REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

GIC PRIVATE LIMITED (FORMERLY, GOVERNMENT OF SINGAPORE INVESTMENT CORPORATION PRIVATE LIMITED),
Petitioner,

CTA CASE NO. 8965

-versus-

Members:

BAUTISTA, *Chairperson*
FABON-VICTORINO, and
RINGPIS-LIBAN, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

NOV 27 2017 10:18a.m.

X---X

RESOLUTION

RINGPIS-LIBAN, *J.*:

Before this Court is respondent Commissioner of Internal Revenue's (CIR's) **Motion for Reconsideration**[1], filed on July 20, 2017, with petitioner's **Comment/Opposition (Re: CIR's Motion for Reconsideration dated July 19, 2017)**[2], filed on September 4, 2017.

Respondent's Motion for Reconsideration seeks the re-evaluation of the Court's Decision[3] dated June 22, 2017, the dispositive portion of which reads as follows:

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[1] *Docket*, pp. 610-616.
[2] *Id.*, unpaginated.
[3] *Id.*, pp. 594-609.

"**WHEREFORE,** premises considered, the instant Petition for Review is **GRANTED.** Accordingly, respondent is hereby **ORDERED TO REFUND or TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, the amount of **₱127,673,786.53** representing 20% FWT erroneously collected on the interest income earned by petitioner on its investments in Philippine T-Bonds for the period January 2013 to July 2014.

SO ORDERED."

As grounds for the respondent CIR's Motion for Reconsideration, respondent claims that: 1) petitioner was unable to prove the fact of withholding of the subject Final Withholding Taxes (FWT) and its subsequent remittance to the Bureau of Internal Revenue (BIR); 2) proof of actual withholding and remittance of taxes withheld to the BIR is indispensable in a claim for refund of FWTs; and 3) the Court erred in relying on the testimony of Mr. Norman Lapid from Citibank who testified that the amount of ₱127,673,786.53 is part of the ₱1,019,819,612.62 withheld by the Bureau of Treasury (BTr) from Citibank's Custody Account was petitioner's FWT on its gross coupon entitlement on its investment in T-Bonds as this claim was unsupported by any documentary evidence.

In its Comment/Opposition, petitioner attempts to persuade the Court that the grounds relied upon by respondent for the reversal of the Decision deserve scant consideration as they are mere general assertions based on a misinterpretation of the facts and applicable laws in this case.

Petitioner refutes respondent's arguments on the following grounds: 1) it submitted substantial evidence to prove that FWT on petitioner's interest income from T-Bonds were withheld and remitted to the BIR; 2) proof of actual remittance is not a condition to a claim for refund of FWT; and 3) the rule on strict interpretation of tax exemption statutes does not justify the unjust withholding of taxes which were illegally and erroneously collected by the BIR.

After considering the arguments of the parties, it is apparent to this Court that respondent's assertions fail to hold sway.

In the Decision, *We* held that the Certificates of Final Tax Withheld (BIR Forms No. 2306)[4] show the FWT on the interest due on the government securities recorded under Citibank's Custody Accounts, amounting to ₱1,019,819,612.62. This amount represents the entire taxes withheld by the BTr

[4] Exhibits "P-6-a" to "P-6-c".

on coupon interest payments of various clients under Citibank's Custody Account.[5]

To prove that the aforementioned amount includes the FWT withheld from petitioner's interest income, petitioner submitted BTr Statement of Taxes Withheld[6], and BTr Journal Entry Vouchers (JEVs)[7] which show: a) the amounts of FWT withheld from the coupons or interest income received by the T-Bond holdings recorded under Citibank's Custodian Account during the period January 1, 2013 to July 31, 2014; b) that such amounts were remitted to the BIR; and c) that the coupon entitlements of petitioner's T-Bonds included under Citibank's Custodian Account were properly subjected to FWT at the rate of twenty percent (20%).

The documents submitted by petitioner also show that the International Security Identification Numbers of petitioner's investments in T-Bonds under Citibank's Custodian Account were included in the list of securities from which the BTr withheld the FWTs, and even the BIR-RAD issued Certification confirming the same.[8]

All of the above, were deemed sufficient to conclude that the 127,673,786.53 FWT on petitioner's income derived from such securities formed part of the amount withheld by the BTr and subsequently remitted to the BIR. Hence, respondent's claim to the contrary is found baseless.

Furthermore, proof of actual remittance is not a condition to claim for a refund of erroneously collected FWT. The certificate of creditable tax withheld at source is competent proof to establish the fact of withholding. It is not necessary for the person who executed and prepared the certificate to be presented and to testify personally to prove the authenticity of the certificates. Proof of actual remittance is not needed to prove withholding and remittance of taxes. It is the payor-withholding agent and not the payee-refund claimant who is vested with the responsibility of withholding and remitting income taxes.[9] There is no rule or regulation that requires petitioner to present before the Court proof of remittance to the BIR in order to be entitled to a refund.[10]

Given the foregoing, respondent CIR's Motion for Reconsideration is **DENIED** for lack of merit.

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[5] *Id.* at Note 3, p. 606.
[6] Exhibits "P-4-a" to "P-4-c".
[7] Exhibits "P-5-a" to "P-5-k".
[8] Exhibit "P-29".
[9] *Commissionr of Internal Revenue v. Asian Transmission Corporation*, G.R. No. 179617, Jan. 19, 2011, 640 SCRA 189.
[10] *Doosan Heavy Industries and Construction Co. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 8796, January 6, 2016, affirmed *in* toto by the Court *En* Banc in CTA EB No. 1422, April 26, 2017.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice