CTA Form No. 8

23-000152-0053

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11129

SAMSUNG SDS GLOBAL SCL PHILIPPINES CO., LTD. INC,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. FELIX PAUL R. VELASCO III
ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

GALVEZ CARDIÑO PAYUMO LAW OFFICES
Unit 77B, AVR Building
Beaterio Street, Intramuros
1002 Manila

GREETINGS:

You are hereby notified by these presents that on **January 22, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 23, 2026.**

Atty. Maria Johoanna F. Clhan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

SAMSUNG SDS GLOBAL SCL PHILIPPINES CO., LTD. INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11129

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

JAN 22 2026, 2:00PM

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DECISION

CUI-DAVID, J.:

Before this Court is the *Petition for Review* dated April 13, 2023, filed by petitioner Samsung SDS Global SCL Philippines Co., Ltd., Inc. (**petitioner**), seeking the refund of ₱30,208,502.00, representing alleged unutilized creditable withholding taxes (**CWT**) for the calendar year (**CY**) 2020.[1]

THE PARTIES

Petitioner Samsung SDS Global SCL Philippines Co., Ltd., Inc. is a domestic corporation duly organized under and by virtue of the laws of the Philippines, with principal business address at 101 Bigben Holdings, Elisco Road, Barangay Ibayo Tipas, Taguig City.[2]

Respondent is the Commissioner of Internal Revenue (**CIR** or **respondent**), who is tasked to assess and collect all national internal revenue taxes, fees, and charges, and enforce all

[1] Docket – Vol. I, pp. 23-24, *Petition for Review*, Prayer.
[2] *Id.* at 7 and 244, *Petition for Review*, Parties, par. 2 vis-à-vis *Answer*, par. 1.

forfeitures, penalties, and fines connected therewith, and holds office at the Bureau of Internal Revenue (**BIR**) National Office Bldg., Agham Road, Diliman, Quezon City.[3]

THE FACTS

On April 15, 2021, petitioner filed its original *Annual Income Tax Return* (BIR Form No. 1702-RT) (**Annual ITR**) for CY 2020,[4] which reflected the following tax credits/payments:[5]

44 Prior Year's Excess Credits Other Than Minimum Corporate Income Tax (MCIT)	72,018,028.00
48 Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	20,705,307.00
49 Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	11,126,692.00
55 Total Tax Credits/Payments	**103,850,027.00**

Petitioner's original Annual ITR for CY 2020 also reflected an overpayment of ₱98,320,098.00, computed as follows:[6]

Part II – Total Tax Payable	
Tax Due	5,529,929.00
Less: Total Tax Credits/Payments	103,850,027.00
Total Amount Payable (Overpayment)	**(98,320,098.00)**

In the said original Annual ITR, petitioner chose the option *"To be refunded"* for the overpayment.[7]

On May 17, 2021, petitioner filed an amended Annual ITR for CY 2020,[8] which reflected the following:[9]

44 Prior Year's Excess Credits Other Than MCIT	72,018,028.00
48 Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	20,705,307.00
49 Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	9,503,195.00
55 Total Tax Credits/Payments	**102,226,530.00**

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3 *Id.* at 498. *Joint Stipulation of Facts and Issues* (JSFI), par. A.1.
4 *Id.* at 61-66, Exhibit "P-4".
5 *Id.* at 64, Exhibit "P-4", Lines 44, 48, 49 and 55.
6 *Id.* at 63, Exhibit "P-4", Part II – Total Tax Payable.
7 *Id.* at 63, Exhibit "P-4".
8 *Id.* at 67-71, Exhibit "P-5".
9 *Id.* at 69, Exhibit "P-5-1".

Petitioner's amended Annual ITR for CY 2020 reflected an overpayment of ₱96,694,539.00, computed as follows:[10]

Part II – Total Tax Payable	
Tax Due	5,531,991.00
Less: Total Tax Credits/Payments	102,226,530.00
Total Amount Payable (Overpayment)	**(96,694,539.00)**

In the said amended Annual ITR, petitioner also marked the option *"To be refunded"* for the overpayment.[11]

On April 4, 2023, petitioner filed with the BIR Regular Large Taxpayer Audit Division a letter dated March 31, 2023,[12] together with the *Application for Tax Credits/Refunds* (BIR Form No. 1914),[13] seeking the refund of unutilized CWTs for CY 2020, amounting to ₱30,208,502.00.

PROCEEDINGS BEFORE THE COURT

Claiming inaction on the part of the BIR, petitioner filed the present *Petition for Review* on April 14, 2023.[14]

On July 10, 2023, respondent filed his *Answer*.[15]

A Pre-Trial Conference was held on October 12, 2023.[16] Prior thereto, petitioner filed its *Pre-Trial Brief* on September 21, 2023,[17] while respondent submitted his on October 6, 2023.[18]

On November 7, 2023, the parties submitted their *Joint Stipulation of Facts and Issues*,[19] which was approved by the Court in its *Resolution* dated December 6, 2023.[20] The *Pre-Trial Order* dated January 25, 2024, was then issued.[21]

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10 *Id.* at 68, Exhibit "P-5-2".
11 *Id.*, Exhibit "P-5-3".
12 *Id.* at 213-215, Exhibits "P-20" and "21".
13 *Id.* at 212, Exhibit "P-19".
14 *Id.* at 6-28.
15 *Id.* at 244-253.
16 *Id.* at 255-257, Notice of Pre-Trial Conference dated July 13, 2023; 489-492, Minutes of the hearing held on, and Order dated, October 12, 2023.
17 *Id.* at 259-267.
18 *Id.* at 481-483.
19 *Id.* at 498-506.
20 *Id.* at 511.
21 *Id.* at 518-526.

On March 5, 2024, respondent transmitted the *BIR Records*, consisting of one (1) folder consecutively numbered from 1 to 130.[22]

During the trial, petitioner presented its testimonial and documentary evidence, including the testimonies of: (1) Ms. Lileth L. Quiros,[23] Finance Manager; and (2) Ms. Mae Cristina Galanza,[24] Court-commissioned Independent Certified Public Accountant (**ICPA**).[25]

The *ICPA Report* was submitted on March 25, 2024.[26]

On April 19, 2024, petitioner filed its *Formal Offer of Evidence*,[27] to which respondent submitted his *Comment (On Petitioner's Formal Offer of Evidence)* on April 24, 2024.[28] In a Resolution dated June 28, 2024,[29] the Court admitted petitioner's exhibits, *except:*

- Exhibits "P-35", "P-36-1", "P-42", "P-43", "P-64", "P-65", "P-66", "P-67", "P-68", "P-69-1" to "P-69-12", "P-70", "P-71", "P-72-1" to "P-72-2", "P-73-1" to "P-73-13" and "P-74-1" to "P-74-5", for not being identified by petitioner's witnesses; and

- Exhibits "P-62-1" to "P-62-21", as the documents submitted were mere e-mail attachments and not what is offered as "Summary Alphalist of Withholding Taxes for the period January 1 to December 31, 2020."

On July 11, 2024, respondent filed a *Manifestation*,[30] stating that he would no longer present testimonial evidence.

Thereafter, upon petitioner's *Motion for Reconsideration to the Resolution dated June 28, 2024*, which was filed on July 12, 2024,[31] to which respondent filed his *Comment/Opposition (Re: Motion for Reconsideration dated 11 July 2024)* on August 12, 2024,[32] the Court, in its Resolution dated December 4, 2024,[33]

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22 *Id.* at 547-549, *Compliance* dated March 5, 2024.
23 *Id.* at 275-288, Exhibit "P-28"; 480 (for the Attestation); 540-542, Order dated February 1, 2024.
24 Docket – Vol. II, pp. 608 to 626, Exhibit "P-79"; 628-629, Order dated April 4, 2024.
25 Docket – Vol. I, p. 538, *Oath of Commission* dated February 1, 2024; 540-542, Order dated February 1, 2024.
26 Docket – Vol. II, pp. 588-604, Exhibit "P-26".
27 *Id.* at 638-645.
28 *Id.* at 747-749.
29 *Id.* at 755-757.
30 *Id.* at 758-760.
31 *Id.* at 762-767.
32 *Id.* at 773 to 775.
33 *Id.* at 788 to 791.

admitted Exhibits "P-35", "P-36-1", "P-42", "P-43", "P-62-1" to "P-62-21", "P-64", "P-65", "P-66", "P-67", "P-68", "P-69-1" to "P-69-12", "P-70", "P-71", "P-72-1" to "P-72-2", "P-73-1" to "P-73-13" and "P-74-1" to "P-74-5."

On August 16, 2024,[34] respondent filed a *Manifestation* stating that he would adopt the arguments stated in his *Answer* in lieu of a memorandum.

On January 9, 2025, petitioner filed its *Memorandum*.[35]

The case was submitted for decision on January 27, 2025.[36]

THE ISSUE

The parties submit the following issue for this Court's resolution:

> WHETHER OR NOT PETITIONER IS ENTITLED FOR TAX REFUND OF THE UNUTILIZED CREDITABLE WITHHOLDING TAX (CWT) FOR THE YEAR 2020 AMOUNTING TO THIRTY MILLION TWO HUNDRED EIGHT THOUSAND FIVE HUNDRED TWO PESOS (PHP30,208,502.00).[37]

PETITIONER'S ARGUMENTS

Petitioner maintains that the claim for a refund should be granted because all necessary elements are present. It argues that:

1. Both the administrative and judicial claims for refund were filed within the two-year prescriptive period;
2. The fact of withholding was duly established through the Certificates of Creditable Taxes Withheld at Source, which were formally offered as evidence; and
3. The income upon which the taxes were withheld was included in the return of the recipient.

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[34] *Id.* at 778-780.
[35] *Id.* at 792-820.
[36] *Id.* at 822, Notice of Resolution dated January 27, 2025.
[37] Docket – Vol. I, p. 498, JSFI, par. B.

RESPONDENT'S ARGUMENTS

In his *Answer*, respondent contends that petitioner miserably failed to exhaust administrative remedies before elevating the matter to the Court; and that petitioner is not entitled to its claim for refund of CWTs.

Respondent asserts that it is incumbent upon the claimant to prove actual remittance of the alleged withheld taxes to the BIR. He claims that petitioner should have presented evidence to prove actual remittance of the alleged taxes to the BIR. He emphasizes that it is not respondent's duty to prove before the Court non-remittance of taxes withheld.

THE COURT'S RULING

The instant *Petition for Review* is unmeritorious.

Petitioner complied with Section 76 of the National Internal Revenue Code (NIRC) of 1997, as amended, and did not carry over the excess CWTs being claimed for refund.

Central to the resolution of this case is Section 76 of the NIRC of 1997, as amended, which provides:

> 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:
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> (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.
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> 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

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> 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.

Under the foregoing provision, a corporation whose total quarterly income tax payments exceed its total income tax due for a given taxable year may either: (1) carry over the excess amount to succeeding taxable quarters or years until fully utilized, or (2) claim a refund in the form of cash or a tax credit certificate. However, once the carry-over option is exercised, actually or constructively, it becomes irrevocable for that taxable period.[38] The phrase *'for that taxable period'* refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[39]

To exercise either option, the corporation must indicate its choice on its annual corporate adjustment return by marking the appropriate option box on the BIR form, 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.[40]

A perusal of petitioner's amended Annual ITR for CY 2020[41] shows that it had income tax credits in the total amount of ₱102,226,530.00, consisting of: (i) prior year's excess tax credits in the amount of ₱72,018,028.00; and (ii) CWTs accumulated during the four (4) quarters of CY 2020, in the aggregate amount of ₱30,208,502.00 (the sum of ₱20,705,307.00 and ₱9,503,195.00).[42]

Petitioner claims that its Minimum Corporate Income Tax (**MCIT**) due for CY 2020, amounting to ₱5,531,991.00, was paid using a portion of its prior year's excess credits of ₱72,018,028.00. After deducting the said MCIT against the

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[38] *Rhombus Energy, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206362, August 1, 2018 [Per J. Bersamin, Third Division], citing *Republic v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015 [Per J. Bersamin, First Division]; *Systra Philippines, Inc v. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007 [Per J. Corona, First Division]; *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 156637 & 162004, December 14, 2005 [Per J. Panganiban, Third Division].

[39] *Republic v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015 [Per J. Bersamin, First Division]; *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009 [Per J. Chico-Nazario, Third Division].

[40] Refer to *Philippine Bank of Communications v. Commissioner of Internal Revenue*, G.R. No. 112024, January 28, 1999 [Per J.Quisumbing, Second Division].

[41] Docket -Vol. I, pp. 67-71, Exhibit "P-5".

[42] *Id.* at 69, Exhibit "P-5-1".

prior year's excess tax credits, a balance of ₱66,486,037.00 allegedly remained. It further claims that it had creditable taxes withheld for CY 2020 in the amount of ₱30,208,502.00. Taken together, it argues that these amounts constitute ₱96,694,539.00 in unutilized tax credits as of December 31, 2020, as shown below:

Prior Year's Excess Credits other than MCIT	₱ 72,018,028.00
Less: Tax Due (MCIT)	5,531,991.00
Balance of Prior Year's Excess Credits	₱ 66,486,037.00
Add: Creditable Taxes Withheld – CY 2020	30,208,502.00
Excess Creditable Taxes Withheld as of December 31, 2020	**₱96,694,539.00**

Pursuant to Section 2.58.3 of Revenue Regulations (**RR**) No. 2-1998, the submission of petitioner's Annual ITR for CY 2019 sufficiently proves its prior year's excess credits other than MCIT, *viz.*:

> Sec. 2.58.3. *Claim for Tax Credit or Refund.* —
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> . . . .
>
> (C) Excess Credits. – An individual or corporate taxpayer's excess expanded withholding tax credits for the taxable quarter/year shall automatically be allowed as a credit against his income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, provided **he submits with his income tax return, a copy of the first page of his income tax return for the previous taxable period showing the amount of his excess withholding tax credits**, and on which return he has not opted for a cash refund or tax credit certificate. (Emphasis supplied)

Based on the above provision, excess CWTs of a taxable year, which were opted to be carried over to the succeeding taxable year, are automatically applied as credits against income tax due in the succeeding taxable year, provided that such excess CWTs are evidenced by the ITR for the taxable year when such excess credits arose.

Verily, pursuant to Section 2.58.3 of RR No. 2-1998, the submission of petitioner's amended Annual ITR for CY 2019[43] reflecting excess tax credits amounting to ₱110,262,271.00, which consisted of prior year's excess credits of

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[43] USB (Exhibit "P-26-2"), Exhibit "P-60", Schedule 7, Page 6 of 8.

₱72,018,028.00, and CWTs for CY 2019 in the amount of ₱38,244,243.00, is sufficient to prove its "Prior Year's Excess Credits other than MCIT" in the amount of ₱72,018,028.00.

Hence, the balance of the prior year's excess tax credits as of the end of CY 2019 in the amount of ₱72,018,028.00, per petitioner's 2019 Annual ITR, was more than enough to cover petitioner's MCIT due for CY 2020, amounting to ₱5,531,991.00. Thus, the reported CWTs for CY 2020 in the amount of ₱30,208,502.00 remained unutilized as of the end of CY 2020.

Furthermore, petitioner marked the box corresponding to the option *"To be refunded"* in both its original and amended Annual ITR for CY 2020.[44] Notably, only the amount of ₱66,486,037.00 was reflected in petitioner's Quarterly ITRs[45] and amended Annual ITR[46] for CY 2021 as "Prior Year's Excess Credits other than MCIT". The CWTs withheld during CY 2020 in the amount of ₱30,208,502.00 were not carried over to the succeeding taxable periods.

Thus, the unutilized CWTs for CY 2020 in the amount of ₱30,208,502.00 may properly be the subject of a claim for refund under Section 76 of the NIRC of 1997, as amended.

Requisites for a claim for refund or tax credit of excess and unutilized CWT.

In addition to the requisites provided under Section 76 of the NIRC of 1997, as amended, jurisprudence and the pertinent provisions of RR No. 2-1998 require that the following requisites be established before a taxpayer may be entitled to a refund or the issuance of a tax credit certificate for unutilized or excess CWTs:

1. The claim for refund must be filed within the two-year prescriptive period provided under Sections 204(C) and 229 of the NIRC of 1997, as amended;

2. The fact of withholding must be established by a copy of a statement duly issued by the payor

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44 Docket – Vol. I, p. 63, Exhibit "P-4"; 68, Exhibit "P-5-3".
45 *Id.* at 126, Exhibits "P-7", Line 1, Schedule 4.; 130, "P-8", Line 1, Schedule 4.; 134, "P-9", Line 1, Schedule 4.
46 *Id.* at 136, Exhibit "P-10", Line 44.

(withholding agent) to the payee, showing the amount paid and the tax withheld therefrom; and

3. The income upon which the taxes were withheld must have been included in the income tax return of the recipient.[47]

Thus, it behooves petitioner to establish compliance with the foregoing requisites.

Petitioner's administrative and judicial claims for refund were timely filed.

Anent the *first* requisite, the pertinent provisions are Sections 204(C) and 229 of the NIRC of 1997, as amended, which provide:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
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> . . . .
>
> (C) Credit or refund taxes erroneously or illegally received, or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* That a return filed showing an overpayment shall be considered as a written claim for credit or refund. (Emphasis supplied)
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> 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

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[47] *Republic v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015 [Per J. Bersamin, First Division]; *United International Pictures AB v. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012 [Per J.Peralta, October 11, 2012]; *Citibank N.A. v. Court of Appeals*, G.R. No. 107434, October 10, 1997 [Per J. Panganiban, Third Division]; *ACCRA Investments Corporation v.. The Honorable Court of Appeals*, G.R. No. 96322, December 20, 1991[Per J. Gutierrez, Jr., Third Division]; Section 2.58, Revenue Regulations No. 2-98, as amended.

> 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)

The foregoing provisions require that both the administrative and judicial claims for refund of erroneously or excessively paid taxes must be filed within two (2) years from the date of payment of the tax.

It is well settled that the two-year prescriptive period for claims for refund of overpaid income tax or CWTs commences to run from the date of filing of the Annual ITR, which is also referred to as the Final Adjustment Return (**FAR**).[48] This is because 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.[49] In other words, it is only logical to reckon the two-year prescriptive period from the time the FAR or the Annual ITR was filed, since it is only at that time that it would be possible to determine whether the corporate taxpayer paid an amount exceeding its annual income tax liability.[50]

Here, petitioner filed its original Annual ITR on April 15, 2021.[51] Counting from April 15, 2021, petitioner had until April 15, 2023, within which to file both its administrative and judicial claims for refund.

Records show that petitioner filed its administrative claim for refund with the BIR on April 4, 2023,[52] and its judicial claim before this Court on April 14, 2023.[53] Clearly, both claims for

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48 *Commissioner of Internal Revenue v. TMX Sales, Inc.*, G.R. No. 83736, January 15, 1992 [Per J. Gutierrez, Jr., *En Banc*]; *ACCRA Investments Corporation v. The Honorable Court of Appeals*, G.R. No. 96322, December 20, 1991 [Per J. Gutierrez, Jr., Third Division]; *Commissioner of Internal Revenue v. The Philippine American Life Insurance Co.*, G.R. No. 105208, May 29, 1995 [J. Romero, Third Division].

49 *Commissioner of Internal Revenue v. TMX Sales Inc.*, G.R. No. 83736, January 15, 1992 [Per J. Gutierrez, *En Banc*].

50 *Metropolitan Bank & Trust Company v. The Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017 [Per J. Perlas-Bernabe, First Division].

51 Docket – Vol. I, pp. 61-66, Exhibit "P-4",

52 *Id.* at 212, Exhibit "P-19"; 213, Exhibit "P-20"; 214-215, Exhibit "P-21".

53 *Id.* at 6-28.

refund of unutilized or excess CWTs were seasonably filed within the two-year prescriptive period.

Respondent, however, insists that petitioner failed to exhaust administrative remedies before elevating the case to the Court. He points out that petitioner filed its administrative claim with the BIR on April 4, 2023, and then filed the present judicial claim only ten (10) days later, on April 14, 2023. Respondent maintains that such a short interval did not afford the BIR sufficient opportunity to evaluate and act on the claim, nor to verify or correct any errors, if necessary.

The Court is not persuaded.

In *Commissioner of Internal Revenue v. Estate of Mr. Charles Marvin Romig* (***Romig***),[54] the Supreme Court ruled as follows:

> Sections 204 and 229 of the 1997 NIRC provide for the refund of erroneously or illegally collected taxes. **Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.** Said provision state:
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> . . . .
>
> Based on the above-quoted provisions, it is manifestly clear that an administrative claim for refund must precede the filing of a judicial claim and that both claims must be filed within the two years from the payment of the tax. **In the instant case, the two-year period to file a claim for refund is reckoned from June 30, 2015, the date respondent paid the estate tax amounting to PHP 4,565,439.07. <u>Since the Estate first filed its administrative claim at 8:00 a.m. on June 28, 2017, and thereafter its judicial claim at 4:47 p.m. on even date, both claims were filed on time or within the two-year prescriptive period provided by law</u>.**
>
> **<u>It is of no moment that there is only a short interval between the filing of the two claims</u>. The law merely requires that both claims are filed within the two-year period.** In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*,[55] **where therein petitioner similarly argued that the judicial claim for refund, which was filed barely 10 days from the filing of the administrative claim, was premature and violative of the doctrine of exhaustion of administrative remedies, this Court held that, "from the plain language of the law, it does not matter how far apart the administrative and**

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[54] G.R. No. 262092, October 9, 2024 [Per J. Hernando, First Division].
[55] G.R. No. 226592, July 27, 2021 [Per J. Leonen, *En Banc*].

> **judicial claims were filed, or whether the [CIR] was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period."**
>
> Moreover, the Court agrees with the finding of the CTA Second Division and CTA *En Banc* that the Estate's immediate resort to court action was justified, considering that the prescriptive period was about to expire. Under the circumstances, if the Estate had waited for the CIR to act on its administrative claim knowing fully well that the two-year period was about to lapse, it would have resultantly forfeited its right to seek judicial recourse, thereby suffering irreparable damage. Hence, respondent cannot be faulted for acting in such a manner to protect its interest and right to recover the taxes it erroneously paid to the government.
>
> **While the Court recognizes that the CIR may not have had the proper chance to act on the matter within their jurisdiction because of the short period of time between the filing of the two claims, <u>the silence or insufficiency in the law on what is to be considered a reasonable period for the CIR to resolve a claim for refund of taxes is one that can be addressed not by judicial pronouncement, but by appropriate legislation</u>.** (Emphasis and underscoring supplied)

The foregoing jurisprudential pronouncements establish that the law does not prescribe any minimum interval between the filing of the administrative and judicial claims. What is controlling is that: (1) the administrative claim precedes the judicial claim, and (2) both are filed within the two-year prescriptive period.

Thus, even where the administrative and judicial claims are filed only days or even hours apart, as in the *Romig* case, the judicial claim remains valid and may be taken cognizance of by the Court, provided the statutory period is complied with.

Accordingly, petitioner properly and timely sought judicial relief within the two-year prescriptive period, which was about to lapse, notwithstanding that its administrative and judicial claims were filed only 10 days apart. Given this circumstance, petitioner cannot be deemed to have failed to exhaust administrative remedies before elevating the matter to this Court.

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Petitioner proved that it withheld CWTs in the amount of ₱30,208,502.00 for CY 2020.

Petitioner was able to prove that CWTs in the amount of ₱30,208,502.00 were withheld for Calendar Year (CY) 2020.

Pertinent to the *second* and *third* requisites, Section 2.58.3(B) of RR No. 2-1998, as amended, provides:

> Sec. 2.58.3. *Claim for tax credit or refund.* –
>
> . . . .
>
> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.** (Emphasis supplied)

The *second* requisite requires the taxpayer to establish the fact of withholding the claimed CWTs through a statement duly issued by the payor, *i.e.*, the withholding agent, to the payee showing the names of the payor and payee, the income payment, and the amount of tax withheld.

In *Commissioner of Internal Revenue v. Philippine National Bank* (***PNB***),[56] the Supreme Court held that a Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307), when complete in all material particulars, constitutes competent proof of the fact of withholding.

To establish compliance with this requirement, petitioner submitted the relevant BIR Forms No. 2307[57] issued by its clients, together with its CWT Schedule for taxable year 2020.[58]

A perusal of the submitted documents shows that the claimed CWTs for CY 2020, in the amount of ₱30,208,502.00, were duly supported by BIR Form No. 2307. Thus, in compliance with the *second* requisite, petitioner sufficiently established the fact of withholding of CWTs for CY 2020.

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[56] G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division].
[57] USB (Exhibit "P-26-2"), Exhibit "P-63",
[58] *Id.*, Exhibit "P-32".

Proof of actual remittance is not indispensable.

In his *Answer*, respondent contends that it is incumbent upon the claimant to prove actual remittance of the withheld taxes to the BIR. Hence, respondent claims that petitioner should have presented evidence to prove actual remittance of the alleged taxes to the BIR, and it is not the duty of respondent to prove before the Court non-remittance of taxes withheld.

The Court disagrees.

In the *PNB* case, the Supreme Court categorically ruled that proof of actual remittance is not a condition to claim a refund of unutilized tax credits. Under Sections 57 and 58 of the NIRC of 1997, as amended, it is the payor-withholding agent, not the payee-taxpayer, who is charged with the responsibility of withholding and remitting income taxes to the government:

> Petitioner's posture that respondent is required to establish actual remittance to the Bureau of Internal Revenue deserves scant consideration. **<u>Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits</u>. Under Sections 57 and 58 of the 1997 National Internal Revenue Code, as amended, it is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with responsibility of withholding and remitting income taxes**.
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> This court's ruling in *Commissioner of Internal Revenue v. Asian Transmission Corporation*,[59] citing the Court of Tax Appeals' explanation, is instructive:
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>> **. . . proof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner**. Section 2.58.3(B) of Revenue Regulations No. 2-98 clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. **In the event that the withholding agents commit fraud against the government by not remitting the taxes so**

[59] G.R. No. 179617, January 19, 2011 [Per J. Mendoza, Third Division].

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> **withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Section 57 and 58 of the NIRC of 1997, as amended, the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent . . . has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents**. (Emphasis and underscoring supplied)

Thus, respondent's contention that it is incumbent upon the claimant to prove actual remittance of the withheld taxes is devoid of merit.

Petitioner failed to establish that the income on which CWTs were withheld was reported as part of its gross income in its CY 2020 Annual ITR.

Be that as it may, petitioner failed to prove compliance with the *third* requisite, that the income payments upon which the CWTs were withheld formed part of its gross income declared in its Annual ITR for CY 2020.

To satisfy this requirement, petitioner must prove that the income payments of ₱1,449,533,227.67,[60] from which the substantiated CWTs of ₱30,208,502.00 were withheld, were reported as part of its gross income.

To this end, petitioner presented its Audited Financial Statements (**AFS**) for taxable year 2020,[61] SAP Extracted Sales,[62] Cello System Extracted Data (**SEC**),[63] Samsung Electronics Philippines Co. (**SEPCO**)-Provided Schedule of

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[60] USB (Exhibit "P-26-2"), Exhibit "P-32".
[61] *Id.*, Exhibit "P-50".
[62] *Id.*, Exhibits "P-36-1" to "P-36-1".
[63] *Id.*, Exhibit "P-38-1" to "P-38-12".

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Income Payments from which Taxes were Withheld,[64] Samsung Electro-Mechanics Philippines Corporation (**SEMPHIL**)-Provided Schedule of Income Payments from which Taxes were Withheld,[65] Cello System Extracted Freight Billing Invoices for SEPCO,[66] and Cello System Extracted Freight Billing Invoices for SEMPHIL.[67] These documents were all examined by the ICPA.

As gleaned from its AFS for taxable year 2020,[68] petitioner reported revenues amounting to ₱2,627,090,744.00, which tallied with the amount of ₱2,627,090,744.00 reflected in its amended Annual ITR for CY 2020.[69]

According to the ICPA, petitioner uses an integrated logistics solution known as the "CELLO Billing Management System" (**Cello System**), which was developed based on logistics business, that integrates the SAP version 6.0. The Cello System manages petitioner's accounts receivable and accounts payable arising from logistics transactions. A billing invoice is generated upon the posting of a transaction, which is then integrated into SAP's financial books.[70]

To check whether the revenues from logistics services per SAP books were properly reported in the AFS, the ICPA compared the total revenues from logistics services per SAP books against the total amount per AFS for CY 2020. Based on this comparison, the ICPA inferred that the total revenues from logistics services per SAP books in the amount of ₱2,625,573,211.32 were properly carried over to the amounts reported in the AFS for CY 2020.[71] Moreover, the ICPA presented schedules of its tracing of income payments per the provided schedule of sales to SEPCO and SEMPHIL to the Cello System, where it allegedly traced income payments to the revenues per SAP books to the extent of ₱644,386,273.30 for SEPCO and ₱628,864,681.24 for SEMPHIL, which corresponds to CWTs of ₱14,042,905.00 and ₱12,577,053.62, respectively.[72]

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64 *Id.*, Exhibit "P-40".
65 *Id.*, Exhibit "P-75".
66 *Id.*, Exhibits "P-37-1" to "P-37-9".
67 *Id.*, Exhibits "P-69-1" to "P-69-12".
68 *Id.*, Exhibit "P-50", Note 13, Page 23 of 47.
69 Docket – Vol. I, p. 69, Exhibit "P-5-4", Line 27.
70 Docket – Vol. II, p. 589, Exhibit "P-26", Nature of Business Operations.
71 *Id.* at 594, Exhibit "P-26".
72 *Id.* at 595-598, Exhibit "P-26", pars. 7.1 and 7.2.

However, it was noted that the SAP Extracted Sales[73] submitted by petitioner did not contain the sum totals. Hence, the amounts comprising the alleged ₱2,625,573,211.32 total revenues per SAP books found by ICPA as properly carried over to the amounts reported per AFS cannot be confirmed. Nevertheless, even granting that the said amount of ₱2,625,573,211.32 indeed pertained to revenues per petitioner's SAP books, which were reported in AFS, what must still be established is that such amount includes the income payments of ₱1,449,533,227.67 upon which the claimed CWTs of ₱30,208,501.64 were withheld.

In this respect, petitioner failed to prove that the income payments of ₱1,449,533,227.67 formed part of the revenues reported in its SAP books and Annual ITR. While the ICPA presented schedules (Annexes 5 to 7 and 14 to 16)[74] purporting to trace income payments from SEPCO and SEMPHIL – provided schedule to the Cello System, the amounts per SEPCO and SEMPHIL – the provided schedules cannot be verified as traced to the Cello System since the references indicated therein per the Cello System are only Exhibits "P-38" and "P-39." They do not specifically identify to which Cello System Extracted Data, ranging from Exhibits "P-38-1" to "P-38-12" and Exhibits "P-39-1" to "P-39-8", such references pertain. As such, the alleged tracing could not be verified.

In *Tullett Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*,[75] the Supreme Court underscored that although there are no rigid evidentiary rules for proving the third requisite in CWT refund claims, taxpayers must still establish every material aspect of their claim. Thus, they must present evidence linking the specific income payments subjected to withholding to the revenues reported in their ITRs, *viz.*:

> Indisputably, **there exists <u>no hard and fast standards as to the kind of evidence needed to prove the third requisite</u>**.
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> . . . .
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> Evidently, unlike the second requisite, i.e., the fact of withholding— which is proved by 'a copy of the withholding tax statement duly issued by the payor to the payee showing

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[73] USB (Exhibit "P-26-2"), Exhibits "P-36-1" to "P-36-14".
[74] USB (Exhibit "P-26-2").
[75] G.R. No. 257219 [Formerly UDK No. 16941], July 15, 2024 [Per J. Dimaampao, Third Division].

> the amount paid and the amount of tax withheld therefrom'— **there is no prescribed evidence to prove that the income payment has been declared as part of the gross income**.
>
> . . . .
>
> Similarly, **the Court is not inclined to adopt as doctrine that the third requisite may be proved by the mere fact that the income from which CWT is withheld is *less* than the total income reported by the taxpayer-claimant. This goes against the elementary principle that cases before the CTA are litigated *de* novo and that <u>parties 'should prove every minute aspect of their cases</u>.' This is particularly true in refund cases as tax refunds are strictly construed against the taxpayer.** Even so, while not absolutely determinative of the third requisite, ***when the total reported sales/income is greater than the income corresponding to the CWT withheld, this should prompt the CTA to be more circumspect in its valuation of the evidence on record,* especially when there is <u>other evidence that could point to the breakdown of the gross income reported</u>**, as in this case.
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> The CTA Special Third Division also erred in not allowing Tullett Prebon to submit the **expanded ledger** in its motion for reconsideration of its April 12, 2019 Decision, especially when the crux of its Decision rested on the insufficiencies of the earlier ledger.
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> . . . .
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> Accordingly, the case should be remanded and Tullett Prebon should be allowed to **present and submit the expanded general ledger as evidence to prove the third requisite**. **The Court leaves the determination of the extent of the effects thereof on the amount of CWT to be refunded to the CTA**. (Emphasis and underscoring supplied)

Here, petitioner's failed to prove that the income payments totaling ₱1,449,533,227.67, from which the claimed CWTs of ₱30,208,501.64 were withheld, were included in the gross income declared in its Annual ITR for CY 2020. Consequently, the *third* requisite was not satisfied. Therefore, petitioner's claim for CWT refund must necessarily fail.

It bears emphasis that it is the taxpayer-claimant that has the burden of proof to establish the factual basis of its claim for tax credit or refund.[76] Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of

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[76] *Citibank N.A. v. Court of Appeals*, G.R. No.107434, October 10, 1997 [Per J. Panganiban, Third Division].

sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.[77] Thus, an applicant for a tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[78] Strict adherence to the conditions prescribed by law is required of the taxpayer. Refunds need to be proven and their application raised in the right manner as required by law.[79]

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
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.

JEAN MARIE A. BACORRO-VILLENA
Acting Chairperson

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77 *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc., et al.*, G.R. No. 127105, June 25, 1999 [Per J. Gonzaga-Reyes, Third Division].

78 *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015 [Per J. Reyes, Third Division], *citing J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013 [Per J.Perlas-Bernabe, Second Division].

79 *Steag State Power, Inc. (Formerly State Power Development Corporation) v. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019 [Per J. Leonen, Third Division].

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Special First Division Acting 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice