REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

AYALA CORPORATION, *Petitioner,*	**CTA Case No. 10496**
- versus -	Members: **MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 19 2024 3:20 p.m.

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DECISION

REYES-FAJARDO, *J.*:

This *Petition for Review* filed on May 17, 2021 by Ayala Corporation seeks the issuance of tax credit certificate (TCC) in the amount of ₱308,612,669.00, representing its alleged excess and unutilized creditable withholding taxes (CWTs) for the calendar years (CYs) 2018 and 2019.[1]

PARTIES

Petitioner Ayala Corporation is a domestic corporation, duly organized and existing under Philippine laws, with principal place of business at 33rd Floor, Tower One Exchange Plaza, Ayala Triangle, Ayala Avenue, Makati City.[2]

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1 Statement of the Case, Pre-Trial Order dated May 25, 2022, Docket – Vol. III, p. 1137.

2 Par. 1, Joint Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. III, p. 1120.

Respondent is the duly appointed Commissioner of Internal Revenue, vested with the authority to act as such, including the power to decide, approve, and grant claims for refund or issuance of TCC pertaining to any excess or overpaid internal revenue taxes under the 1997 National Internal Revenue Code (NIRC), as amended.[3]

FACTS

On March 18, 2021, petitioner filed with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 125, an Application for Tax Credits/Refunds (BIR Form No. 1914) and a letter dated March 17, 2021,[4] requesting for the issuance of a TCC of unutilized CWTs for CYs 2018 and 2019, in the amount of ₱308,612,669.00.

On May 17, 2021, petitioner filed a Petition for Review, docketed as CTA Case No. 10496 before the Court,[5] to which respondent filed an Answer on October 21, 2021.[6]

On March 31, 2022, the Pre-Trial Conference was held.[7]

On April 29, 2022, the parties submitted their Joint Stipulation of Facts and Issues,[8] which was approved through Resolution dated May 5, 2022.[9] On the basis thereof, the Court issued a Pre-Trial Order dated May 25, 2022.[10]

During the trial, petitioner presented: (1) Milagros F. Padernal,[11] the Court-commissioned Independent Certified Public

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3 Par. 2, Joint Stipulation of Facts, JSFI, Docket - Vol. III, p. 1120.
4 Exhibits "P-9" and "P-9-1," Docket - Vol. II, pp. 952 to 957.
5 Docket - Vol. I, pp. 6 to 19.
6 Docket - Vol. III, pp. 1053 to 1058.
7 Notice of Pre-Trial Conference dated February 9, 2022, Docket - Vol. III, pp. 1065 to 1066; Minutes of the hearing held on, and Order dated, March 31, 2022, Docket - Vol. III, pp. 1114 and 1117 to 1119, respectively.
8 Docket - Vol. III, pp. 1120 to 1126.
9 Docket - Vol. III, p. 1129.
10 Docket - Vol. III, pp. 1137 to 1144.
11 Exhibit "P-37," Docket - Vol. III, pp. 1147 to 1155; Minutes of the hearing held on, and Order dated, June 7, 2022, Docket - Vol. III, pp. 1157 to 1159.

Accountant (ICPA Padernal);[12] and (2) Maria Susana C. Bables,[13] petitioner's Associate Director, as its witnesses.

In the Order dated June 30, 2022,[14] CTA Case No. 10496 was transferred from the Third Division to the Second Division of the Court.

In the hearing held on August 1, 2022, counsel for respondent manifested that he will not be presenting any evidence in this case.[15]

On September 12, 2022, petitioner filed its Formal Offer of Evidence,[16] *sans* respondent's comment.[17]

By Resolution dated November 7, 2022,[18] the Court admitted petitioner's offered exhibits, *except* for the following:

1) Exhibits "P-15-1," "P-15-3," "P-15-4," "P-15-14," "P-15-15," "P-15-16," "P-15-18," "P-15-19," and "P-15-20," for failure of the documents offered to correspond with the documents marked; and

2) Exhibit "P-18-136," "P-18-138," "P-18-150," "P-18-163," and "P-31-302 to P-31-304," for not being found in the records.

On December 16, 2022, petitioner filed an Urgent Motion for Partial Reconsideration,[19] *sans* respondent's comment.[20]

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12 *Oath of Commission* dated March 31, 2022, Docket - Vol. III, p. 1115; Minutes of the hearing held on, and Order dated, March 31, 2022, Docket - Vol. III, pp. 1114 and 1117 to 1119, respectively.

13 Exhibits "P-11" and "P-11-2," Docket - Vol. III, pp. 1003 to 1044, and 1164 to 1171, respectively; Minutes of the hearing held on, and Order dated, August 1, 2022, Docket - Vol. III, pp. 1310 to 1312.

14 Docket - Vol. III, p. 1160.

15 Minutes of the hearing held on, and Order dated, August 1, 2022, Docket - Vol. III, pp. 1310 to 1312.

16 Docket - Vol. III, pp. 1313 to 1352.

17 Records Verification dated October 7, 2022 issued by the Judicial Records Division of this Court, Docket - Vol. III, pp. 1353.

18 Docket - Vol. III, pp. 1355 to 1358.

19 Docket - Vol. III, pp. 1359 to 1368.

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By Resolution dated February 28, 2023,[21] the Court directed petitioner and the ICPA to submit within ten (10) days from notice, the following: (1) Exhibits "P-15-1," "P-15-3," "P-15-4," "P-15-14," "P-15-15," "P-15-16," "P-15-18," "P-15-19," and "P-15-20" which correctly correspond with the ones formally offered by petitioner; (2) Exhibits "P-31-302" to "P-31-304;" and (3) clear copies of Exhibits "P-30-47," "P-30-93," "P-31-63," "P-35-28," and "P-35-36." Petitioner was likewise given the same period within which to file its Amended Formal Offer of Evidence.

By Resolution dated March 24, 2023, petitioner's Compliance and Manifestation,[22] with Amended Formal Offer of Evidence attached to the same,[23] were noted.[24]

Under Resolution dated April 20, 2023,[25] the Court, among others, granted petitioner's Urgent Motion for Partial Reconsideration. In view thereof, Exhibits "P-15-1," "P-15-3," "P-15-4," "P-15-14," "P-15-15," "P-15-16," "P-15-18," "P-15-19," "P-15-20," and "P-31-302 to P-31-304;" were admitted as its evidence.

By Resolution dated May 29, 2023,[26] CTA Case No. 10496 was transferred from the Second Division to the Third Division of the Court.

In the Resolution dated June 20, 2023, this case was submitted for decision,[27] considering respondent's Memorandum filed on December 19, 2022,[28] and petitioner's Memorandum filed on June 6, 2023.[29]

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20 Records Verification dated January 27, 2023 issued by the Judicial Records Division of this Court, Docket – Vol. III, p. 1379.
21 Docket – Vol. IV, pp. 1383 to 1387.
22 Docket – Vol. IV, pp. 1388 to 1390.
23 Docket – Vol. IV, pp. 1391 to 1392.
24 Docket – Vol. IV, p. 1398.
25 Docket – Vol. IV, pp. 1400 to 1404.
26 Notice, Docket – Vol. IV, p. 1443.
27 Minute Resolution dated June 20, 2023, Docket – Vol. IV, p. 1467.
28 Docket – Vol. III, pp. 1369 to 1375.
29 Docket – Vol. IV, pp. 1444 to 1466.

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ISSUE

Whether petitioner is entitled to its claim for issuance of TCC for its excess or unutilized CWTs for CYs 2018 and 2019 in the amount of ₱308,612,669.00.[30]

ARGUMENTS

Petitioner argues that its claim for of excess and unutilized CWTs for CYs 2018 and 2019 should be granted because: (a) its administrative and judicial claims were filed within the two (2)-year prescriptive period provided in Sections 204 (C) and 229 of the NIRC, as amended; (b) its excess and unutilized CWTs for CYs 2018 and 2019 are duly supported by Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307); (c) the income subjected to CWT, was included as part of its gross income reported in its Amended Annual Income Tax Returns (ITRs) for CYs 2018 and 2019; and (d) it did not exercise the option to carry over its excess and unutilized CWTs for CYs 2018 and 2019 to succeeding CY. It adds that ICPA Padernal conducted a thorough review and verification of its documentary evidence and found no material discrepancies and/or inaccuracies in the documents submitted by petitioner.

Respondent counters that petitioner is not entitled to the claim for issuance of TCC of its excess and unutilized CWTs for CYs 2018 and 2019 because of its failure to submit complete documents to support its administrative claim. For respondent, it is incumbent upon petitioner to prove the legal and factual bases of its claim for TCC.

RULING

The *Petition* is partly meritorious.

Does the Court have jurisdiction over CTA Case No. 110496?

30 Joint Stipulation of Issues, JSFI, Docket – Vol. III, p. 1121.

Yes. Section 7(a)(2) of Republic Act (RA) No. 1125,[31] as amended by RA No. 9282, in relation to Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA)[32] clothes the Court with jurisdiction over inaction of respondent involving refund of internal revenue taxes, among others. Among the kinds of credit of internal revenue taxes is one premised upon excessive or erroneous collection thereof, as recognized in Sections 204[33] and 229[34] of the

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31 Sec. 7. Jurisdiction. - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

1. ..
2. **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes, fees or other charges, penalties in relations thereto**, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; (Boldfacing supplied)

...

32 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* - The Court in Division shall exercise:

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

(1) ...
(2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes, fees or other charges**, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws, administered by the Bureau of Internal Revenue ... (Boldfacing supplied)

...

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

...

(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. ... (Boldfacing supplied)

34 **SEC. 229.** *Recovery of Tax Erroneously or Illegally Collected.* - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a

NIRC, as amended. *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc. (Carrier)*[35] laid down the conditions for the Court to acquire jurisdiction over said type of refund case, thus:

> Section 204 [of the NIRC, as amended] refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.
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> Section 229 [of the NIRC, as amended], on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) the judicial claim must be filed within two years after payment of the tax sought to be refunded.
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> Reading the two provisions together, both administrative and judicial claims must be filed within the two-year period. Furthermore, the administrative claim must be filed before the judicial claim. This Court has previously declared that "[t]imeliness of the filing of the claim is mandatory and jurisdictional. The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund filed either prematurely or out of time."

Relevantly, *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*[36] clarified that purposes of CWT refund, said two (2)-year period to file such claim is counted, at the earliest, from the filing of final adjustment return (FAR) or annual income tax return (AITR). This is because the taxpayer would know whether a tax is still due or a refund can be claimed based on adjusted and audited figures upon the filing of said FAR or AITR.[37]

Here, petitioner electronically filed its AITR for CY 2018 on April 4, 2019,[38] while it electronically filed its AITR for CY 2019 on April 5, 2020.[39]

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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.

35 G.R. No. 226592, July 27, 2021.

36 G.R. No. 96322, December 20, 1991.

37 See *Commissioner of Internal Revenue v. TMX Sales, Inc., et al. (TMX)*, G.R. No. 83736, January 15, 1992.

38 Exhibit "P-6," Docket - Vol. I, pp. 130 to 137.

39 Exhibit "P-7," Docket - Vol. II, pp. 524 to 533.

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On the strength of the above observations, petitioner's administrative and judicial claims for issuance of TCC of its alleged excess and unutilized CWTs for CYs 2018 and 2019, were timely filed. Consider the following presentation:

Period: CY 2018				
Date when petitioner electronically filed its AITR	Last day for filing the administrative and judicial claim	Date when petitioner filed its administrative claim	Date when petitioner filed its judicial claim	Remarks
April 4, 2019[40]	April 4, 2021	March 18, 2021.[41]	May 17, 2021	Timely filed

Period: CY 2019				
Date when petitioner electronically filed its AITR	Last day for filing the administrative and judicial claim	Date when petitioner filed its administrative claim	Date when petitioner filed its judicial claim	Remarks
April 5, 2020[42]	April 5, 2022	March 18, 2021.[43]	May 17, 2021	Timely filed

To be sure, the last day for petitioner to file its judicial claim covering CY 2018 is only until April 4, 2021. However, due to Corona Virus Disease 2019, this was extended until May 24, 2021. The Supreme Court issued several administrative circulars,[44] ordering the physical closure of courts and extending the filing of petitions and appeals, complaints, motions, pleadings, and court submissions beginning March 29, 2021.[45] The filing of pleadings and other court submissions shall resume seven (7) calendar days counted from the

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40 Exhibit "P-6," Docket - Vol. I, pp. 130 to 137.

41 Exhibits "P-9" and "P-9-1," Docket - Vol. II, pp. 952 to 957.

42 Exhibit "P-7," Docket - Vol. II, pp. 524 to 533.

43 Exhibits "P-9" and "P-9-1," Docket - Vol. II, pp. 952 to 957.

44 Refer to AC No. 15-2021 dated April 3, 2021; AC No. 21-2021 dated April 10, 2021; AC No. 22-2021 dated April 14, 2021; AC No. 29-2021 dated April 30, 2021; and AC No. 33-2021 dated May 14, 2021.

45 AC No. 15-2021 dated April 3, 2021

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first day of physical reopening of the relevant court.[46] The Court of Tax Appeals (CTA) physically reopened on May 17, 2021, pursuant to Supreme Court AC No. 33-2021 dated May 14, 2021. Counting seven (7) calendar days from May 17, 2021, petitioner had until May 24, 2021 to file a Petition for Review. Thus, the filing of its judicial claim for issuance of TCC of unutilized and excess CWTs for CY 2018 on May 17, 2021, was timely.[47]

Petitioner's compliance with Section 76 of the NIRC, as amended.

Petitioner's claim for refund of its excess and unutilized CWTs is anchored on Section 76 of the NIRC, as amended, which states:

> 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 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

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46 AC No. 33-2021 dated May 14, 2021
Re: Court Operations Starting 17 May 2021

Considering that the National Capital Region and nearby provinces of Bulacan, Cavite, Laguna, and Rizal, together with some provinces and cities, have been placed under General Community Quarantine (GCQ) starting 15 May until 31 May 2021, all first and second level courts, and appellate collegiate courts (except the Supreme Court), and the judicial offices in these areas under GCQ shall be physically opened with a skeleton force of at least thirty (30%) to at most fifty percent (50%), beginning 17 May 2021 until further notice.

47 Docket - Vol. I, pp. 6 to 19.

> 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.[48]

Under the cited law, there are two options available to the corporation whenever it overpays its income tax for the taxable year: (1) to carry over and apply the overpayment as tax credit against the estimated quarterly income tax liabilities of the succeeding taxable years (also known as automatic tax credit) until fully utilized (meaning, there is no prescriptive period); and (2) to apply for a cash refund or issuance of a tax credit certificate within the prescribed period. Such overpayment of income tax is usually occasioned by the over-withholding of taxes on the income payments to the corporate taxpayer.[49]

Indeed, in *Philippine Bank of Communications v. Commissioner of Internal Revenue*, the Court ruled that a corporation must signify its intention - whether to request a tax refund or claim a tax credit- by marking the corresponding option box provided in the FAR.[50]

Petitioner's AITR for CYs 2018[51] and 2019[52], shows that petitioner chose the option to be issued a TCC for its excess and unutilized CWTs for CYs 2018 and 2019 in the amounts of ₱101,529,907.00 and ₱207,082,762.00, respectively. The excess and unutilized CWTs in the total amount of ₱308,612,669.00, may accordingly be the subject of a claim for issuance of TCC under Section 76 of the NIRC, as amended.

The Court will now proceed to answer whether petitioner judicially established by sufficient and competent evidence its entitlement to a claim for issuance of TCC.

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48 Boldfacing supplied.

49 *University Physicians Services Inc. - Management, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205955, March 7, 2018. Citations omitted.

50 *Republic of the Philippines, Represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (Formerly Mirant (Phils.) Energy Corporation*, G.R. No. 188016, January 14, 2015.

51 Exhibit "P-6," 2018 AITR, Line 21, Docket - Vol. I, p. 130.

52 Exhibit "P-7," 2019 AITR, Line 21, Docket - Vol. II, p. 524.

Petitioner's compliance with the requisites for the issuance of a TCC for excess and unutilized CWTs.

Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.),[53] laid down the basic requirements for a taxpayer to claim tax credit of creditable withholding tax, thus:

(1) The claim must be filed with the CIR within the two-year period from the date of payment of the tax, as prescribed under Section 229 of the NIRC of 1997;

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

(3) It must be shown on the return of the recipient that the income received was declared as part of the gross income.

First requisite: Petitioner timely filed both its administrative and judicial claims for issuance of TCC.

As already discussed above, the Court found that petitioner's administrative claim on March 18, 2021[54] and judicial claim on May 17, 2021[55] were timely filed within the two-year period required under Sections 204(C) and 229 of the NIRC, as amended. Thus, petitioner has complied with the *first* requisite.

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53 G.R. No. 231581, April 10, 2019. Citations omitted.
54 Exhibits "P-9" and "P-9-1," Docket – Vol. II, pp. 952 to 957.
55 Docket – Vol. I, pp. 6 to 19.

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Second requisite: Petitioner properly substantiated the excess and unutilized CWTs sought to be refunded with the Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307).

Commissioner of Internal Revenue v. Philippine National Bank,[56] held that the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) which is complete in relevant details is the competent proof to establish the fact that taxes are withheld.

To prove the fact of withholding of the claimed CWTs of ₱308,612,669.00, petitioner presented its Schedule of Creditable Taxes Withheld for CYs 2018[57] and 2019[58] and the related Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307).[59]

ICPA Padernal found that the total amount of CWTs for CYs 2018 and 2019 were the same with the total amount reported in the AITR for the CYs 2018 and 2019, except for the difference of ₱248,688.77, as shown below:

	CY 2018	CY 2019	Total
Per Annual ITR	₱101,529,907.00	₱207,082,762.00	₱308,612,669.00
Per Schedule (Exhibit "P-16" and "P-17")	101,417,847.39	206,946,132.84	308,363,980.23
Difference	**₱112,059.61**	**₱136,629.16**	**₱248,688.77**

The difference pertains to the amount of unsupported CWTs, which shall require a downward adjustment to the petitioner's claim.

ICPA Padernal also found that the additional CWTs pertaining to CY 2018 in the amount of ₱120,120.00 are not supported by original BIR Form No. 2307, hence, recommended as additional downward adjustment to petitioner's claim.

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56 G.R. No. 180290, September 29, 2014.
57 Exhibits "P-16" and "P-18."
58 Exhibits "P-17" and "P-19."
59 Exhibits "P-18-1" to "P-18-240"; "P-19-1" to "P-19-269."

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Upon examination of the above enumerated CWTs Certificates, the Court finds that the CWTs amounting to ₱1,558.62 and ₱2,000.00 for the CYs 2018 and 2019, respectively, or in the total amount of ₱3,558.62, shall be disallowed for the reasons hereunder stated:

Exhibit No.	Payor's Name	Income Payment	Tax Withheld
CY 2018			
Incorrect TIN of the Petitioner			
P-18-15	Globe Telecom Inc.	₱31,172.35	₱1,558.62
Sub-total – CY 2018		*₱31,172.35*	*₱1,558.62*
CY 2019			
Incorrect TIN and Petitioner's Name			
P-19-196	iPeople, Inc.	₱20,000.00	₱2,000.00
Sub-total – CY 2019		*₱20,000.00*	*₱2,000.00*
TOTAL		₱51,172.35	₱3,558.62

Accordingly, petitioner was able to establish the fact of withholding of its claimed CWTs for CYs 2018 and 2019 and satisfy the *second* requirement, but only to the extent of ₱308,240,301.61, computed as follows:

CWTs Claimed for Refund		₱308,612,669.00
Less: Disallowances		
Unsupported CWTs	₱248,688.77	
CWTs not supported by original Certificate	120,120.00	
Per this Court's Further Verification	3,558.62	372,367.39
Net Amount of CWT		**₱ 308,240,301.61**

Third requisite: The income upon which the excess and unutilized CWTs were withheld was declared as part of petitioner's gross income in its AITR for CYs 2018 and 2019.

The Summary of Certificate of Creditable Taxes Withheld at Source, which is supported by original Certificate of Creditable Tax Withheld at Source issued by the payors in petitioner's name for the CYs 2018[60] and 2019[61], show that the duly supported CWTs were

[60] Exhibits "P-18" to "P-18-240."

withheld on the respective income payments of ₱872,538,104.56 and ₱2,428,686,719.11, consisting of the following:

	CY 2018	CY 2019
Rental	₱179,939,250.01	₱169,477,588.28
Director's Fee	44,121,669.00	48,257,825.56
Other Income	549,027,185.55	667,835,805.27
Proceeds from Sale of Land	99,450,000.00	1,543,115,500.00
Total	**₱ 872,538,104.56**	**₱ 2,428,686,719.11**

As can be gleaned from petitioner's AITR for CYs 2018 and 2019, petitioner has total gross income in the respective amounts of ₱1,258,139,527.00 and ₱1,532,633,823.00, as follows:

	CY 2018	CY 2019
Sales/Revenues/Receipts/Fees		
Sale of Goods/Properties	₱105,733,398.00	₱294,198,448.00
Sale of Services	916,856,103.00	945,990,564.00
Lease of Properties	179,939,250.00	169,648,164.00
Total Gross Income from Operation[62]	**₱1,202,528,751.00**	**₱1,409,837,176.00**
Add: Interest Income	48,052,354.00	35,082,739.00
Other Income	7,558,422.00	87,713,908.00
Other Taxable Income not subjected to Final Tax[63]	**55,610,776.00**	**122,796,647.00**
Total Gross Income	**₱1,258,139,527.00**	**₱1,532,633,823.00**

Based on the Schedule of Computation of Taxable Income for CYs 2018[64] and 2019,[65] the foregoing income consisted of the following:

Particulars	**Per Schedule of Computation of Taxable Income**	**Per Schedule of Computation of Taxable Income**
Toll Revenue	₱199,063,720.00	₱221,213,937.00
(1)Rental	**179,939,250.00**	**169,648,164.00**
(2)Director's Fee	**48,571,007.00**	**51,743,263.00**
(3)Other Income	**668,168,279.00**	**673,033,364.00**
(4)Gain on sale of investment properties	**100,940,016.00**	**290,826,424.00**

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61 Exhibits "P-19" to "P-19-269."

62 Schedule 1 of Exhibit "P-6," Docket - Vol. I, p. 132 and Exhibit "P-7," Docket - Vol. II, p. 526.

63 Schedule 3 of Exhibit "P-6," Docket - Vol. I, p. 133 and Exhibit "P-7," Docket - Vol. II, p. 527.

64 Exhibit "P-32."

65 Exhibit "P-33."

Other Accounts	5,846,479.00	3,372,024.00
Total	***1,202,528,751.00***	***1,409,837,176.00***
Interest Income	48,052,354.00	35,082,739.00
Other Accounts	7,558,422.00	87,713,908.00
Total	*55,610,776.00*	*122,796,647.00*
Total	**₱1,258,139,527.00**	**₱1,532,633,823.00**

The income payments for CYs 2018 and 2019 in the amounts of ₱872,538,104.56 and ₱2,428,686,719.11 related to the claimed CWTs are a part of the revenues from (1) Rental; (2) Director's Fee; (3) Other Income; and (4) Gain on Sale of Investment Properties which in turn were reported by petitioner in its AITR for CYs 2018 and 2019.

To prove that the income payments related to the claimed CWTs were indeed part of the gross income declared in the Annual ITR for the subject period of claim, petitioner submitted its Summary of General Ledger - Rental Income (CY 2018)[66]; General Ledger – Rental Income(CY 2018)[67]; Summary of General Ledger - Directors' Fees(CY 2018)[68]; General Ledger – Directors' Fees(CY 2018)[69]; Summary of General Ledger - Other Income(CY 2018)[70]; General Ledger – Other Income (CY 2018)[71]; Summary of General Ledger - Proceeds from Sale of Land (CY 2018)[72]; General Ledger – Proceeds from Sale of Land[73]; Summary of General Ledger - Rental Income (CY 2019)[74]; General Ledger – Rental Income(CY 2019)[75]; Summary of General Ledger – Directors' Fees(CY 2019)[76]; General Ledger – Directors' Fees(CY 2019)[77]; Summary of General Ledger - Other Income(CY 2019)[78]; General Ledger – Other Income (CY 2019)[79]; Summary of General Ledger - Proceeds from Sale of Land (CY 2019)[80]; General Ledger – Proceeds from Sale of Land(CY 2019)[81]; SAP

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66 Exhibit "P-20."
67 Exhibit "P-20-1."
68 Exhibit "P-21."
69 Exhibit "P-21-1."
70 Exhibit "P-22."
71 Exhibit "P-22-1."
72 Exhibit "P-23."
73 Exhibit "P-23-1."
74 Exhibit "P-24."
75 Exhibit "P-24-1."
76 Exhibit "P-25."
77 Exhibit "P-25-1."
78 Exhibit "P-26."
79 Exhibit "P-26-1."
80 Exhibit "P-27."
81 Exhibit "P-27-1."

CIs/JV Printouts for CYs 2018[82] and 2019[83] and Official Receipts for CYs 2018[84] and 2019,[85] which were duly examined by the Court.

Upon evaluation of the aforementioned documents[86], the Court finds that petitioner has sufficiently proven that the income payments upon which the claimed CWTs were based were declared as part of the gross income in its AITRs for the subject periods of claim, except for the income payments of ₱70,000.00, with corresponding claimed CWTs of ₱5,000.00, which cannot be traced to the Summary of General Ledger - Directors' Fees (CY 2018)[87] and General Ledger - Directors' Fees (CY 2018)[88] provided by petitioner, detailed as follows:

Exhibit No.	Period Covered	Payor's Name	Amount of Income Payment (Directors' Fees)	Equivalent Tax Withheld
"P-18-72"	2nd Quarter	Alfm Dollar Bond Fund, Inc.	₱10,000.00	₱700.00
"P-18-78"	1st Quarter	Alfm Euro Bond Fund, Inc.	5,000.00	350.00
"P-18-85"	1st Quarter	Alfm Growth Fund, Inc.	10,000.00	800.00
"P-18-92"	1st Quarter	Alfm Money Market Fund	5,000.00	350.00
"P-18-98"	1st Quarter	Alfm Peso Bond Fund Inc	30,000.00	2,100.00
"P-18-182"	1st Quarter	Philippine Stock Index Fund	10,000.00	700.00
		TOTAL	**₱70,000.00**	**₱5,000.00**

The Court has determined that out of the total amount of ₱308,240,301.61 CWTs which was earlier determined to be properly supported with BIR Forms No. 2307, only the CWTs in the amount of ₱308,235,301.61 corresponds to the income payments which were verified to have been properly declared as part of petitioner's gross income per its AITRs for CYs 2018 and 2019. Thus, petitioner's claim must be granted, albeit in a reduced amount, as follows:

Claimed CWTs duly supported by BIR Form 2307	₱ 308,240,301.61
Less: CWT, the income payments of which cannot be traced to the corresponding GL and ITR (CY 2018)	5,000.00
Refundable Unutilized CWT	**₱ 308,235,301.61**

82 Exhibits "P-28-1" to "P-28-289."
83 Exhibits "P-29-1" to "P-29-314."
84 Exhibits "P-30-1" to "P-30-280."
85 Exhibit "P-31-1" to "P-31-301."
86 See Exhibit "P-36," pp. 14 to 21 for the detailed procedures performed (ICPA Report).
87 Exhibit "P-21."
88 Exhibit "P-21-1."

Entitlement to issuance of TCC of excess and unutilized CWTs.

Petitioner's AITR for CYs 2018 and 2019 show that it had income tax credits in the amount of ₱191,840,863.00[89] and ₱286,625,423.00[90], respectively, consisting of the: (i) prior year's excess tax credits, and (ii) CWTs accumulated during each of the four (4) quarters of CYs 2018 and 2019, as follows:

CY 2018	
Prior Year's Excess Credits Other Than Minimum Corporate Income Tax (MCIT)	₱90,310,956.00
Creditable Tax Withheld (1st to 3rd Quarters)	27,369,583.00
Creditable Tax Withheld (4th Quarter)	74,160,324.00
TOTAL	**₱191,840,863.00**
CY 2019	
Prior Year's Excess Credits Other Than MCIT	₱79,542,661.00
Creditable Tax Withheld (1st to 3rd Quarters)	105,641,455.00
Creditable Tax Withheld (4th Quarter)	101,441,307.00
TOTAL	**₱286,625,423.00**

For CY 2018, petitioner claims that its income tax liability in the amount of ₱10,763,512.00[91] was paid for using a portion of its prior year's excess credits of ₱90,310,956.00;[92] thus, leaving a balance in the amount of ₱79,547,444.00 in the prior year's excess credits and CWTs during CY 2018 in the amount of ₱101,529,907.00. Petitioner alleges that it has a total unutilized tax credit in the amount of ₱181,077,351.00 as of December 31, 2018, as shown below:

Income Tax Due (MCIT)	₱10,763,512.00
Less: Prior Year's Excess Credits Other than MCIT	₱90,310,956.00
Balance of Prior Year's Excess Credits	₱79,547,444.00
Add: Creditable Withholding Taxes for CY 2018	₱101,529,907.00
Excess Creditable Withholding Taxes as of December 31, 2018	**₱181,077,351.00**

89 Exhibit "P-6," Docket - Vol. I, p. 135.

90 Exhibit "P-7-12," Docket - Vol. II, p. 529.

91 Exhibit "P-6," 2018 AITR, Line 16, Docket - Vol. I, p. 130.

92 Exhibit "P-6," 2018 AITR, Schedule 7, Line 1, Docket - Vol. I, p. 135.

The Court finds the submission of Petitioner's AITR for CY 2017 sufficient to prove that its "Prior Year's Excess Credits Other Than MCIT" in the amount of ₱101,653,078.00[93], and "Total Income Tax Due" in the amount of ₱11,342,122.00[94], resulted to excess credits of ₱90,310,956.00 (₱101,653,078.00 Less ₱11,342,122.00) which was then declared as prior year's excess credits in CY 2018.

For CY 2019, petitioner claims that its income tax due in the amount of ₱15,306,587.00[95] was paid for using a portion of its prior year's excess credits of ₱79,542,661.00;[96] thus leaving a balance in the amount of ₱64,236,074.00 in prior year's excess credits and CWTs during CY 2019 in the amount of ₱207,082,762.00.[97] Thus, petitioner has a total unutilized tax credit of ₱271,318836.00 at the end of December 31, 2019, as shown below:

Income Tax Due (MCIT)	₱15,306,587.00
Less: Prior Year's Excess Credits Other than MCIT	₱79,542,661.00
Balance of Prior Year's Excess Credits	₱64,236,074.00
Add: Creditable Withholding Taxes for CY 2019	₱207,082,762.00
Excess Creditable Withholding Taxes as of December 31, 2019	**₱271,318,836.00**

Philam Asset Management, Inc. v. Commissioner of Internal Revenue,[98] decreed that any refundable amount indicated in the FAR of the preceding taxable year may be credited against the estimated income tax liabilities for the taxable quarters of the succeeding taxable year. Thus, the amount of ₱90,310,956.00 representing the balance of petitioner's total tax credits for CY 2017 may be carried over and applied the amounts of ₱10,763,512.00[99] and ₱15,306,587.00[100] against its income taxes due for CYs 2018 and 2019.

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93 Exhibit "P-5," 2017 AITR, Schedule 7, Line 1, Docket - Vol. I, p. 114.

94 Exhibit "P-5," 2017 AITR, Line 16, Docket - Vol. I, p. 109.

95 Exhibit "P-7," 2019 AITR, Line 16, Docket - Vol. II, p. 524.

96 Exhibit "P-7-12," 2019 AITR, Schedule 7, Line 1, Docket - Vol. II, p. 529. It should be ₱79,547,444.00, underdeclared by ₱4,783.00. However, it was corrected in 2020 AITR "prior year's excess credits," thus, no effect in the petitioner's claim.

97 It should be ₱64,240,857.00 as a result of the ₱4,783.00 under-declaration of tax carried over from CY 2018 reflected in AITR of CY 2019. However, it was corrected in 2020 AITR "prior year's excess credits," thus, no effect in the petitioner's claim.

98 G.R. Nos. 156637/162004, December 14, 2005.

99 Exhibit "P-6," 2018 AITR, Line 16, Docket - Vol. I, p. 130.

100 Exhibit "P-7," 2019 AITR, Line 16, Docket - Vol. II, p. 524.

In sum, petitioner has sufficiently proven entitlement to the issuance of TCC to the extent of ₱308,235,301.61 representing its excess and unutilized CWTs for CY 2018 and 2019, pursuant to Section 76 in relation to Sections 204 and 229 of the NIRC of 1997.

In *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (Formerly, Southern Energy Quezon, Inc.),*[101] the Court reminded the BIR and other tax agencies of their duty to treat claims for refunds and tax credits with proper attention and urgency:

> The all too familiar complaint is that the government acts with dispatch when it comes to tax collection, but pays little, if any, attention to tax claims for refund or exemption. It is high time our tax collectors prove the cynics wrong.

WHEREFORE, the *Petition for Review* filed by petitioner Ayala Corporation on May 17, 2021 is **PARTIALLY GRANTED.** Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Ayala Corporation in the reduced amount of **₱308,235,301.61**, representing excess and unutilized creditable withholding taxes for the calendar years 2018 and 2019.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice

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101 G.R. No. 172129, September 12, 2008.

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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice