REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PRUDENTIALIFE MARKET RESOURCES CORPORATION, Petitioner,	C.T.A. CASE NO. 8066
	Members:
- versus -	UY, *Chairperson and* FABON-VICTORINO, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 07 2013 ; 4:05 p.m.

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DECISION

Fabon-Victorino, J.:

The Petition for Review at bar, filed by petitioner Prudentialife Market Resources Corporation on April 8, 2010, seeks the refund or the issuance of tax credit certificate (TCC) in the amount of ₱36,737,673.00, allegedly representing its unutilized excess creditable income taxes withheld for taxable years 2007 and 2008.

Petitioner is a domestic corporation, with principal office at 3/F Luz Building, 116 Gamboa Street, Legaspi Village, Makati City.[1]

Respondent, on the other hand, is the Commissioner of the Bureau of Internal Revenue (BIR), vested with the authority, among others, to decide, approve and grant refunds or tax credits of erroneous or excess payments of internal revenue taxes. She may be served with summons

[1] Par. 1, Stipulations of Facts, Joint Stipulations of Facts and Issues (JSFI), docket, p. 64.

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and other legal processes at her office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On January 13, 2009[2], petitioner filed its amended Annual Income Tax Return (ITR) for the year ended December 31, 2007[3], wherein it reported excess creditable income tax of P35,471,142.00, computed as follows:

Sales/Revenues/Receipts/Fees		₱182,150,935
Less: Cost of Sales		127,080,790
Gross Income from Operations		55,070,145
Add: Non-Operating and Other Income		400,817
Total Gross Income		55,470,962
Less: Deductions		55,470,962
Taxable Income		-0-
Income Tax Rate		35%
Income Tax		-0-
Minimum Corporate Income Tax		1,109,419
Aggregate Income Tax Due		1,109,419
Less: Tax Credits		
Prior year's tax credits	17,433,907	
Tax Payments for the first 3 quarters		
Creditable Taxes Withheld for first 3 Quarters	89,967	
Creditable Taxes per BIR Form No. 2307	19,056,687	36,580,561
Total Amount Payable/(Overpayment)		**(₱35,471,142)**

In the said ITR, petitioner indicated its option "To be issued a Tax Credit Certificate" for its excess creditable withholding taxes (CWT).[4]

On September 11, 2009, petitioner filed its Annual ITR for the year ended December 31, 2008,[5] detailed as follows:

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[2] Exhibit "A-1".
[3] Exhibit "A"; Exhibit "J" (original Annual ITR for 2007, filed on April 15, 2008).
[4] Exhibit "A-5", Line 31.
[5] Par. 4, Stipulation of Facts, JSFI, docket p. 65; also Exhibit series C, docket pp. 247-249.

Sales/Revenues/Receipts/Fees		₱180,991,926
Less: Cost of Sales		124,159,297
Gross Income from Operations		56,832,629
Add: Non-Operating and Other Income		7,375,740
Total Gross Income		64,208,369
Less: Deductions		64,208,369
Taxable Income		-0-
Income Tax Rate		35%
Minimum Corporate Income Tax		1,284,167
Less: Tax Credits		
Prior year's tax credits	16,324,488	
Tax Payments for the first 3 quarters		
Creditable Taxes Withheld for first 3 Quarters	4,340,711	
Creditable Taxes per BIR Form No. 2307	13,250,308	33,915,507
Total Amount Payable/(Overpayment)		**(₱32,631,340)**

Petitioner again opted "To be issued a Tax Credit Certificate" for its excess creditable withholding taxes (CWT) by marking Line 33 of the said ITR.[6]

On December 9, 2009, petitioner filed with the BIR Revenue District Office No. 47 a written application for refund of its excess CWT in the total amount of ₱36,737,673.00 for taxable years 2007 and 2008.[7]

Due to respondent's alleged failure to act on the said administrative claim for refund/TCC, petitioner filed with this Court the instant Petition for Review on April 8, 2010.

In her Answer[8] filed on June 4, 2010, respondent invoked the presumption that taxes paid and collected are made in accordance with law, hence not refundable. It is for petitioner to present evidence to prove compliance with all the requisites under the law and rules and regulations. Further, since petitioner had already exercised its option to carry-over to the succeeding taxable quarters/years the

[6] Exhibit "C-5".
[7] Par. 5, Stipulations of Facts, JSFI, docket, p. 65.
[8] Docket, pp. 33 to 35.

CWT subject of its claim, hence it is no longer entitled to any refund pursuant to Section 76 of the National Internal Revenue Code (NIRC), as amended.

In compliance with the Court's directive, petitioner filed its Pre-Trial Brief[9] on June 25, 2010, while respondent,[10] on July 9, 2010. The parties' Joint Stipulations of Facts and Issues,[11] subsequently filed was approved by the Court on October 6, 2010.[12]

During production of evidence, petitioner presented Myra Celeste O. Dabalos, the Court-commissioned Independent Certified Public Accountant (ICPA). She testified that based on her audit, the total unclaimed creditable taxes withheld of petitioner for the years 2007 and 2008 amounted to P1,671,316.00, which amount was not carried over to the year 2009.

On recall, witness Dabalos clarified that there are differences between the commission income as reported in petitioner's ITR, as compared to the commission income on which the 10% tax was withheld per BIR Form 2307, for both years 2007 and 2008.

It was claimed by petitioner's AVP for Finance & Administration that the income declared per ITR for 2007 was less than the amount of income corresponding to the taxes withheld per BIR Form 2307 as some of petitioner's payors withheld taxes upon payment. Thus, petitioner would report the income in its books in the year earned but the corresponding withholding taxes would be claimed only upon receipt of the BIR Form 2307 issued by the payor in the year of payment.

With respect to taxes withheld on payments by credit card companies, the witness also noted differences between the taxes withheld as recorded in the cash receipts books, and the taxes withheld per BIR Form 2307.

[9] Docket, pp. 37 to 44.
[10] Docket, pp. 45 to 46.
[11] Docket, pp. 64 to 66.
[12] Docket, p. 68.

On cross-examination, the ICPA explained that the difference in commission income in petitioner's ITR and the commission income based on BIR Form 2307 is due to petitioner's use of accrual method of accounting in which income is recognize when accrued. But for purposes of recognizing creditable withholding tax, petitioner used the cash basis method, hence, the difference noted.

Witness Ariston A. Sarmiento, the Finance Supervisor of petitioner, testified that petitioner is engaged in the business of general agency and it derives its revenues mainly from commission income on marketing pre-need plans such as pension, life, and memorial plans.

Based on its 2007 Annual Corporate Income Tax Return, filed with the BIR on January 13, 2009, petitioner reported zero taxable income or sales of P182,150,935.00 and unutilized income tax credits of P35,471,142.00. Petitioner clearly indicated in its 2007 ITR its option to be refunded/TCC of its excess CWT.

On its 2008 Annual Corporate Income Tax Return, petitioner showed sales of P180,991,926.00, taxable income of P64,208,369.00, tax credits of P33,915,507.00, and income tax due of P1,284,167.00. Petitioner reported a net excess tax credits of P32,631,340.00 for which it again opted "To be issued a Tax Credit Certificate."

Based on petitioner's Audited Financial Statement for the year 2007, its total excess tax credits amounted to P35,471,142.00, while for 2008 it amounted to P32,631,340.00. However, petitioner's application for tax refund for both years is only for P36,737,673.00 as only the actual tax credits generated for the said years were the subject of the tax refund. The tax credits from prior years were not included in the application as these were applied to the tax due for the years 2007 and 2008 while the excess was carried over to year 2009.

Sarmiento stressed that although he was not a signatory, he nonetheless prepared petitioner's Annual ITR for years 2007 and 2008 and witnessed its execution by the company's President. He also knew that petitioner filed an administrative claim for refund with the BIR under the supervision of Cherry Soriano.

The CWT subject of the claim for refund consists only of tax credits generated from the business operations of petitioner for the years 2007 and 2008. Further, petitioner used its tax credits from year 2006 and prior years to pay the tax due or payable for the years 2007 and 2008. It is the remaining 2006 and prior years tax credits which were carried over to its 2009 Annual ITR and not petitioner's 2007 and 2008 excess CWT.

Both the tentative and amended Annual ITR for 2009 which he prepared, petitioner opted to carry-over for its unutilized tax credits composed of excess CWT from 2006 and prior years.

Lourdes B. Dumigpi, the Assistant Vice President of the General Accounting Department of petitioner, testified that although she did not have a hand in the preparation, execution and filing of petitioner's initial or tentative ITRs for the years 2007 and 2008, she knew that petitioner filed it on April 15, 2008 and reported excess unutilized creditable income taxes generated within the year in the amount of P18,522,981.00. Petitioner likewise filed its Annual Corporate ITR for year 2008 on April 2, 2009 and reported excess unutilized creditable income taxes generated within the year in the amounts of P4,340,711.00 and P14,916,574.00. In both ITRs for 2007 and 2008, petitioner indicated the option "To be issued a Tax Credit Certificate."

Witness Cherrie P. Serrano, retired Assistant Vice President for Finance and Administration of petitioner corroborated the testimonies of the other witnesses that petitioner filed its initial and amended ITRs for the years 2007 and 2008 and indicated therein its option "To be issued a Tax Credit Certificate." She added that based on its Audited Financial Statements for the years 2007 and 2008, and Annual ITR for 2009, petitioner's excess unutilized income tax credits for years 2007 and 2008 were not carried over and applied to its income tax due for the succeeding years. To settle its income tax liabilities for 2007 up to 2009, petitioner used its tax credits from 2006 and prior years. Petitioner is the exclusive marketing agent of Prudentialife Plans Inc.

She supervised the filing of petitioner's claim for refund for 2007 and 2008 as well as its documentation.

After petitioner formally offered its evidence on December 20, 2011,[13] January 17, 2012,[14] and on May 11, 2012[15] and rested its case, respondent manifested during the hearing on September 11, 2012,[16] that she was submitting the case for decision based on the pleadings filed.

STATEMENT OF ISSUES

The issues[17] for the Court's resolution are as follows:

> 1. Whether or not the income payments from which taxes were withheld were included as part of Petitioner's gross income for taxable years 2007 and 2008.
>
> 2. Whether or not Petitioner has excess unutilized creditable income taxes withheld for taxable years 2007 and 2008.
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> 3. Whether or not Petitioner has carried over to the succeeding taxable quarters or years the claimed excess and unutilized creditable income taxes withheld for taxable years 2007 and 2008 and applied the same in payment of its income tax liability, if any, for the succeeding taxable quarters or years.

[13] Docket, pp. 195 to 208.
[14] Docket, pp. 888 to 890.
[15] Docket, pp. 935 to 939.
[16] See Minutes of the hearing dated September 11, 2012, docket p. 962.
[17] Stipulations of Issues, JSFI, docket, pp. 65-66.

4. Whether the amount of ₱36,737,673.00 being claimed by Petitioner as excess and unutilized creditable income taxes for years 2007 and 2008 were remitted in full to the BIR.

5. Whether or not Petitioner has complied with the requirements of Section 76 of the 1997 Tax Code.

6. Whether or not Petitioner's claim for refund of excess and unutilized creditable income taxes for years 2007 and 2008 in the amount of P36,737,673.00 was duly substantiated by proper documentary evidence, such as invoices, official receipts, certificates of withholding tax at source, certificates of remittances and other required tax returns.

7. Whether or not Petitioner is entitled to refund in the sum of P36,737,673.00, representing its excess and unutilized creditable income taxes for years 2007 and 2008.

Basically the real issue is whether petitioner is entitled to refund or issuance of tax credit certificate of its alleged unutilized creditable withholding taxes for years 2007 and 2008 in the sum of ₱36,737,673.00.

DISCUSSION/RULING

Pertinent to the resolution of the case is Section 76 of the National Internal Revenue Code (NIRC) of 1997, which provides, as follows:

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 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.

Pursuant to the provision, a corporation entitled to a tax credit or refund of the excess estimated quarterly income taxes paid has two options: (1) to carry over the excess credit or (2) to apply for the issuance of a tax credit certificate or to claim a cash refund. If the option to carry over the excess credit is exercised, the same shall be irrevocable for that taxable period. In exercising its option, the corporation must signify in its annual corporate adjustment return, by marking the option box provided in the BIR form, its intention either to carry over the excess credit or to claim a refund. To facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other. This is known as the irrevocability rule and is embodied in the last sentence of Section 76 of the Tax Code.[18]

The amended Annual Income Tax Returns for taxable years 2007[19] and 2008,[20] as well as the initial Annual Income Tax Returns for the same years[21] of petitioner clearly indicate that it has chosen the option "To be issued a Tax Credit Certificate."

Perusal of petitioner's amended Annual Income Tax Returns for taxable years 2007[22] and 2008[23] shows that petitioner had Minimum Corporate Income Tax (MCIT) due for taxable years 2007 and 2008 in the respective amounts of ₱1,109,419.00 and ₱1,284,167.00. The said amounts were offset against the prior year's (CY 2006) excess credits in the amount of ₱17,433,907.00, leaving the prior year's excess credits in the amount of ₱15,040,321.00 and the claimed creditable income taxes withheld during the years 2007 and 2008 in the respective amounts of ₱19,146,654.00 and ₱17,591,019.00 or in the sum of ₱36,737,673.00. This sum remains unutilized as of December 31, 2008, as shown below:

	2007	**2008**
Minimum Corporate Income Tax	₱ 1,109,419.00	₱ 1,284,167.00
Less: Prior Year's Excess Credits	17,433,907.00	16,324,488.00
Balance of Prior Year's Excess Credits	16,324,488.00	**15,040,321.00**
Add: Creditable Taxes Withheld During the Year	**19,146,654.00**	**17,591,019.00**
Excess Tax Credits	₱ 35,471,142.00	₱ 32,631,340.00

Petitioner however, failed to present its 2006 and/or prior years Annual Income Tax Returns and the corresponding Certificates of Creditable Taxes withheld at Source (BIR Form No. 2307) to prove the existence of the prior year's excess credits of ₱17,433,907.00. It is vital for

[18] Systra Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 176290, September 21, 2007.
[19] Exhibit "A".
[20] Exhibit "C".
[21] Exhibit "J" and "K".
[22] Exhibit "A".
[23] Exhibit "C".

petitioner to prove that it had enough prior year's excess credits to cover its reported income tax due for taxable years 2007 and 2008 in the respective amounts of ₱1,109,419.00 and ₱1,284,167.00. Otherwise, the said income tax liabilities shall be deducted from petitioner's claimed creditable withholding tax for taxable years 2007 and 2008 in the respective amounts of ₱19,146,654.00 and ₱17,591,019.00.

In addition, petitioner failed to sufficiently prove that it has complied with the three basic requisites for the grant of the claim for refund of excess CWT. The Supreme Court has enumerated the requisites for claiming a tax credit or a refund of creditable withholding tax, to wit:[24] 1) The claim must be filed with the CIR within the two-year period from the date of payment of the tax; 2) The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld; and 3) It must be shown on the return that the income received was declared as part of the gross income.

Anent the first requisite, Sections 204(C) and 229, 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

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[24] Commissioner of Internal Revenue vs. Mirant (Philippines) Operations, Corporation, G.R. No. 171742, June 15, 2011 and Mirant (Philippines) Operations Corporation (Formerly: Southern Energy Asia-Pacific Operations (Phils.), Inc.) vs. Commissioner of Internal Revenue, G.R. No. 176165.

> 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. *(Emphasis supplied)*
>
> 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 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. *(Emphasis supplied)*

Pursuant to the above provisions, the two-year prescriptive period for claiming a refund commences to run from the date of filing of the Final Adjustment Return (FAR).[25] It is only when the FAR covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.[26] Petitioner filed its original Annual Income Tax Returns for taxable years 2007 and 2008 on April 15, 2008[27] and April 2, 2009[28], respectively. Petitioner has two years from the filing of the FAR within which to file a claim for refund of excess CWT, both in the administrative and judicial levels. Counting from these dates, both the administrative claim filed on December 9, 2009[29] and the Petition for Review filed on April 8, 2010, were seasonably filed.

As regards the second requisite, ICPA Myra Celeste O. Dabalos found a discrepancy between the claimed CWT as reflected in petitioner's amended Annual Income Tax Returns for 2007 and 2008 *vis-a-vis* the CWT shown per BIR Form No. 2307 issued to petitioner for the same period, to wit:[30]

Creditable Taxes Withheld During the Year	**2007**	**2008**	**Total**
Per BIR Form No. 2307	₱19,151,704.69	₱19,257,284.71	₱38,408,989.40
Per Income Tax Return (claimed)	19,146,654.00	17,591,019.00	36,737,673.00
Difference	**₱ 5,050.69**	**₱1,666,265.71**	**₱1,671,316.40**

A careful examination of the Details of Creditable Taxes Withheld for 2007 and 2008[31] and BIR Forms No. 2307[32] showed that the claimed CWT in the amount of ₱26,302,677.89, broken down below, should be disallowed given that the supporting BIR Forms No. 2307 were not signed by the payor's authorized representative:

[25] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991.
[26] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, G.R. No. 83736, January 15, 1992.
[27] Exhibit "J-1".
[28] Exhibit"K-1".
[29] Par. 5, Stipulations of Facts, JSFI, docket, p. 65.
[30] Exhibit "AA".
[31] Exhibits "DD" and "EE".
[32] Exhibits "DD-1" to "DD-22" and "EE-1" to "EE-44".

		CWT		
EXHIBIT	**PAYOR**	**2007**	**2008**	**TOTAL**
DD-1	Prudentialife Plans, Inc.	₱ 2,690,859.85		₱ 2,690,859.85
DD-2	Prudentialife Plans, Inc.	3,980,843.27		3,980,843.27
DD-3	Prudentialife Plans, Inc.	3,642,290.63		3,642,290.63
DD-4	Prudentialife Plans, Inc.	2,429,556.69		2,429,556.69
EE-5	Prudentialife Plans, Inc.		₱13,559,127.45	13,559,127.45
TOTAL		**₱12,743,550.44**	**₱13,559,127.45**	**₱26,302,677.89**

Therefore, petitioner complied with the second requirement but only to the extent of ₱10,434,995.11 out of the total reported CWT of ₱36,737,673.00 for taxable years 2007 and 2008, computed as follows:

		2007	**2008**	**TOTAL**
Claimed CWT		₱19,146,654.00	₱ 7,591,019.00	₱ 36,737,673.00
Less:	Claimed CWT supported by BIR Forms No. 2307 without signature of payor's authorized representative	12,743,550.44	13,559,127.45	26,302,677.89
Claimed CWT properly supported with BIR Forms No. 2307		**₱6,403,103.56**	**₱4,031,891.55**	**₱10,434,995.11**

On the third requisite, the ICPA grouped the CWT according to type of income payment, as shown hereunder:[33]

	CWT	**INCOME PAYMENT**
2007		
Agency commissions (10%)	₱ 19,028,031.24	₱ 190,280,312.40
Payments by credit card companies (1/2 of 1%)	123,673.44	24,856,578.28
Total	**₱ 19,151,704.68**	**₱ 215,136,890.68**
2008		
Agency commissions (10%)	₱ 19,161,937.55	₱ 191,619,375.46
Payments by credit card companies (1/2 of 1%)	95,347.15	19,975,131.08
Total	**₱ 19,257,284.69**	**₱ 211,594,506.54**

w/

[33] Exhibits "II" and "JJ".

As stated earlier, petitioner's claim does not include CWT in the amounts of ₱5,050.69 and ₱1,666,265.71 for the years 2007 and 2008, respectively. The Court traced the CWT of ₱5,050.69 to the income payment made by a credit card company, *i.e.*, Banco de Oro-EPCI, Inc., in the amount of ₱1,047,304.73.[34] On the other hand, the CWT of ₱1,666,265.71 pertains to petitioner's commission income in the amount of ₱16,662,656.92, as unveiled by the ICPA.[35]

It should be noted that petitioner's "Sales/Revenues/Receipts/Fees" declared in its amended 2007 and 2008 Annual Income Tax Returns[36] pertain to its income from commissions as supported by its audited financial statements for the same taxable years.[37]

In the Amended Addendum to her Final Report, the ICPA compared petitioner's commission income related to the claimed CWT for taxable years 2007 and 2008 in the respective amounts of ₱19,028,031.24 and ₱17,495,671.84 as reflected per BIR Form No. 2307, with the commission income declared per petitioner's Annual Income Tax Returns for 2007 and 2008, as shown below:[38]

		INCOME PAYMENT		INCOME PER BIR FORM NO. 2307 IS UNDER (OVER)
	CLAIMED CWT	**PER ITR**	**PER BIR FORM NO. 2307**	
2007				
Agency commissions (10%)	19,028,031.24	182,150,935.00	190,280,312.40	(8,129,377.40)
2008				
Agency commissions (10%)	17,495,671.84[39]	180,991,926.00	174,956,718.54[40]	6,035,207.46

The ICPA expounded that per petitioner's AVP for Finance and Administration, Cherrie Serrano, the difference

[34] Exhibit "DD-22".
[35] Exhibit "JJ", page 2.
[36] Exhibits "BB-4" and "CC-4".
[37] Exhibits "B-2" and "D-2".
[38] Exhibit "HH", page 2.
[39] ₱19,161,937.55 less ₱1,666,265.71.
[40] ₱191,619,375.46 less ₱16,662,656.92.

between the amounts of commission income declared per ITR and per BIR Form No. 2307 was due to the practice of petitioner's payor to withhold taxes upon payment. Thus, petitioner recorded income in its books when it was earned but claimed the corresponding withholding tax when the certificate of withholding was received from the payor.

The Court however finds the explanation of Cherrie Serrano insufficient to prove that such discrepancy in petitioner's commission income was caused by a timing difference between the actual reporting of the income by petitioner and actual withholding of the corresponding creditable income tax by petitioner's customers. It was incumbent upon petitioner to present supporting documents such as its detailed general ledger, billing invoices/statements, receipts and schedule of commissions for 2007, 2008 and prior years, Annual Income Tax Returns for prior years and any other document wherein the commission income related to the claimed CWT can be traced as forming part of the income reported in its income tax returns for 2007, 2008 or prior years. Petitioner failed in this regard.

Petitioner likewise miserably failed to prove that the income payments from credit card companies related to the following claimed CWT for taxable years 2007 and 2008 were declared in its amended Annual Income Tax Returns for the years 2007 and 2008.

	CLAIMED CWT	**INCOME PAYMENT**
2007		
Payments by credit card companies (1/2 of 1%)	118,622.75[41]	23,809,273.55[42]
2008		
Payments by credit card companies (1/2 of 1%)	95,347.15	19,975,131.08

[41] ₱123,673.44 less ₱5,050.69.
[42] ₱24,856,578.28 less ₱1,047,304.73.

All stated, petitioner failed to establish that the income payments related to the claimed CWT for taxable years 2007 and 2008 in the respective amounts of ₱19,146,654.00 and ₱17,591,019.00 or in the aggregate amount of ₱36,737,673.00, formed part of the income declared per its Annual Income Tax Returns for 2007, 2008 or prior years. Note that to be entitled to a refund or issuance of tax credit certificate, the taxpayer-claimant must sufficiently establish that the three basic requisites were all duly complied with.

WHEREFORE, the Petition for Review dated April 7, 2010 filed by petitioner Prudentialife Market Resources Corporation is hereby **DENIED,** for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I Concur:

ERLINDA P. UY
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.

ERLINDA P. UY
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