REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2891** (CTA Case No. 10272)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
SONOMA SERVICES, INC., Respondent.	Promulgated: MAY 30 2025 9:20am

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DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court is a Petition for Review seeking the reversal of the Decision[1] ("Assailed Decision") dated September 22, 2023 and Resolution[2] ("Assailed Resolution) dated March 01, 2024 of the Court of Tax Appeals Special First Division ("Special First Division"), granting Petitioner's claim for refund or issuance of a tax credit certificate amounting to Php5,437,000.00, representing its excess and unutilized Creditable Withholding Taxes ("CWT") for the calendar year ended December 31, 2017.

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1 Penned by Associate Justice Marian Ivy F. Reyes-Fajardo, with Presiding Justice Roman G. Del Rosario and Associate Justice Catherine T. Manahan concurring. Docket, pp. 963-984.

2 Penned by Associate Justice Marian Ivy F. Reyes-Fajardo, with Presiding Justice Roman G. Del Rosario and Associate Justice Catherine T. Manahan concurring. Docket, pp. 1015-1017.

The Parties

Petitioner is the duly appointed Commissioner of Internal Revenue vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said Office, including *inter alia*, the power to decide, approve, and grant refunds and/or tax credits of overpaid and erroneously paid or collected internal revenue taxes.[3]

Respondent is a domestic corporation, duly organized and existing under Philippine laws, with principal office at 3rd Floor, Makati Stock Exchange Building, Ayala Triangle, Ayala Avenue, Makati City. It was incorporated with the primary purpose of carrying on and conducting a general services business with any party, including the rendering of management and other allied services within the limits allowed by law, including office and clerical support services, maintenance services of any kind, or otherwise, to engage in any preservation, maintenance or repair work upon any and every kind of property, to enter into and execute contracts therefore or relating thereto.[4]

The Facts

The facts as found by the Special First Division are as follows:

> "On December 2, 2019, [Respondent] filed with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 50, an *Application for Tax Credits/Refunds* (BIR Form No. 1914), and a letter dated November 22, 2019, requesting for a refund of overpaid and unutilized CWTs for CY 2017, in the amount of [Php]5,437,000.00.
>
> Alleging inaction, [Respondent] filed a *Petition for Review* dated April 6, 2020, on April 8, 2020 before the Court, to which [Petitioner] filed an *Answer* on September 25, 2020."[5]

The Ruling of the Special First Division

On September 22, 2026, the First Division promulgated the Assailed Decision granting the Petition for Review, the dispositive portion of which reads:

[3] *Id.*, Decision, Parties, p. 964.
[4] *Id.*, Decision, Parties, pp. 963-964.
[5] *Id.*, Decision, Facts, p. 964.

> "**WHEREFORE**, the *Petition for Review* is **GRANTED**. Accordingly, respondent is **ORDERED** to **REFUND**, or ISSUE **A TAX CREDIT CERTIFICATE** in the amount of **[Php]5,437,000.00**, in favor of petitioner, representing its excess and unutilized CWTs for CY 2017.
>
> **SO ORDERED.**"[6]

Aggrieved, Petitioner filed a "Motion for Reconsideration"[7] on October 17, 2023, which the Special First Division denied in the Assailed Resolution, to wit:

> "**WHEREFORE**, [Petitioner's] Motion for Reconsideration, filed on October 17, 2023 is **DENIED**, for lack of merit.
>
> **SO ORDERED.**"[8]

The Proceedings in the Court of Tax Appeals En Banc

On March 21, 2024, the instant "Petition for Review"[9] was filed.

On April 26, 2024, the Court issued a Minute Resolution[10] directing Respondent to file its comment on the Petition for Review within ten (10) days from notice.

On June 18, 2024, Respondent filed his "Comment (Re: Petition for Review)"[11]. Thus, on July 03, 2024, a Minute Resolution[12] was issued submitting the instant case for decision.

<u>Assignment of Error</u>

Petitioner raises a single ground in support of its petition – the Special First Division of this honorable Court erred in granting Respondent's Petition for Review and ordering Petitioner to refund or issue a tax credit certificate in favor of Respondent in the amount of Php5,437,000.00.[13]

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6 *Id.*, p. 983.
7 *Id.*, pp. 985-994.
8 *Id.*, p. 1017.
9 Rollo, pp. 1-14. Record shows that Petitioner received the Resolution dated March 01, 2024 on March 06, 2024; Docket, p. 1014.
10 *Id.*, p. 45.
11 *Id.*, pp. 46-62.
12 *Id.*, p. 63.
13 *Id.*, Petition for Review, Assignment of Errors [*sic*], p. 4.

The Arguments of the Parties

Petitioner avers that Respondent's petition with the court *a quo* was filed out of time. According to Petitioner, the withholding taxes of Respondent must be paid on or before January 20, 2018 applying the Court of Tax Appeals (CTA) case of *LISP-II Locators' Association Incorporated v. Commissioner of Internal Revenue*[14] in relation to Sections 204(C) and 229 of the National Internal Revenue Code ("NIRC") of 1997, as amended, and Section 2.58 of Revenue Regulation ("RR") No. 2-98, as amended. This meant that Respondent had until January 19, 2020 within which to file its administrative and judicial claim for refund. And yet, the Petition for Review was filed only on April 06, 2020 or more than seventy (70) days from January 19, 2020.

Moreover, Petitioner maintains that Respondent failed to prove that the creditable income tax being refunded was declared as part of its gross income in its Annual Income Tax Return ("AITR") for 2017. Since the AITR and Certificates of Creditable Withheld at Source submitted by Respondent were not made under oath as required under Section 2.58.4 of RR No. 2-98, they are not valid and cannot be used to support the refund claim.

Additionally, Petitioner suggests that Respondent failed to show that the tax subject of the case was erroneously or illegally collected applying the principle of regularity.

Lastly, Petitioner points out that a claim for refund is strictly construed against the taxpayer.

On the other hand, Respondent manifests that the arguments raised by Petitioner are mere rehash of the defenses and arguments raised in his Answer, Memorandum and Motion for Reconsideration filed with the Special First Division.

Respondent highlights that in *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*[15], the Supreme Court held that once the taxpayer successfully discharged its burden to prove its right to refund, the burden of evidence shifts to the Bureau of Internal Revenue (BIR) to contradict the taxpayer's claim by presenting proof. According to Respondent, Petitioner cannot hide under the cloak of the *lifeblood doctrine* and renege on its obligation to discharge the burden of evidence, once shifted to him.

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[14] CTA Case No. 7906, September 02, 2011.
[15] G.R. No. 206526, January 28, 2015.

Respondent asserts that its administrative and judicial claims for refund of excess and unutilized CWT for calendar year 2017 were timely filed within the two (2)-year prescriptive period.

Finally, Respondent contends that it has sufficiently proven its entitlement to a refund of or issuance of a tax credit certificate in the amount of Php5,437,000.00 – (a) its excess and unutilized CWT are duly substantiated by documentary evidence, (b) the income upon which the CWTs being claimed for refund were withheld was reported as part of the revenues declared in its AITR, and (c) it did not carry over its excess and unutilized CWTs for calendar year 2017 to the succeeding taxable periods.

The Ruling of the Court

Timeliness of Petition

The Court in Division issued a Resolution denying Petitioner's "Motion for Reconsideration" on March 01, 2024. Petitioner received said Resolution on March 06, 2024.[16] Pursuant to Rule 4, Section 2(a)(1)[17] in relation to Rule 8, Section 3(b)[18] of the Revised Rules of the Court of Tax Appeals[19] (RRCTA), Petitioner had fifteen (15) days from date of receipt of the resolution or until March 21, 2024 within which to file its petition for review.

On March 21, 2024, Petitioner timely filed the present "Petition for Review". Hence, the Court *En Banc* validly acquired jurisdiction.

We now proceed to the merits of the case.

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[16] Docket, p. 1014.

[17] **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
>
> xxx xxx xxx
>
> > (1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

[18] **Sec. 3.** *Who may appeal; period to file petition.* — x x x

> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

[19] A.M. No. 05-11-07-CTA, November 22, 2005.

At the outset, Petitioner presents no new argument to persuade Us that it has a meritorious case. In fact, the instant Petition for Review is a replica of Petitioner's "Answer"[20], "Memorandum"[21] and "Motion for Reconsideration"[22] filed with the *court a quo* on September 25, 2020, May 11, 2022, and October 17, 2023, respectively. Petitioner's arguments had been fully and exhaustively resolved by the Court in Division in the Assailed Decision and Assailed Resolution.

At the risk of being repetitive, the following are the requirements[23] for the refund or issuance of TCC for excess or unutilized CWT:

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, as amended;

2) That the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom;[24] and

3) That the income upon which the taxes were withheld was included in the return of the recipient, (*i.e.*, declared as part of the gross income).[25]

For the *first requisite*, contrary to Petitioner's claim, it has been consistently held by the Supreme Cout that the two-year prescriptive period under Sections 204(C) and 229 of the NIRC of 1997, as amended, in the refund of CWT, should commence from the time of the filing of the taxpayer's Final Adjustment Return or the AITR.[26]

It seems Petitioner mixed up the concept of withholding taxes from the withholding agent's standpoint *vis-à-vis* the taxpayer's point of view. The January 20, 2018 deadline Petitioner insists under Section 2.58 of RR No. 2-98 pertains to the remittance by the withholding agent of expanded withholding taxes

[20] Docket, pp. 186-196.
[21] *Id.*, pp. 901-912.
[22] *Id.*, pp. 985-994.
[23] 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.
[24] Revenue Regulations No. 02-98, Section 2.58.3(B).
[25] Calamba Steel Center, Inc. v. Commissioner of Internal Revenue, G.R. No. 151857, April 28, 2005.
[26] Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc., G.R. No. 231581, April 10, 2019; Commissioner of Internal Revenue v. TMX Sales, Inc., G.R. No. 83736, January 15, 1992.

(EWT) and/or final withholding taxes (FWT). This should not be the start of the counting of the two-year prescriptive period in this instance, because the present refund concerns the excess of the amount withheld by Respondent's clients/payors (*i.e.,* the withholding agents) from its income as taxpayer, over its correct income tax payable.

It is only when Respondent files its Final Adjustment Return or the AITR that it would be able to calculate and determine whether the its clients/payors withheld (and remitted to the BIR) an excess amount of its income. This rationale was explained in *ACCRA Investments Corp. v. Court of Appeals*[27], to wit:

> "It bears emphasis at this point that **the rationale in computing the two-year prescriptive period with respect to the petitioner corporation's claim for refund from the time it filed its final adjustment return is the fact that it was only then that ACCRAIN could ascertain whether it made profits or incurred losses in its business operations.** The 'date of payment', therefore, in ACCRAIN's case was when its tax liability, if any, fell due upon its filing of its final adjustment return on April 15, 1982."[28]

Records show that Petitioner's administrative and judicial claim for refund were filed within the two-year prescriptive period, as summarized in the table below:

	2-year prescriptive period			**Administrative Claim**	**Judicial Claim**
	Date filed - Original AITR	**Date filed – Amended AITR (START)**	**END**		
2017	April 16, 2018[29]	April 24, 2018[30]	April 24, 2020	December 02, 2019[31]	April 08, 2020[32]

As for the *second requisite*, We affirm the Special First Division's finding that Petitioner was able to substantiate its CWT for calendar year 2017 amounting to Php5,437,000.00 by submitting the duly accomplished Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307).

Petitioner's argument that Respondent's AITR and Certificates of Creditable Withheld at Source were not valid for they were not under oath is absurd. A perusal of these documents reveal that they were signed under the

[27] G.R. No. 96322, December 20, 1991.
[28] *Emphasis supplied.*
[29] Docket, Exhibit "P-3", pp. 635-687.
[30] *Id.*, Exhibit "P-4", pp. 688-699.
[31] BIR Records, Exhibit "P-10," pp. 142-143.
[32] Docket, Petition for Review, pp. 12-22.

statement "We declare under the penalties of perjury, that this return/certificate has been made in good faith, verified by us/me, and to the best of our/my knowledge and belief, is true and correct, pursuant to the provisions of the National Internal Revenue Code, as amended, and the regulations issued under authority thereof", which is what Section 2.58.4 of RR No. 2-98 requires.

With respect to the *last requisite*, an examination of the evidence presented demonstrate that Respondent was able to establish that the income payments the taxes of which were withheld were properly reported and formed part of the gross income declared for calendar year 2017. The Court *En Banc* echoes the Special First Division's declaration on the matter, to wit:

> "Finally, with regard to the *third requisite*, [Respondent] complied therewith as the [Php]36,380,000.00 administration/management fees related to the CWTs of P5,437,000.00 were traced to [Respondent's] *Official Receipts, cash receipts book, general journal, General Ledger of Administration Fees, Summary of Creditable Withholding Taxes Supported by Original Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) in the Petitioner's Name for CY Ended December 31, 2017* and *Summary of Income Payments with Creditable Withholding Taxes — Management Fees Traced to Official Receipts (ORs), Cash Receipts Book (CRB) and General Journal (GJ) for CY Ended December 31, 2017*, and in turn were reported in its AFS and AITR for CY 2017.
>
> While the amount of [Php]60,500,000.00 administration/management fees reflected per [Respondent's] AFS and Annual ITR for CY 2017 is higher than the amount of [Php]36,380,000.00 shown in its certificates, the discrepancy of [Php]24,120,000.00 was verified against [Respondent's] *ORs, Schedule of Management Fees without Creditable Withholding Taxes for CY Ended December 31, 2017*, and *Summary of Management Fees without Creditable Withholding Taxes Traced to ORs, CRB and GJ for CY Ended December 31, 2017*, as pertaining to management fees upon which no withholding of taxes was made by [Respondent's] clients/payors."[33]

Having met all the conditions for the CWT refund, Respondent was able to overturn the principle of regularity and the doctrine that tax refunds are strictly construed against the taxpayer. There is no other conclusion but to grant Respondent's claim.

Considering all these pronouncements, We find no cogent reason to reverse or modify the Assailed Decision and Assailed Resolution of the Court *a quo*.

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[33] *Id.*, Decision, pp. 981-982.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for lack of merit. The Decision dated September 22, 2023 and Resolution dated March 01, 2024 of the Special First Division in CTA Case No. 10272 are **AFFIRMED**.

SO ORDERED.

Ma. Belen M. Ringpis-Liban
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice