REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SM INVESTMENTS CORPORATION, Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE, Respondent.

CTA CASE NO. 9322

Members:

CASTAÑEDA, JR., Chairperson, and
MANAHAN, *JJ.*

Promulgated:

MAR 04 2019

2:30 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

STATEMENT OF THE CASE

This Petition for Review filed by SM Investments Corporation, seeks for the refund or issuance of a Tax Credit Certificate (TCC) in the amount of ₱1,170,533,633.00, representing its alleged excess and unutilized Creditable Withholding Tax (CWT) for the calendar year ended December 31, 2013.

STATEMENT OF FACTS

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at 10th Floor One E-com Center, Harbor Drive, Mall of Asia Complex, CBP-IA, Pasay City.[1]

Respondent is the Commissioner of the Bureau of Internal Revenue (BIR), duly appointed to exercise the powers and perform the duties of his office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the Tax Code. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On April 2, 2014,[2] petitioner filed through the Electronic Filing and Payment System (EFPS) its Annual Income Tax Return (ITR) for the year ended December 31, 2013, while on April 3, 2014,[3] petitioner received through electronic mail the BIR's acknowledgement receipt. On the same date, or on April 3, 2014,[4] petitioner manually filed the subject Annual ITR.

Meanwhile, under Item No. 20 of petitioner's Annual ITR, it appears that petitioner made an overpayment in the amount of ₱1,388,739,568.00, which it intends to refund through the issuance of a TCC as shown under Item No. 21 thereof.

Consequently, on February 18, 2015,[5] petitioner filed its administrative claim for refund. On March 2, 2015, the BIR through OIC – Assistant Commissioner Large Taxpayers Service, Nestor S. Valeroso, issued a Letter of Authority[6] (LOA) to inspect petitioner's pertinent records.

However, the BIR failed to act on petitioner's claim for refund. Thus, on April 1, 2016,[7] petitioner was constrained to file the instant Petition for Review.

On June 28, 2016,[8] respondent filed his Answer, where he essentially argued that petitioner failed to submit the relevant

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[1] Petition for Review, Docket, Vol. I, p. 10.
[2] Exhibit "P-3", Docket, Vol. II, pp. 583-593.
[3] Exhibit "P-4", Docket, Vol. II, pp. 594-595.
[4] Exhibit "P-5", Docket, Vol. II, pp. 596-693.
[5] Exhibit "P-7", Docket, Vol. III, pp. 1169-1172.
[6] Exhibit "P-10", Docket, Vol. III, p. 1291.
[7] Docket, Vol. I, pp. 10-23.
[8] Docket, Vol. I, pp. 131-140.

documents under Revenue Memorandum Order (RMO) No. 53-98, in connection to its claim for refund.

On September 30, 2016, the parties filed their Joint Stipulation of Facts and Issues.[9] On October 14, 2016, the Court issued the Pre-Trial Order.[10]

During trial, petitioner presented the following witnesses: Ms. Helen Grace D. Dela Cruz[11] - Senior Assistant Vice President for Controllership of petitioner; Atty. Adan T. Delamide[12] – Court-appointed Independent Certified Public Accountant (ICPA); and Ms. Cecilia R. Patricio[13] - Senior Vice President for the Corporate Tax Division of petitioner. Further, on June 8, 2017, petitioner filed its Formal Offer of Evidence.[14]

On the other hand, during the hearing on April 11, 2018, respondent's counsel manifested that she has no witness to present. Consequently, the Court directed the parties to file their respective memoranda.[15]

On May 11, 2018, respondent filed his Memorandum (For the Respondent)[16] while on May 28, 2018, petitioner filed through registered mail its Memorandum.[17]

Thus, on June 5, 2018,[18] the Court issued a Resolution submitting the case for decision. Hence, this Decision.

STATEMENT OF THE ISSUE

The main issue to be resolved in this case is whether petitioner is entitled to its claim for refund or issuance of a TCC in the amount

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[9] Joint Stipulation of Facts and Issues (JSFI), Docket, Vol. II, pp. 482-489.
[10] Docket, Vol. II, pp. 492-497.
[11] Exhibit "P-2278", Amended Judicial Affidavit of Ms. Helen Grace D. Dela Cruz, Docket, Vol. II, pp. 566-582; Minutes of the Hearing dated December 14, 2016, Docket, Vol. II, p. 741.
[12] Exhibit "P-2280", Judicial Affidavit, Docket, Vol. II, pp 855-864; Minutes of the Hearing dated January 30, 2017, Docket, Vol. III, p. 969; Exhibit "P-2285", Docket, Vol. III, pp. 1351-1356; Minutes of the Hearing dated May 10, 2017, Docket, Vol. III, p. 1357.
[13] Exhibit "P-2282", Docket, Vol. III, pp. 1097-1109; Minutes of the Hearing dated February 22, 2017, Docket, Vol. III, p. 1306.
[14] Docket, Vol. III, pp. 1381-1399.
[15] Minutes of the Hearing dated April 11, 2018, Docket, Vol. IV, p. 1466.
[16] Docket, Vol. IV, pp. 1468-1477.
[17] Docket, Vol. IV, pp. 1488-1545.
[18] Docket, Vol. IV, p. 1606.

of ₱1,170,533,633.00, representing its alleged excess and unutilized CWT for the calendar year ended December 31, 2013.[19]

THE RULING

The Court has jurisdiction to entertain the instant Petition

The Court shall first determine whether it has jurisdiction to entertain the instant Petition.

Sections 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, respectively provide:

> "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."
>
> "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,

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[19] Statement of the Issue, JSFI, Docket, Vol. II, p. 487.

> 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."

It is settled that Sections 204 and 229 of the NIRC pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty.[20]

Here, petitioner filed through EFPS its Annual ITR on April 2, 2014. Counting two (2) years from the said date, petitioner had until April 2, 2016 within which to file both its administrative and judicial claims for refund, respectively. Considering that petitioner filed its administrative claim on February 18, 2015 and its judicial claim on April 1, 2016, both claims were timely filed. As such, the Court has jurisdiction to entertain the instant Petition.

Petitioner has the liberality to choose the documents necessary to substantiate its claim for refund

As stated earlier, respondent asserts that petitioner failed to submit relevant documents under RMO No. 53-98, in support of its claim for refund. gr

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[20] Consolidated cases of *CBK Power Company Limited v. Commissioner of Internal Revenue* and *Commissioner of Internal Revenue v. CBK Power Company Limited*, G.R. Nos. 193383-84 & 193407-08, January 14, 2015.

The Court finds respondent's assertion untenable.

The definition of the phrase "relevant supporting documents" is already well-settled. In the case of *Commissioner of Internal Revenue v. First Express Pawnshop Company, Inc.*,[21] the Supreme Court ruled that *relevant supporting documents* are those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.[22]

While the present case does not involve tax assessment, the above-ruling of the Supreme Court is applicable in this case, such that the BIR cannot determine what type of document petitioner needs to produce in order to prove its claim for tax refund. In other words, petitioner has the liberality to present any evidence which, to its mind, is sufficient to prove its claim.

Petitioner is partially entitled to its claim for refund

Petitioner's basis for its claim is Section 76 of the NIRC of 1997, as amended, which provides:

> "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 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

[21] G.R. No. 172045-46, June 16, 2009, 589 SCRA 275.
[22] Id.

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 therefor.**" *(Emphasis supplied)*

Based on the foregoing, the corporate taxpayer's excess tax credits or overpaid income tax in a given taxable year may either be refunded (either in the form of cash or tax credit certificate) or carried-over/applied to the succeeding taxable years. However, once the option to carry-over has been made, the same becomes irrevocable for that taxable period.

A perusal of petitioner's Annual ITR for taxable year 2013[23] shows that the excess tax credits as of December 31, 2013 in the amount of ₱1,388,739,568.00,[24] which petitioner marked as "To be issued a Tax Credit Certificate (TCC)",[25] consisted of the balance of the prior year's excess credits amounting to ₱218,205,935.00 and creditable taxes withheld during the year in the aggregate amount of ₱1,170,533,633.00, as shown below:[26]

Income Tax Due		₱ 534,208,518.00
Less: Excess MCIT applied this current taxable year		122,775,252.00
Balance		₱ 411,433,266.00
Less: Prior Year's Excess Credits		629,639,201.00
Balance of Prior Year's Excess Credits		₱ (218,205,935.00)
Add: Creditable Taxes Withheld During the Year:		
From Previous quarters	₱ (263,179,666.00)	
For the fourth quarter	(907,353,967.00)	(1,170,533,633.00)
Excess Tax Credits		**₱(1,388,739,568.00)**

Inasmuch as only the prior year's (2012) excess credits in the amount of ₱218,205,935.00 was carried-over by petitioner in its

[23] Exhibits "P-3" and "P-5", Docket, Vol. II, pp. 583-592 and 596-603.
[24] Item 20, Exhibit "P-5", Docket, Vol. II, p. 596.
[25] Exhibit "P-5-b", Docket, Vol. II, p. 596.
[26] See also Exhibit "P-2279", Docket, Vol. II, p. 751.

original Annual ITR for taxable year 2014,[27] the tax credits for taxable year 2013 in the amount of ₱1,170,533,633.00 may be refundable pursuant to Section 76 of the NIRC of 1997, as amended.

However, in order to be entitled to a claim for refund or issuance of a TCC of excess/unapplied creditable withholding tax at source, petitioner must satisfy the following requirements:[28]

1.) That the claim for refund was filed within the two-year prescriptive period as provided under Section 204(C) in relation to Section 229 of the NIRC of 1997;

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 the income upon which the taxes were withheld were included in the return of the recipient.

Considering that the timeliness of the instant claim has been resolved, the Court shall proceed to examine the propriety of the documentary evidence submitted by petitioner to support its claim.

Regarding the second requisite, Section 2.58 of Revenue Regulations No. 2-98, as amended, provides:

> "(B) *Withholding tax statement for taxes withheld* – **Every payor required to deduct and withhold taxes under these regulations shall furnish each payee, whether individual or corporate, with a withholding tax statement, using the prescribed form (BIR Form No. 2307) showing the income payments made and the amount of taxes withheld therefrom**, for every month of the quarter within twenty (20) days following the close of the taxable quarter employed by the payee in filing his/its quarterly income tax return. Upon request of the payee, however, the payor must furnish such statement to the payee simultaneously with the income payment. For final

[27] Item 1, Schedule 7, Exhibit "P-6", Docket, Vol. II, p. 635.
[28] Section 2.58.3, Revenue Regulations No. 2-98, as amended.

withholding taxes, the statement should be given to the payee on or before January 31 of the succeeding year." *(Emphasis supplied)*

The Court commissioned ICPA reported that petitioner's prior year's CWT carried over to the taxable year 2013 in the amount of ₱629,639,201.07 consists of the following:[29]

From 2007 CWT	₱ 114,592,822.07
From 2012 CWT	515,046,379.00
Total	**₱ 629,639,201.07**

With regard to the substantiation of its CWT for the years 2012 and 2013, the ICPA found that:[30]

Taxable Year 2012	
CWT properly supported by BIR Form No. 2307	₱ 499,523,165.95
CWT amount supported by BIR Form No. 2307 with the correct amount	18,518,560.35
Total CWT supported by BIR Form No. 2307	**₱ 518,041,726.30**

Taxable Year 2013	
CWT properly supported by BIR Form No. 2307	₱ 1,165,515,721.47
CWT not supported by BIR Form No. 2307	3,623,616.20
CWT dated outside Taxable Year 2013	1,394,295.77
Total	**₱1,170,533,633.44**

It should be noted that for the year 2012, petitioner declared CWT in the amount of ₱515,046,379.00 (₱355,265,679.00 plus ₱159,780,700.00).[31] On the other hand, the ICPA findings show that CWT amounting to ₱518,041,726.30 is supported by BIR Forms No. 2307.[32]

Further, the ICPA noted that:[33]

"All documents reviewed, **other than those with remarks** stated above, are photocopies of originals we have examined. xxx" *(Emphasis supplied)* gc

[29] Exhibit "P-2279", Docket, Vol. II, p. 751.
[30] *Id.*, pp. 752 & 754.
[31] Items 33F and 33H, Exhibit "P-17", Docket, Vol. II, pp. 674 & 682.
[32] Exhibit "P-2279", Docket, Vol. II, pp. 753-754.
[33] *Id.*, p. 756.

In his supplemental report, he stated that petitioner subsequently submitted several original copies of BIR Form No. 2307 (Certificate of Creditable Tax Withheld At Source) for verification and amended his previous findings accordingly:[34]

Description	**2013**	**2012**
Exhibits marked as photocopy as of 1/20/2017	₱ 14,087,185.15	₱ 10,941,436.30
Exhibits with original certificates submitted after 1/20/2017	5,149,865.09	328,121.26
Total remaining tax credits supported by a photocopy of BIR Form No. 2307	**₱8,937,320.06**	**₱10,613,315.04**

Corollary thereto, the Court denied admission of the photocopied documents as evidence for failure to submit the originals for comparison.[35]

Thus, the Court can only consider CWT for the taxable years 2012 and 2013 in the amounts of ₱1,156,578,400.97 and ₱504,433,063.96, respectively, as properly supported by BIR Form No. 2307, computed as follows:

	2013	**2012**
Total CWT declared per ITR	₱ 1,170,533,633.00	₱ 515,046,379.00
Less: Disallowed CWT		
CWT not supported by BIR Form No. 2307	₱ 3,623,616.20	₱ -
CWT dated outside Taxable Year 2013	1,394,295.77	-
CWT supported by photocopy of BIR Form No. 2307	8,937,320.06	10,613,315.04
Total disallowed CWT	₱ 13,955,232.03	₱ 10,613,315.04
Properly supported CWT	**₱1,156,578,400.97**	**₱504,433,063.96**

With regard to the third requisite, the ICPA reported that:[36]

"14. Our review of Petitioner's ITR, particularly, Schedule 9 thereof, audited financial statements, and our interview with Petitioner's personnel, the following summarizes the total amount of gross income per CWT reported as taxable gross income:

Type of Income	**Per FS**	**Per ITR**	**Per CWT**	**Reference**
Dividends	₱14,340,256,945	-	-	
Management and Service Fees	3,270,557,223	₱ 3,270,557,223	₱ 3,270,557,223	(a)

[34] Exhibit "P-2283", Docket, Vol. III, pp. 1314-1315.
[35] Resolution dated September 13, 2017, Docket, Vol. IV, pp. 1432-1435.
[36] Exhibit "P-2279", Docket, Vol. II, pp. 755-756.

Rent	1,526,377,752	1,446,222,647	1,425,475,463	(b)
Gain on sale of Available-for-sale securities	166,006,083	215,818,402	-	
Operating Expense	(1,524,191,006)	(2,253,826,442)	-	
Reimbursable charges	-	-	735,620,612	(c)
Interest expense	(6,879,240,665)	(5,849,992,370)	-	
Interest income	3,012,422,853	251,158,856	3,761,014	(d)
Loss on Fair Value of derivatives	(1,055,844,500)	(2)	-	
Gain on sale of properties	6,103,551	5,607,579,580	17,266,997,914	(e)
Forex Gain (Loss)	(331,213,848)	474,126,817	-	
Other Income (Loss)	(135,918,609)	43,243,574	11,838,184	(f)
NOLCO		(1,424,193,225)		
Net Income	₱12,395,315,779	₱ 1,780,685,061[37]	₱22,714,250,410	
	Income Statement	*Line 26C, ITR*	*SAWT*	

Below are the explanation for the foregoing items:

(a) The amount of management and service fees covered by CWT tallies with the amount of management and service fees reported in the ITR. This means the gross income upon which the related CWT were withheld were reported part of Petitioner's gross income.

(b) The amount of rent income reported in the ITR is higher by Php20,747,184. Since the income per ITR is higher, it is reasonable to assume that all gross income covered by CWT were all reported as taxable income. However, it could be possible that some tenants did not withhold or failed to issue the related CWT in 2013.

The difference between the rent income per FS and per ITR pertains to PAS 17 adjustments and accretion of tenant's deposit, net of amortization of deferred rent.

(c) Reimbursable charges were subjected to withholding tax but were no longer presented as a separate item in the ITR because it was already presented net together with operating expenses for ITR presentation purposes. The effect of deducting the reimbursable charges from the deductible operating expenses is the same as reporting it as gross income since the reduction of the allowable deduction results in a higher taxable income.

(d) There is a big difference of Php247,397,842 between interest income per ITR and interest income covered by CWT. This is primarily due to the fact that no withholding were made from Petitioner's interest income from investment in bonds. gc

[37] Should be ₱1,780,695,061.00, Exhibits "P-3" and "P-5", Docket, Vol. II, pp. 585 & 597.

(e) The gain on sale of properties pertain to the sale of various properties to one of Petitioner's affiliates. However, due to accounting rules, no gain was recognized in the Petitioner's books. Nevertheless, Petitioner was subjected to withholding tax based on the gross selling price of the transaction, the capital gain of which were reported as taxable income. Note that while the CWT shows the gross income, the amount reported in the ITR is only the gain on sale. This proves that the total amount of gross selling price Php17,266,997,914, which was subjected to withholding tax and covered by CWT, were fully reported as taxable income in the ITR with the return of taxable gain of Php5,607,579,580.

Proof of gross selling price and supporting deeds of sale are presented as Exhibits P-2265 to P-2272. How the gain was computed is presented as Exhibit P-2277.

(f) There is a discrepancy of Php31,405,391 between the amount of other income reported in the ITR and the amount of other income supported by CWT."

The details of the above-report are shown under Annex I of the ICPA Report, where he compared the income payments per BIR Form No. 2307/SAWT vs. the revenue per books/ITR.[38]

The same schedule shows that total income payments per BIR Form No. 2307 amount to ₱22,714,250,410.05. Total revenue recorded in petitioner's books and reported in its ITR amounts to ₱22,650,617,693.72, resulting to a discrepancy of ₱63,632,716.33.[39]

Meanwhile, a scrutiny of Annex I of the ICPA Report reveals that the revenue recorded in petitioner's books amounting to ₱70,422,401.03, does not have the corresponding income payments per SAWT/BIR Form 2307, as shown below:[40]

	REGISTERED NAME	**PER FS/ITR**
1	Efren Villapando	₱ 2,000.00
2	Hotel Specialist Davao	11,349,096.20
3	Hyperfashion Corp	132,587.13
4	Hyperhome Corporation	198,880.70
5	Intercontinental Development	264,903.78
6	Irvine Construction Corp.	14,000.00
7	Lorain Health Center Inc	874.64
8	Magnetron	4,000.00
9	Metriccon Co Inc	36,369.68

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[38] Exhibit "P-2279", Docket, Vol. II, pp. 831-849.
[39] *Id.*
[40] Exhibit "P-2279", Annex I, Docket, Vol. II, pp. 848-849.

10	Multi Realty Development	13,958.09
11	Pico de Loro Beach and Co	876,121.50
12	Premium Leisure and Amusem	13,820.42
13	SM Foundation Inc	230,770.09
14	SM Hotels and Entertainment	3,358,349.36
15	AAI Freigthmovers Wordwide	8,928.57
16	Airlite Intl Travel and Tour	103,264.28
17	Alize Voyages and Adventure	70,977.24
18	Avon Cosmetics	4,218.75
19	Brand and Lifestyle Devel	436,360.70
20	CF Mgt Corp	1,532,527.06
21	CMA CGM Philippines, Inc.	20,000.00
22	DJA Security Services Inc	174.11
23	Fast Retailing Philippines	888,770.19
24	Fides Providence Inc	287,283.54
25	Forever 21 Philippines Inc	934,487.06
26	Forever Agape and Glory I	861,674.35
27	Globe Telecom Inc	1,618,079.04
28	Grace Valencia Virata	165,475.27
29	Innove Communications Inc	336,176.09
30	Jollibee Foods Corporation	572,984.42
31	Kitchen Capitale Food Ser	530,829.96
32	Legispro Corporation	1,025,161.42
33	LF Mgt Corp	1,523,148.70
34	LTBG Mgmt Corp	1,743,141.95
35	Ma Verena T Eduarte	732,963.09
36	Marry Ann Bozar Pena	209,033.66
37	MCLG Mgmt Corp	1,015,183.72
38	Mercantile Ocean Maritime	340,677.91
39	MF Mgt Corp	1,560,233.95
40	MM Travel Inc.	369,704.18
41	Nestor L Reyes	99,361.52
42	Nimbus Cloud Computing Co	2,413,091.25
43	Packo S Resto II Corp	132,276.60
44	Phil Amusement and Gaming	836,726.35
45	Philippine Vending Corporation	144,000.00
46	Russfield Holdings Corp	18,141.98
47	S and T Leisure Worldwide	355,562.40
48	Sharon Olano Rosario	55,530.42
49	Simply Sumptuous Inc	422,748.52
50	Central Business Park 1 Island A Association Inc.	122,276.47
51	Smedd Corp	10,992,631.34
52	Southern Star Agencia Mar	842,292.34
53	ST Music World, Inc.	86,950.73
54	Sto. Roberto Marketing Corp.	113,601.51
55	United Coconut Planters	72,204.11
56	United Vinyl Corporation	670,967.76
57	Uptrend Fashion Design Co.	19,358.96
58	Vanity Skin Aesthetics	252,355.47
59	Xo Minerals Resources Corp.	71,612.90
60	Wang Lai JRSB Enterprises	1,123,833.43
61	Carriedo Tenants	18,189,686.17
TOTAL		**₱ 70,422,401.03**

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Thus, the Court shall not consider the foregoing in determining whether the corresponding income payments of the claimed CWT are reported as part of petitioner's taxable revenues for the year 2013.

The remaining ₱22,580,195,292.69 revenue per FS/ITR (total revenue of ₱22,650,617,693.72 less ₱70,422,401.03) was compared per client/customer according to the SAWT/Certificates of Creditable Taxes Withheld (BIR Form No. 2307) which show total income payments of ₱22,714,250,410.05.

Meanwhile, the Court finds that the CWT claimed amounting to ₱943,656,142.68 should be disallowed, for failure to prove that the income payments were properly recorded in petitioner's books. Hence, they may not be reported as revenue in its return, as follows:

Registered Name	**Tax Rate**	**Tax Base**	**CWT**	**Per FS/ITR**	**Difference**
DESSERTS PLUS INC	1%	₱ 2,874,120.00	₱ 28,741.20	₱ 43,283.87	₱ 2,830,836.13
HIGHLANDS PRIME INC	1%	106,966.00	1,069.66	-	106,966.00
HOTEL SPECIALIST DAVAO INC	1%	82,527,459.00	825,274.59	106,526,882.28	(23,999,423.28)
SM ARENA COMPLEX CORPORAT	1%	7,707,041.00	77,070.41	8,554,363.35	(847,322.35)
SM PRIME HOLDINGS INC	1%	563,297.00	5,632.97	17,226,749,738.13	(17,226,186,441.13)
SUPERVALUE INC	1%	8,237.00	82.37	-	8,237.00
ACS OF THE PHILIPPINES INC	2%	125,547,138.00	2,510,942.76	126,050,053.34	(502,915.34)
ADS SPECTACULAR INC	2%	339,067.00	6,781.34	328,789.48	10,277.52
BDO UNIBANK INC	2%	2,029,710.50	40,594.21	2,014,614.91	15,095.59
COSTA DEL HAMILO INC	2%	2,808,116.00	56,162.32	4,231,164.57	(1,423,048.57)
EXL SERVICE PHILIPPINES INC	2%	38,211,990.56	764,240.01	41,832,605.28	(3,620,614.72)
FAMILY ENTERTAINMENT CENTER INC	2%	1,187,102.00	23,742.04	1,184,216.93	2,885.07
FIRST ASIA REALTY DEVELOPMENT CORP	2%	779,193.00	15,583.86	1,754,120.14	(974,927.14)
FIRST LEISURE VENTURES GR	2%	200,905.00	4,018.10	305,080.65	(104,175.65)
FITNESS FIRST PHILIPPINES	2%	11,407,085.50	228,141.71	10,296,715.57	1,110,369.93
HEALTH CAPITAL CORP	2%	104,422.00	2,088.44	65,313.45	39,108.55
HEAVENLY URBAN CHEF INC.	2%	84,684.50	1,693.69	224,075.64	(139,391.14)
HIGHLANDS PRIME INC	2%	4,892,431.50	97,848.63	3,937,070.58	955,360.92
HOMEWORLD	2%				

SHOPPING CORPORATION		4,161,094.00	83,221.88	4,361,484.14	(200,390.14)
HOTEL SPECIALIST CEBU INC	2%	17,499.50	349.99	32,394.18	(14,894.68)
HOTEL SPECIALIST PICO DE	2%	199,982.50	3,999.65	192,522.14	7,460.36
HOTEL SPECIALIST TAGAYTAY	2%	637,433.50	12,748.67	659,363.72	(21,930.22)
INTERNATIONAL TOY WORLD I	2%	2,727,548.00	54,550.96	2,733,058.24	(5,510.24)
KULTURA STORE INC	2%	1,280,724.00	25,614.48	1,297,321.28	(16,597.28)
MANILA SOUTHCOAST DEVELOP	2%	78,401.00	1,568.02	671,205.80	(592,804.80)
MARKET STRATEGIC FIRM INC	2%	57,482,009.00	1,149,640.18	57,485,777.92	(3,768.92)
METRO MANILA SHOPPING MECCA CORP	2%	38,894,567.50	777,891.35	41,928,773.35	(3,034,205.85)
MOF COMPANY	2%	2,981,936.50	59,638.73	3,256,239.70	(274,303.20)
MULTI STORES CORP	2%	29,934,718.00	598,694.36	33,011,162.22	(3,076,444.22)
NURSERY CARE CORPORATION	2%	1,560,148.50	31,202.97	1,559,009.91	1,138.59
PH02 DAMCO PHILIPPINES, INC	2%	1,951,513.50	39,030.27	2,111,352.69	(159,839.19)
PH07 MAERSK CREW MGT SERVICES PHILS INC	2%	267,091.50	5,341.83	3,119,536.39	(2,852,444.89)
PHILIPPINE SEVEN CORPORATION	2%	514,314.00	10,286.28	3,262,790.49	(2,748,476.49)
PRIME SPOTS INC	2%	913,835.50	18,276.71	913,434.82	400.68
RUSTAN COFFEE CORPORATION	2%	1,775,192.00	35,503.84	1,790,685.04	(15,493.04)
SANFORD MARKETING CORPORA	2%	315,090,115.50	6,301,802.31	254,976,346.43	60,113,769.07
SAVORY FASTFOOD INCORPORA	2%	776,158.50	15,523.17	848,220.45	(72,061.95)
SCOTTLAND INC	2%	423,697.50	8,473.95	578,573.25	(154,875.75)
SHOPPING CENTER MANAGEMENT CORP	2%	15,595,278.00	311,905.56	16,052,336.27	(457,058.27)
SIGNATURE LINES INC	2%	415,009.00	8,300.18	452,127.15	(37,118.15)
SM ARENA COMPLEX CORPORAT	2%	3,794,604.00	75,892.08	1,159,892.61	2,634,711.39
SM DEVELOPMENT CORPORATION	2%	24,292,623.00	485,852.46	24,660,139.04	(367,516.04)
SM KEPPEL LAND INC	2%	206,852.00	4,137.04	198,880.70	7,971.30
SM LAND INC	2%	2,685,520.50	53,710.41	4,135,973.19	(1,450,452.69)
SM MART INC	2%	133,323,869.00	2,666,477.38	133,392,233.82	(68,364.82)
SM PRIME HOLDINGS INC	2%	1,247,452,513.40	24,949,050.27	37,960,266.12	1,209,492,247.28
SM RETAIL INC	2%	56,363,964.00	1,127,279.28	56,182,107.02	181,856.98
SMX CONVENTION SPECIALIST	2%	445,869.50	8,917.39	842,074.72	(396,205.22)

SPORTS CENTRAL MANILA INC	2%	1,101,276.50	22,025.53	1,116,066.19	(14,789.69)
STAR APPLIANCE CENTER INC	2%	170,127,240.00	3,402,544.80	170,115,034.01	12,205.99
SUPER SHOPPING MARKET INC	2%	307,014,409.00	6,140,288.18	304,112,216.29	2,902,192.71
SUPERVALUE INC	2%	453,676,644.50	9,073,532.89	449,953,306.84	3,723,337.66
SUPPLIES STATION INC	2%	1,636,596.00	32,731.92	1,091,014.86	545,581.14
SURESTE PROPERTIES INC.	2%	578,544.50	11,570.89	1,176,230.35	(597,685.85)
SURPLUS MARKETING CORPORATION	2%	1,275,390.50	25,507.81	1,459,579.05	(184,188.55)
TELETECH CUSTOMER CARE MANAGEMENT PHILIPPINES INC	2%	35,212.50	704.25	44,872.26	(9,659.76)
UNITED COCONUT PLANTERS LIFE ASSURANCE CORPORATION	2%	1,182.50	23.65	-	1,182.50
WATSONS PERSONAL CARE STORES	2%	11,959,928.00	239,198.56	13,856,447.16	(1,896,519.16)
WEST AVENUE THEATRES CORP	2%	3,876,715.50	77,534.31	3,886,799.29	(10,083.79)
ACS OF THE PHILIPPINES INC	5%	163,909,963.80	8,195,498.19	163,461,100.08	448,863.72
AK7 ENTERPRISES CORPORATION	5%	2,475.00	123.75	3,539.52	(1,064.52)
ANCHOR LAND HOLDINGS INC	5%	8,472,064.20	423,603.21	10,458,622.47	(1,986,558.27)
ASIA PILOT CAPITAL HOLDINGS INC	5%	7,500.00	375.00	24,677.42	(17,177.42)
BDO UNIBANK INC	5%	7,951,144.40	397,557.22	8,237,494.95	(286,350.55)
BEST RUBBER COMPANY INC	5%	14,929,691.40	746,484.57	19,906,255.20	(4,976,563.80)
CHINA BANKING CORPORATION	5%	136,030.00	6,801.50	134,376.38	1,653.62
DESSERTS PLUS INC	5%	1,724,472.00	86,223.60	2,299,294.80	(574,822.80)
DIGITEL MOBILE PHILS INC	5%	551,574.80	27,578.74	599,178.98	(47,604.18)
EXL SERVICES PHILIPPINES INC	5%	43,995,750.00	2,199,787.50	47,984,000.00	(3,988,250.00)
HAIR GROUP SALONS INC	5%	612,112.20	30,605.61	604,875.14	7,237.06
HEAVENLY URBAN CHEF INC.	5%	38,728.00	1,936.40	83,848.00	(45,120.00)
HIGHLANDS PRIME INC	5%	6,099,362.80	304,968.14	5,214,253.07	885,109.73
HOTEL SPECIALIST CEBU INC	5%	50,324,611.40	2,516,230.57	39,307,434.17	11,017,177.23
HOTEL SPECIALIST TAGAYTAY	5%	35,613,509.44	1,780,675.47	48,998,561.62	(13,385,052.18)
INTERNATIONAL TOY WORLD I	5%	11,355,908.80	567,795.44	11,351,955.77	3,953.03
MANILA SOUTHCOAST DEVELOP	5%	771,146.40	38,557.32	844,916.80	(73,770.40)

MARKET STRATEGIC FIRM INC	5%	(1,634.20)	(81.71)	-	(1,634.20)
MOF COMPANY	5%	5,846,970.00	292,348.50	6,380,740.19	(533,770.19)
MULTI STORES CORP	5%	74,447.60	3,722.38	45,255.64	29,191.96
NURSERY CARE CORPORATION	5%	7,430,762.00	371,538.10	7,412,475.51	18,286.49
PH02 DAMCO PHILIPPINES, INC	5%	3,532,658.00	176,632.90	3,870,087.00	(337,429.00)
PH07 MAERSK CREW MGT SERVICES PHILS INC	5%	5,928,202.40	296,410.12	6,046,376.62	(118,174.22)
PHILIPPINE SEVEN CORPORATION	5%	404,097.60	20,204.88	2,515,956.24	(2,111,858.64)
ROSARIO, SHARON OLANO	5%	117,147.00	5,857.35	127,560.07	(10,413.07)
RUSTAN COFFEE CORPORATION	5%	2,864,403.80	143,220.19	2,913,909.83	(49,506.03)
S AND T LEISURE WORLDWIDE	5%	569,181.00	28,459.05	762,848.72	(193,667.72)
SAVORY FASTFOOD INCORPORA	5%	1,422,239.20	71,111.96	1,606,778.33	(184,539.13)
SCOTTLAND INC	5%	654,820.20	32,741.01	793,953.18	(139,132.98)
SHOPPING CENTER MANAGEMENT CORP	5%	19,438,099.80	971,904.99	19,440,710.67	(2,610.87)
SM ARENA COMPLEX CORPORAT	5%	140,700,220.40	7,035,011.02	128,490,752.46	12,209,467.94
SM DEVELOPMENT CORPORATION	5%	1,233,317.60	61,665.88	832,212.53	401,105.07
SM HOTELS AND ENTERTAINME	5%	4,688,747.80	234,437.39	4,387,807.50	300,940.30
SM LAND INC	5%	4,420,917.40	221,045.87	14,302,258.92	(9,881,341.52)
SM MART INC	5%	127,912.60	6,395.63	124,762.50	3,150.10
SM PRIME HOLDINGS INC	5%	16,215,214,349.20	810,760,717.46	63,564,924.44	16,151,649,424.76
SM RETAIL INC	5%	56,642,683.60	2,832,134.18	56,647,407.04	(4,723.44)
SMART COMMUNICATIONS INC	5%	408,736.00	20,436.80	512,880.02	(104,144.02)
SMX CONVENTION SPECIALIST	5%	29,631,230.40	1,481,561.52	43,895,403.86	(14,264,173.46)
STAR APPLIANCE CENTER INC	5%	21,834,618.80	1,091,730.94	21,816,096.34	18,522.46
SUPER SHOPPING MARKET INC	5%	4,003,300.80	200,165.04	2,987,876.13	1,015,424.67
SUPPLIES STATION INC	5%	4,721,940.60	236,097.03	2,467,280.12	2,254,660.48
SURESTE PROPERTIES INC	5%	564,732.60	28,236.63	1,129,465.00	(564,732.40)
SURPLUS MARKETING CORPORATION	5%	3,125,365.20	156,268.26	3,130,171.30	(4,806.10)
TELETECH CUSTOMER CARE MGT PHILS INC	5%	39,721,084.40	1,986,054.22	39,476,473.19	244,611.21
UNITED COCONUT PLANTERS L	5%	109,435.20	5,471.76	136,794.00	(27,358.80)
WATSONS	5%				

PERSONAL CARE STORES		17,112,880.40	855,644.02	17,301,069.95	(188,189.55)
WEST AVENUE THEATRES CORP	5%	5,433,154.60	271,657.73	5,051,079.22	382,075.38
METRO MANILA SHOPPING MEC	15%	38,894,567.67	5,834,185.15	41,928,773.35	(3,034,205.68)
MULTI STORES CORP	15%	29,871,304.60	4,480,695.69	32,972,458.23	(3,101,153.63)
PRIME SPOTS INC	15%	2,250,000.00	337,500.00	3,000,000.00	(750,000.00)
SUPER SHOPPING MARKET INC	15%	149,251,353.53	22,387,703.03	149,247,068.28	4,285.25
14-678 PROPERTY HOLDINGS INC.	20%	1,291,917.70	258,383.54	1,523,594.12	(231,676.42)
18-2 PROPERTY HOLDINGS INC.	20%	407,239.45	81,447.89	480,268.71	(73,029.26)
19-1 PROPERTY HOLDINGS INC.	20%	50,521.00	10,104.20	59,580.80	(9,059.80)
6-24 PROPERTY HOLDINGS INC.	20%	943,755.75	188,751.15	1,112,997.13	(169,241.38)
6-3 PROPERTY HOLDINGS INC.	20%	472,797.05	94,559.41	557,582.60	(84,785.55)
CRESCENT PARK 14-678 PROPERTY HOLDINGS INC.	20%	209,261.80	41,852.36	246,788.23	(37,526.43)
CRESCENT PARK 18-2 PROPERTY HOLDINGS INC.	20%	61,877.00	12,375.40	72,973.23	(11,096.23)
CRESCENT PARK 19-1 PROPERTY HOLDINGS INC.	20%	89,920.10	17,984.02	106,045.24	(16,125.14)
CRESCENT PARK 6-24 PROPERTY HOLDINGS INC.	20%	163,857.90	32,771.58	193,242.17	(29,384.27)
CRESCENT PARK 6-3 PROPERTY HOLDINGS INC.	20%	69,865.90	13,973.18	82,394.80	(12,528.90)
TOTAL		**₱20,347,406,493.56**	**₱943,656,142.68**	**₱20,220,004,455.05**	**₱ 127,402,038.51**

Likewise, the following income payments in the amount of ₱383,246,997.60 were not properly recorded in petitioner's books and as such, they may not be reported as revenue in its return:

Registered Name	Tax Rate	Tax Base	CWT	Per FS/ITR	Difference
AEGIS PEOPLESUPPORT PHILIPPINES	2%	₱ 5,757,991.50	₱ 115,159.83	₱ 4,928,259.48	₱ 829,732.02
APL CO	2%	6,059,625.00	121,192.50	5,589,555.44	470,069.56
BELLE CORPORATION	2%	4,078,682.00	81,573.64	2,152,923.48	1,925,758.52
BLOOMBERRY RESORTS AND HOTEL INC	2%	15,227,923.50	304,558.47	16,647,086.19	(1,419,162.69)
DIGITEL MOBILE PHILS INC	2%	459,156.50	9,183.13	460,958.65	(1,802.15)
MAERSK FILIPINAS INC	2%	3,054,659.00	61,093.18	4,128,192.72	(1,073,533.72)
MARKETING CONVERGENCE INC	2%	4,821,109.00	96,422.18	10,375,294.16	(5,554,185.16)
MCC TRANSPORT PHILIPPINES	2%	770,775.50	15,415.51	1,051,112.48	(280,336.98)
MEGALINK INC	2%	1,285,077.50	25,701.55	1,416,721.28	(131,643.78)
OSTE CREWING	2%	671,348.50	13,426.97	617,735.95	53,612.55

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PHILIPPINES					
PERNOD RICARD PHILIPPINES	2%	928,934.00	18,578.68	860,933.44	68,000.56
PH03 MAERSK FILIPINAS CREWING	2%	3,209,684.50	64,193.69	3,513,766.32	(304,081.82)
PHILIPPINE GLOBAL COMMUNI	2%	333,325.50	6,666.51	329,118.67	4,206.83
PHILIPPINE LONG DISTANCE	2%	190,460.50	3,809.21	402,161.97	(211,701.47)
SMART COMMUNICATIONS INC	2%	519,227.50	10,384.55	312,043.62	207,183.88
STREAM INTERNATIONAL GLOB	2%	1,744,007.50	34,880.15	1,610,491.61	133,515.89
SUMMERHILLS HOME DEVELOPM	2%	1,056,395.00	21,127.90	2,732,523.02	(1,676,128.02)
SYBASE EQUITY INVESTMENTS	2%	8,837.00	176.74	288,252.62	(279,415.62)
WAREHOUSE DEVELOPMENT CO INC	2%	3,030,564.50	60,611.29	3,407,409.37	(376,844.87)
AEGIS PEOPLESUPPORT PHILIPPINES	5%	60,144,629.40	3,007,231.47	48,151,406.85	11,993,222.55
AIRLITE INT'L TRAVEL & TOURS INC	5%	138,771.00	6,938.55	184,269.33	(45,498.33)
ALIZE VOYAGES & ADVENTURES	5%	117,181.60	5,859.08	156,282.00	(39,100.40)
ALTRON LOGISTICS INC	5%	16,207.40	810.37	11,816.13	4,391.27
APL CO	5%	10,711,830.00	535,591.50	9,900,220.00	811,610.00
BAYAN TELECOMMUNICATIONS	5%	203,250.00	10,162.50	189,000.00	14,250.00
BLOOMBERRY RESORTS AND HOTEL INC	5%	19,864,783.80	993,239.19	22,100,557.28	(2,235,773.48)
BRAND AND LIFESTYLE DEVEL	5%	703,873.60	35,193.68	852,170.72	(148,297.12)
BS SQUARE COMMERCIAL INC	5%	196,429.20	9,821.46	214,285.68	(17,856.48)
CENTRAL BUSINESS PARK 1 ISLAND ASSO. INC.	5%	206,520.00	10,326.00	205,183.00	1,337.00
EPLDT INC	5%	7,173,873.00	358,693.65	6,551,223.86	622,649.14
FITNESS FIRST PHILIPPINES	5%	23,975,331.00	1,198,766.55	23,132,779.46	842,551.54
IPLUS INTELLIGENT NETWORK	5%	6,183,382.00	309,169.10	5,961,484.44	221,897.56
LEGISPRO CORPORATION	5%	1,458,356.20	72,917.81	1,751,687.45	(293,331.25)
MAERSK FILIPINAS INC	5%	5,151,664.00	257,583.20	6,964,569.78	(1,812,905.78)
MARKETING CONVERGENCE INC	5%	4,374,798.60	218,739.93	8,622,123.96	(4,247,325.36)
MCC TRANSPORT PHILIPPINES	5%	1,474,020.20	73,701.01	1,828,272.00	(354,251.80)
MEGALINK INC	5%	2,520,864.20	126,043.21	2,763,150.50	(242,286.30)
MERCANTILE OCEAN MARITIME	5%	604,400.00	30,220.00	612,172.00	(7,772.00)
MM TRAVEL INC.	5%	684,665.60	34,233.28	746,070.75	(61,405.15)
OSTE CREWING PHILIPPINES	5%	1,842,250.60	92,112.53	1,678,008.10	164,242.50
PERNOD RICARD PHILIPPINES	5%	1,704,959.80	85,247.99	1,517,861.54	187,098.26
PH03 MAERSK FILIPINAS CREWING	5%	6,426,663.00	321,333.15	7,017,242.52	(590,579.52)
PHILIPPINE AMUSEMENT AND	5%	107,810,155.60	5,390,507.78	90,984,749.25	16,825,406.35

GAMING CORPORATION					
PHILIPPINE GLOBAL COMMUNI	5%	228,132.40	11,406.62	226,688.19	1,444.21
SITC CONTAINER LINES PHIL	5%	25,072.20	1,253.61	42,020.97	(16,948.77)
STREAM INTERNATIONAL GLOB	5%	3,662,230.00	183,111.50	3,380,520.00	281,710.00
SUMMERHILLS HOME DEVELOPM	5%	2,435,036.80	121,751.84	2,249,802.00	185,234.80
SYBASE EQUITY INVESTMENTS	5%	753,980.80	37,699.04	748,222.55	5,758.25
VENDO CORPORATION	5%	18,458.80	922.94	20,438.71	(1,979.91)
WAREHOUSE DEVELOPMENT COM	5%	59,204,835.40	2,960,241.77	67,005,092.26	(7,800,256.86)
PHILIPPINE GLOBAL COMMUNI	10%	22,607.40	2,260.74	-	22,607.40
TOTAL		**₱383,246,997.60**	**₱17,567,246.73**	**₱376,593,911.75**	**₱6,653,085.85**

Further, the corresponding CWTs in the total amount of ₱17,567,246.73, are not fully supported by original copies of BIR Form No. 2307, as found by the ICPA. On the other hand, the amount of ₱8,698,111.06 is supported by photocopies of Certificates of Creditable Tax Withheld At Source (BIR Form No. 2307), detailed as follows:[41]

Registered Name	Tax Rate	Tax Base	CWT
PHILIPPINE GLOBAL COMMUNICATIONS	1%	₱ 18,928.57	₱ 189.29
AEGIS PEOPLESUPPORT PHILIPPINES	2%	1,915,152.75	38,303.05
APL CO	2%	1,784,538.69	35,690.77
BELLE CORPORATION	2%	218,269.00	4,365.38
BLOOMBERRY RESORTS AND HOTEL INC	2%	13,106,881.23	262,137.63
DIGITEL MOBILE PHILS INC	2%	31,817.86	636.36
MAERSK FILIPINAS INC	2%	959,225.29	19,184.51
MARKETING CONVERGENCE INC	2%	2,376,214.50	47,524.29
MCC TRANSPORT PHILIPPINES	2%	165,142.64	3,302.85
MEGALINK INC	2%	1,045,273.37	20,905.48
OSTE CREWING PHILIPPINES	2%	305,616.19	6,112.32
PERNOD RICARD PHILIPPINES	2%	220,482.79	4,409.66
PH03 MAERSK FILIPINAS CREWING	2%	570,212.96	11,404.26
PHILIPPINE GLOBAL COMMUNI	2%	98,792.24	1,975.83
PHILIPPINE LONG DISTANCE	2%	112,674.32	2,253.48
SMART COMMUNICATIONS INC	2%	53,537.93	1,070.76
STREAM INTERNATIONAL GLOB	2%	670,063.05	13,401.26
SUMMERHILLS HOME DEVELOPM	2%	97,616.24	1,952.33
SYBASE EQUITY INVESTMENTS	2%	7,652.73	153.05
WAREHOUSE DEVELOPMENT CO INC	2%	1,324,046.95	26,480.98
AEGIS PEOPLESUPPORT PHILIPPINES	5%	21,173,491.00	1,058,674.54
AIRLITE INT'L TRAVEL & TOURS INC	5%	45,498.60	2,274.93
ALIZE VOYAGES & ADVENTURES	5%	38,430.00	1,921.50
ALTRON LOGISTICS INC	5%	3,300.00	165.00
APL CO	5%	3,301,740.00	165,087.00
BAYAN TELECOMMUNICATIONS	5%	47,250.00	2,362.50
BLOOMBERRY RESORTS AND HOTEL INC	5%	17,688,450.65	884,422.56

[41] Exhibit "P-2283", Annex A, Docket, Vol. III, pp. 1316-1322.

BRAND AND LIFESTYLE DEVEL	5%	420,630.72	21,031.54
BS SQUARE COMMERCIAL INC	5%	124,999.98	6,250.02
CENTRAL BUSINESS PARK 1 ISLAND ASSO. INC.	5%	105,091.50	5,163.00
EPLDT INC	5%	541,422.85	27,071.15
FITNESS FIRST PHILIPPINES	5%	548,550.80	27,427.54
IPLUS INTELLIGENT NETWORK	5%	3,941,633.13	197,081.68
LEGISPRO CORPORATION	5%	426,835.77	21,341.79
MAERSK FILIPINAS INC	5%	1,691,388.00	84,569.40
MARKETING CONVERGENCE INC	5%	2,114,161.80	105,708.09
MCC TRANSPORT PHILIPPINES	5%	327,560.00	16,378.00
MEGALINK INC	5%	2,052,636.76	102,631.83
MERCANTILE OCEAN MARITIME	5%	60,440.00	3,022.00
MM TRAVEL INC.	5%	371,500.25	18,575.01
OSTE CREWING PHILIPPINES	5%	835,356.00	41,767.80
PERNOD RICARD PHILIPPINES	5%	383,033.64	19,151.67
PH03 MAERSK FILIPINAS CREWING	5%	1,156,254.00	57,812.70
PHILIPPINE AMUSEMENT AND GAMING CORPORATION	5%	77,611,563.41	3,880,578.14
PHILIPPINE GLOBAL COMMUNI	5%	62,737.50	3,136.91
SITC CONTAINER LINES PHIL	5%	22,145.97	1,107.30
STREAM INTERNATIONAL GLOB	5%	1,408,550.00	70,427.50
SUMMERHILLS HOME DEVELOPM	5%	933,667.50	46,683.40
SYBASE EQUITY INVESTMENTS	5%	497,768.72	24,888.40
VENDO CORPORATION	5%	638.71	31.94
WAREHOUSE DEVELOPMENT COM	5%	25,971,753.50	1,298,587.67
PHILIPPINE GLOBAL COMMUNICATIONS	10%	13,250.01	1,325.02
TOTAL		**₱189,003,870.07**	**₱ 8,698,111.06**

With regard to the discrepancy in recording the income payments in the books of accounts, the Court notes that when there is substantial difference between the amounts reflected in the financial statements and the amounts per certificates of withholding, there is uncertainty as to whether the income payments indeed formed part of petitioner's revenue in its return. Petitioner did not offer any explanation or reconciliation of the difference that may be brought about by timing or revenue recognition difference.

It should be emphasized that the Court is consistent in applying the well-settled rule that "actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit."[42] In the present case, petitioner failed to discharge its burden of complying with the substantiation and reporting requirements of its claim. *jc*

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[42] *Coca-cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 222428, February 19, 2018.

Hence, the Court finds that only income payments in the aggregate amount of ₱1,983,596,918.90 with corresponding CWT of ₱209,310,244.05, have been substantially reported by petitioner as revenue in its books of accounts and in its ITR for the year 2013, and the taxes withheld therefrom may be refundable, as follows:

Registered Name	Tax Rate	Tax Base	CWT
CONSOLIDATED PRIME DEVELO	1%	₱ 49,554.00	₱ 495.54
SANFORD MARKETING CORPORA	1%	13,141,930.00	131,419.30
ACCESSORIES MANAGEMENT CORP	2%	1,593,067.50	31,861.35
ACE HARDWARE PHILIPPINES	2%	4,389,316.50	87,786.33
BACOLOD CHICKEN INASAL	2%	1,121,669.00	22,433.38
CASAMIA FURNITURE CENTER INC	2%	869,496.00	17,389.92
CHINA BANKING CORPORATION	2%	35,419.50	708.39
CK FASHION COLLECTION	2%	158,380.00	3,167.60
DESSERTS PLUS INC	2%	4,129,419.50	82,588.39
DET NORSKE VERITAS AS	2%	1,061,872.50	21,237.45
GOLDEN ARCHES DEVELOPMENT	2%	3,650,002.50	73,000.05
HAIR GROUP SALONS INC	2%	340,311.50	6,806.23
MADISON SHOPPING PLAZA IN	2%	50,771,929.50	1,015,438.59
MAINSTREAM BUSINESS INC	2%	66,824,587.50	1,336,491.75
MAJOR SHOPPING MANAGEMENT	2%	51,586,181.00	1,031,723.62
MANDURRIAO STAR INC	2%	60,943,022.50	1,218,860.45
MANILA SOUTHERN ASSOCIATE	2%	50,112,372.50	1,002,247.45
MERCANTILE STORES GROUP I	2%	61,152,257.00	1,223,045.14
MERIDIEN BUSINESS LEADER	2%	25,932,903.50	518,658.07
METRO MAIN STAR ASIA CORP	2%	40,280,621.00	805,612.42
MINDANAO SHOPPING DESTINATION CORP	2%	13,158,329.50	263,166.59
PINIC INTERNATIONAL CORPO	2%	343,692.00	6,873.84
SONDRIK INC	2%	165,321.50	3,306.43
STANFIELD INTERNATIONAL C	2%	172,440.00	3,448.80
WONDERFOODS INC	2%	765,138.50	15,302.77
ACCESSORIES MANAGEMENT CORP	5%	1,611,487.80	80,574.39
ACE HARDWARE PHILIPPINES	5%	35,146,472.00	1,757,323.60
ADS SPECTACULAR INC	5%	398,511.20	19,925.56
BACOLOD CHICKEN INASAL/AMELIA S. TANALGO	5%	1,547,872.60	77,393.63
CASAMIA FURNITURE CENTER INC	5%	1,006,510.80	50,325.54
CF MGT CORP	5%	1,518,626.60	75,931.33
CK FASHION COLLECTION	5%	180,960.00	9,048.00
COSTA DEL HAMILO INC	5%	5,215,097.20	260,754.86
DET NORSKE VERITAS AS - P	5%	2,322,416.40	116,120.82
FAMILY ENTERTAINMENT CENTER INC	5%	1,423,103.80	71,155.19
FAST RETAILING PHILIPPINES INC	5%	991,598.20	49,579.91
FOREVER 21 PHILIPPINES IN	5%	10,035,001.00	501,750.05
FOREVER AGAPE AND GLORY I	5%	928,598.40	46,429.92
GOLDEN ARCHES DEVELOPMENT	5%	4,385,324.80	219,266.24
HOMEWORLD SHOPPING CORPORATION	5%	51,903,389.40	2,595,169.47
HOTEL SPECIALIST PICO DE	5%	11,223,112.60	561,155.63
KULTURA STORE INC	5%	3,087,610.20	154,380.51
LF MGT CORP	5%	1,582,443.00	79,122.15
LTBG MGT CORP	5%	1,604,228.20	80,211.41
MCLG MGMT CORP	5%	903,683.80	45,184.19
MEDIASCAPE, INC.	5%	1,629,162.00	81,458.10

MF MGT CORP	5%	1,537,843.80	76,892.19
PINIC INTERNATIONAL CORPO	5%	953,697.60	47,684.88
PRIME SPOTS INC	5%	3,056,158.40	152,807.92
SIGNATURE LINES INC	5%	558,034.60	27,901.73
SMEDD CORP	5%	13,916,795.80	695,839.79
SONDRIK INC	5%	288,324.60	14,416.23
SPORTS CENTRAL MANILA INC	5%	2,908,886.80	145,444.34
ST MUSIC WORLD, INC.	5%	228,619.80	11,430.99
STANFIELD INTERNATIONAL C	5%	2,655,701.20	132,785.06
SUPERVALUE INC	5%	125,524,985.00	6,276,249.25
UPTREND FASHION DESIGN CORP	5%	22,628.00	1,131.40
WANG LAI JRSB ENTERPRISES	5%	1,036,459.00	51,822.95
WONDERFOODS INC	5%	1,066,440.00	53,322.00
CHINA BANKING CORPORATION	15%	11,815,576.20	1,772,336.43
MADISON SHOPPING PLAZA IN	15%	50,771,929.13	7,615,789.37
MAINSTREAM BUSINESS INC	15%	66,824,587.40	10,023,688.11
MAJOR SHOPPING MANAGEMENT	15%	51,586,180.53	7,737,927.08
MANDURRIAO STAR INC	15%	60,943,021.80	9,141,453.27
MANILA SOUTHERN ASSOCIATE	15%	50,112,373.20	7,516,855.98
MARKET STRATEGIC FIRM INC	15%	57,485,778.00	8,622,866.70
MERCANTILE STORES GROUP I	15%	61,152,256.94	9,172,838.54
MERIDIEN BUSINESS LEADER	15%	25,932,903.20	3,889,935.48
METRO MAIN STAR ASIA CORP	15%	40,280,625.87	6,042,093.88
MINDANAO SHOPPING DESTINA	15%	13,158,329.47	1,973,749.42
SANFORD MARKETING CORPORA	15%	126,635,827.27	18,995,374.09
SM KEPPEL LAND INC	15%	5,687,204.00	853,080.60
SM MART INC	15%	131,633,163.60	19,744,974.54
STAR APPLIANCE CENTER INC	15%	165,759,678.93	24,863,951.84
SUPERVALUE INC	15%	207,234,372.53	31,085,155.88
WATSONS PERSONAL CARE STORES	15%	111,434,091.73	16,715,113.76
TOTAL		**₱1,983,596,918.90**	**₱209,310,244.05**

However, the foregoing includes CWTs which were merely supported by photocopies of Certificates of Taxes Withheld (BIR Form No. 2307), as found by the ICPA in his Supplemental Report:[43]

Registered Name	**Tax Rate**	**Tax Base**	**CWT**
DET NORSKE VERITAS AS	2%	₱ 624,977.38	₱ 12,499.54
DET NORSKE VERITAS AS - P	5%	1,343,098.01	67,154.77
MEDIASCAPE, INC.	5%	1,629,161.76	81,458.10
ST MUSIC WORLD, INC.	5%	36,892.16	1,844.60
SM KEPPEL LAND INC	15%	508,346.51	76,251.98
TOTAL		**₱4,142,473.82**	**₱239,208.99**

Thus, only the amount of ₱209,071,035.06 (₱209,310,244.05 less ₱239,208.99) complied with the requisites set forth in Section 2.58.3 of Revenue Regulations No. 2-98, as amended.

[43] Exhibit "P-2283", Annex A, Docket, Vol. III, pp. 1317-1322.

To recapitulate, petitioner's refundable creditable withholding tax amount to ₱209,071,035.06, computed as follows:

Claimed CWT		₱1,170,533,633.46[44]
Less disallowed CWT:		
Not properly reported in FS	₱ 943,656,142.68	
Not properly reported in FS and not fully substantiated	17,567,246.73	
Reported in FS but supported by photocopy	239,208.99	961,462,598.40
Refundable CWT		**₱ 209,071,035.06**

On the other hand, the Court notes that petitioner's income tax liability for the year 2013 was settled, as follows:

Income tax due		₱534,208,518.30
Less: Credits/Payments		
Excess MCIT applied this current taxable year	₱122,775,252.00	
Excess CWT carried over from previous taxable periods:		
2007 CWT	114,592,822.07	
2012 CWT	296,840,444.23	534,208,518.30
Balance		**₱ -**

An examination of petitioner's annual income tax return for the year 2012[45] shows that the MCIT in the amount of ₱122,775,251.80 was offset against the excess CWT carried over from the previous taxable period. It should be noted, however, that petitioner did not offer evidence to support its CWT for the taxable year 2007. Hence, the CWT therefrom shall not be considered.

Considering that petitioner substantiated its 2012 CWT in the amount of ₱504,433,063.96, the income tax due for 2013 will be offset, thus:

Income tax due for 2013	₱ 534,208,518.30
Less: CWT from 2012	504,433,063.96
Balance - to be taken from refundable 2013 CWT	**₱ 29,775,454.34**

Refundable CWT	₱ 209,071,035.06
Less: Balance of 2013 Income Tax Due	(29,775,454.34)
Net Refundable CWT	**₱179,295,580.72**

[44] Total CWT per SAWT for 2013 is ₱1,170,533,633.46, Annex I of ICPA Report, Docket Vol. II, p. 849.
[45] Exhibit "P-17", Docket, Vol. II, pp. 672-680 and 681-686.

In sum, the Court finds that petitioner was able to prove that it is entitled to its refund claim only in the total amount of ₱179,295,580.72. Hence, the partial grant of the instant Petition is in order.

WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, let a tax refund or a tax credit certificate be issued in favor of petitioner in the total amount of ₱179,295,580.72, representing petitioner's excess and unutilized Creditable Withholding Tax for the calendar year ended December 31, 2013.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

ATTESTATION

I attest 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.

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 Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice