therein were ever subjected by the latter to creditable withholding tax. Thus, the supposed income payments from which taxes were withheld cannot be said to have been declared as part of the gross income of Axia in its 2008 ITR.

CIR also insists that there was no compliance with the requirements enumerated under Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 2-2006, on account of Axia's failure to present the various payors and withholding agents who can establish and validate the fact of withholding and remittance made.

CIR, likewise, argues that Axia failed to present its source documents (official receipts) to prove that the income payments related to the claimed creditable taxes withheld formed part of its taxable gross income in its 2008 Annual Income Tax Return.

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[1] CTA EB No. 1411, En Banc Rollo, pp. 188-200.
[2] Ibid, pp. 214-237.
[3] Id., pp. 167-187.

By way of comment/opposition, Axia argues that the absence of any entry in the "Creditable Tax Withheld" column in its 2008 Annual ITR is not fatal to its claim for refund or issuance of tax credit certificate; that it complied with the requirements enumerated under Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 2-2006; and, that the doctrine of *strictissimi juris* should be relaxed when it is clear that a claim for tax refund or issuance of tax credit certificate has a legal basis and is sufficiently supported by evidence.

On the other hand, it its Motion, Axia argues that the Honorable Court erred in applying the case of *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*[4] *(Philam Case)* and the irrevocability rule in the present cases.

We find no valid reason to grant both parties' respective Motions.

Perusal of the foregoing arguments, save in the alleged inapplicability of *Philam Case*, reveals that the same are practically mere reiterations of their previous arguments which have been fully addressed and discussed at length by the Court *En Banc* in the assailed Decision.

As regards to alleged inapplicability of *Philam Case*, Axia argues that the factual milieu of the said case is different from the facts of the present case. Accordingly, Philam signified its intention to carry-over its excess tax credit against income tax due for the taxable quarters of the succeeding taxable year, while in the case at bar, Axia has chosen to be issued a tax credit certificate in its 2004 and 2005 Annual Income Tax Returns.

However, the Court En Banc notes that the above stated reason cited by Axia was the very same ground raised by it when it questioned the applicability of *Axia Power Holdings Philippines Corporation vs. Commissioner of Internal Revenue*[5] in its Petition for Review, docketed as CTA EB No. 1416, which have already been passed upon and considered in the assailed Decision. Thus, We reject this argument on the same ground discussed in the challenged Decision.

Hence, the CTA *En Banc* finds no cogent justification to disturb the findings and conclusions spelled out in *Our* September 28, 2017 Decision.

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

[5] CTA Case No. 8092, February 25, 2014.

WHEREFORE, premises considered, CIR and Axia's Motions for Reconsideration are hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice