REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

PRHC PROPERTY MANAGERS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8071

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
OCT 09 2012
4:05 p.m.

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AMENDED DECISION

MINDARO-GRULLA, *J.*:

This resolves petitioner's **"Motion for Reconsideration"** filed on February 1, 2012 seeking reconsideration of the **Decision** of the Court dated January 6, 2012, without respondent's comment thereto despite due notice. The dispositive portion of the *assailed Decision* reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

Petitioner raises the following grounds in support of its Motion for Reconsideration:

"I

This Honorable Court gravely erred in ruling that the income payments of Php13,742,062.63 could not be verified to be forming part of the Php18,575,913.00 gross income declared in petitioner's Income Tax Return for the year 2007.

II

This Honorable Court gravely erred in ruling that petitioner failed to substantiate its prior year's excess credit of Php4,843,309.00."

Albeit it claims that it had presented sufficient evidence to prove that the income payments of Php13,742,062.63 formed part of the Php18,575,913.00 gross income declared in petitioner's Annual Income Tax Return (ITR) for the year 2007 and that respondent did not present any evidence to controvert that it had prior year's excess credits of Php4,843,309.00, petitioner requested this Court to consider the annexes (Annexes "A" to "N") attached to its Motion for Reconsideration. Petitioner also requested this Court that it be allowed to present its witness for the purpose of identifying said annexes.

In a Resolution dated April 16, 2012, this Court allowed petitioner to present the documents attached to its Motion for Reconsideration as Annexes "A" to "N". Thus, the case was set for commissioner's hearing for the marking of Annexes "A" to "N" on April 23, 2012 and for the presentation of petitioner's evidence on May 9, 2012. The resolution of petitioner's Motion for Reconsideration was held in abeyance pending submission and formal offer of said Annexes "A" to "N".

On May 3, 2012, petitioner filed a Manifestation and Motion manifesting that it intends to submit in evidence the various journal vouchers and official receipts which are listed in the schedules pre-marked as Exhibit "A-MR".

Petitioner requested this Court to set two (2) commissioner's hearings for the pre-marking of the said documents. Petitioner likewise moved for the resetting of petitioner's presentation of evidence on May 9, 2012.

In an Order dated May 7, 2012, this Court noted and granted petitioner's Manifestation and Motion. This Court set two (2) commissioner's hearings on May 16 and 21, 2012 and also reset the presentation of petitioner's evidence to May 30, 2012.

On May 30, 2012, petitioner's witness, Ms. Ma. Theresa L. Kampitan, testified on additional direct examination by way of Judicial Affidavit. However, for violation of the three-day rule on the submission of Judicial Affidavit, the cross-examination of Ms. Kampitan was deferred and set on June 27, 2012.

On June 27, 2012, petitioner's witness, Ms. Kampitan was re-called to the witness stand. Respondent's counsel completed the cross-examination of Ms. Kampitan. Thereafter, petitioner's counsel formally rested petitioner's case. Petitioner was given fifteen (15) days from June 27, 2012 within which to file petitioner's Formal Offer of Evidence on its Motion for Reconsideration. Respondent's counsel was also given a period of fifteen (15) days from receipt of petitioner's Formal Offer of Evidence within which to file a Comment thereto.

On July 12, 2012, petitioner filed its Formal Offer of Evidence while respondent failed to file her Comment thereto.

In a Resolution dated August 29, 2012, this Court admitted Exhibits "**A-MR**", "**A-1-MR**", "**A-2-MR**" to "**A-109-MR**", "**A-111**" to "**A-213**", "**A-215-**

MR" to "A-265", "A-267" to "A-607", "A-609" to "A-613", "A-611" to "A-641-MR", "642-MR", "A-643-MR" to "A-967-MR", "A-969-MR" to "A-1021-A-MR", "B-MR" to "R-MR" and **"T-MR" to "V-1-MR"** while this Court denied Exhibits "**A-1-A-MR", "A-214-MR"** and **"S-MR"**. In said Resolution, this Court also issued the following dispositive portion:

> "**ACCORDINGLY**, petitioner's **Motion for Reconsideration** filed on February 1, 2012 is now deemed submitted for resolution."

Hence, this Amended Decision.

It is well-settled that in order to be entitled to a refund or issuance of a tax credit certificate of excess/unapplied creditable withholding taxes, taxpayer-claimant must satisfy the following requirements:

> 1. The claim for refund must be filed within the two-year prescriptive period as provided under Section 204(C) in relation to Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended;
>
> 2. The fact of withholding must be 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. The income upon which the taxes were withheld was included in the return of the recipient. [1]

As noted in the Assailed Decision, petitioner was able to file its claim within the two-year prescriptive period; thus complying with the first requisite. With regard to the second requisite, petitioner was able to prove the fact of withholding amounting to Php1,904,055.18 since this amount is properly substantiated with Certificates of Creditable Tax Withheld at Source. Relative

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[1] Section 2.58 of Revenue Regulations No. 2-98, as amended; Citibank N.A. vs. Court of Appeals, G.R. No. 107434, October 10, 1997, 280 SCRA 459; ACCRA Investment Corporation vs. Court of Appeals, G.R. No. 96322, December 20, 1991, 204 SCRA 957

to the third requirement, the Court found that petitioner declared in its 2007 ITR the income payment from rentals in the amount of Php1,259,913.99 (save for minor difference of Php1.99) upon which the claimed creditable taxes of Php62,995.70 (out of the substantiated creditable taxes in the amount of P1,904,055.18) were withheld. This Court, however, noted a discrepancy between petitioner's gross income of Php18,575,913.00 from sale of services as reported in its 2007 ITR *vis-à-vis* the gross income from sale of services of Php13,742,062.63 (upon which the creditable taxes of Php1,841,059.48 was withheld) as shown per Certificates of Creditable Tax Withheld at Source. Petitioner failed to present documentary proofs for the Court to verify that the income payments of Php13,742,062.63 formed part of the Php18,575,913.00 gross income as declared in the 2007 ITR. Thus, while petitioner complied with the requisites for refund of excess CWT only to the extent of Php62,995.70, nevertheless, considering that petitioner had an income tax liability of Php382,132.00 in 2007 and for petitioner's failure to substantiate its prior year's excess credits of Php4,843,309.00, this Court concluded that there is no excess CWT for 2007 which may be refunded.

During the hearing to adduce additional evidence in support of its Motion for Reconsideration, petitioner presented and formally offered in evidence various schedules, summaries and other supporting documents to prove that the income payments, upon which the claimed creditable taxes were withheld, were reported in its 2007 Annual ITR. Petitioner likewise presented and offered its prior years' Annual ITRs to substantiate its prior year's excess credits.

More specifically, to show that petitioner's gross income from sale of services of Php13,742,062.63 formed part of petitioner's gross income of Php18,575,913.00 in its 2007 Annual ITR, petitioner offered its Schedule of Commission Income;[2] Schedule of Management Fee;[3] Schedule of Reimbursable Fee;[4] Journal Vouchers, Summary of Other Income-Reimbursable Fee, Summary of Management Fee, Summary of Commission, Schedule of Professional Fees, Debit Note, Credit Note, Sales Invoices, Statements of Accounts;[5] Official Receipts;[6] Cash Receipts Book;[7] Summary of the Journal Vouchers;[8] Reconciliation of Income from Sale of Services[9] and Judicial Affidavit of Ms. Kampitan[10].

Upon examination of the aforesaid documents, as well as the Certificates of Creditable Tax Withheld at Source[11] and the Summary Alphalist of Withholding Agents of Income Payments subjected to Withholding Tax[12], this Court finds that petitioner has sufficiently proven that the income payments upon which the claimed creditable taxes were withheld were declared in its 2007 Annual ITR, save for the amount of Php42,575.85, the corresponding creditable tax withheld of which amounts to Php5,400.04, to wit:

[2] Exhibit "A-MR"
[3] Exhibit "A-1-MR"
[4] Exhibits "A-2-MR" and "A-2-a-MR"
[5] Exhibits "A-3-MR" to "A-82-MR", "A-85-MR" to "A-109-MR", "A-111-MR" to "A-213-MR", "A-215-MR" to "A-265-MR", "A-267-MR" to "A-322-MR", "A-997-MR" to "A-1021-MR"
[6] Exhibits "A-323-MR" to "A-967-MR", "A-969-MR" to "A-996-MR and "A-1021-A-MR"
[7] Exhibits "B-MR" to "M-MR"
[8] Exhibit "O-MR"
[9] Exhibit "P-MR"
[10] Exhibit "V-MR"
[11] Exhibits "M" to "XXXX", Docket, pp. 304-393
[12] Exhibit "G"; attachments to exhibits "H", "I" & "J"; Docket, pp. 297,299, 301 & 303

	Nature of Income Payments	Income Payments Per CWTC	Income Payments Per Schedule	Discrepancy	WT Rate	Withholding Tax
PAE Ventures, Inc.	Commission	P 42,000.00	P 37,500.00	P 4,500.00	10%	P 450.00
Casa Miguel Condominium Corporation	Professional Fee	81,330.96	53,146.95	28,184.01	15%	4,227.60
Frankfort Property Leasing	Commission	30,000.00	24,665.16	5,334.84	5%	266.74
UDB International	Commission	18,900.00	16,875.00	2,025.00	10%	202.50
Broadford Property Holdings, Inc.	Commission	23,632.00	21,100.00	2,532.00	10%	253.20
Total		**P195,862.96**	**P153,287.11**	**P 42,575.85**		**P 5,400.04**

Thus, the amount of Php1,904,055.18[13] found to be properly substantiated with Certificates of Creditable Tax Withheld at Source shall be reduced by Php5,400.04 resulting to a valid creditable tax withheld of Php1,898,655.14, computed as follows:

Creditable Withholding Taxes with proper certificates	P1,904,055.18
Less: Creditable withholding taxes the income payment of which were not declared in the ITR	5,400.04
Valid Creditable Taxes Withheld	**P1,898,655.14**

With regard to the second ground, petitioner claims that in its Annual ITR for the year ended December 31, 2006, it had an unutilized creditable taxes withheld at source in the amount of Php6,449,963.00[14]. As duly disclosed in Note 9 of the petitioner's Audited Financial Statements for the year ended December 31, 2007[15], the amount of Php1,606,654.00 represented petitioner's unutilized creditable taxes withheld at source for the taxable year ended December 31, 2006 for which it intended to file and claim a tax refund for the said amount. When the amount disclosed as to be

[13] Docket, page 445
[14] Exhibit "N-MR", Line 31
[15] Exhibit "F"

refunded is deducted from the total creditable withholding taxes for the year 2006, petitioner still has Php4,843,309.00 prior year's excess credit which can be carried over to the taxable year 2007 against which its income tax liability of Php382,132.00 can be offset or credited. In the Judicial Affidavit[16] of Ms. Kampitan, petitioner's witness avers that the prior year's excess credit in the amount Php4,843,309.00 represented the balance of petitioner's unutilized tax credits for the year 2002 and prior years. In support of her averment, Ms. Kampitan made reference to the Decision[17] of the Third Division of this Court in CTA Case No. 7442 entitled *"PRHC Property Managers, Inc. vs. Commissioner of Internal Revenue"* which was promulgated on October 23, 2008 and with Entry of Judgment[18] dated November 14, 2008.

As a general rule, courts are not authorized to take judicial knowledge of the contents of the record of other cases in the adjudication of cases pending before them, even though the trial judge in fact knows or remembers the contents thereof,[19] or even when said other cases have been heard or are pending in the same court and notwithstanding the fact that both cases, may have been heard or are really pending before the same judge.[20] However, in the absence of objection and as a matter of convenience to all parties, a court may properly treat all or any part of the original record of a case filed in its archives as read into record of a case pending before it, when with the knowledge of the opposing party, reference is made to it for the purpose by

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[16] Exhibit "V-MR"
[17] Exhibit "Q-MR"
[18] Exhibit "R-MR"
[19] Evidence, Rules 128-130 General Provisions to Character Evidence, Volume VII, Part I, 1997 Edition, Updated and Revised by Ricardo J. Francisco, p. 75, citing 31 C.J. S., 623-624
[20] *Id.* citing Mun. Council v. Colegio de San Jose, et al., G.R. No. L-45460

name and number or in some other manner by which it is sufficiently designated.[21]

Thus, in the absence of any opposition from respondent, this Court will take judicial notice of the relevant records of CTA Case No. 7442[22] in determining whether petitioner's prior year's excess credit in the amount Php4,843,309.00 represented the balance of petitioner's unutilized tax credits for the year 2002 and prior years.

A careful scrutiny of petitioner's Annual ITRs for the years 2002 to 2007[23] indeed reveals that the prior year's excess tax credit of Php4,843,309.00[24] in the 2007 ITR represents the prior year's excess credits reflected in the 2003 ITR amounting to Php5,679,812.00 against which the taxes due for the years 2003 and 2006 were applied, as illustrated below:

Prior Years Excess Credit as reflected in Year 2002 ITR[25]		P3,984,855.00
Add: Tax Credits for Year 2002		
First three Quarters	P1,376,957.00	
Fourth Quarter	400,783.00	1,777,740.00
Total Tax Credits		P5,762,595.00
Less: Tax Due for Year 2002		82,783.00
Prior Years Excess credit as reflected in Year 2003 ITR[26]		**P5,679,812.00**
Less: Tax Due for Year 2003		(310,682.00)
Prior Years Excess credit as reflected in Year 2006 ITR[27]		**P5,369,130.00**
Less: Tax Due for Year 2006		(525,821.00)
Prior Years Excess Credits as reflected in Year 2007 ITR[28]		**P4,843,309.00**

[21] Id. at p. 76, citing U.S. v. Claveria, 29 Phil. 527
[22] PRHC Property Managers, Inc. vs. Commissioner of Internal Revenue, October 23, 2008
[23] Exhibits "A" and "L" as per CTA Case No. 7442, "T-MR", "U-MR", "N-MR and "E" per this CTA Case No. 8071
[24] Exhibit "E", Line 28A
[25] Exhibit "L", Line27A as per CTA Case No. 7442
[26] Exhibit "A", Line27A as per CTA Case No. 7442
[27] Exhibit "N-MR", Line28A as per this CTA Case No. 8071
[28] Exhibit "E", Line28A as per this CTA Case No. 8071

In CTA Case No. 7442[29] involving its claim for tax credit certificate or refund of excess creditable withholding taxes for the year 2003, petitioner presented various creditable withholding tax certificates in support of its prior year's tax credits. However, out of the reported prior year's excess credit of Php5,679,812.00, petitioner was able to substantiate only the amount of Php1,777,740.00 representing its total creditable withholding taxes for the year 2002. After deducting the taxes due for the years 2002, 2003, and 2006 in the amounts of Php82,783.00, Php310,682.00 and Php525,821.00, respectively, petitioner still have an excess prior year's tax credits of Php858,454.00 from which the tax due for year 2007 in the amount of Php382,132.00 may be offset. Thus, petitioner's substantiated claim of Php1,898,655.14 is undiminished by any income tax liability for the year 2007 as shown below:

Taxes Withheld for year 2002		P 1,777,740.00
Less: Tax due for year 2002	P 82,783.00	
Tax due for year 2003	310,682.00	
Tax due for year 2006	525,821.00	919,286.00
2002 Excess Tax Credits as of December 31, 2006		**P 858,454.00**
Less: Tax due for year 2007		382,132.00
2002 Excess Tax Credits as of December 31, 2007		**P 476,322.00**

In sum, this Court finds petitioner to have sufficiently proven its entitlement to a refund of excess creditable withholding taxes for taxable year 2007, but in the reduced amount of Php1,898,655.14.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is hereby **PARTIALLY GRANTED** and the assailed Decision promulgated on January 6, 2012 is hereby **MODIFIED.** Accordingly,

[29] *Supra*, note 22

respondent is hereby **ORDERED TO REFUND** to petitioner the amount of **ONE MILLION EIGHT HUNDRED NINETY EIGHT THOUSAND SIX HUNDRED FIFTY FIVE PESOS AND 14/100 CENTAVOS** (Php1,898,655.14), representing its excess creditable withholding taxes for taxable year 2007.

SO ORDERED.

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

WE CONCUR:

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

CAESAR A. CASANOVA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice