CTA Form No. 8

23-000435-0040

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11270

GE HEALTHCARE PHILIPPINES, INC., (formerly General Electric Philippines, Inc).,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. MCLAIR D. GARCIA
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Buillding
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

CABRERA & COMPANY
28th Floor, AIA Tower (formerly Philamlife Tower)
8767 Paseo de Roxas
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **October 28, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 30, 2025.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

GE HEALTHCARE PHILIPPINES, INC. (formerly General Electric Philippines, Inc.), *Petitioner,*	**CTA CASE NO. 11270**
	Members:
	BACORRO-VILLENA, *Acting Chairperson, and* **CUI-DAVID**, *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 28 2025 ; 2:20 PM

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DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review* filed on September 14, 2023, by petitioner GE Healthcare Philippines, Inc. (formerly "General Electric Philippines, Inc.") ["**Petitioner**"] against respondent Commissioner of Internal Revenue ("**CIR**" or "**Respondent**"). Petitioner seeks the refund or issuance of a Tax Credit Certificate in the amount of ₱47,972,225.78, allegedly representing its erroneous payment of Final Withholding Tax (**FWT**) on royalties payable to GE Energy Switzerland GmbH (**GE Switzerland**), which was remitted to the Bureau of Internal Revenue (**BIR**) on September 15, 2021.

THE PARTIES

Petitioner is a domestic corporation duly organized and existing under Philippine laws, with registered office at 27th Floor Menarco Tower, 32nd Street, Bonifacio Global City, Fort Bonifacio, Taguig City.[1] It is a registered taxpayer with Tax Identification Number (**TIN**) 000-121-766-00000 per BIR

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[1] Docket – Vol. I, p. 6, *Petition for Review*, I. Parties, par. 1; 7, *Petition for Review*, III. Statement of Facts and Timeliness of the Petition, par. 3; Docket – Vol. II, pp. 633–652, Exhibits "P-1" and "P-2".

Certificate of Registration issued on July 7, 1998.[2] It is primarily engaged in general electrical business, performing and delivering technical services, and distribution of parts, among others.[3]

Respondent is vested by the National Internal Revenue Code (**NIRC**) with the authority to, among others, decide, approve, and grant applications for refund of erroneously or illegally collected national internal revenue taxes. The CIR may be served with summons and other court processes at the BIR National Office Building, Litigation Division, Room 703, Diliman, Quezon City.[4]

THE FACTS AND PROCEEDINGS BEFORE THE COURT

On January 1, 2019, petitioner and GE Switzerland, a non-resident foreign corporation (**NRFC**) incorporated under the laws of Switzerland,[5] entered into a Project Risk, Network & Technology License for Services[6] (**Agreement**). In consideration of the rights granted for the use of licensed technology under the Agreement, petitioner agreed to pay fees to GE Switzerland for all services performed and sold, offered for sale, or otherwise used or disposed of using the licensed technology.

On August 13, 2021, petitioner filed, *via* Electronic Filing and Payment Systems (**eFPS**), its *Monthly Remittance Form of Final Income Taxes Withheld (BIR Form No. 0619-F)* [***FWT Return***] for the month of July 2021 and paid the corresponding FWT in the adjusted amount of ₱22,946,111.02. Petitioner alleges that the said July 2021 *FWT Return* includes the FWT on royalties payable to GE Switzerland amounting to ₱46,295,334.82.[7]

[2] Docket – Vol. I, p. 7, *Petition for Review*, III. Statement of Facts and Timeliness of the Petition, par. 4; Docket – Vol. II, pp. 653–655, Exhibit "P-3".
[3] Docket – Vol. I, p. 7, *Petition for Review*, III. Statement of Facts and Timeliness of the Petition, par. 3; Docket – Vol. II, pp. 633–652, Exhibits "P-1" and "P-2".
[4] Docket – Vol. I, p. 417–418, *Joint Stipulation of Facts and Issues* (JSFI), I. Stipulation of Facts, par. 1; Docket – Vol. I, p. 447, Pre-Trial Oder dated May 28, 2024, III. Admitted Facts and Stipulation of Facts.
[5] Docket – Vol. I, pp. 7–8, Petition for Review, pars. 5–6; Docket – Vol. II, pp. 656–659, 669 and 670, Exhibits "P-4", "P-5", and "P-6", respectively.
[6] Exhibit P-8, BIR Records, pp. 5-28.
[7] In its *Petition for Review*, petitioner alleges that it paid and remitted ₱46,295,334.82 pertaining to FWT on royalties payable to GE Switzerland, as supported by invoices issued by the latter, with details summarized as follows:

Income Recipient	Invoice Number	Invoice Amount (in USD)	Invoice Amount (in PHP)	Tax Rate	Total
GE Energy Switzerland GmbH	2003245214	$4,654,956.93	₱225,540,809.43	15%	₱33,831,121.41
GE Energy Switzerland GmbH	2003245215	849,159.13	41,143,245.88	15%	6,171,486.88
GE Energy Switzerland GmbH	2003245216	865,840.97	41,951,510.22	15%	6,292,726.53
		$6,369,957.03	₱308,635,565.53		**₱46,295,334.82**

Thereafter, on September 13, 2021, petitioner filed *via* eFPS its *FWT Return*[8] for the month of August 2021, and paid the corresponding FWT on September 15, 2021,[9] in the amount of ₱51,271,825.70, a portion of which allegedly includes FWT paid and remitted on royalties payable to GE Switzerland totaling ₱47,972,225.78.[10]

On September 5, 2022, petitioner filed with the BIR International Tax Affairs Division an *Application for Treaty Purposes (Relief from Philippine Income Tax on Royalties) (BIR Form No. 0901-R)*,[11] and a letter-request for confirmation of entitlement to the preferential tax rate under Article 12(2) of the Philippines-Switzerland Tax Treaty (**RP-Switzerland Tax Treaty**) to confirm the applicability of the 15% FWT on royalty payments to GE Switzerland for the use of its licensed technology.[12]

On November 14, 2022, the BIR issued a *Certificate of Entitlement to Treaty Benefit*,[13] signed by Atty. Larry M. Barcelo, Assistant Commissioner, Legal Service, certifying and confirming that the royalty payments to GE Switzerland are subject to 15% FWT.

On August 14, 2023, petitioner filed an *Application for Refund of Excess Withholding Tax in Accordance with the Double Taxation Convention (BIR Form No. 1914)*,[14] and a letter-request[15] for refund of erroneously paid FWT on royalties payable to GE Switzerland amounting to ₱47,972,225.78, representing the alleged July 2021 FWT, which according to petitioner was inadvertently reflected twice in both the July and August 2021 *FWT Returns*, and correspondingly paid twice on August 13, 2021, and September 15, 2021.

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[8] *Id.* at 683–685. Exhibit "P-12".
[9] *Id.* at 686. Exhibit "P-12-1".
[10] In its *Petition for Review*, petitioner alleges that it erroneously paid and remitted ₱47,972,225.78 pertaining to the same FWT due on royalties payable to GE Switzerland, which were already paid for in the July 2021 *FWT Return*, with details summarized as follows:

Income Recipient	Invoice Number	Invoice Amount (in USD)	Invoice Amount (in PHP)	Tax Rate	Total
GE Energy Switzerland GmbH	2003245214	$4,654,956.93	₱233,710,262.36	15%	₱35,056,539.35
GE Energy Switzerland GmbH	2003245215	849,159.13	42,633,513.62	15%	6,395,027.04
GE Energy Switzerland GmbH	2003245216	865,840.97	43,471,062.63	15%	6,520,659.39
		$6,369,957.03	₱319,814,838.61		**₱47,972,225.78**

[11] Docket – Vol. II, p. 688–689. Exhibit "P-13-1".
[12] Exhibit "P-13". BIR Records, pp. 84–88.
[13] Exhibit "P-14". BIR Records, pp. 92–94.
[14] Docket – Vol. II, p. 690. Exhibits "P-15".
[15] *Id.* at 691–697. Exhibits "P-16".

Without awaiting the outcome of its administrative claim for refund, and with the two-year prescriptive period nearing its lapse, petitioner was compelled to elevate the matter to the Court *via* the present *Petition for Review* filed on September 14, 2023.[16]

On October 16, 2023, *Summons* was issued and received by respondent on October 18, 2023.[17]

On November 16, 2023, respondent filed a *Motion for Extension of Time to File Answer,*[18] which was granted by the Court on November 28, 2023.[19] Within the extended period, respondent filed his *Answer (Re: Petition for Review dated 14 September 2023)* on December 15, 2023.[20]

On December 18, 2023, respondent submitted to the Court the BIR Records of the case, consisting of one folder with 94 pages, through his *Compliance.*[21]

Thereafter, the Pre-Trial Conference was conducted on March 13, 2024.[22] Prior thereto, the *Pre-Trial Brief (of Petitioner General Electric Philippines, Inc.)*[23] and respondent's *Pre-Trial Brief*[24] were respectively submitted on March 8, 2024.

On April 2, 2024, the parties filed their *Joint Stipulation of Facts and Issues,*[25] which was approved by the Court in a Resolution dated April 25, 2024,[26] thereby terminating the pre-trial. The *Pre-Trial Order* was issued on May 28, 2024.[27]

During trial, petitioner presented both testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Mr. Nelson V. Soriano (**Mr. Soriano**),[28] Tax Executive Director of Isla Lipana & Co.; (2) Mr. Armando V. Dayag, Jr. (**Mr. Dayag**),[29] petitioner's former Tax Operations

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16 Docket – Vol. I, pp. 6–25.
17 *Id.* at 354.
18 *Id.* at 357–360.
19 *Id.* at 362. Resolution dated September 30, 2022.
20 *Id.* at 364–372.
21 *Id.* at 374–376. *Compliance.*
22 *Id.* at 380–382. Notice of Pre-Trial Conference dated January 17, 2024.
23 *Id.* at 392–406.
24 *Id.* at 384–387.
25 *Id.* at 417–424.
26 *Id.* at 428.
27 *Id.* at 440–453.
28 Docket – Vol. II, pp. 463–480. Exhibit "P-20", *Amended Judicial Affidavit of Mr. Nelson V. Soriano*; 611–617. Minutes of the hearing held on, and Order dated, June 5, 2024.
29 Docket – Vol. I, pp. 272–280. Exhibit "P-22", *Judicial Affidavit of Armando V. Dayag, Jr.*; Docket – Vol. II, pp. 611–617. Minutes of the hearing held on, and Order dated, June 5, 2024.

Manager; and (3) Mr. Jaysonn A. Javier,[30] petitioner's Lead Controllership Analyst.

On June 18, 2024, petitioner filed a *Formal Offer of Evidence (By Petitioner General Electric Philippines, Inc.),*[31] to which respondent filed his *Comment (on Petitioner's Formal Offer of Evidence)* on June 24, 2024.[32] In turn, on July 18, 2024, petitioner filed a *Manifestation with Comment/Opposition [Re: Respondent's Comment (on Petitioner's Formal Offer of Evidence) dated 20 June 2024].*[33]

On September 12, 2024, acting on the *Formal Offer of Evidence (By Petitioner General Electric Philippines, Inc.)*, the Court admitted all of petitioner's offered exhibits.[34]

In his *Comment (on Petitioner's Formal Offer of Evidence),* respondent manifested that he would no longer present evidence, after confirmation that a report had yet to be issued by the revenue officer who handled the case.[35]

On October 17, 2024, petitioner's *Memorandum (of General Electric Philippines, Inc.)*[36] and respondent's *Memorandum*[37] were respectively submitted.

The present case was deemed submitted for decision on November 7, 2024.[38]

On August 27, 2025, petitioner filed a *Manifestation with Motion to Adopt Amended Corporate Name,* requesting the Court to adopt and reflect its amended corporate name, from "General Electric Philippines, Inc." to "GE Healthcare Philippines, Inc.," in all orders, notices, and other court processes. The Court granted the same in its Resolution dated September 25, 2025.

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[30] Docket – Vol. I. pp. 295–300, Exhibit "P-21", *Judicial Affidavit of Jaysonn A. Javier*; Docket – Vol. II. pp. 611–617. Minutes of the hearing held on, and Order dated, June 5, 2024.
[31] Docket – Vol. II. pp. 624–632.
[32] *Id.* at 713–717.
[33] *Id.* at 722–728.
[34] *Id.* at 732–733. Resolution dated September 12, 2024.
[35] *Id.* at 715. *Comment (on Petitioner's Formal Offer of Evidence)*, par. 10.
[36] *Id.* at 747-768.
[37] *Id.* at 734–743.
[38] *Id.* at 1395. Notice of Resolution dated November 7, 2024.

THE ISSUE

As stipulated by the parties, the sole issue for the Court's resolution is:

> WHETHER PETITIONER IS ENTITLED TO A TAX REFUND/CREDIT CERTIFICATE AMOUNTING TO ₱47,972,225.78 REPRESENTING ITS ERRONEOUS PAYMENT OF FINAL WITHHOLDING TAX (FWT) ON THE ROYALTIES PAYABLE TO GE SWITZERLAND PAID TO THE BIR ON 15 SEPTEMBER 2021.[39]

Petitioner's arguments:

In its *Petition for Review* and *Memorandum,* petitioner contends that:

1. It is registered with the BIR as a taxpayer;
2. The royalties payable to GE Switzerland, an NRFC, are subject to the preferential tax rate of 15% FWT pursuant to the RP-Switzerland Tax Treaty;
3. It erroneously paid the corresponding FWT on royalties to GE Switzerland twice for the month of July 2021;
4. It was able to show sufficient proof of payment, and there was actual collection and receipt by the government of the tax sought to be recovered;
5. Both the administrative and judicial claims for tax refund were filed within the two-year prescriptive period; and
6. The erroneously paid FWT on royalty payment should be refunded following the principle of *solutio indebiti.*

Respondent's counter-arguments:

In his *Answer* and *Memorandum,* respondent contends that petitioner failed to exhaust administrative remedies before elevating the case to this Court, as petitioner admitted that it did not await the outcome of its refund application but immediately resorted to filing the present *Petition for Review.* He further argues that the principle of *solutio indebiti* is not applicable because the royalty tax was not erroneously paid, as petitioner was merely complying with its tax liability and paying the amount due to the government.

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[39] Docket – Vol. I. p. 447. Pre-Trial Order. IV. Issue/s to be Tried or Resolved.

THE COURT'S RULING

The present *Petition for Review* is bereft of merit.

The legal basis for the recovery of erroneously or illegally paid taxes is found in Sections 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, which provide:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
>
> ... ...
>
> (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 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)*

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As derived from the foregoing provisions and settled jurisprudence, the requirements for the refund of erroneously or illegally paid taxes are as follows:

(1) A written claim for refund or tax credit must be filed with the CIR within two years from the date of payment of the tax or penalty;[40]

(2) In case of denial or inaction by the CIR within the said period, the petition for refund must be filed with the CTA within 30 days from receipt of the denial and within the said two-year period from the date of payment of the tax or penalty, regardless of any supervening cause;[41]

(3) The claim for refund must be a categorical demand for reimbursement;[42] and

(4) There must be proof of payment of the erroneously or illegally collected taxes.[43]

***First and second requirements:* Petitioner timely filed its administrative and judicial claims.**

Sections 204(C) and 229 of the NIRC of 1997, as amended, explicitly require that a claimant must first file an **administrative claim** for refund or tax credit with the BIR within two years from the date of payment of the tax. Only then may a **judicial claim** be pursued. Under prevailing law, both administrative and judicial claims must be filed within the same two-year reglementary period.

The Supreme Court consistently held that the "[t]imeliness of filing the claim is *mandatory* and *jurisdictional*. The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund filed either prematurely or out of time." [44]

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[40] *Commissioner of Internal Revenue v. Victorias Milling Co., Inc., et al.*, G.R. No. L-24108, January 3, 1968 [Per J. Bengzon, *En Banc*]; See also *Commissioner of Internal Revenue v. Acosta*, G.R. No. 154068, August 3, 2007 [Per J. Quisumbing, Second Division].

[41] *Gibbs, et al. v. Collector of Internal Revenue et. Al.*, G.R. No. L-13453, February 29, 1960, 107 Phil. 232 (1960) [Per J. Barrera, *En Banc*]; See also *Commissioner of Internal Revenue v. Acosta*, G.R. No. 154068, August 3, 2007 [Per J. Quisumbing, Second Division].

[42] *Bermejo v. The Collector of Internal Revenue*, G.R. No. L-3029, July 25, 1950, 87 Phil. 96 (1950) [Per J. Bengzon, *En Banc*]; See also *Commissioner of Internal Revenue v. Acosta*, G.R. No. 154068, August 3, 2007 [Per J. Quisumbing, Second Division].

[43] *Aguilar v. Commissioner of Internal Revenue*, CA-G.R. SP-16432, March 30, 1990.

[44] *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*, G.R. No. 226592, July 27, 2021 [Per J. Leonen, *En Banc*]; See also *Commissioner of Internal Revenue v. San Miguel Corporation, et seq.*, G.R. Nos. 180740 & 180910, November 11, 2019 [Per J. Hernando, Second Division] citing *Commissioner of Internal*

It is also worth stressing that, as for the judicial claim, Section 229 explicitly provides that it be filed within two years from the date of payment of the tax "*regardless of any supervening cause that may arise after payment.*"[45]

A perusal of the records reveals that petitioner filed a written claim with the CIR, as evidenced by its duly accomplished *Application for Refund of Excess Withholding Tax in Accordance with the Double Taxation Convention (BIR Form No. 1914)*[46] and a letter-request for refund dated August 14, 2023.[47]

The relevant dates in relation to the two-year prescriptive period are summarized below:

Event	**Date**
Filing of *FWT Return* for August 2021	September 13, 2021[48]
Payment of FWT	September 15, 2021[49]
Filing of Administrative Claim	August 14, 2023[50]
Filing of Judicial Claim	September 14, 2023[51]
End of Two-Year Prescriptive Period	September 15, 2023

Petitioner paid the subject FWT amounting to ₱47,972,225.78 on September 15, 2021. Thus, it had two years from September 15, 2021, or until September 15, 2023, to file both administrative and judicial claims. Considering that the administrative claim was filed on August 14, 2023, and the *Petition for Review* was subsequently filed on September 14, 2023,[52] both claims were timely filed within the two-year prescriptive period under Sections 204(C) and 229 of the NIRC of 1997, as amended.

Respondent's assertion that the case should be dismissed for failure to exhaust administrative remedies is **untenable**.

Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative, G.R. No. 209776, December 7, 2016, 802 Phil. 636, 645 (2016) [Per J. Brion, Second Division].

45 *Commissioner of Internal Revenue v. San Miguel Corporation, et seq.*, G.R. Nos. 180740 & 180910, November 11, 2019 [Per J. Hernando, Second Division].

46 Docket – Vol. II, p. 690, Exhibits "P-15".

47 *Id.* at 691–697, Exhibits "P-16".

48 *Id.* at 683–685, Exhibit "P-12".

49 *Id.* at 686, Exhibit "P-12-1".

50 *Id.* at 690–697, Exhibits "P-15" and "P-16".

51 Docket – Vol. I, pp. 6–25.

52 *Id.*

As held in *Commissioner of Internal Revenue v. Philippine Bank of Communications,*[53] the independence of a judicial claim for refund or tax credit from its administrative counterpart is implied in the NIRC of 1997, as amended, which allows the filing of both claims contemporaneously within the two-year prescriptive period. Notably, Section 229 does not require prior action by the CIR before a judicial claim may be initiated; it merely requires that a claim be filed with the CIR.

In fine, petitioner has satisfied the *first* and *second* requirements for a valid claim for refund or tax credit. Consequently, the Court affirms its jurisdiction over the instant case.

<u>Third requirement:</u> Petitioner's claim for refund contains a categorical demand for reimbursement.

As previously discussed, petitioner filed on August 14, 2023 its letter-request for refund of erroneously paid FWT on royalties amounting to ₱47,972,225.78.[54] The letter-request clearly and unequivocally demands reimbursement, as shown in the following excerpt:

> On behalf of our client, General Electric Philippines, Inc. (hereinafter referred to as "GEPI" or the "Company"), we respectfully submit this letter request for tax refund of erroneously paid Final Withholding Tax ("FWT") on royalties on 15 September 2021 to the Bureau of Internal Revenue ("BIR") amounting to PHP 47,972,225.78 relative to the royalties payable to GE Energy Switzerland ("GE Switzerland"). Pursuant to Article 12(2) of the Philippines-Switzerland Tax Treaty ("Tax Treaty"), the royalties were subjected to a reduced FWT rate of 15 percent (15%).
>
> . . . .
>
> In view of the foregoing, we respectfully submit this letter request for the cash refund of the erroneously paid FWT by GEPI amounting to PHP 47,972,225.78.

This statement satisfies the *third* requirement, as it constitutes a clear and direct demand for the refund of the amount erroneously paid.

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[53] G.R. No. 211348, February 23, 2022 [Per J. Hernando, Second Division].
[54] Docket – Vol. II, pp. 691–697, Exhibits "P-16".

<u>Fourth requirement:</u> Petitioner failed to prove that there was an erroneous or illegal FWT collection by the government.

The *fourth* requirement necessitates that there must be proof of payment of the erroneously or illegally collected taxes.

Section 229 of the NIRC of 1997, as amended, allows the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which is some other similar respect is illegal.[55] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively, or in any manner wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[56]

Thus, to sustain a refund claim, the taxpayer must show not only the timely filing of administrative and judicial claims but also that the FWT paid was erroneously, illegally, or wrongfully collected.

In the present case, the alleged erroneous tax collection pertains to the 15% FWT withheld and paid on royalties payable to GE Switzerland for July 2021, which were mistakenly included in the computation and payment of petitioner's FWT for August 2021.

As a general rule, NRFCs such as GE Switzerland are subject to a 25% income tax on royalties derived from Philippine sources, effective January 1, 2021, pursuant to Section 28 (B) (1) of the NIRC of 1997, as amended by Republic Act (**RA**) No. 11534,[57] which provides:

> SEC. 28. *Rates of Income Tax on Foreign Corporations.* –
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> . . . .
>
> (B) Tax on Nonresident Foreign Corporation. –

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[55] *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012 [Per J. Villarama, Jr., J.] citing the definition provided in Black's Law Dictionary, 5th Edition, p. 486.

[56] *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013 [Per J. Carpio, *En Banc*]

[57] Otherwise known as "Corporate Recovery and Tax Incentives for Enterprises Act" or "CREATE".

(1) In General. — Except as otherwise provided in this Code, a foreign corporation not engaged in trade or business in the Philippines, effective January 1, 2021, shall pay a tax equal to twenty-five percent (25%) of the gross income received during each taxable year from all sources within the Philippines, such as interests, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains subject to tax under subparagraph 5(c).

However, the foregoing tax rate may be reduced to the extent required by any treaty obligation binding upon the Philippine government, as provided in Section 32 (B) (5) of the NIRC of 1997, as amended:

SEC. 32. *Gross Income* –

(A) *General Definition.* — Except when otherwise provided in this Title, gross income means all income derived from whatever source, including (but not limited to) the following items:

. . . .

(6) Royalties;

. . . .

(B) Exclusions from Gross Income. — The following items shall not be included in gross income and shall be exempt from taxation under this Title:

. . . .

(5) Income Exempt under Treaty. — Income of any kind, to the extent required by any treaty obligation binding upon the Government of the Philippines.

In this regard, Article 12 of the RP-Switzerland Tax Treaty[58] provides:

ARTICLE 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

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[58] Convention Between the Republic of the Philippines and the Swiss Confederation. RP - Swiss Confederation. June 24. 1998.

> 2. However, the royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the **tax so charged shall not exceed 15 per cent of the gross amount of the royalties.**
>
> 3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic films and films and tapes for television or radio broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. *(Emphasis supplied)*

... ...

Thus, royalties arising in the Philippines and paid to a resident of Switzerland may be taxed in the Philippines, but only up to 15% of the gross amount of royalties, in accordance with the RP-Switzerland Tax Treaty.

To determine whether GE Switzerland qualifies as a "resident of a Contracting State," Article 4 (paragraph 1) of the RP-Switzerland Tax Treaty provides:

> "**Article 4**
> **RESIDENT**
>
> 1. For the purposes of this Convention, the term 'resident of a Contracting State' means any person who, under the laws of the State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature."

Here, petitioner has sufficiently established that GE Switzerland is a resident of Switzerland based on the following supporting documents:

1. Apostilled Articles of Association dated July 17, 2015;[59]
2. Apostilled Certificate of Residence dated August 17, 2023, issued by the Swiss Tax Authority;[60] and
3. Certificate of Non-Registration of Company dated July 4, 2023, issued by the Securities and Exchange Commission.[61]

In addition, the *Certificate of Entitlement to Treaty Benefit*[62] issued by the BIR on November 12, 2022 confirms that the

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59 Docket – Vol. II. pp. 656–659. Exhibits "P-4".
60 *Id.* at 669. Exhibits "P-5".
61 *Id.* at 670. Exhibits "P-6".
62 Exhibit "P-14". BIR Records. pp. 92–94.

royalties arising from petitioner's Agreement with GE Switzerland qualify for the 15% preferential FWT rate pursuant to the RP-Switzerland Tax Treaty. Thus, the subject royalties were correctly subjected to 15% FWT.

Having established that the 15% preferential tax rate on royalties under the RP-Switzerland Tax Treaty was properly applied, petitioner must now prove that it actually withheld and remitted the 15% FWT **twice**, resulting in the alleged erroneous payment of taxes amounting to ₱47,972,225.78.

To recapitulate, petitioner claims that it remitted and paid to the BIR the 15% FWT on royalties payable to GE Switzerland for July 2021 on **two occasions**: first on August 13, 2021, and again on September 15, 2021. If true, the second remittance would constitute an **erroneous payment**, as the tax due had already been settled.[63]

To support its claim, petitioner presented the following documentary evidence:

1. BIR Filing Reference No. 442100043217780 with *FWT Return* for July 2021;[64]
2. *eFPS Payment Details* for the tax period July 31, 2021;[65]
3. *Alphalist of Payees* for July 2021;[66]
4. BIR Filing Reference No. 442100043694747 with *FWT Return* for August 2021;[67]
5. *eFPS Payment Details* for the tax period August 31, 2021;[68]
6. Alphalist of Payees for August 2021;[69]
7. Invoices issued by GE Switzerland;[70]
8. Letter request for the issuance of Delinquency Verification Certificate dated April 16, 2024, and received by BIR Large Taxpayers Service on even date;[71]
9. Letter request for issuance of internal revenue payments dated April 17, 2024;[72]
10. Delinquency Verification Certification issued on April 30, 2024;[73] and
11. Certification of Tax Payment issued on May 28, 2024.[74]

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63 Docket – Vol. I. p. 10. Petition for Review. par. 12.
64 Docket – Vol. II. pp. 677–679. Exhibit "P-11".
65 *Id.* at 680–681. Exhibit "P-11-1".
66 *Id.* at 682. Exhibit "P-11-2".
67 *Id.* at 683–685. Exhibit "P-12".
68 *Id.* at 686. Exhibit "P-12-1".
69 *Id.* at 687. Exhibit "P-12-2".
70 *Id.* at 674–676. Exhibits "P-10". "P-10-1". and "P-10-2".
71 *Id.* at 700–701. Exhibit "P-18".
72 *Id.* at 702–203. Exhibit "P-18-1".
73 *Id.* at 706. Exhibit "P-19".
74 *Id.* at 797. Exhibit "P-19-1".

Upon review, the Court finds that petitioner remitted ₱22,946,111.02 and ₱51,271,825.70, as reflected in its *FWT Returns* for July and August 2021, respectively.

Further examination of the *Alphalist of Payees* for August 2021 shows that the royalties and corresponding FWT due to GE Switzerland amounting to ₱47,972,225.78 were, in fact, included in the amount remitted and paid to BIR, totaling ₱51,271,825.70.[75]

However, the same cannot be conclusively said for the FWT due amounting to ₱46,295,334.82 pertaining to royalties payable to GE Switzerland for July 2021. It bears stressing that the *Alphalist of Payees* for July 2021, which can be found in the BIR Records, shows royalty payments of ₱34,556,514.88, ₱41,143,245.88, and ₱41,951,510.22 to GE Switzerland, with corresponding FWT of ₱5,183,477.23, ₱6,171,486.88, and ₱6,292,726.53, or in the aggregate amount of ₱17,647,690.64. On the other hand, the *Alphalist of Payees*[76] for the same period offered by petitioner reflects FWT amounts of ₱33,831,121.41, ₱6,171,486.88, and ₱6,292,726.53, as well as an apparent deduction or negative amount of ₱28,647,664.18, resulting in the same net aggregate amount of ₱17,647,690.64.[77]

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75 An excerpt of the relevant details of the *Alphalist of Payees* for August 2021 *FWT Return* is shown below with the emphasis supplied on the three transactions with GE Switzerland totaling to ₱47.972.225.79 and noting a rounding off difference of 0.01:

GE POWER SOLUTIONS MALAYSIA SDN BHD				Aug-21	1	WC230	0.25	5,427,511.84	1,356,877.96
GE POWER SOLUTIONS MALAYSIA SDN BHD				Aug-21	2	WC230	0.25	3,488,967.47	872,241.87
GE POWER SOLUTIONS MALAYSIA SDN BHD				Aug-21	3	WC230	0.25	1,909,362.70	477,340.68
GE ENERGY SWITZERLAND GMBH CH				Aug-21	4	WC250	0.15	233,710,262.36	**35,056,539.35**
GE ENERGY SWITZERLAND GMBH CH				Aug-21	5	WC250	0.15	42,633,513.62	**6,395,027.04**
GE ENERGY SWITZERLAND GMBH CH				Aug-21	6	WC250	0.15	43,471,062.63	**6,520,659.39**
IEPC DWCLLC 534957				Aug-21	7	WC230	0.25	2,372,557.60	593,139.40
	Aug-21	333,013,238.2	51,271,825.7						

76 Docket – Vol. II. p. 682, Exhibit "P-11-2".

77 An excerpt of the relevant details of the *Alphalist of Payees* for July 2021 *FWT Return* is shown below with emphasis supplied on the negative amount of ₱28.647.644.18 pertaining to a transaction with GE Switzerland:

PTGEOI PS ID				Jul-21	20	WC230	0.25	1035447.81	258861.95
PTGEOI PS ID				Jul-21	21	WC230	0.25	800815.85	200203.96
GENERAL ELECTRIC INTERNATIONAL, INC. MY				Jul-21	22	WC230	0.25	2196608.54	549152.13
GE ENERGY SWITZERLAND GMBH CH				Jul-21	23	WC250	0.15	**-190984294.5**	**-28647644.18**
GE INTERNATIONAL INC.				Jul-21	24	WC230	0.25	207486.87	51871.72
GEII PS MY				Jul-21	25	WC230	0.25	4438223.91	1109555.98
USES PAYROLL and OTHER				Jul-21	26	WC230	0.25	16958.11	4239.53
Howden Hua Engineering Co Ltd				Jul-21	27	WC230	0.25	1182379.53	295594.88
Howden Hua Engineering Co Ltd				Jul-21	28	WC230	0.25	2758885.33	689721.33
INP Engineering and Services UK Ltd				Jul-21	29	WC230	0.25	3242713.17	810678.29
INP Deutschland GmbH S19167				Jul-21	30	WC230	0.25	2666456.97	666614.24
INP Deutschland GmbH S19167				Jul-21	31	WC230	0.25	2593298.8	648324.70
GE ENERGY SWITZERLAND GMBH CH				Jul-21	32	WC250	0.15	225540809.4	**33831121.41**
GE ENERGY SWITZERLAND GMBH CH				Jul-21	33	WC250	0.15	41143245.88	**6171486.88**
GE ENERGY SWITZERLAND GMBH CH				Jul-21	34	WC250	0.15	41951510.22	**6292726.53**
Han Zhong				Jul-21	35	WI330	0.25	226357.45	56589.36
Han Zhong				Jul-21	36	WI330	0.25	2420.43	605.11
Kim Deok Rae				Jul-21	37	WI330	0.25	-174371.26	-43592.82
	Jul-21	138844952.5	22946111.02						

Petitioner, however, failed to explain the nature and basis of the ₱28,647,664.18 adjustment pertaining to GE Switzerland that would justify its deductibility. It alleges that it paid and remitted the amount of ₱22,946,111.02, which was "after adjustment"[78] but did not elaborate on the computation or justification for the deduction.

Furthermore, in his testimony,[79] Mr. Soriano, petitioner's witness, simply presented a breakdown of the total FWT filed and paid on August 13, 2021, without providing any explanation regarding the "Credit Note" in the amount of ₱28,647,664.18, which was deducted from the total FWT withheld from GE Switzerland, as follows:

> 12. Q: Relatively, in your answer to Question No. 7, you likewise mentioned that petitioner withheld 15% FWT amounting to ₱46,295,334.82 on the royalties payable to GE Switzerland for July 2021, how was this amount arrived at?
>
> A: Based on the documents provided to us by the Petitioner, for the month of July 2021, Petitioner included the three royalty invoices (i.e., invoice nos. 2003245214, 2003245215, and 2003245216) received from GE Switzerland and subjected the gross invoice amount to 15% FWT. These were included in the total FWT which was filed and paid on 13 August 2021 in the total amount of ₱22,946,111.02, net of deductions and other adjustments, as follows:

INCOME RECIPIENT	INVOICE NUMBER	INVOICE AMOUNT (IN USD)	INVOICE AMOUNT (IN PHP)	TAX RATE	TOTAL (IN PHP)
GE Energy Switzerland GmbH	2003245214	4,654,956.93	225,540,809.43	15%	33,831,121.4
GE Energy Switzerland GmbH	2003245215	849,159.13	41,143,245.88	15%	6,171,486.8
GE Energy Switzerland GmbH	2003245216	865,840.97	41,951,510.22	15%	6,292,726.5
Sub Total		**6,369,957.03**	**308,635,565.53**		**46,295,334.8**
Less: Credit Note		3,941,741.73	190,984,284.62	15%	28,647,644.1
TOTAL					**17,647,690.6**
Add: All Other Income Recipients		437,418.29	21,193,681.51	25%	5,298,420.3
GRAND TOTAL					**22,946,111.0**

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[78] Docket – Vol. I. p. 9. *Petition for Review*. par. 9.

[79] Docket – Vol. II. pp. 463–480. Exhibit "P-20". *Amended Judicial Affidavit of Mr. Nelson V. Soriano.*

Given this lack of explanation, the Court cannot presume that the FWT due of ₱46,295,334.82, corresponding to the royalties payable to GE Switzerland, was fully paid and remitted in relation to the July 2021 *FWT Return* and *eFPS Payment Details* which reflected payment of only ₱22,946,111.02.[80]

Also, petitioner failed to prove that no royalty fees were due to GE Switzerland on a monthly basis. Consequently, the Court cannot ascertain whether there were other royalty payments for July 2021 covered by a different set of invoices separate and distinct from those invoices already presented before the Court. Indeed, it remains possible that the FWT remitted for July and August 2021 represented taxes actually due.

Verily, since the supposed remittance and payment of ₱46,295,334.82 was not convincingly established, the alleged double payment invoked by petitioner is purely speculative. This finding prompts the Court to thoroughly scrutinize whether the alleged FWT payment was indeed erroneous or illegal, to determine compliance with the *fourth* requirement for refund.

As earlier noted, petitioner's claim is premised on the alleged double payment of FWT due, and it presented Invoice Nos. 2003245214, 2003245215, and 2003245216, which were issued by GE Switzerland, with details summarized as follows:

Invoice Number	Invoice Date	Invoice Amount (in USD)	FWT at 15% (in USD)	Net Payable
2003245214[81]	June 16, 2021	$4,654,956.93	$698,243.54	$3,956,713.39
2003245215[82]	June 16, 2021	849,159.13	127,373.87	721,785.26
2003245216[83]	June 16, 2021	865,840.97	129,876.15	735,964.82
		$6,369,957.03	$955,493.55	$5,414,463.48

The Court also noted a variance of ₱1,676,890.96 between the amounts of FWT due on royalties payable to GE Switzerland as reported in the July and August 2021 *FWT Returns*, computed as:

[80] See Line 19 of July 2021 *FWT Return*, Exhibit "P-11".
[81] Docket – Vol. II, p. 674, Exhibit "P-10".
[82] *Id.* at 675, Exhibit "P-10-1".
[83] *Id.* at 676, Exhibit "P-10-2".

	Reported FWT Due
July 2021 FWT Return	₱46,295,334.82
August 2021 FWT Return	47,972,225.78
Variance	**(₱1,676,890.96)**

In his testimony, Mr. Dayag, petitioner's former Tax Operations Manager, explained that the discrepancy was due to differences in the foreign exchange conversion rates used internally by petitioner, *viz.*:

> 15. Q: Mr. Dayag, in relation to your answer in Question No. 14, you mentioned that "The Alphalist of Payees for both 31 July 2021 and 31 August 2021 would show that GE Switzerland is the recipient of the same royalties in the aggregate gross amount of P308,635,565.53 and P319,814,838.61, respectively. The FWT due on the said amounts are ₱46,295,334.82 and ₱47,972,225.78." Why is there a difference in the amount of royalties payable to GE Switzerland for July 2021 and the corresponding FWT due?
>
> A: The variance in the amount of royalties payable to GE Switzerland and the corresponding FWT was due to the **foreign exchange conversion rate of the US dollar used by the Petitioner internally (i.e., ₱48.45175 and ₱50.20675).** *(Emphasis supplied)*

Moreover, during the hearing on June 5, 2024, Mr. Dayag clarified how the alleged erroneous payment was discovered:[84]

JUSTICE DAVID

Were you the one who discovered the mistake and the error?

MR. DAYAG

Yes, your Honors.

JUSTICE DAVID

How did you find out that there was an erroneous payment of the royalties?

[84] TSN, June 5, 2024, Mr. Armando v. Dayag, Jr., pp. 17–19.

MR. DAYAG

Actually, my function is to perform review of the Tax Returns working papers from different preparers, so that's how I came across with the error.

JUSTICE DAVID

Because you review the Returns?

MR. DAYAG

Yes, the working papers.

JUSTICE DAVID

The working papers. And that was after the payment has been made?

MR. DAYAG

Yes, your Honors.

JUSTICE DAVID

So, you do the review after the payment?

MR. DAYAG

We also have the post finding review, we call it post finding review of significant transactions, that's why I came across with this error. Because we have different preparers and it all goes to me at a consolidated level for review.

JUSTICE DAVID

And the amount is material? It's 47 Million?

MR. DAYAG

Yes, your Honors.

JUSTICE DAVID

And it's an error to pays [sic] 7 Million?

MR. DAYAG

That's how it happened, your Honors. **Because during that time, the preparer in July is different from the preparer in August. So, something**

> **happened within the transition. They missed that it has already been filed in July. And, part of our control is to check for all series invoices filed during the period whether it has already been filed by different preparer. But it just so happened that it's in a different period, August. So, the checking was done nearly on the period August, we failed to refer back to the prior Return.**

JUSTICE DAVID

> Okay, thank you for the clarification Mr. Dayag. You are now excused, you can go back to your seat.

MR. DAYAG

> Thank you, your Honors. *(Emphasis supplied)*

Despite these explanations, the Court **remains unconvinced** that the same set of invoices was erroneously subjected to withholding twice under both the July and August 2021 *FWT Returns*. Petitioner failed to present competent corroborating evidence to establish that the entries reflected in both returns pertained to identical transactions with GE Switzerland.

Notably, the Court was also unable to verify whether there were other royalty transactions between petitioner and GE Switzerland under their Agreement for August 2021. Petitioner likewise failed to submit supporting documents, such as schedules of royalty payments, proof of actual payment transfer to GE Switzerland, or other relevant tax filings, including its *Quarterly Remittance Return of Final Income Taxes Withheld (BIR Form No. 1601-FQ)*.

In the absence of these documents, the Court cannot ascertain whether the royalties for July 2021 were indeed paid twice, or whether separate royalties were due for August 2021.

It is basic in the rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof. Simply put, mere allegations are not evidence.[85]

Based on the foregoing disquisition, petitioner failed to present clear and convincing proof that there was an erroneous

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85 *Toyo Seat Philippines Corporation v. Velasco, et al.*, G.R. No. 240774, March 3, 2021 [Per J. Gaerlan, First Division].

payment of FWT amounting to ₱47,972,225.78. Accordingly, petitioner did not satisfy the *fourth* requirement for a refund of taxes erroneously or illegally collected under Sections 204 and 209 of the NIRC of 1997, as amended.

As a final note, while our legal system adheres to the long-standing principle that no one shall unjustly enrich oneself at the expense of another, which equally applies not only to individuals but also to the government,[86] and that tax refunds are based on the principle of quasi-contract or *solutio indebiti,*[87] the burden of proof to establish entitlement to refund is on the claimant taxpayer. It must be emphasized that actions for tax refund or credit, as in the present case, are in the nature of tax exemptions. As such, they are regarded as a derogation of sovereign authority and construed *strictissimi juris* against the person or entity claiming the refund.[88]

Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented, as they are not intended to be liberally construed.[89] Hence, an applicant for a claim for refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[90]

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

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86 Civil Code. Arts. 2142 and 2154: See *Filinvest Development Corporation v. Commissioner of Internal Revenue*, G.R. No.146941. August 9, 2007 [Per J. Nachura. Third Division]; See also *Commissioner of Internal Revenue v. Fireman's Fund Insurance Co.*, G.R. No. L-30644. March 9, 1987. 232 Phil 292-301 [Per J. Paras. Second Division].

87 *Commissioner of Internal Revenue v. Acesite (Philippines) Hotel Corporation*, G.R. No. 147295, February 16, 2007 [Per J. Velasco, Jr., Second Division].

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

89 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*. G.R. No. 222428. February 19, 2018 [Per J. Peralta. Second Division].

90 *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. CIR*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].

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's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice