REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

AECOM PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1959
(CTA CASE NO. 8971)

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ*

Promulgated:

JUN 3 0 2020 1:00 p.m.

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DECISION

RINGPIS-LIBAN, J.

Before the Court *En Banc* is a Petition for Review[1] seeking nullification of the Decision dated May 7, 2018[2] (Assailed Decision) and Resolution[3] dated October 8, 2018 (Assailed Resolution), all promulgated by the Special First Division of this Court (Court in Division) in CTA Case No. 8971 entitled "*Aecom Philippines, Inc. vs. Commissioner of Internal Revenue*" which denied the Petition for Review for insufficiency of evidence.

The dispositive portions of the assailed Decision and Resolution read as follows:

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[1] Rollo, CTA EB No. 1959, pages 8-25, with annexes.
[2] Ibid., pp. 41-56.
[3] Ibid., pp. 26-40.

Decision:

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

SO ORDERED."

Resolution:

"**WHEREFORE**, premises considered, petitioner's **Motion for Partial Reconsideration (Re: Decision Rendered on May 7, 2018)**is **DENIED** for lack of merit.

SO ORDERED."

THE PARTIES

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 Street, Fort Bonifacio, Global City, Taguig City. It is registered with the Bureau of Internal Revenue (BIR) with Tax Identification Number (TIN) 004-868-770-000, as shown in its BIR Certificate of Registration No. OCN9RC0000321684. Petitioner is likewise duly registered with the Securities and Exchange Commission (SEC), with Company Registration No. A1996-02509.[4]

As stated in the Amended Articles of Incorporation, petitioner is principally engaged in the 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.[5]

On the other hand, respondent Commissioner of Internal Revenue (CIR) is the head of the BIR, with office address at the Office of the Commissioner of Internal Revenue, Bureau of Internal Revenue, National Office Buiding, Agham Road. Diliman, Quezon City, Metro Manila.

[4] Decision, p. 2.
[5] Petition for Review, p. 3.

THE FACTS

The facts as culled from the Assailed Decision[6] and the records of the case are as follows:

> "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. Whereas, other parts of its income as engineering contractor and those paid by clients/customers belonging to 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.
>
> 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).
>
> 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.
>
> On January 12, 2015, petitioner field 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 P28,070,016.78."

On January 14, 2015, petitioner filed a Petition for Review before the Court in Division docketed as "*Aecom Philippines, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 8971.*"

In the Answer filed by respondent Commissioner of Internal Revenue (CIR) on March 24, 2015,[7] he raised the following as his Special and Affirmative Defenses, that: the 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;

[6] Citations omitted.
[7] Docket, CTA Case No. 8971, pp. 62-64 .

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; 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; petitioner failed to prove that the amount subject of its claim was remitted in full to the BIR; petitioner failed to comply with the requirements prescribed under Section 76 of the 1997 Tax Code.

In the Joint Stipulation of Facts and Issues,[8] the parties agreed that the main issue to be resolved by the Court in Division is:

> "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 and 78/100 Pesos (P28, 070,016.78)."

The trial on the merits thereafter ensued.

On April 20, 2017, petitioner filed its "Memorandum." Meanwhile, on May 4, 2017, the Judicial Records Division of this Court issued a Records Verification Report stating that respondent failed to file his Memorandum. Hence, on May 22, 2017, the Court in Division declared the case submitted for decision.

On May 7, 2018, the Court in Division rendered the questioned Decision.[9]

On May 30, 2018, petitioner filed a "Motion for Reconsideration *(Re: Decision Rendered on May 7, 2018)*."[10]

On June 27, 2018, respondent filed his "Comment/Opposition (To Petitioner's Motion for Reconsideration)."[11]

On October 9, 2018, the Court in Division issued a Resolution[12] on the Motion for Reconsideration.

[8] Ibid., p. 202-207.
[9] Ibid. pp. 1078-1093.
[10] Ibid. pp. 1097-1126.
[11] Ibid. pp. 1132-1134.
[12] Ibid., pp. 1138-1152.

On October 29, 2018, the Court *En Banc* received petitioner's "Motion for Extension of Time to File Petition for Review"[13] stating that it received the Court in Division's Resolution dated October 9, 2018 on October 16, 2018; that petitioner anticipates that it will not be able to file and finalize the said Petition on October 31, 2018. Hence, petitioner prayed that it be granted an extension of fifteen (15) days from October 31, 2018, or until November 15, 2018 within which to file its Petition for Review.

On November 5, 2018, the Court *En Banc* issued a Minute Resolution[14] granting petitioner's "Motion for Extension of Time to File Petition for Review." Hence, as prayed for, petitioner is granted until November 15, 2018 within which to file its Petition for Review.

On November 15, 2018, the Court *En Banc* received petitioner's Petition for Review.[15]

On November 23, 2018, the Court *En Banc* received petitioner's "Motion to Admit Secretary's Certificate."[16]

In the Resolution dated December 12, 2018,[17] the Court *En Banc* admitted the notarized original copy of the Secretary's Certificate authorizing Sylvester Wong, to sign the Certification/Verification in behalf of petitioner. IN the same Resolution, the Court En Banc ordered the respondent to file a Comment on the Petition for Review within ten (10) days from notice.

In the Resolution dated March 11, 2019, the Court *En Banc* issued a Resolution stating that respondent failed to file his Comment. Hence, the parties were ordered to file their respective memoranda within thirty (30) days from receipt of the said Resolution.[18]

On April 26, 2019, petitioner filed a "Motion for Extension of Time to File Memorandum"[19] praying that it be given an additional period of thirty (30) days from April 27, 2019, or until May 27, 2019, within which to file his Memorandum.

On April 30, 2019, the Court *En Banc* issued a Minute Resolution[20] which granted petitioner's "Motion for Extension of Time to File Memorandum."

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[13] Rollo, CTA EB No. 1959, pp. 1-6.
[14] Ibid., p. 7.
[15] Ibid., pp. 8-25.
[16] Ibid., pp. 64-72.
[17] Ibid., pp. 75-76.
[18] Ibid., pp. 79-80.
[19] Ibid., pp. 81-84.
[20] Ibid., p. 85.

On May 24, 2019, petitioner filed its "Memorandum"[21] dated May 24, 2019.

On May 31, 2019, respondent filed his "Manifestation & Motion"[22] stating that he moves to adopt the factual findings and legal conclusions of the First Division of the Court under the assailed Decision dated 7 May 2018 and Resolution dated 9 October 2018 in CTA Case No. 8971, which denied petitioner's claim for refund of alleged excess and unutilized creditable income taxes withheld for Fiscal Year 2012, as part of his Memorandum in the instant case; that the Court in Division was correct in dismissing the petition in CTA Case No. 8971 for insufficiency of evidence due to failure of petitioner to present its detailed general ledger and sales register or any other document whereby the income payments related to the claimed CWT can be traced and confirmed as forming part of the income reflected in its Annual ITR for RY 2012. Respondent prayed that the Manifestation and Motion be noted as part of respondent's Memorandum and that the petitioner's Petition for Review be dismissed for palpable lack of merit.

In the Resolution[23] dated June 18, 2019, the Court *En Banc* deemed the case submitted for decision.

In the Resolution[24] dated August 27, 2019, the Court *En Banc* noted respondent's "Manifestation and Motion" filed on May 31, 2019 via registered mail and received by the Court *En Banc* on June 13, 2019.

THE ISSUE

The principal issue to be resolved by the Court *En Banc* is whether or not the Court in Division erred in dismissing the Petition for Review for insufficiency of evidence.

THE RULING OF THE COURT *EN BANC*

The Petition for Review before the Court in Division was anchored on petitioner's claim for tax refund pursuant to Sections 58(d), 76, 204(c) and 229 of the NIRC of 1997, as amended.

> "***Section 58. Returns and Payment of Taxes Withheld at Source.***
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> *xxx* *xxx* *xxx*

[21] Ibid., pp. 86-103.
[22] Ibid., pp. 105-106.
[23] Ibid., pp. 109-110.
[24] Ibid., pp. 111-112.

(d) Income of Recipient. – Income upon which any creditable tax is required to be withheld at source under Section 57 shall be included in the return of its recipient but the excess of the amount of tax so withheld over the tax due on his return shall be refunded to him subject to the provisions of Section 204; if the income tax collected at source id less than the tax due on his return, the difference shall be paid in accordance with the provisions of Section 56.

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"***Section 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 payments made during the said taxable year 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 the 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 a tax credit certificate shall be allowed therefore."

"***Section 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** - The Commissioner may-

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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."

"***Section 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 to 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, 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."

A taxpayer must establish the following requirements before a claim of tax credit or refund of creditable withholding tax will be granted:

1) The claim must be filed within the two-year prescriptive period as provided under Sections 204(C) and 229 of the 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 must be included in the return of the recipient.[25]

The administrative and judicial claims were filed within the prescriptive period provided under Sections 204(c) and

[25] Section 2.58, Revenue Regulations No. 2-98, as amended; *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.

229 of the NIRC of 1997

The Court shall determine first whether petitioner's claim for refund was timely filed.

In the case of *Commissioner of Internal Revenue vs. Goodyear Philippines, Inc.*[26], the Supreme Court held that Section 229 of the NIRC of 1997, as amended, states that judicial claims for refund must be filed within two (2) years from the date of payment of the tax or penalty, providing further that the same may not be maintained until a claim for refund or credit has been duly filed with the CIR.

Thus, the settled rule is that both the claim for refund with the BIR and the subsequent appeal to the Court of Tax Appeals must be filed within the two-year period from the date of payment of the tax.[27]

Based on the records of the case, petitioner filed its Annual ITR for FY ended September 30, 2012 on January 15, 2013. From January 15, 2013, petitioner had until January 15, 2015 within which to file its claim for refund or for issuance of tax credit certificate both in the administrative and judicial levels.

Petitioner filed its administrative claim for refund on January 12, 2015.[28] On January 14, 2015, petitioner filed its Petition for Review before the Court in Division.[29] Hence, both administrative and judicial claims for refund were filed within the two-year prescriptive period provided by law.

Whether the petitioner's claim for refund is meritorious

Petitioner argues that the Court in Division erred when it ruled that petitioner failed to prove that the gross income payment was received and is related to its claimed Creditable Withholding Tax (CWT) was declared and reflected in its Annual ITRs for 2012 and 2011. Petitioner contends that although the revenue amounts reported in the AFS/ITR are sourced from the MTD revenue amounts in the Progress Service Report(PSR), the former takes into account the adjustments of the external auditor in the conduct of an external audit while the latter considers only the initial recording of the transactions; that the discrepancy between them are brought about by adjusting entries proposed during audit; that the discrepancy noted by the Court stems

[26] G.R. No. 216130, August 3, 2016.

[27] *Commissioner of Internal Revenue vs. Victorias Milling Co., Inc. and The Court of Tax Appeals*, G.R. No. L-24108, January 3, 1968.

[28] Exhibits "P-13" and "P-14."

[29] Docket, CTA Case No. 8971, pp. 6-18, with Annexes.

from audit adjustments in the consultancy fee which are denominated in foreign currency; and that due to the adjustments made in the course of the external audit to make the Audited Financial Statements for the fiscal year 2012, the revenue amount reported in the AFS/ITR differed as compared to the revenue amount reported in the PSR.

Petitioner further argues that the existence of the discrepancy does not automatically entail a complete failure on the part of petitioner to report or declare the income payment it received as part of the gross income. Thus, a reduction or disallowance in the amount claimed proportional to the discrepancy is proper instead of denying the claim in full.

On the other hand, respondent states that the Court in Division was correct in dismissing the petition for insufficiency of evidence. Petitioner failed to present its detailed general ledger and sales register or any other document wherein the income 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.

After consideration, the Court *En Banc* finds petitioner's arguments without merit. The Court *En Banc* agrees with the finding of the Court in Division that petitioner's claim for refund should be denied for insufficiency of evidence. The instant Petition for Review raises no new arguments that have not yet been thoroughly considered and extensively passed upon by the Court in Division.

As correctly ruled by the Court in Division in the assailed Decision:[30]

> "A perusal of petitioner's amended Annual ITR for FY 2012 shows that petitioner had total tax credits of P61,133,834.37, which consisted of the prior year's excess credits in the amount of P33,063,817.59 and creditable taxes withheld during FY 2012 in the amount of P28,070,016.78. Petitioner's income tax due other than MCIT in the amount of P10,647,697.96 was paid using a portion of its prior years excess credits of P33,063,817.59 leaving prior year's excess credits in the amount of P22,416,119.63 and creditable taxes withheld during FY 2012 in the amount of P28,070,016.78 or in the aggregate amount of P50,486,136.41 unutilized as of September 30, 2012, as shown below:

Taxes Due Other than MCIT		P10,647,697.96
Prior Year's Excess Credits other than MCIT		33,063,817.59
Source of Prior Year's Excess Credits		P22,416,119.63
Creditable Taxes Withheld – FY 2012		

[30] Decision, pp. 10-16.

Creditable Tax Withheld from previous Quarter/s	P22,847,845.43	
Creditable Tax Withheld per BIR Form No. 2307 for the Fourth Quarter	5,222,171.35	28,070,016.78
Creditable Taxes Withheld as of September 30, 2012		P50,486,136.41

Since petitioner marked the box corresponding to the option "To be Refunded" in its Annual ITR, the excess CWT for FY 2012 in the amount of P28,070,016.78 may be a proper subject of a claim for refund or issuance of a tax credit certificate pursuant to Section 76 of the NIRC of 1997, as amended.

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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 (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, only the CWTS, amounting to P26,937,862.50 were properly supported by certificates duly issued to it by various withholding agents for FY 2012, detailed as follows:

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Thus, applying the second requisite to the foregoing, this Court will only consider the amount of P26,937,862.50 out of the total claimed CWT of P28,070,016.78.

The Court will now 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 P355,754,070.00, to wit:

Sales/Revenues/Receipts/Fees	P 351,432,751.00
Add: Other Taxable Income not Subjected to Final Tax	4,321,319.00
Total Income	**P 355,753,070.00**

On the other hand, the withholding tax certificates reveal that the CWT in the amount of P26,937,862.50 was withheld on gross income payments in the amount of P266,743,675.69.

However, this Court cannot determine whether the gross income payments of P266,743,675.69 indeed formed part of the gross income of P355,754,070.00 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 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.

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In the assailed Resolution,[31] the Court in Division ruled as follows:

Based on the foregoing assertions of petitioner, the Court summarized the MTD revenue accounts taken from the totals of the MTD column of the PSR [Program Service Report] for years 2012 and 2011 and compared the same with the amounts of revenue per AFS/ITR, as follows:

FY 2012	
Particulars	**MTD Revenue**
3110 TRA-Highway	P 4,043,828.00
3112 TRA-Marine	110,761,361.00
3232 WUD-Urban Development	28,276,343.00
3237 WUD-Water	45,125,090.00
3508 ENE-Power & Energy	(202,213.00)
3520 EM-Environmental Management	125,555,674.00
3735 PDD-Planning & Development	43,230,073.00
Per MTD	**P 356,790,156.00**
Per AFS/ITR	**351,432,751.00**
Difference	**P 5,357,405.00**
FY 2011	
3106 TRA-RSS	P 1,360,443.00
3110 TRA-Highway	5,408,989.00
3111 TRA-Aviation	44,995.00
3112 TRA-Marine	99,014,605.00
3232 WUD-Marine Development	16,483,215.00
3237 WUD-Water	79,517,679.00
3415 BE-MEP	(51,149.00)
3417 BE-Strucutal	65,724.00
3508 ENE-Power & Energy	449, 982.00
3520 EM-Environmental Management	57,361,441.00
3735 PDD-Planning & Development	39,302,715.00
Per MTD	**P 298,958,639.00**

[31] Resolution, pp. 12-15.

Per AFS/ITR	**317,050,222.00**
Difference	**P(18,091,583.00)**

From the above table, it can be gleaned that there were differences in the MTD revenue amounts vis-à-vis the revenue amounts per AFS/ITR for years 2012 and 2011. Nowhere in the records of the case can such discrepancies be attributed to. Neither did petitioner provide a reconciliation and explain what constitute the discrepancies. Even if petitioner indicated in the first table, as presented above, the year where the income payments related to the claimed CWTs were declared, the Court cannot trace the same with certainty in the PSR. In other words, the Court still cannot ascertain whether the income payments of the subject CWTs were indeed declared in petitioner's Annual ITR for the FY 2012, or in prior years as petitioner claims.

Therefore, petitioner failed to comply with the third requisite.

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According to petitioner, it declared the income payments related to the claimed CWTs in fiscal years 2012 and 2011. Petitioner posits that the fact that the portion of income payments was declared in prior years would not affect its compliance with the third requisite since Section 2.58.3(B) of RR No. 2-98 requires only the declaration of income payments as part of the gross income.

While it is correct that the law cannot require that the income payments related to the claimed CWTs be included in the AFS/ITR of the petitioner/recipient on the same taxable year of the claim, still, petitioner must prove that the same were declared as part of the income in any given year, be it in the current or prior years, as the case may be.

Not even the testimony of petitioner's witness, Ma. Lourdes Lascona, that petitioner has documents to prove that petitioner included in its gross income declared per AFS/ITR the income payments subjected by the customers to CWT, can support petitioner's claim there being no proper reconciliation of the amounts per supporting documents submitted to substantiate the same.

Likewise, the ICPA Report stating that "With respect to procedure no. 6, I ascertained that the income payments related to the amount being claimed were declared as Sales/Revenues/Receipts/Fees" is well of no moment for there is nothing in the record to back it up.

It bears stressing that under Section 2.58.3(B) of RR No. 2-98, claims for refund involving creditable withholding tax withheld shall be given due course when it is shown that the income payment has been declared as part of the gross income of the claimant. It is in this regard that petitioner fatally failed."

As regards petitioner's claim that the Court in Division erred when it denied in full the amount of refund being claimed, contrary to petitioner's argument, the Court *En Banc* rules that the evidence on record is limited such that the Court cannot determine completely the amount of refund being claimed.

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[32] In this case, petitioner Aecom Philippines, Inc. was not able to prove that it is entitled to a refund or issuance of a tax credit certificate for its excess and unutilized creditable withholding taxes withheld for fiscal year 2012.

In *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),* [33] the Supreme Court ruled that "it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.

In view of the foregoing discussions, the Court *En Banc* finds no cogent reason to reverse the assailed Decision and Resolution.

WHEREFORE, premises considered, the Petition for Review dated November 15, 2018 is **DENIED for lack of merit.** Accordingly, the assailed Decision dated May 7, 2018 and Resolution dated October 9, 2018 are **AFFIRMED.**

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[32] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue,* G.R. No. 159490, February 18, 2008.
[33] G. R. No. 188016, January 14, 2015, citing Sea-Land Service, Inc. vs. Court of Appeals, G.R. No. 122605, April 30, 2001.

SO ORDERED.

Ma. Belen S.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision have been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice