REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SHENILYN ABALOS, ET AL., Petitioner,	**CTA CASE NO. 9089**
	Members:
-versus-	**Castañeda, Jr.,** *Chairperson,* **Casanova** **Manahan,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** AUG 1 0 2018 11:50 a.m.

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DECISION

CASTAÑEDA, JR., *J.*:

THE CASE

This is a Petition for Review[1] filed on July 13, 2015 by several Filipino employees of the Asian Development Bank (ADB), praying for the refund of their alleged erroneously and illegally paid income tax in the aggregate amount of Fifty-One Million Eight Hundred Four Thousand Nine Hundred Fifty-Five Pesos (₱51,804,955.00) for taxable years 2012 and 2013.

THE FACTS

Petitioner Shenilyn Abalos and her co-petitioners are Filipinos and regular employees of ADB,[2] whose office is located at 6 ADB Ave., Mandaluyong City.[3]

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[1] Docket, Vol. I, pp. 14-32.
[2] Par. 1, Joint Stipulation of Facts and Issues, Docket, Vol. I, p. 321.
[3] Par. 1, Admissions, Answer, Docket, Vol. I, p. 282.

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.[4]

On April 12, 2013, respondent issued Revenue Memorandum Circular (RMC) No. 31-2013 entitled "Guidelines on the Taxation of Compensation Income of Philippine Nationals and Alien Individuals Employed by Foreign Governments/Embassies/Diplomatic Missions and International Organizations Situated in the Philippines." It provides, among others, that officers and staff of the ADB who are not Philippine nationals shall be exempt from Philippine income tax:

> "**SECTION 1. BACKGROUND.—**
>
> Foreign governments / embassies / diplomatic missions and international organizations situated in the Philippines acting as employers enjoy immunity from collecting taxes on salaries and emoluments of their employees, whether they are foreigners or Philippine nationals. This immunity from being constituted as withholding agents of the Philippine Government is accorded to these entities on the basis of international comity as embodied in several international agreements to which the Philippines is a signatory, such as, the Vienna Convention for International Relations (for embassies and diplomatic missions), Convention on the Privileges and Immunities of the United Nations, Convention on the Privileges and Immunities of Specialized Agencies (for the various agencies of the United Nations), Asian Development Bank Headquarters Agreement (for ADB), Articles of Agreement of the International Finance Corporation, among others.
>
> In recognition of this immunity, the Withholding Tax Regulations (Revenue Regulations No. 2-98, as amended), clearly reiterate the exemption from the withholding tax system of the remunerations being paid by foreign governments and international organizations to their employees who are residents or nationals of the Philippines. Section 2.78.1(B)(5) provides thus:
>
> 'Sec. 2.78. WITHHOLDING TAX ON COMPENSATION. — ...

[4] Par. 2, Joint Stipulation of Facts and Issues, Docket, Vol. I, p. 321.

Sec. 2.78.1. Withholding of Income Tax on Compensation Income. —

xxx

(B) Exemptions from withholding tax on compensation. — The following income payments are exempted from the requirement of withholding tax on compensation:

xxx

(5) Compensation for services by a citizen or resident of the Philippines for a foreign government or an international organization. — Remuneration paid for services performed as an employee of a foreign government or an international organization is exempted. The exemption includes not only remuneration paid for services performed by ambassadors, ministers and other diplomatic officers and employees but also remuneration paid for services performed as consular or other officer or employee of a foreign government or as a non-diplomatic representative of such government.'

However, <u>it has been observed that the foregoing provisions have been a source of confusion on the correct tax treatment of the compensation income earned by Philippine nationals and alien individuals employed by foreign governments/embassies/diplomatic missions and international organizations</u>. <u>To clarify, the exemption from withholding taxes on the compensation of officials and employees applies to foreign governments/embassies/ diplomatic missions and international organizations. Since the withholding of tax is merely a method of tax collection,</u> **<u>the exemption from withholding taxes does not equate to the exemption from paying the income tax itself</u>**.

Section 23 of the National Internal Revenue Code (Tax Code) lays down the general principles in the taxations of citizens and alien individuals, to wit:

'SECTION 23. General Principles of Income Taxation in the Philippines.— Except when otherwise provided in this Code:

(A) A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines;

xxx

(D) An alien individual, whether a resident or not of the Philippines, is taxable only on income derived from sources within the Philippines; xxx'

As an exemption to the general rule, it is noted that most international agreements which grant withholding tax immunity to foreign governments/embassies/diplomatic missions and international organizations also provide exemption to their officials and employees who are foreign nationals and/or non-Philippine residents from paying income taxes on their salaries and other emoluments.

xxx xxx xxx

SECTION 2. TAX TREATMENT OF COMPENSATION INCOME.–

The tax treatment of Philippine nationals and alien individuals on compensation income received by them from foreign governments/embassies and missions and international organizations shall be as follows:

xxx xxx xxx

(d) Those Employed by Organizations Covered by Separate International Agreements or Specific Provisions of Law –

1. Asian Development Bank (ADB)

Section 45(b), Article XII of the **Agreement between the Asian Development Bank and the Government of the Republic of the Philippines regarding the Headquarters of the Asian Development Bank** provides:

'ARTICLE XII

xxx

Section 45.

Officers and staff of the Bank, including for the purposes of this Article experts and consultants performing missions for the Bank, shall enjoy the following privileges and immunities:

xxx

(b) Exemption from taxation on or in respect of the salaries and emoluments paid by the Bank subject to the power of the Government to tax its nationals;'

From the above, only officers and staff of the ADB who are not Philippine nationals shall be exempt from Philippine income tax." *(Underscoring and emphasis supplied)*

Pursuant to the RMC, the Filipino employees of the ADB were ordered to declare and pay income taxes for 2012 onwards.[5]

Accordingly, petitioners paid the following amounts as their income taxes for taxable years 2012 and 2013:[6]

PETITIONER	INCOME TAX PAID		TOTAL
	2012	2013	
Shenilyn Abalos	₱ 177,084.17		₱ 177,084.17
Ruel Gatchalian	207,652.88		207,652.88
Donna Lacuna	350,506.39	₱ 340,081.00	690,587.39
Andrew Gutierrez	416,697.97	179,400.00	596,097.97
Rosario Vergara	1,349,742.73	1,390,842.00	2,740,584.73
Maria Susan Torres	316,364.99	305,284.03	621,649.02
Marilyn Medrano	335,211.99	196,035.00	531,246.99
Ma. Cristina Duenas	462,001.08	457,668.00	919,669.08
Gemma Esther Estrada	519,930.49	515,521.00	1,035,451.49
Maria Cynthia Petalcorin	391,829.00	396,264.00	788,093.00
Pilipinas Quising	665,292.92	644,250.00	1,309,542.92
Shiela Romance	432,083.30	452,137.00	884,220.30
Aleli Rosario	454,768.40	450,972.00	905,740.40
Nick Angelo Villaluz	485,410.11	506,323.00	991,733.11
Maria Carmela Abadeza	131,554.44	148,828.00	280,382.44
Maria Conchita Abao	174,459.20		174,459.20
Annabelle Abello	443,183.34	439,679.00	882,862.34
Minerva Abrera	408,327.42		408,327.42
Rexel Abrigo	385,510.03		385,510.03
Lourdes Adriano	2,137,163.95		2,137,163.95
Sherwin Agbayani	148,126.00	153,525.00	301,651.00
Wilfredo Agliam	218,344.81		218,344.81
Aileen M. Aguilar	258,979.03	130,556.00	389,535.03
Bernadeth Agustin	229,108.61		229,108.61
Janice Alalay	126,836.73		126,836.73
Maria Criselda Alano	200,886.78	238,203.00	439,089.78
Janelyn Alcantara	292,173.35		292,173.35
Maria Charmaine Alcantara	146,937.72	167,129.00	314,066.72
Raquel Aldaba	334,870.20		334,870.20
Angelica Alejandro	309,272.26		309,272.26
Leonor Alejandro	357,217.00		357,217.00
Elizabeth Alimurung	372,275.70		372,275.70
Anna Maria Alipio	425,105.27	422,826.00	847,931.27
Maria Luisa Lora Almadrigo	475,085.29	466,416.00	941,501.29
Ruth Almodovar	326,933.14	333,017.00	659,950.14
Glenita Amoranto	292,502.98		292,502.98
Ma. Cecilia Amparo	365,832.23	368,424.00	734,256.23
Catherine Anastacio	349,892.66	185,209.00	535,101.66
Evelyn Andrada	345,471.08	171,343.00	516,814.08
Maria Teresa Andrade	458,512.95		458,512.95
Melody Andres	79,200.09		79,200.09
Almira Ansao	179,402.85		179,402.85
Mary Ann Antonio	280,967.88	173,700.00	454,667.88
Victoriano Antonio	491,923.10	497,608.00	989,531.10
Maria Eufemia Apilado	917,031.90		917,031.90
Ruth Ann Apolinario	205,180.59	228,168.00	433,348.59

[5] Par. 1, Joint Stipulation of Facts and Issues, Docket, Vol. I, p. 321.
[6] Par. 13, Petition for Review, Docket, Vol. I, pp. 24-26.

Josephine Aquino	150,401.02		150,401.02
Pamela Aquino	771,337.48	766,484.00	1,537,821.48
Rafael Aquino	309,806.85		309,806.85
Leticia Aranda	223,100.71	221,087.00	444,187.71
Raquel Araojo	255,976.91	131,006.00	386,982.91
Shasel Marie Arbues	140,951.65		140,951.65
Marilyn Ardiente	762,555.24	760,597.00	1,523,152.24
Marian Arellano	539,197.60		539,197.60
Ella Cecilia Arienda	130,135.21		130,135.21
Maria Arlene Artajo	400,642.40	427,420.00	828,062.40
Fean Asprer	358,332.32	387,806.00	746,138.32
Angeles Ramil	141,479.04		141,479.04
Irene Atienza	278,976.71	293,352.00	572,328.71
Maria Cristina Avila	459,943.38		459,943.38
Mavelle Bacay	129,657.48	178,766.00	308,423.48
Nonette Bacay	215,064.12		215,064.12
Rosalia Baeza	294,265.35	160,219.00	454,484.35
Alma Baguio	112,023.85		112,023.85
Maria Nieva Baguisa	335,937.83	250,000.00	585,937.83
Jacqueline Balankig	253,632.57		253,632.57
Ludovina Balicanot	381,716.13	392,467.00	774,183.13
Audrey Marie Banzon	247,454.96		247,454.96
Katherine Barbecho	258,114.02	300,913.00	559,027.02
Marissa Barcenas	348,901.77	199,086.00	547,987.77
Florissa Barot	203,910.83		203,910.83
Djaane Barrameda	129,590.91		129,590.91
Katherine Barrameda	225,695.63		225,695.63
Maricar Barrogo	206,679.50		206,679.50
Marian Therese Bartolome	204,724.44	208,613.00	413,337.44
Dennis Baruian	134,809.29		134,809.29
Eileen Purita Battung	320,658.12		320,658.12
Gisela Patricia Bautista	313,148.61		313,148.61
Herman Bautista	219,757.21	226,770.00	446,527.21
Jude Bedonia	637,417.31	272,080.00	909,497.31
Ruth Benigno	185,667.36	176,029.00	361,696.36
Ofelia Benitez	333,030.50		333,030.50
Noemi Benizano	116,309.75		116,309.75
Daniel Beran	217,974.21		217,974.21
Jaime Bere	534,081.57	594,451.00	1,128,532.57
Angela Francesca Bernaldo	301,222.36		301,222.36
Aileen Bernardo	289,803.44	288,683.00	578,486.44
Maricel Bolado	124,806.59		124,806.59
Anna Marie Borgonia	541,889.22	488,592.00	1,030,481.22
Raquel Borres	385,841.86		385,841.86
Ramona Bote	444,300.15		444,300.15
Bernadette Buensoceso	448,224.89	460,536.00	908,760.89
Ma. Theresa Bugayong	334,843.17		334,843.17
Ethyl Bulao-Lorena	43,011.48		43,011.48
Josefina Theresa Burgonia	160,000.00		160,000.00
Nancy Bustamante	238,638.05		238,638.05
Juleah Anne Caballo	126,957.94	146,150.00	273,107.94
Nick Cabibil, Jr.	233,276.69		233,276.69
Valerie Anne Cabuang	192,199.95		192,199.95
Brian Cafirma	181,209.75	218,545.00	399,754.75
Ricasol Calaluan	167,443.59	166,321.00	333,764.59
TOTAL	**₱ 34,129,573.97**	**₱ 17,675,381.03**	**₱ 51,804,955.00**

On February 14, 2014, Mr. Erwin Salaveria and Ms. Portia Gonzales, Filipino employees of the ADB, filed a Petition to Nullify

Section 2(d)(1) of RMC No. 31-2013, with the Regional Trial Court (RTC) Branch 213 of Mandaluyong City, docketed as Civil Case No. MC14-8775.[7]

On September 30, 2014, the RTC promulgated a decision in Civil Case No. MC14-8775 declaring Section 2(d)(1) of RMC No. 31-2013 as void for being issued without legal basis, in excess of authority and/or without due process of law due to the absence of legislation and/or regulation to the contrary.[8]

A Motion for Reconsideration was filed by respondent but was denied on January 9, 2015.[9]

Respondent appealed the lower court decision to the Court of Appeals, docketed as CA-G.R. CV No. 104374, which dismissed it via Resolution dated July 3, 2015. Respondent filed a Motion for Reconsideration, but it was also denied by the Court of Appeals.[10]

Respondent then elevated the case before the Supreme Court by filing a Petition for Review on Certiorari. The case is still awaiting resolution by the High Tribunal.[11]

Armed with a favorable RTC ruling, petitioners allegedly filed their respective administrative claims for refund of income tax with the BIR under Section 229 of the Tax Code.[12]

In a letter dated April 21, 2015, in reply to the request for refund by Maria Cristina Duenas, Gemma Esther Estrada, Maria Cynthia Petalcorin, Pilipinas Quising, Shiela Romance, Aleli Rosario, Maria Susan Torres, Rosario Vergara and Nick Angelo Villaluz (Duenas et al.) for their 2012 taxes respondent allegedly stated that:

> "In reply, please be informed that there is no legal basis to support your claim for refund. This Office has appealed the RTC decision, and hence, for all legal intents and purposes, it is not yet final and executory.
>
> Moreover, assuming that your clients are legally entitled to refund, per Revenue Delegation Authority Order (RDAO) No. 03-02 dated 15 February 2002, claims for tax refund shall be processed by

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[7] Par. 16 and 17, Petition for Review, Division Docket, Vol. I, p. 27.
[8] Par. 17, Petition for Review, Division Docket, Vol. I, p. 27.
[9] Par. 18, Petition for Review, Division Docket, Vol. I, p. 27.
[10] Par. 19, Petition for Review, Division Docket, Vol. I, p. 28.
[11] *Id.*
[12] Pars. 4 and 5, Petition for Review, Division Docket, Vol. I, pp. 18-19; Annexes A to G, Petition for Review, Division Docket, Vol. I, pp. 135-226.

> the Revenue District Office (RDO) of the Bureau of Internal Revenue where the taxpayer is registered or required to be registered. In the instant case, since your clients are registered at RDO No. 41 – Mandaluyong City, the said office has the proper jurisdiction to process the claims. Accordingly, in the meantime, the docket of your claims for tax refund shall be indorsed to RDO 41."[13]

With respect to the refund of the 2013 income taxes paid by petitioners Duenas et al. and the request for refund filed by the rest of the petitioners, allegedly no response was made by the respondent.[14]

On July 13, 2015, to prevent the lapse of the two-year period to file a refund claim under Section 229 of the Tax Code, the petitioners Shenilyn Abalos et al. were prompted to file the present Petition for Review before this Court.[15]

On October 12, 2015, respondent then filed his Answer.[16] Respondent asserts that the assailed decision of RTC Branch 213 of Mandaluyong City, from which petitioners based their claims for refund, is void. Respondent alleged that the power to rule on the validity of revenue issuances administered by the BIR is within the jurisdiction of this Court and not the regular courts.[17]

The pre-trial conference was initially scheduled on November 26, 2015,[18] but was subsequently cancelled and reset to January 21, 2016.[19] Petitioners filed their Pre-Trial Brief on January 19, 2016[20] and respondent submitted his Pre-Trial Brief on January 18, 2016.[21]

On August 22, 2016, after presenting their witnesses, petitioners filed their Formal Offer of Documentary Evidence,[22] consisting of Exhibits "P-1" to "P-36", inclusive of sub-markings.

In its October 20, 2016[23] and May 24, 2017[24] Resolutions, the Court eventually admitted all the formally offered exhibits as petitioner's evidence.

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[13] Annex H, Petition for Review, Docket, Vol. I, p. 227.
[14] Par. 4, Petition for Review, Docket, Vol. I, p. 18.
[15] Par. 6, Petition for Review, Docket, Vol. I, p. 18.
[16] Docket, Vol. I, pp. 282-293.
[17] Par. 5, Answer, Docket, Vol. I, p. 291.
[18] Docket, Vol. I, pp. 294-295.
[19] Order, Docket, Vol. I, p. 233.
[20] Docket, Vol. I, pp. 303-307.
[21] Docket, Vol. I, pp. 300-302.
[22] Docket, Vol. II, pp. 607-624.
[23] Docket, Vol. II, pp. 677-679.
[24] Docket, Vol. II, pp. 831-833.

On July 31, 2017, respondent's counsel manifested that she will no longer present evidence[25] and will adopt the arguments in the Answer as the memorandum for the case.[26]

On September 18, 2017, the Court declared the instant case submitted for decision, after the respondent's September 11, 2017 Manifestation[27] and without petitioners' memorandum per Report of Records Division dated September 14, 2017.[28]

THE ISSUE

The parties submitted the following issue for the Court's resolution:[29]

> "Whether or not petitioners are entitled to claim for refund for income taxes paid in taxable years 2012 and 2013 alleged to be erroneously and/or illegally paid."

THE RULING

Pertinent to the resolution of the issue at hand are Sections 204(C) and 229 of the NIRC of 1997, as amended, which is quoted hereunder for ready reference:

> "**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. <u>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</u>

[25] Order, Docket, Vol. II, p. 837.
[26] Manifestation, Docket, Vol. II, p. 838-840.
[27] *Id.*
[28] Resolution, Docket, Vol. II, p. 843.
[29] Issue, Joint Stipulation of Facts and Issues, Docket, Vol. I, p. 322; March 1, 2016 Order, Docket, Vol. I, p. 327.

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." (*Underscoring 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." *(Underscoring supplied)*

According to these provisions, *both* the administrative and the judicial claims for refund must be filed with the CIR and the Court of Tax Appeals, respectively, within the two-year prescriptive period from the date of payment of tax.

The table below presents the relevant dates of the income tax payments based on the evidence presented by the petitioners such as the Annual Income Tax Returns, BIR Payment Forms, BIR Revenue Official Receipts, Bank Deposit Slips, and the Certifications from the Revenue Accounting Division (RAD) of the BIR:

Name of Employee	**Date of Full Payment of Income Tax**		**Last day to file claim for refund**	
	2012	**2013**	**2012**	**2013**
Shenilyn Abalos	July 15, 2013[30]		July 15, 2015	
Ruel Gatchalian	July 15, 2013[31]		July 15, 2015	
Donna Lacuna	July 15, 2013[32]	April 14, 2014[33]	July 15, 2015	April 14, 2016

[30] Exhibit "P-11-2", Docket, Vol. I, p. 393.
[31] Exhibits "P-17", Docket, Vol. I, p. 435.
[32] Exhibit "P-13-1", Docket, Vol. II, p. 754.
[33] Exhibit "P-14-1", Docket, Vol. I, p. 412.

Andrew Gutierrez	July 2, 2013[34] & July 15, 2013[35]	April 11, 2014[36]	July 15, 2015	April 11, 2016
Rosario Vergara	April 3, 2013[37] & July 15, 2013[38]	April 15, 2014[39]	July 15, 2015	April 15, 2016
Maria Susan Torres	April 12, 2013[40] & July 15, 2013[41]	July 15, 2014[42]	July 15, 2015	July 15, 2016
Marilyn Medrano	April 15, 2013[43] & July 15, 2013[44]	April 15, 2014[45]	July 15, 2015	April 15, 2016
Ma. Cristina Duenas	April 15, 2013[46] & July 15, 2013[47]	April 3, 2014[48] & July 14, 2014[49]	July 15, 2015	July 14, 2016
Gemma Esther Estrada	April 15, 2013[50] & July 15, 2013[51]	April 4, 2014 & July 11, 2014[52]	July 15, 2015	July 11, 2016
Maria Cynthia Petalcorin	April 15, 2013[53] & July 15, 2013[54]	April 11, 2014[55] & July 15, 2014[56]	July 15, 2015	July 15, 2016
Pilipinas Quising	April 15, 2013[57] & July 15, 2013[58]	April 7, 2014[59] & July 14, 2014[60]	July 15, 2015	July 14, 2016
Shiela Romance	April 15, 2013[61] & July 15, 2013[62]	April 11, 2014[63] & July 15, 2014[64]	July 15, 2015	July 15, 2016
Aleli Rosario	April 15, 2013[65] & July 15, 2013[66]	April 11, 2014[67] & July 14, 2014[68]	July 15, 2015	July 14, 2016
Nick Angelo Villaluz	April 15, 2013[69] & July 15, 2013[70]	April 7, 2014[71] & July 10, 2014[72]	July 15, 2015	July 10, 2016

[34] Exhibit "P-15-1", Docket, Vol. I, p. 427.
[35] Exhibit "P-15-2", Docket, Vol. I, p. 427.
[36] Exhibit "P-16-1", Docket, Vol. I, p. 432.
[37] Exhibit "P-23", Docket, Vol. I, p. 447.
[38] Exhibit "P-9-2", Docket, Vol. I, p. 387.
[39] Exhibit "P-23-1", Docket, Vol. I, p. 448.
[40] Exhibit "P-24", Docket, Vol. I, p. 449.
[41] Exhibit "P-9-1", Docket, Vol. I, p. 387.
[42] Exhibit "P-24-1", Docket, Vol. I, p. 450.
[43] Exhibit "P-14-8", Docket, Vol. I, p. 423.
[44] Exhibit "P-34", Docket, Vol. I, p. 468.
[45] Exhibit "P-14-9", Docket, Vol. I, p. 415.
[46] Exhibit "P-4-3", Docket, Vol. I, p. 371.
[47] Exhibit "P-6-1", Docket, Vol. I, p. 377.
[48] Exhibit "P-4-1", Docket, Vol. I, p. 370.
[49] Exhibit "P-4-2", Docket, Vol. I, p. 370.
[50] Exhibit "P-4-5", Docket, Vol. I, p. 372.
[51] Exhibit "P-4-6", Docket, Vol. I, p. 372.
[52] Exhibit "P-4-4", Docket, Vol. I, p. 372.
[53] Exhibit "P-14-4", Docket, Vol. I, p. 421.
[54] Exhibit "P-14-3", Docket, Vol. I, p. 421.
[55] Exhibit "P-14-5", Docket, Vol. I, p. 422.
[56] Exhibit "P-14-2", Docket, Vol. I, p. 421.
[57] Exhibit "P-33", Docket, Vol. I, p. 467.
[58] Exhibit "P-13-2", Docket, Vol. II, p. 756.
[59] Exhibit "P-14-6", Docket, Vol. I, p. 422.
[60] Exhibit "P-14-7", Docket, Vol. I, p. 422.
[61] Exhibit "P-18-1", Docket, Vol. I, p. 437.
[62] Exhibit "P-18", Docket, Vol. I, p. 436.
[63] Exhibit "P-18-2", Docket, Vol. I, p. 438.
[64] Exhibit "P-18-3", Docket, Vol. I, p. 439.
[65] Exhibit "P-19-1", Docket, Vol. I, p. 440.
[66] Exhibit "P-19", Docket, Vol. I, p. 440.
[67] Exhibit "P-19-3", Docket, Vol. I, p. 442.
[68] Exhibit "P-19-2", Docket, Vol. I, p. 441.
[69] Exhibit "P-25", Docket, Vol. I, p. 451.
[70] Exhibit "P-9-3", Docket, Vol. I, p. 387.
[71] Exhibit "P-25-2", Docket, Vol. I, p. 453.
[72] Exhibits "P-25-1" and "P-25-3", Docket, Vol. I, pp. 452 and 454.

Maria Carmela Abadeza	July 15, 2013[73]	March 21, 2014[74]	July 15, 2015	March 21, 2016
Maria Conchita Abao	July 15, 2013[75]		July 15, 2015	
Annabelle Abello	July 12, 2013[76]	April 11, 2014[77] & July 14, 2014[78]	July 13, 2015	July 14, 2016
Minerva Abrera	July 15, 2013[79]		July 15, 2015	
Rexel Abrigo	July 12, 2013[80]		July 13, 2015	
Lourdes Adriano	July 15, 2013[81]		July 15, 2015	
Sherwin Agbayani	July 15, 2013[82]	April 10, 2014[83]	July 15, 2015	April 10, 2016
Wilfredo Agliam	July 15, 2013[84]		July 15, 2015	
Aileen M. Aguilar	July 15, 2013[85]	April 14, 2014[86]	July 15, 2015	April 14, 2016
Bernadeth Agustin	July 15, 2013[87]		July 15, 2015	
Janice Alalay	July 15, 2013[88]		July 15, 2015	
Maria Criselda Alano	July 15, 2013[89]	April 10, 2014[90]	July 15, 2015	April 10, 2016
Janelyn Alcantara	July 15, 2013[91]		July 15, 2015	
Maria Charmaine Alcantara	July 15, 2013[92]	April 11, 2014[93] & July 15, 2014[94]	July 15, 2015	July 15, 2016
Raquel Aldaba	July 15, 2013[95]		July 15, 2015	
Angelica Alejandro	July 15, 2013[96]		July 15, 2015	
Leonor Alejandro	July 15, 2013[97]		July 15, 2015	
Elizabeth Alimurung	July 15, 2013[98]		July 15, 2015	
Anna Maria Alipio	July 15, 2013[99]	April 14, 2014 & July 15, 2014[100]	July 15, 2015	July 15, 2016
Maria Luisa Lora Almadrigo	July 15, 2013[101]	March 20, 2014[102]	July 15, 2015	March 20, 2016
Ruth Almodovar	July 15, 2013[103]	April 10, 2014[104]	July 15, 2015	April 10, 2016
Glenita Amoranto	July 15, 2013[105]		July 15, 2015	
Ma. Cecilia Amparo	July 15, 2013[106]	March 21, 2014[107]	July 15, 2015	March 21, 2016

[73] Exhibit "P-11-1", Docket, Vol. I, p. 393.
[74] Exhibit "P-11-43", Docket, Vol. I, p. 394.
[75] Exhibit "P-11-3", Docket, Vol. I, p. 393.
[76] Exhibit "P-11-4", Docket, Vol. I, p. 393.
[77] Exhibit "P-10-1", Docket, Vol. I, p. 389.
[78] Exhibits "P-26" and "P-26-1", Docket, Vol. I, pp. 455-456.
[79] Exhibit "P-10-2", Docket, Vol. I, p. 389.
[80] Exhibit "P-11-5", Docket, Vol. I, p. 393.
[81] Exhibit "P-11-6", Docket, Vol. I, p. 393.
[82] Exhibit "P-11-7", Docket, Vol. I, p. 393.
[83] Exhibit "P-10-3", Docket, Vol. I, p. 389.
[84] Exhibit "P-11-8", Docket, Vol. I, p. 393.
[85] Exhibit "P-11-9", Docket, Vol. I, p. 393.
[86] Exhibit "P-10-4", Docket, Vol. I, p. 389.
[87] Exhibit "P-11-10", Docket, Vol. I, p. 393.
[88] Exhibit "P-11-11", Docket, Vol. I, p. 393.
[89] Exhibit "P-11-12", Docket, Vol. I, p. 393.
[90] Exhibit "P-10-5", Docket, Vol. I, p. 390.
[91] Exhibit "P-11-13", Docket, Vol. I, p. 393.
[92] Exhibit "P-11-14", Docket, Vol. I, p. 393.
[93] Exhibit "P-10-6", Docket, Vol. I, p. 390.
[94] Exhibits "P-27" and "P-27-1", Docket, Vol. I, pp. 457-458.
[95] Exhibit "P-11-15", Docket, Vol. I, p. 393.
[96] Exhibit "P-11-16", Docket, Vol. I, p. 393.
[97] Exhibit "P-11-17", Docket, Vol. I, p. 393.
[98] Exhibit "P-11-18", Docket, Vol. I, p. 393.
[99] Exhibit "P-11-19", Docket, Vol. I, p. 393.
[100] Exhibit "P-10-7", Docket, Vol. I, p. 390.
[101] Exhibit "P-11-20", Docket, Vol. I, p. 393.
[102] Exhibit "P-11-39", Docket, Vol. I, p. 394.
[103] Exhibit "P-11-21", Docket, Vol. I, p. 393.
[104] Exhibit "P-10-8", Docket, Vol. I, p. 390.
[105] Exhibit "P-11-22", Docket, Vol. I, p. 393.
[106] Alleged in the Petition for Review, Docket, Vol. I, p. 20.
[107] Exhibit "P-11-40", Docket, Vol. I, p. 394.

Catherine Anastacio	July 15, 2013[108]	April 14, 2014[109]	July 15, 2015	April 14, 2016
Evelyn Andrada	July 15, 2013[110]	April 8, 2014[111]	July 15, 2015	April 8, 2016
Maria Teresa Andrade	July 15, 2013[112]		July 15, 2015	
Melody Andres	July 15, 2013[113]		July 15, 2015	
Almira Ansao	July 15, 2013[114]		July 15, 2015	
Mary Ann Antonio	July 15, 2013[115]	April 15, 2014[116]	July 15, 2015	April 15, 2016
Victoriano Antonio	July 15, 2013[117]	March 21, 2014[118]	July 15, 2015	March 21, 2016
Maria Eufemia Apilado	July 15, 2013[119]		July 15, 2015	
Ruth Ann Apolinario	July 15, 2013[120]	March 21, 2014[121]	July 15, 2015	March 21, 2016
Josephine Aquino	July 15, 2013[122]		July 15, 2015	
Pamela Aquino	July 15, 2013[123]	March 27, 2014[124] & July 15, 2014[125]	July 15, 2015	July 15, 2016
Rafael Aquino	July 15, 2013[126]		July 15, 2015	
Leticia Aranda	July 15, 2013[127]	April 14, 2014[128]		April 14, 2016
Raquel Araojo	July 15, 2013[129]	April 10, 2014[130]	July 15, 2015	April 10, 2016
Shasel Marie Arbues	July 15, 2013[131]		July 15, 2015	
Marilyn Ardiente	July 15, 2013[132]	April 14, 2014[133] & July 15, 2014[134]	July 15, 2015	July 15, 2016
Marian Arellano	July 15, 2013[135]		July 15, 2015	
Ella Cecilia Arienda	July 15, 2013[136]		July 15, 2015	
Maria Arlene Artajo	July 15, 2013[137]	April 10, 2014[138] & July 15, 2014[139]	July 15, 2015	July 15, 2016
Fean Asprer	July 15, 2013[140]	March 31, 2014[141] & July 15, 2014[142]	July 15, 2015	July 15, 2016
Angeles Ramil	July 15, 2013[143]		July 15, 2015	

[108] Exhibit "P-11-23", Docket, Vol. I, p. 393.
[109] Exhibit "P-10-9", Docket, Vol. I, p. 390.
[110] Exhibit "P-11-24", Docket, Vol. I, p. 393.
[111] Exhibit "P-10-10", Docket, Vol. I, p. 390.
[112] Exhibit "P-11-25", Docket, Vol. I, p. 393.
[113] Exhibit "P-11-26", Docket, Vol. I, p. 393.
[114] Exhibit "P-11-27", Docket, Vol. I, p. 393.
[115] Exhibit "P-11-28", Docket, Vol. I, p. 393.
[116] Exhibit "P-10-11", Docket, Vol. I, p. 390.
[117] Exhibit "P-11-36", Docket, Vol. I, p. 394.
[118] Exhibit "P-11-42", Docket, Vol. I, p. 394.
[119] Exhibit "P-11-38", Docket, Vol. I, p. 394.
[120] Exhibit "P-11-30", Docket, Vol. I, p. 393.
[121] Exhibit "P-11-41", Docket, Vol. I, p. 394.
[122] Exhibit "P-11-37", Docket, Vol. I, p. 394.
[123] Exhibit "P-11-31", Docket, Vol. I, p. 393.
[124] Exhibit "P-10-12", Docket, Vol. I, p. 391.
[125] Exhibit "P-28", Docket, Vol. I, p. 459.
[126] Exhibit "P-11-32", Docket, Vol. I, p. 393.
[127] Alleged in the Petition for Review, Docket, Vol. I, p. 20.
[128] Exhibit "P-10-13", Docket, Vol. I, p. 391.
[129] Exhibit "P-11-33", Docket, Vol. I, p. 394.
[130] Exhibit "P-10-14", Docket, Vol. I, p. 391.
[131] Exhibit "P-11-34", Docket, Vol. I, p. 394.
[132] Exhibit "P-11-35", Docket, Vol. I, p. 394.
[133] Exhibit "P-10-15", Docket, Vol. I, p. 391.
[134] Exhibits "P-29" and "P-29-1", Docket, Vol. I1, pp. 460-461.
[135] Exhibit "P-8-1", Docket, Vol. I, p. 383.
[136] Exhibit "P-8-2", Docket, Vol. I, p. 383.
[137] Exhibit "P-8-3", Docket, Vol. I, p. 383.
[138] Exhibit "P-7-1", Docket, Vol. I, p. 378.
[139] Exhibit "P-7-2", Docket, Vol. I, p. 378.
[140] Exhibit "P-8-4", Docket, Vol. I, p. 383.
[141] Exhibit "P-7-3", Docket, Vol. I, p. 378.
[142] Exhibit "P-7-4", Docket, Vol. I, p. 378.
[143] Exhibit "P-11-29", Docket, Vol. I, p. 393.

Irene Atienza	July 15, 2013[144]	April 11, 2014 & July 15, 2014[145]	July 15, 2015	July 15, 2016
Maria Cristina Avila	July 15, 2013[146]		July 15, 2015	
Mavelle Bacay	July 15, 2013[147]	April 15, 2014[148]	July 15, 2015	
Nonette Bacay	July 15, 2013[149]		July 15, 2015	
Rosalia Baeza	July 15, 2013[150]	April 10, 2014[151]	July 15, 2015	April 10, 2016
Alma Baguio	July 15, 2013[152]		July 15, 2015	
Maria Nieva Baguisa	July 15, 2013[153]	April 15, 2014[154] & June 3, 2014[155]	July 15, 2015	June 3, 2016
Jacqueline Balankig	July 15, 2013[156]		July 15, 2015	
Ludovina Balicanot	July 15, 2013[157]	April 14, 2014[158]	July 15, 2015	April 14, 2016
Audrey Marie Banzon	July 15, 2013[159]		July 15, 2015	
Katherine Barbecho	July 15, 2013[160]	April 15, 2014[161] & June 30, 2014[162]	July 15, 2015	June 30, 2016
Marissa Barcenas	July 15, 2013[163]	April 14, 2014[164]	July 15, 2015	April 14, 2016
Florissa Barot	July 15, 2013[165]		July 15, 2015	
Djaane Barrameda	July 15, 2013[166]		July 15, 2015	
Katherine Barrameda	July 15, 2013[167]		July 15, 2015	
Maricar Barrogo	July 15, 2013[168]		July 15, 2015	
Marian Therese Bartolome	July 15, 2013[169]	March 20, 2014[170] & July 7, 2014[171]	July 15, 2015	July 7, 2016
Dennis Baruian	July 15, 2013[172]		July 15, 2015	
Eileen Purita Battung	July 15, 2013[173]		July 15, 2015	
Gisela Patricia Bautista	July 15, 2013[174]		July 15, 2015	
Herman Bautista	July 15, 2013[175]	March 21, 2014[176]	July 15, 2015	March 21, 2016
Jude Bedonia	July 15, 2013[177]	April 14, 2014[178]	July 15, 2015	April 14, 2016

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[144] Exhibit "P-8-5", Docket, Vol. I, p. 383.
[145] Exhibit "P-7-5", Docket, Vol. I, p. 378.
[146] Exhibit "P-8-6", Docket, Vol. I, p. 383.
[147] Exhibit "P-8-7", Docket, Vol. I, p. 383.
[148] Alleged in the Petition for Review, Docket, Vol. I, p. 20.
[149] Exhibit "P-8-8", Docket, Vol. I, p. 383.
[150] Exhibit "P-8-9", Docket, Vol. I, p. 383.
[151] Exhibit "P-7-6", Docket, Vol. I, p. 379.
[152] Exhibit "P-8-10", Docket, Vol. I, p. 383.
[153] Exhibit "P-8-11", Docket, Vol. I, p. 383.
[154] Exhibit "P-7-7", Docket, Vol. I, p. 379.
[155] Exhibit "P-30", Docket, Vol. I, p. 462.
[156] Exhibit "P-20", Docket, Vol. I, pp. 443-444
[157] Exhibit "P-8-12", Docket, Vol. I, p. 383.
[158] Exhibit "P-7-8", Docket, Vol. I, p. 379.
[159] Exhibit "P-8-13", Docket, Vol. I, p. 383.
[160] Exhibit "P-8-14", Docket, Vol. I, p. 383.
[161] Exhibit "P-7-9", Docket, Vol. I, p. 380.
[162] Exhibit "P-7-10", Docket, Vol. I, p. 380.
[163] Exhibit "P-8-15", Docket, Vol. I, p. 383.
[164] Exhibit "P-7-11", Docket, Vol. I, p. 380.
[165] Exhibit "P-8-16", Docket, Vol. I, p. 383.
[166] Exhibit "P-8-17", Docket, Vol. I, p. 383.
[167] Exhibit "P-8-18", Docket, Vol. I, p. 383.
[168] Exhibit "P-8-19", Docket, Vol. I, p. 383.
[169] Exhibit "P-8-20", Docket, Vol. I, p. 383.
[170] Exhibit "P-8-41", Docket, Vol. I, p. 384.
[171] Exhibits "P-31" and "P-31-1", Docket, Vol. I, pp. 463-464.
[172] Exhibit "P-8-21", Docket, Vol. I, p. 383.
[173] Exhibit "P-8-22", Docket, Vol. I, p. 383.
[174] Exhibit "P-8-24", Docket, Vol. I, p. 383.
[175] Exhibit "P-8-23", Docket, Vol. I, p. 383.
[176] Exhibit "P-8-42", Docket, Vol. I, p. 384.
[177] Exhibit "P-8-25", Docket, Vol. I, p. 383.
[178] Exhibit "P-7-12", Docket, Vol. I, p. 380.

Ruth Benigno	July 15, 2013[179]	March 21, 2014[180]	July 15, 2015	
Ofelia Benitez	July 15, 2013[181]		July 15, 2015	
Noemi Benizano	July 15, 2013[182]		July 15, 2015	
Daniel Beran	July 15, 2013[183]		July 15, 2015	
Jaime Bere	July 15, 2013[184]	July 15, 2014[185]	July 15, 2015	July 15, 2016
Angela Francesca Bernaldo	July 15, 2013[186]		July 15, 2015	
Aileen Bernardo	July 15, 2013[187]	April 11, 2014[188]	July 15, 2015	April 11, 2016
Maricel Bolado	July 15, 2013[189]		July 15, 2015	
Anna Marie Borgonia	July 15, 2013[190]	April 14, 2014 & June 30, 2014[191]	July 15, 2015	June 30, 2016
Raquel Borres	July 15, 2013[192]		July 15, 2015	
Ramona Bote	July 15, 2013[193]		July 15, 2015	
Bernadette Buensoceso	July 15, 2013[194]	April 15, 2014[195] & July 15, 2014[196]	July 15, 2015	July 15, 2016
Ma. Theresa Bugayong	July 15, 2013[197]		July 15, 2015	
Ethyl Bulao-Lorena	July 15, 2013[198]		July 15, 2015	
Josefina Theresa Burgonia	July 15, 2013[199]		July 15, 2015	
Nancy Bustamante	July 15, 2013[200]		July 15, 2015	
Juleah Anne Caballo	July 15, 2013[201]	April 11, 2014 & July 10, 2014[202]	July 15, 2015	July 10, 2016
Nick Cabibil, Jr.	July 15, 2013[203]		July 15, 2015	
Valerie Anne Cabuang	July 15, 2013[204]		July 15, 2015	
Brian Cafirma	July 15, 2013[205]	April 14, 2014[206]		April 14, 2016
Ricasol Calaluan	July 15, 2013[207]	April 14, 2014[208] & July 15, 2014[209]	July 15, 2015	July 15, 2016

[179] Exhibit "P-8-26", Docket, Vol. I, p. 383.
[180] Alleged in the Petition for Review, Docket, Vol. I, p. 21.
[181] Exhibit "P-8-27", Docket, Vol. I, p. 383.
[182] Exhibit "P-22", Docket, Vol. I, p. 446.
[183] Exhibit "P-21", Docket, Vol. I, p. 445.
[184] Exhibits "P-8-28" and "P-8-29", Docket, Vol. I, p. 383.
[185] Exhibit "P-7-13", Docket, Vol. I, p. 380.
[186] Exhibit "P-8-30", Docket, Vol. I, p. 383.
[187] Exhibit "P-8-31", Docket, Vol. I, p. 383.
[188] Exhibit "P-7-14", Docket, Vol. I, p. 380.
[189] Exhibit "P-8-32", Docket, Vol. I, p. 384.
[190] Exhibit "P-8-33", Docket, Vol. I, p. 384.
[191] Exhibit "P-7-15", Docket, Vol. I, p. 381.
[192] Exhibit "P-8-34", Docket, Vol. I, p. 384.
[193] Exhibit "P-8-35", Docket, Vol. I, p. 384.
[194] Exhibit "P-8-36", Docket, Vol. I, p. 384.
[195] Exhibit "P-7-16", Docket, Vol. I, p. 381.
[196] Exhibits "P-32" and "P-32-1", Docket, Vol. I, pp. 465-466.
[197] Exhibit "P-8-37", Docket, Vol. I, p. 384.
[198] Exhibit "P-8-38", Docket, Vol. I, p. 384.
[199] Exhibit "P-8-39", Docket, Vol. I, p. 384.
[200] Exhibit "P-8-40", Docket, Vol. I, p. 384.
[201] Exhibit "P-5-1", Docket, Vol. I, p. 374.
[202] Exhibit "P-3-1", Docket, Vol. I, p. 361.
[203] Exhibit "P-5-2", Docket, Vol. I, p. 374.
[204] Exhibit "P-5-4", Docket, Vol. I, p. 375.
[205] Alleged in the Petition for Review, Docket, Vol. I, p. 21.
[206] Exhibit "P-3-2", Docket, Vol. I, p. 361.
[207] Exhibit "P-5-3", Docket, Vol. I, p. 374.
[208] Exhibit "P-3-3", Docket, Vol. I, p. 361.
[209] Exhibit "P-3-4", Docket, Vol. I, p. 361.

Based on the foregoing table, the Petition for Review filed on July 13, 2015 was filed within the two-year period from the respective dates of income tax payments.

Significantly, however, it is noted that the written administrative claims for refund filed with the respondent CIR were not formally offer as evidence. Although the fact of filing of the administrative claims was alleged in the Petition for Review[210] and the *photocopies* of which were attached as Annexes A to G[211] these allegations were, nonetheless, subsequently *denied* by the respondent in the Answer.[212]

Specifically, a thorough review of the petitioners' Formal Offer of Documentary Evidence[213] consisted only of the following exhibits *without* the copies of Annexes A to G:

Exhibit Marking	Document Description	Purpose
"P-1"[214] and "P-12"[215]	Judicial Affidavit of Atty. Esther R. Ibanez and Amended Judicial Affidavit of Atty. Peter Paul S. Romero, respectively	To constitute the direct testimony of the witnesses.
"P-2"[216]	Letter to the Ms. Eleanor Litao, Chief of Revenue Accounting Division (RAD) of the BIR, dated March 5, 2015	To show that a request for certification of the income taxes paid by petitioners was made to the BIR.
"P-3",[217] "P-4",[218] "P-5",[219] "P-6",[220] "P-7",[221] "P-8",[222] "P-9",[223] "P-10",[224] "P-11",[225]	Certifications from the Revenue Accounting Division (RAD) of the BIR	To show that petitioners paid income taxes for their 2012 and 2013 salaries.

[210] Pars. 4 and 5, Docket, Vol. I, pp. 18-19.
[211] Docket, Vol. I, pp. 135-226.
[212] Par. 4, Answer, Docket, Vol. I, p. 283.
[213] Docket, Vol. II, pp. 607-624.
[214] Docket, Vol. I, pp. 331-341.
[215] Docket, Vol. II, pp. 746-753; see also Judicial Affidavit of Atty. Peter Paul S. Romero filed via registered mail on April 29, 2016, Docket, Vol. I, pp. 405-411.
[216] Docket, Vol. I, p. 342.
[217] Docket, Vol. I, p. 361-366.
[218] Docket, Vol. I, p. 367-373.
[219] Docket, Vol. I, p. 374-375.
[220] Docket, Vol. I, p. 376-377.
[221] Docket, Vol. I, p. 378-382.
[222] Docket, Vol. I, p. 383-384.
[223] Docket, Vol. I, p. 385-388.
[224] Docket, Vol. I, p. 389-392.
[225] Docket, Vol. I, p. 393-394.

"P-13",[226] "P-14",[227] "P-15"[228] and "P-16"[229]		
"P-3-1" to "P-3-4",[230] "P-4-1" to "P-4-6",[231] "P-5-1" to "P-5-4",[232] "P-6-1",[233] "P-7-1" to "P-7-16", "P-8-1" to "P-8-42", "P-9-1" to "P-9-3", "P-10-1" to "P-10-15", "P-11-1" to "P-11-43", "P-13-1" to "P-13-2", "P-14-1" to "P-14-9", "P-15-1" to "P-15-2" and "P-16-1"	Individual petitioners and respective amounts paid	To show amount of taxes paid by petitioners
"P-17"[234] and "P-20"[235]	Annual Income Tax Returns (ITR) for 2012	Same purpose as above
"P-18" to "P-19-3",[236] "P-22" to "P-24",[237] "P-25",[238] "P-25-2" to "P-25-3",[239] "P-26-1",[240] "P-27-1",[241] "P-28",[242] "P-29-1",[243] "P-30",[244] "P-32-1"[245] and "P-33"[246]	Bank Deposit Slips	Same purpose as above
"P-21"[247]	BIR Revenue Official Receipt 2012 (BIR Form 2524)	Same purpose as above

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[226] Docket, Vol. II, pp. 491-495.
[227] Docket, Vol. II, pp. 496-509.
[228] Docket, Vol. II, pp. 510-512.
[229] Docket, Vol. II, pp. 513-518.
[230] Docket, Vol. I, p. 361-366.
[231] Docket, Vol. I, p. 367-373.
[232] Docket, Vol. I, p. 374-375.
[233] Docket, Vol. I, p. 377.
[234] Docket, Vol. II, p. 519.
[235] Docket, Vol. II, p. 527-528.
[236] Docket, Vol. II, p. 520-526.
[237] Docket, Vol. II, p. 530-533.
[238] Docket, Vol. II, p. 535.
[239] Docket, Vol. II, p. 537-538.
[240] Docket, Vol. II, p. 540.
[241] Docket, Vol. II, p. 542.
[242] Docket, Vol. II, p. 543.
[243] Docket, Vol. II, p. 545.
[244] Docket, Vol. II, p. 546.
[245] Docket, Vol. II, p. 550.
[246] Docket, Vol. II, p. 551.
[247] Docket, Vol. II, p. 529.

"P-24-1",[248] "P-25-1",[249] "P-26",[250] "P-27",[251] "P-29",[252] "P-31"[253] and "P-32"[254]	BIR Payment Forms (BIR Form 0605)	Same purpose as above
"P-31-1"[255]	Bank of Philippine Islands Manager's check dated July 4, 2014 in the amount of ₱104,306.00	Same purpose as above
"P-34"[256]	BIR Revenue Official Receipt 2011 (BIR Form 2524)	Same purpose as above
"P-35"[257]	Decision dated 30 September 2014 of Br. 213, RTC Mandaluyong City in *Erwin Salaveria et al. vs. Commissioner of Internal Revenue*, Civil Case No. MC 14-8775	Same purpose as above
"P-36"[258]	Resolution of the Court of Appeals in CA-G.R. CV No. 104374 dated 3 July 2015	To show and prove that the Court of Appeals denied the appeal of the Commissioner of Internal Revenue from the Decision of the Regional Trial Court of Mandaluyong City voiding RMC 31-2013
"P-36-1"[259]	Resolution of the Court of Appeals in CA-G.R. CV No. 104374 denying respondent's Motion for Reconsideration	To show and prove that the Court of Appeals denied the Motion for Reconsideration by the Commissioner of Internal Revenue of the Resolution of the Court of Appeals in CA-G.R. CV No. 104374 dated 3 July 2015

The photocopies of the administrative claims for refund that were allegedly filed with the respondent and attached as Annexes A to G of

[248] Docket, Vol. II, p. 534.
[249] Docket, Vol. II, p. 536.
[250] Docket, Vol. II, p. 539.
[251] Docket, Vol. II, p. 541.
[252] Docket, Vol. II, p. 544.
[253] Docket, Vol. II, p. 547.
[254] Docket, Vol. II, p. 549.
[255] Docket, Vol. II, p. 548.
[256] Docket, Vol. II, p. 552.
[257] Docket, Vol. II, pp. 629-660.
[258] Docket, Vol. II, p. 661-667.
[259] Docket, Vol. II, p. 668-672.

the Petition for Review[260] were taken up in the testimony of Atty. Peter Paul S. Romero.[261] Nonetheless, the originals of these documents were *not* identified, compared and marked in the testimony and were also *not* included in the Formal Offer of Documentary Evidence which was subsequently filed after the presentation of evidence for petitioners.[262]

In *Pilipinas Shell Petroleum Corporation v. Commissioner of Customs*,[263] the Supreme Court reversed the finding of fraud by the trial court which was anchored on a memorandum that was *not* formally offered during trial. The Supreme Court explained at length why a piece of evidence that was not offered cannot be considered:

> "In the case at bench, a perusal of the records reveals that there is neither any iota of evidence nor concrete proof offered and admitted to clearly establish that petitioner committed any fraudulent acts. The CTA in Division relied solely on the Memorandum dated 2 February 2001 issued by the CIIS-IPD of the BOC in ruling the existence of fraud committed by petitioner. However, there is no showing that such document was ever presented, identified, and testified to or offered in evidence by either party before the trial court.
>
> Time and again, this Court has consistently declared that cases filed before the CTA are litigated de novo, party-litigants must prove every minute aspect of their cases. Section 8 of R.A. No. 1125, as amended by R.A. No. 9282, categorically described the CTA as a court of record. Indubitably, no evidentiary value can be given to any documentary evidence merely attached to the BOC Records, as the rules on documentary evidence require that such documents must be formally offered before the CTA. Pertinent is Section 34, Rule 132 of the Rules of Court which reads:
>
> > Section 34. *Offer of evidence.* — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.
>
> From the foregoing provision, it is clear that for evidence to be considered by the court, the same must he formally offered. Corollarily, the mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence of a party. In *Interpacific Transit, Inc. v. Aviles*, We had the occasion to make a distinction between identification of documentary evidence and its formal offer as an exhibit. We said that the first is done in the course of the trial and is

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[260] Petition for Review, Docket, Vol. I, pp. 135-226.

[261] Questions 2-4, Amended Judicial Affidavit, Docket, Vol. II, pp. 747-748; please refer also to Questions 2-4 of the *original* Judicial Affidavit of Atty. Peter Paul S. Romero, Docket, Vol. I, pp. 406-407.

[262] Docket, Vol. II, pp. 607-624

[263] G.R. No. 195876, December 5, 2016.

accompanied by the marking of the evidence as an exhibit while the second is done only when the party rests its case and not before. A party, therefore, may opt to formally offer his evidence if he believes that it will advance his cause or not to do so at all. In the event he chooses to do the latter, the trial court is not authorized by the Rules to consider the same.

The Rule on this matter is patent that even documents which are identified and marked as exhibits cannot be considered into evidence when the same have not been formally offered as part of the evidence, **but more so if the same were not identified and marked as exhibits**, such as in the present case. An assay of the records reveals that the subject Memorandum dated 2 February 2001 was neither identified nor offered in evidence by respondent during the entire proceedings before the CTA in Division. Consequently, this is fatal to respondent's cause in establishing the existence of fraud committed by petitioner since the burden of proof to establish the same lies with the former alone.

As a matter of fact, even if the aforesaid documentary evidence was included as part of the BOC Records submitted before the CTA in compliance with a lawful order of the court, this does not permit the trial court to consider the same in view of the fact that the Rules prohibit it. The reasoning forwarded by the CTA in Division in its Resolution dated 24 February 2009, that the apparent purpose of transmittal of the records is to enable it to appreciate and properly review the proceedings and findings before an administrative agency, is misplaced. Unless any of the party formally offered in evidence said Memorandum, and accordingly, admitted by the court a quo, it cannot be considered as among the legal and factual bases in resolving the controversy presented before it.

By analogy, in *Dizon v. CTA*, this Court underscored the importance of a formal offer of evidence and the corresponding admission thereafter. We quote:

> 'While the CTA is not governed strictly by technical rules of evidence, as rules of procedure are not ends in themselves and are primarily intended as tools in the administration of justice, the presentation of the BIR's evidence is not a mere procedural technicality which may be disregarded considering that it is the only means by which the CTA may ascertain and verify the truth of BIR's claims against the Estate. The BIR's failure to formally offer these pieces of evidence, despite CTA's directives, is fatal to its cause. Such failure is aggravated by the fact that not even a single reason was advanced by the BIR to justify such fatal omission. This, we take against the BIR.'

Per the records of this case, the BIR was directed to present its evidence in the hearing of February 21, 1996, but BIR's counsel failed to appear. The CTA denied petitioner's motion to consider

BIR's presentation of evidence as waived, with a warning to BIR that such presentation would be considered waived if BIR's evidence would not be presented at the next hearing. Again, in the hearing of March 20, 1996, BIR's counsel failed to appear. Thus, in its Resolution dated March 21, 1996, the CTA considered the BIR to have waived presentation of its evidence. In the same Resolution, the parties were directed to file their respective memorandum. Petitioner complied but BIR failed to do so. In all of these proceedings, BIR was duly notified. Hence, in this case, we are constrained to apply our ruling in *Heirs of Pedro Pasag v. Parocha*:

> **A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. On the other hand, this allows opposing parties to examine the evidence and object to its admissibility. Moreover, it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court**.
>
> Strict adherence to the said rule is not a trivial matter. The Court in *Constantino v. Court of Appeals* ruled that **the formal offer of one's evidence is deemed waived after failing to submit it within a considerable period of time. It explained that the court cannot admit an offer of evidence made after a lapse of three (3) months because to do so would "condone an inexcusable laxity if not non-compliance with a court order which, in effect, would encourage needless delays and derail the speedy administration of justice.'**
>
> Applying the aforementioned principle in this case, we find that the trial court had reasonable around to consider that petitioners had waived their right to make a formal offer of documentary or object evidence. Despite several extensions of time to make their formal offer, petitioners failed to comply with their commitment and allowed almost five months to lapse before finally submitting it. **Petitioners' failure to comply with the rule on admissibility of evidence is anathema to the efficient, effective, and expeditious dispensation of justice.** (Emphasis and underlining supplied)

Clearly therefore, evidence not formally offered during the trial cannot be used for or against a party litigant by the trial court in deciding the merits of the case. Neither may it be taken into account on appeal. Since the rule on formal offer of evidence is not a trivial matter, failure to make a formal offer within a considerable period of time shall be deemed a waiver to submit it. Consequently, any evidence that has not been offered and admitted thereafter shall

> be excluded and rejected. (*Citations omitted; emphasis and underscoring supplied*)

Section 204(C) authorizes the respondent CIR with, *inter alia*, the authority to grant tax refunds. In addition, the filing of the administrative claim before the respondent CIR under Section 204(C) is made a *prerequisite* for the filing of the judicial claim under Section 229:

> "**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." *(Underscoring supplied)*

In *Metropolitan Bank & Trust Company v. Commissioner of Internal Revenue*,[264] the Supreme Court had the occasion to explain anew Section 229 and denied a refund claim of final withholding tax for the taxpayer's failure to comply with the requisites therein:

> "As may be gleaned from the foregoing provisions, a claimant for refund must **first file an administrative claim** for refund before the CIR, **prior to filing a judicial claim before the CTA**. Notably, both the administrative and judicial claims for refund should be filed within the two (2)-year prescriptive period indicated therein, and that the claimant is allowed to file the latter even without waiting for the resolution of the former in order to prevent the forfeiture of its claim through prescription. In this regard, case law states that "the primary purpose of filing an administrative claim [is] to serve as a notice of warning to the CIR that court action would follow unless the tax or penalty alleged to have been collected erroneously or

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[264] G.R. No. 182582, April 17, 2017

> illegally is refunded. To clarify, Section 229 of the Tax Code — then Section 306 of the old Tax Code — however does not mean that the taxpayer must await the final resolution of its administrative claim for refund, since doing so would be tantamount to the taxpayer's forfeiture of its right to seek judicial recourse should the two (2)-year prescriptive period expire without the appropriate judicial claim being filed." (*Emphasis and underscoring supplied*)

Because the administrative claims that were allegedly filed were *not* identified, marked and formally offered, the petitioners failed to prove that their administrative claims were filed within the two-year period under Section 204. Likewise, the petitioners also failed to establish that *prior* to the judicial claim, administrative claims for refund were *in fact* filed with the respondent CIR in compliance with Section 229.

Taxpayers must prove not only their entitlement to a refund, but also their compliance with the procedural due process as non-observance of the prescriptive periods within which to file the administrative and the judicial claims would result in the denial of their claims.[265]

As a final point, a review of the evidence offered disclose that the following petitioners failed to submit proofs of payment of the income tax which are subject of the claim for refund:

Taxable year 2012	**Amount of Claim**
1. Ma. Cecilia Amparo	₱ 365,832.23
2. Leticia Aranda	223,100.71
3. Brian Cafirma	181,209.75
Subtotal	**₱ 770,142.69**
Taxable year 2013	
1. Mavelle Bacay	₱ 178,766.00
2. Ruth Benigno	176,029.00
Subtotal	**₱ 354,795.00**
TOTAL	**₱ 1,124,937.69**

Hence, even granting that petitioners' administrative claims were indeed timely filed, the foregoing claims in the aggregate amount of ₱1,124,937.69 should be denied.

Claims for tax refunds are in the nature of tax exemptions, and as such, should be construed *strictissimi juris* against the taxpayers and liberally in favor of the government.[266] The burden is upon the

[265] *Commissioner of Internal Revenue v. Manila Electric Company*, G.R. No. 181459, June 9, 2014.
[266] *Eastern Telecommunications Phils., Inc v Commissioner of Internal Revenue*, GR 183531, March 25 2015

taxpayers to prove the factual basis of their claims.[267] Petitioners, unfortunately, failed to discharge this burden.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

(*With all due respect, please see my Dissenting Opinion*)
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.
Associate Justice
Chairperson

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[267] *Panasonic Communications Imaging Corporation of the Philippines (formerly Matsushita Business Machine Corporation of the Philippines v. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010.

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Second Division

SHENILYN ABALOS, ET.AL.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9089

Members:

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

Promulgated:
AUG 10 2018

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DISSENTING OPINION

MANAHAN, *J.:*

My esteemed colleagues denied the Petition for Review on the following grounds: (1) the administrative claims for refund were not identified, marked and formally offered in evidence, hence, petitioners failed to establish that these were in fact filed with the Bureau of Internal Revenue (BIR) prior to the filing of the judicial claim; and (2) petitioners failed to submit proofs of payment of the income taxes which are the subject matter of the refund claim. This twin failure, according to the majority, proved fatal to their claim because of non-compliance with the clear provisions of Section 229 of the 1997 National Internal Revenue Code (NIRC).[1]

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[1] "Section 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. (emphasis supplied)

xxx xxx xxx

There is no disagreement to the contention that an administrative claim for refund is a prerequisite for filing a judicial claim for refund of national internal revenue taxes before the Court of Tax Appeals (CTA) and this rule admits only of a few exceptions provided under the relevant provisions of the 1997 NIRC.[2]

However, I dissent to the outright conclusion that the claims for refund should be denied because no documentary evidence of such claims as well as proofs of income tax payments were formally offered in evidence during trial.

The general rule that no evidence formally offered in courts can be considered, admits of certain exceptions.

Section 34, Rule 132 of the Rules of Court provides:

> "Rule 132
>
> Section 34. – *Offer of evidence.* – The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified."

The foregoing, however, admits of an exception. The Supreme Court has, in many decisions, relaxed the aforesaid rule and set forth two conditions for the exception to apply: **a) that the evidence has been identified by testimony duly recorded** and **b) that the evidence has been incorporated in the records of the case.**[3]

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[2] a. That the return filed showing an overpayment, shall be considered a written claim for refund (Section 204 (C)).

b. That the CIR, may even without a written claim for refund, may grant the same, where on the face of the return, such payment appears clearly to have been erroneously paid (Section 229);

3 Star Two (SPV-AMC), Inc. vs. Howard Ko, et.al., G.R. No. 185454, March 23, 2011; CIR vs. United Salvage and Towage (Phils), Inc., G.R. No. 197515, July 2, 2014; The Heirs of Romana Saves vs. The Heirs of Escolatico Saves, G.R. No. 152866, October 6, 2010; People of the Philippines vs. Susan Napat-A, G.R. No. 84951, November 14, 1989; The People of the Philippines vs. Silvestre Mate, G.R. No. L-34754, March 27, 1981.

In this case, petitioner's witness, Atty. Peter Paul S. Romero, has identified these administrative claims for refund in his Amended Judicial Affidavit[4], to wit:

> Q. What have you done on behalf of petitioners in this case as one of their handling lawyers in relation to their claim for refund of income taxes paid?
>
> A – On their behalf, I previously requested the Commissioner of Internal Revenue to refund the income taxes they paid for their 2012 and 2013 salaries as employees of the Asian Development Bank.
>
> Q- What can you show to establish that you made the request?
>
> A.- **Mam, I undersigned the administrative claim for refund for these petitioners. These claims are contained in the various letters addressed to the Commissioner of Internal Revenue copies of which have been attached to the petition filed with this Honorable Court as Annexes "A" to "G".** (emphasis supplied)

The Amended Judicial Affidavit of petitioners' witness which serves as his direct testimony on the claim for refund has been formally offered in evidence as Exhibit "P-12".[5] Furthermore, these claims have been incorporated in the records of the case, as shown in the following pleadings replete in the case: Petition for Review, Pre-Trial Brief and the Amended Judicial Affidavit of Atty. Peter Paul S. Romero. Thus, in the interest of substantial justice, I humbly believe that these written claims for refund should be admitted as evidence of petitioners' substantial compliance with the requirements provided under the law.

As to the second ground of denial that the proofs of payment were not submitted, the records of the case show otherwise. Petitioner presented in evidence Exhibits "P-3" to "P-16", inclusive of sub-markings which refer to the Certifications issued by the Revenue Accounting Division (RAD) of the BIR certifying that the payments made by the concerned employees listed therein were verified and found included/collected as per their database. The details of said Certifications (and other

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[4] Court Docket, Volume II, pp. 746-751.
[5] Exhibit "P-12", Court Docket, Volume II, pp. 746-751.

evidence) however should still be analyzed and scrutinized during a full blown trial.

Based on the foregoing, I vote against the denial of the petition for review.

CATHERINE T. MANAHAN
Associate Justice