Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

AECOM PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8971
For: Refund

Members:

DEL ROSARIO, P.J., *Chairperson,*
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
MAY 07 2018 ; 3:30 pm

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DECISION

MINDARO-GRULLA, J.:

This resolves the Petition for Review filed by Aecom Philippines, Inc. on January 14, 2015, before the Court in Division, pursuant to Section 7(a)(2) of Republic Act (RA) No. 1125, An Act Creating the Court of Tax Appeals, as amended[1], as well as Rule 4, Section 3(a)(2), in relation to Rule 8, Section 4(a) of the Revised Rules of the Court of Tax Appeals (RRCTA)[2], as amended.

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[1] Sec. 7. *Jurisdiction.* – The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
x x x x x x
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds or internal revenue taxes, fees of other charges, penalties in relation 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 for action, in which case the inaction shall be deemed a denial;
x x x x x x

[2] Rule 4, Sec. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
x x x x x x

Petitioner seeks the refund of its alleged excess and unutilized creditable income taxes withheld for fiscal year (FY) 2012 in the amount of Twenty-Eight Million Seventy Thousand Sixteen Pesos and 78/100 (₱28,070,016.78).

Petitioner Aecom Philippines, Inc. is a domestic corporation duly organized and existing under Philippine laws, with principal office address at the 23rd Floor, Fort Legend Towers, 31st St., Fort Bonifacio, Global City, Taguig City.[3] It is registered with the Bureau of Internal Revenue (BIR) with Taxpayer Identification Number (TIN) 004-868-770-000, as evidenced by its BIR Certificate of Registration No. OCN9RC0000321684.[4] Petitioner is likewise duly registered with the Securities and Exchange Commission (SEC), with Company Registration No. A1996-02509.[5]

As stated in its Amended Articles of Incorporation, petitioner's primary purpose is:

> (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation 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 or other applicable law provides a specific period for action: *Provided,* that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further,* that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules;
>
> x x x x x x

Rule 8. Sec. 4. *Where to appeal; mode of appeal.-*

> (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.
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> x x x x x x

[3] Par. 1, Joint Stipulation of Facts and Issues (JSFI), Docket, vol. I, p. 202.
[4] Exhibit "P-3", Docket, vol. II, p. 569.
[5] Exhibit "P-1", Docket, vol. II, p. 552.

> "To engage in the general business of providing engineering consultancy, technical, advisory, construction project management, and environmental impact analysis services as well as implementation and execution of plans, and doing any and all other businesses incidental thereto or connected therewith, and the doing and performing of any and all acts and things necessary, proper or convenient for and incidental to the furtherance and/or implementation of the purposes herein enumerated."[6]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

For FY 2012, professional fees received by petitioner were purportedly subjected to fifteen percent (15%) creditable withholding tax (CWT) as provided under Section 2.57.2(B) of Revenue Regulations (RR) No. 2-98, as amended by RR No. 30-03[7]. Whereas, other parts of its income as engineering contractor and those paid by clients/customers belonging to the top 20,000 corporations were subjected to the two percent (2%) CWT pursuant to Sections 2.57.2(E) and (M) of RR No. 2-98.[8]

On January 15, 2013, petitioner filed its Annual Income Tax Return (ITR) for FY ended September 30, 2012. For the unutilized CWT, petitioner manifested its option to be refunded by checking the appropriate box in the Annual ITR (BIR Form No. 1702).[9]

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[6] Exhibit "P-2", Docket, vol. II, p. 555.

[7] Section 2.57.2. *Income Payments Subject to Creditable Withholding Tax and Rates Prescribed Thereon.* – Except as herein otherwise provided, there shall be withheld creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:
xxx
(B) *Professional fees, talent fees, etc. for services of taxable juridical persons.* – On the gross professional, promotional and talents fees, or any other form of remuneration enumerated in the preceding subparagraph for the services of taxable juridical persons – Fifteen percent (15%), if the gross income for the current year exceeds P720,000; and Ten (10%), if otherwise;

[8] Par. 8, Petition for Review, Docket, vol. I, p. 8.

[9] Exhibit "P-4", Docket, vol. II, pp. 570-573.

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Subsequently, an amended Annual ITR for FY 2012 was filed by petitioner on January 9, 2015. Likewise, in the amended Annual ITR, petitioner manifested again its option to be refunded of the alleged unutilized CWT by checking the appropriate box in the ITR.[10]

On January 12, 2015, petitioner filed an application for tax refund, along with supporting documents, with the BIR Revenue District Office (RDO) No. 44 for its unutilized CWT in the amount of ₱28,070,016.78.[11]

Subsequently, petitioner filed the instant Petition for Review before this Court on January 14, 2015.[12]

On March 24, 2015, respondent filed an Answer[13] interposing the following special and affirmative defenses:

> "3. She reiterates and repleads the preceding paragraphs of this Answer as part of her Special and Affirmative Defenses;
>
> 4. Taxes paid and collected are presumed to have been made in accordance with law and implementing regulations, hence, not refundable.
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> 5. In an action for refund/credit, the burden of proof is upon petitioner to establish its right to the claimed refund and failure to adduce sufficient proof is fatal to its claim.
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> 6. Petitioner's claim for refund/issuance of tax credit in the amount of **Php28,070,016.78**, as alleged excess and unutilized creditable income taxes withheld for Fiscal Year 2012 were not fully substantiated by proper documentary evidence, such as, but not limited to certificates of income taxes withheld at source and other relevant returns.

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[10] Exhibit "P-5", Docket, vol. II, pp. 574-580.
[11] Exhibits "P-13" and "P-14", Docket, vol. II, pp. 665-670.
[12] Docket, vol. I, pp. 6-16.
[13] Docket, vol. I, pp. 62-63.

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7. Petitioner failed to prove that the amount of **Php28,070,016.78**, as alleged excess and unutilized creditable income taxes withheld for Fiscal Year 2012 was included as part of its gross income for fiscal year 2012 and the same was not utilized in payment of its income tax liability for the succeeding taxable quarters/years;

8. Petitioner has already exercised its option to carry-over to the succeeding taxable quarters/years the subject of its claim, pursuant to Section 76 of the 1997 Tax Code.

9. Petitioner failed to prove that the amount subject of its claim was remitted in full to the BIR.

10. Petitioner failed to comply with the requirements prescribed under Section 76 of the 1997 Tax Code.

11. It is incumbent upon the latter to show that it has complied with the provisions under *Sections 204 of the 1997 Tax Code, in relation to Section 229 of the same Code.* Otherwise, its failure to prove the same is fatal to its claim for refund.

12. Claims for refund are construed strictly against herein petitioner for the same partakes the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95*) and as such, they are looked upon with disfavor (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211*)."

The case was scheduled for Pre-Trial Conference on June 25, 2015. [14] The respective Pre-Trial Briefs of petitioner [15] and respondent[16] were both filed on June 22, 2015.

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[14] Notice of Pre-Trial Conference dated April 13, 2015, Docket, vol. I, pp. 66-67.
[15] Docket, vol. I, pp. 71-79.
[16] Docket, vol. I, pp. 68-70.

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On July 14, 2015, the parties filed their Joint Stipulation of Facts and Issues.[17] Thereafter, a Pre-Trial Order[18] was issued by the Court on August 14, 2015.

On various hearing dates, petitioner presented the following witnesses: (1) Ma. Lourdes Lascoña; (2) Richard Lapres; and (3) Atty. Clifford Chua, the Court-commissioned Independent Certified Public Accountant (ICPA).

Petitioner filed its Formal Offer of Evidence on April 7, 2016, consisting of Exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-6", "P-7", "P-8", "P-9", "P-10", "P-11", "P-12", "P-13", "P-13-a", "P-14", "P-14-a", "P-16", "P-16-a", "P-17", "P-17-a", "P-20", "P-21", "P-22" to "P-101", "P-102" to "P-211" and "P-219" to "P-220", "P-212" to "P-214", "P-215" to "P-218", "P-221", "P-222", "P-223", "P-224" to "P-224-124", "P-227" to "P-227-23", "P-228" to "P-228-39", "P-229", "P-230", "P-231", "P-232", "P-233" to "P-233-132", "P-234" to "P-234-51", "P-226", "P-226-1", "P-235", "P-235-1", "P-236", and "P-236-1".[19] In the Resolutions dated June 10, 2016 and November 2, 2016, the Court admitted all the formally offered exhibits, except for Exhibits "P-233-132" and "P-234-5" for not being found in the records.

The documentary evidence formally offered by the petitioner and admitted by the Court are as follows:

Exhibit:	Description:
P-1	Certificate of Filing of Amended Articles of Incorporation of AECOM Philippine, Inc.
P-2	Amended Articles of Incorporation of AECOM Philippines, Inc.
P-3	BIR Certificate of Registration of AECOM Philippines, Inc. with OCN 9RC0000321684 and TIN 004-868-770-000
P-4	Annual Income Tax Return for Fiscal Year 2012 electronically filed on January 15, 2013 with Reference No. 121300006807510
P-5	Annual Income Tax Return for fiscal year 2012 electronically filed on January 9, 2015 with Reference No. 121500010287769
P-6	Annual Income Tax Return for fiscal year 2013 electronically filed on January 15, 2015 with Reference No. 121500010349498

[17] Docket, vol. I, pp. 202-207.
[18] Docket, vol. I, pp. 248-253.
[19] Docket, vol. II, pp. 542-551.

P-7	Maunsell Philippines, Inc. vs. Commissioner of Internal Revenue (CTA Case No. 7860) a Decision dated October 21, 2011
P-8	Maunsell Philippines, Inc. vs. Commissioner of Internal Revenue (CTA Case No. 7860) a Resolution dated December 26, 2011
P-9	Maunsell Philippines, Inc. vs. Commissioner of Internal Revenue CTA En Banc No. 860 (CTA Case No. 7860) a Decision dated October 23, 2012
P-10	Maunsell Philippines, Inc. vs. Commissioner of Internal Revenue CTA En Banc No. 860 (CTA Case No. 7860) a Resolution dated May 28, 2013
P-11	Certificate of Filing of Amended Articles of Incorporation of AECOM Philippines, Inc. dated January 14, 2010
P-12	Amended Articles of Incorporation for the amendment of Company Name from Maunsell Philippines Inc. to AECOM Philippines, Inc.
P-13	Letter of Application for refund dated January 12, 2015 with stamped received by the BIR on January 12, 2015
P-13-a	Signature above the name of Richard R. Lapres
P-14	BIR Form 1914
P-14-a	Signature above the name of Ms. Esperanza Padilla
P-16	Judicial Affidavit of Maria Lourdes Lascoña
P-16-a	Signature of Maria Lourdes Lascoña
P-17	Judicial Affidavit of Richard Lapres
P-17-a	Signature of Richard Lapres
P-20	Audited Financial Statements for FY 2012
P-21	Amended 1st Quarter Income Tax Return for FY 2013
P-22 to P-101	Creditable Tax Withheld Certificates for FY 2012 (BIR Form 2307)
P-102 to P-211 and P-219 to P-220	Official Receipts (BIR Form No. 2307 properly supported by Official Receipts)
P-212 to P-214	Without Proper Official Receipts
P-215 to P-218	With Noted (Unexplained) Variance per Official Receipts and Book of Account
P-221	Tax Recovery General Ledger Account
P-222	Receivables General Ledger Account
P-223	Permit to Use Computer Accounting System
P-224 to P-224-124	Prior years CWT (BIR Form No. 2307)
P-227 to P-227-23	System Generated Accounts Receivable Books of Account for FY 2012 [API FY 2012]
P-228 to P-228-39	System Generated Accounts Receivable Books of Account for FY 2011 [API FY 2011]
P-229	PSR FY 2012

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P-230	PSR FY 2011
P-231	Audited Financial Statements for FY 2011
P-232	Income Tax Return for FY 2011
P-234 to P-234-51	Project Contracts
P-226	Amended ICPA Report of Atty. Clifford E. Chua
P-226-1	Signature of Atty. Clifford E. Chua
P-235	Amended Judicial Affidavit of Atty. Clifford E. Chua
P-235-1	Signature of Atty. Clifford E. Chua
P-236	Supplemental ICPA Report of Atty. Clifford E. Chua
P-236-1	Signature of Atty. Clifford E. Chua

On February 2, 2017, respondent manifested in open court that he has no witness to present.[20]

On May 22, 2017,[21] the Court declared the case submitted for decision considering petitioner's Memorandum[22] filed on April 20, 2017 and the Records Verification[23] issued by the Court's Judicial Records Division on May 4, 2017 stating that respondent failed to file a memorandum.

The parties submitted the following issue for this Court's disposition:[24]

> Whether or not petitioner is entitled to its claim for refund or issuance of tax credit certificate of its excess and unutilized creditable withholding taxes for the fiscal year 2012 in the amount of Twenty-Eight Million Seventy Thousand Sixteen Pesos and 78/100 (₱28,070,016.78).

Pertinent to the resolution of the present case is Section 76 of the NIRC of 1997, as amended, which is quoted hereunder for ready reference:

> "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

[20] Minutes of the Hearing, Docket, vol. III, pp. 1032-1033.
[21] Docket, vol. III, p. 1076.
[22] Docket, vol. III, pp. 1053-1071.
[23] Docket, vol. III, p. 1072.
[24] Statement of the Issue, JSFI, Docket, vol. I, p. 203.

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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 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 tax credit certificate shall be allowed therefor.**" *(Emphasis supplied)*

Section 76 of the NIRC of 1997, as amended, prescribes two options to a taxable corporation whose total quarterly income tax payments in a given taxable year would exceed its total income tax due. The taxpayer may either file a tax refund (either in the form of cash or tax credit certificate) or carry over the excess credit. However, once the carry-over option is taken actually or constructively, it becomes irrevocable for that taxable period.[25] The phrase "for that taxable period" merely identifies the excess income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer.[26]

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, whether to request for a refund or claim for an automatic tax credit for the succeeding taxable year. To ease

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[25] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 and 162004, December 14, 2005; *Systra Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.
[26] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.

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the administration of tax collection, these remedies are in the alternative, and the choice of one precludes the other.[27]

A perusal of petitioner's amended Annual ITR[28] for FY 2012 shows that petitioner had total tax credits of ₱61,133,834.37, which consisted of the prior year's excess credits in the amount of ₱33,063,817.59 and creditable taxes withheld during FY 2012 in the amount of ₱28,070,016.78[29]. Petitioner's income tax due other than MCIT in the amount of ₱10,647,697.96 was paid using a portion of its prior year's excess credits of ₱33,063,817.59 leaving the prior year's excess credits in the amount of ₱22,416,119.63 and creditable taxes withheld during FY 2012 in the amount of ₱28,070,016.78 or in the aggregate amount of ₱50,486,136.41 unutilized as of September 30, 2012, as shown below:

Income Tax Due Other than MCIT		₱10,647,697.96
Less: Prior Year's Excess Credits other than MCIT		33,063,817.59
Balance of Prior Year's Excess Credits		₱22,416,119.63
Add: Creditable Taxes Withheld – FY 2012		
Creditable Tax Withheld from Previous Quarter/s	₱22,847,845.43	
Creditable Tax Withheld per BIR Form No. 2307 for the Fourth Quarter	5,222,171.35	28,070,016.78
Excess Creditable Taxes Withheld as of September 30, 2012		₱50,486,136.41

Since petitioner marked the box corresponding to the option "To be Refunded"[30] in its Annual ITR, the excess CWT for FY 2012 in the amount of ₱28,070,016.78 may be a proper subject of a claim for refund or issuance of tax credit certificate pursuant to Section 76 of the NIRC of 1997, as amended.

In addition to the requirements provided under Section 76 of the NIRC of 1997, as amended, a taxpayer must satisfy the following requirements in order to be entitled to a refund or issuance of tax credit certificate for excess/unapplied CWT:

1. That the claim for refund was filed within the two-year prescriptive period as provided under Section 204(C) in

[27] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.
[28] Exhibit "P-5", Docket, vol. II, pp. 574-580.
[29] ₱22,847,845.43 plus ₱5,222,171.35, Lines 33F and 33H, Exhibit "P-5".
[30] Line 37, Exhibit "P-4", Docket, vol. II, pp. 570-573.

relation to Section 229 of the NIRC of 1997, as amended;

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

3. That it is shown on the return of the recipient that the income payment received was declared as part of the gross income.[31]

As regards the first requisite, Sections 204(C) and 229 of the NIRC of 1997, as amended, provide as follows:

> "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. **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 supplied)*

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[31] *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),* G.R. No. 188016, January 14, 2015; *United International Pictures AB vs. Commissioner of Internal Revenue,* G.R. No. 168331, October 11, 2012; *Citibank N.A. vs. Court of Appeals, et al.,* G.R. No. 107434, October 10, 1997; *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.,* G.R. No. 96322, December 20, 1991; Section 2.58, Revenue Regulations No. 2-98, as amended.

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"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)*

It is well settled in our jurisprudence 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.[32] 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.[33]

In the instant case, the claimed excess creditable withholding taxes involve FY 2012, for which petitioner filed its corresponding Annual ITR on January 15, 2013. Counting from this date, petitioner had until January 15, 2015 within which to file its claim for refund or issuance of tax credit certificate, both in the administrative and judicial levels. Therefore, petitioner's administrative claim[34] for refund filed on January 12, 2015 and its judicial claim[35] through its Petition for Review filed on January 14, 2015 are well within the two-year prescriptive period provided by law. Evidently, the first requisite has been satisfied.

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[32] *ACCRA Investments Corporation vs. Court of Appeals*, G.R. No. 96322, December 20, 1991.
[33] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, G.R. No. 83736, January 15, 1992.
[34] Exhibits "P-13" and "P-14", Docket, vol. II, pp. 665-670.
[35] Docket, vol. I, pp. 6-16.

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The second and third requisites are imposed by Section 2.58.3(B) of Revenue Regulations (RR) No. 02-98, as amended, which states:

> "SECTION 2.58.3. *Claim for Tax Credit or Refund.* –
>
> xxx xxx xxx
>
> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.**" *(Emphasis supplied)*

To prove the fact of withholding of the subject claim, in compliance with the second requisite, petitioner submitted various Certificates of Creditable Tax Withheld at Source[36] (BIR Form No. 2307) which were examined by the Court-commissioned Independent Certified Public Accountant, Mr. Clifford E. Chua. Based on the amended ICPA report dated November 5, 2015,[37] only the CWTs amounting to ₱26,937,862.50 were properly supported by certificates duly issued to it by various withholding agents for FY 2012, detailed as follows:

Payor	Exhibit No.	Income Payment	Tax Withheld
Aecom Philippines Consultants Corp.	P-22	₱ 742,500.00	₱ 111,375.00
Aecom Philippines Consultants Corp.	P-23	10,293,245.51	205,864.91
Aecom Philippines Consultants Corp.	P-24	619,080.00	92,862.00
Aecom Philippines Consultants Corp.	P-25	263,359.50	5,267.19
Aecom Philippines Consultants Corp.	P-26	4,112,890.00	82,257.80
Aecom Philippines Consultants Corp.	P-27	2,715,310.00	407,296.50
Asian Terminals, Inc	P-28	7,543,740.20	1,131,561.03
Asian Terminals, Inc	P-29	6,919,678.40	1,037,951.76
Asian Terminals, Inc	P-30	6,207,071.00	931,060.65
Asian Terminals, Inc	P-31	5,447,544.40	817,131.66

[36] Exhibits "P-22" to "P-101".
[37] Amended ICPA report, Annex "A".

Far Southeastgold Resources, Inc.	P-32	313,980.00	47,097.00
Far Southeastgold Resources, Inc.	P-33	158,070.00	23,710.50
Far Southeastgold Resources, Inc.	P-34	149,360.00	22,404.00
Far Southeastgold Resources, Inc.	P-35	115,480.00	17,322.00
Far Southeastgold Resources, Inc.	P-36	22,657,361.53	3,398,604.23
Far Southeastgold Resources, Inc.	P-37	275,040.00	41,256.00
Fcf Minerals Corporation	P-38	1,848,864.49	277,329.67
Fcf Minerals Corporation	P-39	719,988.00	107,998.20
Fcf Minerals Corporation	P-40	243,996.00	36,599.40
Fcf Minerals Corporation	P-41	1,299,160.49	194,874.07
Fcf Minerals Corporation	P-42	329,150.83	49,372.62
Fcf Minerals Corporation	P-43	658,301.66	98,745.25
Fcf Minerals Corporation	P-44	314,194.50	47,129.18
Fcf Minerals Corporation	P-45	243,996.00	36,599.40
Fcf Minerals Corporation	P-46	243,996.00	36,599.40
Filinvest Land Inc	P-47	164,500.00	3,290.00
Filinvest Land Inc	P-48	244,928.50	4,898.57
Filinvest Land Inc	P-49	980,071.50	19,601.43
Filinvest Land Inc	P-50	156,250.00	23,437.50
Filinvest Land Inc	P-51	329,000.00	49,350.00
Filinvest Land Inc	P-52	329,000.00	49,350.00
Filinvest Land Inc	P-53	125,000.00	18,750.00
Filinvest Land Inc	P-54	1,960,000.00	294,000.00
Filinvest Land Inc	P-55	250,000.00	37,500.00
Filinvest Land Inc	P-56	980,000.00	147,000.00
First Gen Hydro Power Corporation	P-57	74,692.60	11,203.89
First Gen Hydro Power Corporation	P-58	298,770.40	44,815.56
Int'L Container Terminal Services, Inc	P-59	18,011,106.34	360,222.13
Int'L Container Terminal Services, Inc	P-60	7,855,627.20	157,112.54
Int'L Container Terminal Services, Inc	P-61	10,520,430.74	210,408.61
Int'L Container Terminal Services, Inc	P-62	5,581,935.71	111,638.71
Int'L Container Terminal Services, Inc	P-63	236,576.79	4,731.54
Int'L Container Terminal Services, Inc	P-64	5,383,882.01	107,677.64
Int'L Container Terminal Services, Inc	P-65	5,390,544.92	107,810.90
Int'L Container Terminal Services, Inc	P-66	6,233,049.63	124,660.99
Int'L Container Terminal Services, Inc	P-67	5,336,110.56	106,722.21
Int'L Container Terminal Services, Inc	P-68	6,309,696.88	126,193.94
Manila Water Company	P-69	24,925,016.73	3,738,752.51
Manila Water Company	P-70	10,606,350.52	1,590,952.58
Manila Water Company	P-71	10,631,997.14	1,594,799.57
Manila Water Company	P-72	8,974,219.70	1,346,132.96
Maynilad Water Services, Inc.	P-73	3,571,783.87	535,767.58
Maynilad Water Services, Inc.	P-74	524,642.87	78,696.43
Maynilad Water Services, Inc.	P-75	409,357.13	61,403.57
Oceana Gold	P-76	1,372,490.00	27,449.80
Oceana Gold	P-77	2,182,436.00	43,648.72
Oceana Gold	P-78	7,403,147.00	148,062.94
Quezon Power (Philippines) Ltd Co	P-79	50,065.00	7,509.75
Sagittarius Mines, Inc.	P-80	16,351,284.40	2,452,692.66
Sagittarius Mines, Inc.	P-81	1,456,004.33	218,400.65
Sagittarius Mines, Inc.	P-82	484,840.00	72,726.00

San Miguel Corporation	P-83	175,000.00	26,250.00
San Miguel Corporation	P-84	516,530.40	77,479.56
San Miguel Corporation	P-85	167,500.00	25,125.00
San Miguel Corporation	P-86	168,644.00	25,296.60
Shell Philippines Exploration B.V.	P-87	286,500.00	5,730.00
Silangan Mindanao Mining	P-88	2,864,824.00	429,723.60
Silangan Mindanao Mining	P-89	4,297,236.00	644,585.40
Sureste Properties Inc	P-90	780,500.00	117,075.00
Sureste Properties Inc	P-91	669,000.00	100,350.00
Sureste Properties Inc	P-92	67,500.00	1,350.00
Sureste Properties Inc	P-93	257,175.00	38,576.25
Sureste Properties Inc	P-94	557,500.00	83,625.00
Taganito Mining Corporation	P-95	1,275,478.80	191,321.82
Taganito Mining Corporation	P-96	1,913,218.20	286,982.73
Team Energy Corporation	P-97	2,210,650.07	331,597.51
Team Energy Corporation	P-98	2,210,650.07	331,597.51
Team Energy Corporation	P-99	554,697.47	83,204.62
Team Sual Corporation	P-100	5,304,096.20	795,614.43
Team Sual Corporation	P-101	2,336,808.50	46,736.17
Total		**₱ 266,743,675.69**	**₱ 26,937,862.50**

Thus, applying the second requirement to the foregoing, this Court will only consider the amount of ₱26,937,862.50 out of the total claimed CWT of ₱28,070,016.78.

The Court will now proceed to determine whether petitioner complied with the third requisite.

A perusal of petitioner's Annual ITR for FY 2012 shows that its gross income amounted to ₱355,754,070.00, to wit:

Sales/Revenues/Receipts/Fees	₱ 351,432,751.00
Add: Other Taxable Income not Subjected to Final Tax	4,321,319.00
Total Income	**₱355,754,070.00**

On the other hand, the withholding tax certificates reveal that the CWT in the amount of ₱26,937,862.50 was withheld on gross income payments in the amount of ₱266,743,675.69.

However, this Court cannot determine whether the gross income payments of ₱266,743,675.69 indeed formed part of the gross income of ₱355,754,070.00 reported by petitioner in its Annual ITR for FY 2012. Petitioner should have presented, *inter alia,* its detailed general ledger and sales register or any other document whereby the income

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payments related to the claimed CWT can be traced and confirmed as forming part of the income reflected in its Annual ITR for FY 2012. Thus, petitioner's non-compliance with the third requirement is fatal to its claim.

It bears stressing that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund.[38] 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 exemption.[39]

WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for insufficiency of evidence.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, 1st Division

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[38] *Citibank, N.A. vs. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 107434, October 10, 1997.

[39] *Commissioner of Internal Revenue vs. S.C. Johnson and Son, Inc., et al.*, G.R. No. 127105, June 25, 1999.