REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB No. 2956** (CTA Case No. 10374)
	Present:
-versus-	**RINGPIS-LIBAN,** *Acting P.J.,* **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
GHD PTY LTD. (FORMERLY GUTTERIDGE HASKIN & DAVEY PTY LTD.), *Respondent.*	Promulgated: DEC 12 2025 3:40pm

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DECISION

REYES-FAJARDO, J.:

THE CASE

This is a Petition for Review filed by petitioner Commissioner of Internal Revenue ("CIR") appealing the Decision dated January 15, 2024[1] (the "assailed Decision") and the Resolution dated July 1, 2024[2] (the "assailed Resolution"), both rendered by the Special Third Division of this Court (the "Court in Division") in the case entitled

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1 Decision, Docket – pp. 23 to 45.

2 Resolution, Docket – pp. 46 to 53.

GHD Pty Ltd. v. Commissioner of Internal Revenue, docketed as CTA Case No. 10374.[3]

The assailed Decision partially granted respondent GHD Pty Ltd.'s Petition for Review and ordered petitioner to refund or issue a tax credit certificate in favor of respondent, in the amount of ₱50,743,712.18, representing its excess and unutilized creditable withholding taxes ("CWTs") for the fiscal year ("FY") ended June 30, 2018.

The assailed Resolution, on the other hand, denied the CIR's Motion for Partial Reconsideration for lack of merit.

THE PARTIES

Petitioner is the chief of the Bureau of Internal Revenue ("BIR") and is vested with the authority to carry out the functions, duties, and responsibilities of said Office pursuant to the provisions of the National Internal Revenue Code ("NIRC") of 1997, as amended, and other tax laws, rules, and regulations.[4]

Respondent is a foreign company with a branch office duly licensed by the Philippine Securities and Exchange Commission and the Foreign Investments Act of 1991,[5] with principal office address at 10 Bond Street, Sydney NSW, Australia. Petitioner's registered address is at 11th Floor, Alphaland Southgate Tower, 2258 Chino Roces Avenue corner EDSA, Makati City, Philippines. It is a registered taxpayer of the BIR, under Taxpayer Identification No. 203-471-895-000.[6]

THE FACTS

The facts, as found by the Court in Division, are as follows:[7]

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[3] Petition for Review, Docket – pp. 6 to 16.
[4] Petition, Docket – p. 7.
[5] Republic Act No. 7042, as amended.
[6] Decision, Docket – pp. 7-8.
[7] Decision, Docket – pp. 23 to 45.

On September 29, 2020, respondent filed with the BIR, Revenue District Office No. 048, its letter requesting for the refund of unutilized CWTs for FY 2018, in the amount of ₱59,134,055.00. Thereafter, on October 6, 2020, respondent filed its Application for Tax Credits/Refunds (BIR Form No. 1914).

The BIR did not act upon respondent's administrative claim for refund.[8]

On October 15, 2020, respondent filed its Petition for Review before the Court in Division, docketed as CTA Case No. 10374, to which petitioner filed his Answer on January 25, 2021.

On January 15, 2024, the assailed Decision was rendered.[9] There, the Court in Division found that respondent timely filed its administrative and judicial claims for CWT refund for FY ended June 30, 2018, pursuant to Sections 204(C) and 229 of the NIRC of 1997, as amended. Proof of withholding was also exhibited by respondent to the extent of ₱57,950,661.02. The corresponding income payments subjected to CWT was partly reported by respondent in its Annual Income Tax Return in the sum of ₱557,115,404.00. With the concurrence of these conditions, CTA Case No. 10374 was disposed as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **PARTIALLY GRANTED.** Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, the amount of ₱50,743,712.18, representing its excess and unutilized creditable withholding taxes (CWTs) for the fiscal year ended June 30, 2018.
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> **SO ORDERED.**

On February 5, 2024, petitioner filed a Motion for Partial Reconsideration.[10] On March 4, 2024, respondent then filed a Comment (Re: CIR's Motion for Reconsideration dated February 5,2024).[11]

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8 C.T.A. Case No. 10374, Sworn Statement of Ms. Maninang (Q&A No. 29), Docket — Vol. 1, p. 33.

9 Decision, Docket — pp. 23 to 45.

10 CTA Case No. 10374, Docket — Volume II, pp. 1051 to 1059. Filed via an accredited courier service on February 5, 2024, and received by the Court on February 6, 2024.

11 CTA Case No. 10374, Docket — Volume II, pp. 1063 to 1075.

On July 1, 2024, the Court in Division promulgated the assailed Resolution, denying the petitioner's Motion for Partial Reconsideration for lack of merit.[12]

On July 26, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review before the Court.[13] On July 30, 2024, the Court, through a Minute Resolution, granted the Motion.[14]

On August 12, 2024, petitioner filed, *via* private courier, the present Petition for Review.[15] Then on November 7, 2024, respondent filed a Comment (Re: CIR's Petition for Review dated August 8, 2024).[16]

On December 12, 2024, the Court issued a Minute Resolution submitting this case for decision.[17]

THE ISSUES

The issues are as follows:[18]

I. Whether the Court in Division erred in taking cognizance of the Petition for Review;

II. Whether the Court in Division erred in partially granting respondent's judicial claim for refund; and

III. Whether the Court in Division erred in finding that respondent complied with the requirements of a valid refund of its alleged excess and unutilized CWTs for FY 2018 in the amount of ₱50,743,712.18.

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12 Resolution, Docket – pp. 46 to 53.
13 Docket – pp. 1 to 3.
14 Docket – p. 5.
15 Petition for Review, Docket – pp. 6 to 16. Received by the Court on August 13, 2024.
16 Comment, Docket – pp. 61 to 71. Filed via email on November 8, 2024.
17 Docket – p. 74.
18 Petition for Review, Docket – p. 9.

Petitioner's arguments:

Petitioner argues that: 1) the authority of the CIR to review and evaluate respondent's claim for refund was utterly ignored in violation of the rule on exhaustion of administrative remedies; 2) respondent failed to prove that it has prior year's excess credits from FY 2017 which could have covered for its regular corporate income tax (RCIT) for FY 2018; and 3) the discrepancy of ₱42,618,051.00 pertaining to certain transactions should have not been considered by the Court in Division.

Respondent's counter-arguments:

Respondent counters that: 1) the taxpayer is not required to await the BIR's resolution of its administrative claim before it may file its judicial claim with the Court pursuant to Section 229 of the NIRC of 1997, as amended; 2) there is no factual basis for petitioner's argument that respondent's prior year's excess credits in FY 2018 originated from FY 2017; and 3) respondent presented accounting records to reconcile the ₱42,618,051.00 discrepancy between the amounts of revenue reported in the BIR Forms No. 2307/Summary Alphalist of Withholding Taxes (SAWT) and the amounts reported in the billing statements/general ledger (GL).

RULING

The Petition for Review lacks merit.

Respondent did not violate the doctrine of exhaustion of administrative remedies.

Sections 204(C) and 229 of the NIRC of 1997, as amended, respectively read:

> SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. — The Commissioner may —
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> . . .

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(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.[19]

. . .

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, of any sum alleged to have been excessively or in any manner wrongfully 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.[20]

In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc. (Carrier)*,[21] the Supreme Court *En Banc* explained the import of the foregoing provisions in this wise:

Section 204 [of the 1997 NIRC, as amended] refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.

[19] Emphasis supplied.
[20] Emphasis supplied.
[21] G.R. No. 226592, July 27, 2021.

> Section 229 [of the 1997 NIRC, as amended], on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) the judicial claim must be filed within two years after payment of the tax sought to be refunded.
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> Reading the two provisions together, both administrative and judicial claims must be filed within the two-year period. Furthermore, the administrative claim must be filed before the judicial claim. This Court has previously declared that "[t]imeliness of the filing of the claim is mandatory and jurisdictional. The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund filed either prematurely or out of time."

For CWT refund, the two (2)-year period referred to in *Carrier* is reckoned from the date of filing of the Final Adjustment Return ("FAR") or Annual Income Tax Return ("ITR") — the point when the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.[22]

Here, respondent filed its original Annual ITR[23] *via* the electronic filing and payment system ("eFPS") of the BIR on October 15, 2018. Counting two (2) years from October 15, 2018, petitioner had until October 15, 2020, within which to file both its administrative and judicial claims.

Considering that respondent filed its administrative claim for refund with the BIR on September 29, 2020,[24] and its Application for Tax Credits/Refunds (BIR Form No. 1914) on October 6, 2020,[25] while the present judicial claim was filed on October 15, 2020,[26] both claims for refund of unutilized/excess CWTs for FY 2018 were seasonably filed within the two (2)-year prescriptive period.

Since Sections 204(C) and 229 of the NIRC of 1997, as amended, and jurisprudence were complied with, respondent did not violate the doctrine of exhaustion of administrative remedies.

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22 *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*, G.R. No. 231581, April 10, 2019; *Metropolitan Bank & Trust Co. v. Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.

23 C.T.A. Case No. 10374, Exhibit "P-4," Docket — Vol. 2, pp. 895 to 903.

24 C.T.A. Case No. 10374, Exhibit "P-9," Docket — Vol. 2, pp. 924 to 928.

25 C.T.A. Case No. 10374, Exhibit "P-9-A," Docket — Vol. 2, p. 929; and Exhibit "P-15" (Q&A No. 25), Docket — Vol. 1, p. 32.

26 C.T.A. Case No. 10374, Docket — Vol. 1, pp. 6 to 23.

To be sure, *Carrier* recognized petitioner's constant gripe that the short interval between the filing of the claimant's administrative and judicial claims for refund of illegal, erroneous, excessive taxes, deprives him of reasonable opportunity to evaluate said claim:

> These cases show that the lack of a specific period fixed by the law within which the Commissioner must decide the claim has led to delays, to the taxpayer's prejudice. **On the other hand, there were instances when the Commissioner was deprived of the opportunity to act on the matter within their jurisdiction because of the short interval between the filing of the administrative claim and the filing of the judicial claim.** This is so because the law merely provides two years for a taxpayer to file the administrative claim and judicial claim, with the former required to be filed first.

Yet, *Carrier* made it clear that "...the silence or insufficiency in the law on the reasonable period for the Commissioner's action is one that can be addressed not by judicial pronouncement, but by appropriate legislation." Mindful of this, Congress revamped Sections 204(C)[27] and 229[28] of the NIRC of 1997, as amended, in

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27 SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. —

The Commissioner may —

. . .

(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 as provided under Section 229 of this Code: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund: Provided, further, That the Commissioner shall process and decide the refund under this provision within one hundred eighty (180) days from date of submission of complete documents in support of the application filed: Provided, furthermore, That should the Commissioner deny, in full or in part, the claim for refund, the Commissioner shall state the legal and/or factual basis for the denial: Provided, finally, That failure on the part of any official, agent, or employee of the Bureau of Internal Revenue to process and decide on the application within the one hundred eighty (180)-day period shall be punishable under Section 269 of this Code.

. . .

28 SEC. 229. Recovery of Tax Erroneously or Illegally Collected. — . . .

In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204 of this Code: Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return

Republic Act (RA) No. 11976,[29] by setting the period for petitioner or his duly authorized representative to act on the administrative claim for refund of illegal, erroneous, or excessive taxes at one hundred eighty (180) days from date of submission of complete documents in support of the refund application. The legal proscription at present is that the refund here occurred *prior* to the advent of RA No. 11976; hence, the *old* rule discoursed in *Carrier* still finds application.

Respondent sufficiently proved prior year's excess credits in the amount of ₱65,500,659.00, enough to cover the income tax due for the FY 2018.

Under Section 2.58.3(C) of Revenue Regulations No. 2-98, the submission of a taxpayer's annual ITR for the previous taxable period is sufficient to prove its prior year's excess credits:

> Sec. 2.58.3. Claim for tax credit or refund. —
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> . . .
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> (C) Excess Credits. — An individual or corporate taxpayer's **excess expanded withholding tax credits** for the taxable quarter/year shall automatically be allowed as a credit against his [or her] income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, provided **he [or she] submits with his income tax return, a copy of the first page of his income tax return for the previous taxable period showing the amount of his [or her] excess withholding tax credits**, and on which return he [or she] has not opted for a cash refund or tax credit certificate.[30]

In *Commissioner of Internal Revenue v. Philippine National Bank,*[31] the Supreme Court explained that the Annual ITR or FAR would

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upon which payment was made, such payment appears clearly to have been erroneously paid.

In case of full or partial denial of the claim for tax refund, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred eighty (180)-day period, appeal the decision with the Court of Tax Appeals.

29 Ease of Paying Taxes Act, Republic Act No. 11976, January 5, 2024.

30 Emphasis supplied.

31 G.R. No. 212699, March 13, 2019. See also: *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue,* G.R. No. 206526, January 28, 2015.

suffice in proving that prior year's excess credits were not utilized for the taxable year in order to make a final determination of the total tax due, *viz.*:

> If the excess tax credits of the preceding year were deducted, whether in whole or in part, from the estimated income tax liabilities of any of the taxable quarters of the succeeding taxable year, the total amount of the tax credits deducted for the entire taxable year should appear in the Annual ITR under the item "Prior Year's Excess Credits." Otherwise, or if the tax credits were carried over to the succeeding quarters and the corporation did not report it in the annual ITR, there would be a discrepancy in the amounts of combined income and tax credits carried over for all quarters and the corporation would end up shouldering a bigger tax payable. It must be remembered that taxes computed in the quarterly returns are mere estimates. **It is the annual ITR which shows the aggregate amounts of income, deductions, and credits for all quarters of the taxable year. It is the final adjustment return which shows whether a corporation incurred a loss or gained a profit during the taxable quarter. Thus, the presentation of the annual ITR would suffice in proving that prior year's excess credits were not utilized for the taxable year in order to make a final determination of the total tax due.**[32]

Here, respondent submitted its Annual ITRs for FYs 2007 to 2017,[33] and the related BIR Forms No. 2307, to prove its prior years' excess credits of ₱65,500,659.00, the pertinent details of which are condensed below:[34]

Fiscal Year	Exhibit	Income Tax Due	Prior Year's Excess Credit	CWT for the year	Claimed for refund	Excess CWT (End of year)
		(A)	*(B)*	*(C)*	*(D)*	*(E=B+C-A-D)*
2007	P-26-1	₱10,952,701	₱14,180,448	₱9,539,672	₱-	₱12,767,419
2008	P-26-2	12,176,504	12,767,419	3,822,355	-	4,413,270
2009	P-26-3	3,958,991	4,413,270	7,163,671	-	7,617,950
2010	P-26-4	2,978,021	7,617,950	7,495,187	-	12,135,116
2011	P-26-5	17,767,654	12,135,117	19,121,891	-	13,489,354
2012	P-26-6	20,822,058	13,489,354	34,337,246	-	27,004,542
2013	P-26-7	25,077,746	27,004,542	27,311,296	-	29,238,092
2014	P-26-8	14,456,500	29,238,092	51,646,558	-	66,428,150
2015	P-26-9	22,597,245	66,428,150	53,370,922	-	97,201,827
2016	P-26-10	14,819,027	97,201,828	35,095,524	35,095,524*	82,382,801
2017	P-26-11	16,882,142	82,382,801	48,324,875	48,324,875*	65,500,659
2018	P-5	32,719,577	65,500,659	59,134,055	59,134,055	32,781,082

**Claimed for refund under CTA Case No. 9948 and 10187*

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[32] Emphasis supplied.

[33] C.T.A. Case No. 10374, Docket, Exhibits "P-26-1" to "P-26-11."

[34] C.T.A. Case No. 10374, Table 8, Exhibit "P-17," ICPA's Amended Report, Docket – Vol. 2, p. 623.

In its Annual ITR for FY 2017,[35] respondent reported overpayments of ₱113,825,534.00, consisting of: (1) prior years excess credits of ₱65,500,659.00;[36] and (2) 2017 CWTs of ₱48,324,875.00.[37] Considering that respondent opted to refund the 2017 CWTs (₱48,324,875.00),[38] the remaining prior years' excess credits of ₱65,500,659.00 may be carried-over to the succeeding TY, *i.e.*, FY 2018, and be used as credit against petitioner's 2018 income tax due of ₱32,719,577.00.[39] Thus, as opposed with petitioner's posture, respondent had sufficient tax credits to cover its 2018 income tax liability.

Simply put, and contrary to petitioner's posture, respondent had sufficient tax credits to answer for its income tax due covering FY 2018.

Overall, the Court *En Banc* finds no reversible error committed by the Court in Division when it partially granted respondent's Petition for Review and ordered petitioner to refund respondent's excess and unutilized CWTs in the amount of ₱50,743,712.18, for FY 2018.

WHEREFORE, the Petition for Review in CTA EB No. 2956 is **DENIED**, for lack of merit. The Decision dated January 15, 2024 and the Resolution dated July 1, 2024 rendered by the Court in Division in CTA Case No. 10374 are **AFFIRMED**.

SO ORDERED.

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

35 C.T.A. Case No. 10374, Docket, Line 20, Exhibit "P-26-11", p. 1 of 8.
36 ₱113,825,534.00 less ₱48,324,875.00.
37 C.T.A. Case No. 10374, Docket, Sum of P33,133,378.00 and P15,191,497.00, Lines 5 and 6, respectively, Schedule 7 — Tax Credits/Payments, Exhibit "P-26-11", p. 6 of 8.
38 C.T.A. Case No. 10374, Docket, Line 21, Exhibit "P-26-11", p. 1 of 8.
39 C.T.A. Case No. 10374, Lines 16 and 44, Exhibit "P-5", Docket — Vol. 2, pp. 904 and 905, respectively.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice