REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

DOOSAN HEAVY INDUSTRIES & CONSTRUCTION CO. LTD.,
Respondent.

CTA EB No. 1255
(CTA CASE No. 8626)

Present:

DEL ROSARIO, *PJ*
CASTAÑEDA, JR.
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, and
RINGPIS-LIBAN, *JJ.*

Promulgated:

AUG 12 2016 2:50 p.m.

x- x

RESOLUTION

***Fabon-Victorino, J.*:**

In its Motion for Reconsideration dated June 17, 2016, petitioner assails the Decision dated May 27, 2016, which denied his Petition for Review dated January 5, 2015, for lack of merit. The assailed Decision sustained the ruling of the Court in Division, which granted respondent's claim for refund of excess and unutilized creditable withholding taxes (CWT) for the year 2010 in the amount of P9,325,323.00.

Petitioner insists that respondent failed to exhaust administrative remedies by depriving him of the opportunity to evaluate and determine the merits of its claim for refund at his level. Again he complains that respondent filed its administrative claim on January 29, 2013 or near the end of the 2-year prescriptive period and filed its judicial claim barely three months thereafter on April 4, 2013.

Moreover, respondent failed to submit all the required documents for audit enumerated in Revenue Memorandum Order (RMO) No. 53-98 at the administrative level rendering the subsequent judicial claim premature, hence, dismissible.

Respondent was however quick to point out that Sections 204 and 229 of the National Internal Revenue Code (NIRC), as amended, expressly provide that a claim for refund must be filed within the two-year prescriptive period. Precisely, respondent filed its administrative and judicial claims within the said two-year prescriptive period to preserve its right to avail of judicial action, a right granted by the law itself.

Further, jurisprudence has it that the documents enumerated in RR 2-2006 and RMO No. 53-98 are not mandatory or jurisdictional for a claim of refund to prosper.

In any event, respondent complied with RMO No. 53-98, and with RR No. 2-2006 as shown in the record of the case. More importantly, respondent was able to prove that the claim was seasonably filed, that is within 2 years from payment of the tax, that the income received was declared in its tax return as part of its gross income, and the fact of withholding through the statement duly issued by its payor showing the amount paid and the amount of tax withheld therefrom.

An assiduous review of the assailed Decision and all the pleadings filed by the parties in the present case shows that the arguments of petitioner are but a reiteration of the arguments which have been amply addressed in the Decision dated May 27, 2016. In other words, no compelling reason exists for the Court to modify, much less reverse its ruling.

WHEREFORE, the Motion for Reconsideration dated June 17, 2016 filed by petitioner, is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice