Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1738** (CTA Case No. 8806)
-versus-	Present: DEL ROSARIO, *P.J.*, CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN,*JJ.*
HONDA CARS MAKATI, INC., Respondent.	Promulgated: JAN 24 2019 3:58 pm

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review for the Court *En Banc* under Rule 4, Section 2(a)(1), in relation to Rule 8, Section 4(b) of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA)[1], as amended, of the Decision[2] dated

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[1] Sec. 2. *Cases within the jurisdiction of the Court en banc.*- The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies- Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

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Sec. 4. *Where to appeal; mode of appeal.*-
(a) xxx.
(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court en banc shall act on the appeal.
(c) xxx.

[2] En Banc Docket, pp. 16-30.

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June 27, 2017, rendered by the Second Division of this Court in CTA Case No. 8806, and its Resolution[3] dated October 18, 2017. The Second Division of this Court partially granted the petition filed by respondent Honda Cars Makati, Inc. (HCMI) and ordered the refund of its excess and unutilized creditable withholding taxes for calendar year 2011 in the amount of ₱17,614,110.27.

Petitioner Commissioner of Internal Revenue (CIR) assails both the aforesaid Decision and Resolution, the dispositive portions of which, respectively, read as follows:

Decision dated June 27, 2017:

> "***WHEREFORE***, *premises considered, the instant Petition for Review filed by Honda Cars Makati, Inc. is* ***PARTIALLY GRANTED.*** *Accordingly, respondent is* ***ORDERED TO REFUND*** *or* ***ISSUE A TAX CREDIT CERTIFICATE*** *in favor of petitioner in the amount of ₱17,614,110.27, representing its excess and unutilized creditable withholding taxes for calendar year 2011.*
>
> ***SO ORDERED.***"

Resolution dated October 18, 2017:

> "***WHEREFORE***, *premises considered, respondent's* ***Motion for Partial Reconsideration Re: Decision dated June 17, 2017*** *is* ***DENIED*** *for lack of merit.*
>
> ***SO ORDERED.***"

The pertinent facts as narrated by this Court in Division in its Decision read as follows:

> *"xxx Honda Cars Makati, Inc.*[4] *is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal place of business at 1 Pres. Sergio Osmeña Highway, Magallanes, Makati City. It is engaged in the sale, distribution, service and repair of automobiles. It is registered with the Bureau of Internal*

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[3] En Banc Docket, pp. 31-37.

[4] Honda Cars Makati, Inc. (HCMI) was the petitioner before the Court in Division and thereafter the respondent before this Court *En Banc*.

Revenue (BIR) with Taxpayer Identification Number (TIN) 000-220-239-000.

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

On July 24, 2012, petitioner filed with the BIR an electronic copy of its Annual Income Tax Return for calendar year 2011, reporting, among others, gross sales/revenues in the amount of ₱4,693,023,533.00.

On April 2, 2014, petitioner filed with the BIR Large Taxpayers Excise Audit Division II its administrative claim for refund of or issuance of TCC for its alleged excess and unutilized CWT for calendar year 2011 in the total amount of ₱22,415,723.00.

Respondent failed to act on petitioner's administrative claim. Accordingly, on April 14, 2014, petitioner filed the instant Petition for Review before this Court. Respondent filed his Answer on July 9, 2014.

The case was set for pre-trial conference on August 14, 2014. Respondent and petitioner filed their respective Pre-Trial Briefs on August 8, 2014 and on September 8, 2014.

On October 1, 2014, the parties filed their Joint Stipulation of Facts and Issues, which was adopted by the Court in the Pre-Trial Order dated October 10, 2014.

During trial, petitioner presented Ms. Ma. Milagros F. Padernal, the Court-commissioned Independent Certified Public Accountant (CPA), and Mr. Francis Dennis C. Lardizabal, as its witnesses. Petitioner also moved for the taking of judicial notice of evidence presented in CTA Case No. 8636, which was initially denied by the Court for lack of merit, but was eventually granted upon petitioner's motion for reconsideration. It then formally offered its evidence on May 11, 2015.

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[5] Commissioner of Internal Revenue (CIR) was a respondent before the Court in Division and thereafter the petitioner before this Court *En Banc*.

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> *On the other hand, respondent manifested that he has not received any report of investigation and that he will no longer present any evidence.*
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> *As directed by the Court, petitioner filed its Memorandum on July 4, 2016. Meanwhile, respondent manifested that he is adopting his Answer filed on July 9, 2014 as his Memorandum. Accordingly, the Court declared the case submitted for decision on July 7, 2016.*

On June 27, 2017, this Court in Division partially granted respondent HCMI's claim for refund of unutilized Creditable Withholding Tax (CWT) in the amount of ₱17,614,110.27. The Court in Division found that respondent HCMI has sufficiently proven its compliance with the following requisites: (i) the claim for refund was filed within the two (2)-year prescriptive period; (ii) the fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld; and (iii) the income upon which the taxes were withheld must be included in the return of the recipient.

Thereafter, on October 18, 2017, this Court in Division denied the motion for reconsideration filed by petitioner Commissioner of Internal Revenue (CIR). Hence, the present petition was filed.

On February 9, 2018, respondent HCMI filed a "Comment (Re: Petition for Review dated November 23, 2017). In its comment, respondent HCMI asserts the following:

1. Respondent has exhausted all appropriate and relevant administrative remedies;

2. Respondent proved, by preponderant evidence, the fact of withholding of the tax on its income;

3. Proof of actual remittance of the tax withheld by its income payors is not a requisite to claim for refund of unutilized CWT;

4. Respondent's claim for refund can only be negated by non-compliance with the requisites for refund;

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5. The propriety of Respondent's availment of Minimum Corporate Income Tax (MCIT) is not an issue in Respondent's claim for refund; and

6. This court has no jurisdiction over the propriety of Respondent's availment of MCIT.

In a Resolution dated March 23, 2018, the petition was given due course and submitted for decision.

The grounds relied upon by Petitioner CIR in the petition are the following:

"GROUNDS OF THE PETITION

I. Respondent violated the doctrine of exhaustion of administrative remedies. Its administrative claim for refund is pro-forma.

II. Respondent failed to present evidence of remittance to BIR of the withholding taxes claimed for refund.

III. Respondent failed to adduce any evidence that will show that it was liable only for MCIT and not the normal income tax."[6]

Petitioner asserts that respondent HCMI violated the doctrine of exhaustion of administrative remedies when it filed the administrative claim for refund on April 2, 2014 and twelve days (12) thereafter, filed a judicial claim for refund on April 14, 2014. Petitioner insists that respondent did not present any evidence in the administrative claim for refund, thus, the same is pro forma and shows the lack of intention to pursue the same. Petitioner maintains that it is incumbent for respondent to prove that fact of withholding of taxes and their subsequent remittance to the Bureau of Internal Revenue (BIR). Petitioner argued that determination of the correct tax due is a condition precedent before determining whether respondent is entitled to refund. Respondent claims that the MCIT of ₱10,427,682.00 was paid using a portion of its prior years' excess credit, thus, petitioner claims that

[6] En Banc Docket p. 7.

respondent failed to adduce evidence that it is liable only for MCIT and not the normal income tax.

We resolve.

It is undisputed that respondent filed its 2011 Annual income tax return. Likewise, undisputed are the facts that respondent filed its administrative claim for refund on April 2, 2014 and twelve days thereafter, on April 14, 2014, filed its petition before the Court's Division for its judicial claim for refund. Thus, petitioner argued that respondent violated the doctrine of exhaustion of administrative remedies.

We find the same without merit.

In relation to the requisite that a claim for refund must be filed with the CIR within the two-year period from the date of payment of the tax, Sections 204 and 229 of the NIRC provide as follows:

> ***SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** *-*
>
> *The Commissioner may -*
>
> *(A) Compromise the payment of any internal revenue tax, when: xxx.*
>
> *(B) Abate or cancel a tax liability, when: xxx.*
>
> *(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. 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.*
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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*

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> *penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully 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.*

From the foregoing, no credit or refund of taxes 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, and no suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax. The law does not require the CIR to act upon the administrative claim before a claimant can file its judicial claim for refund. Section 229, as worded, only requires that an administrative claim be filed prior to the judicial claim. The Court can act on a judicial claim for refund of erroneously or illegally collected internal revenue taxes even if the CIR failed to act on the taxpayer's administrative claim for refund as long as it complies with the requirements under Sections 204 (C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended.

In the case of *CBK Power Company Limited vs. Commissioner of Internal Revenue and Commissioner of Internal Revenue vs. CBK Power Company Limited*[7], the Supreme Court ruled that Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty. However, Section 229 of the NIRC further states the condition that a judicial claim for refund may not be maintained until a claim for refund or credit has been duly filed with the Commissioner, to wit:

[7] G.R. Nos. 193383-84 and G.R. Nos. 193407-08, January 14, 2015

"Sections 204 and 229 of the NIRC pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty. However, Section 229 of the NIRC further states the condition that a judicial claim for refund may not be maintained until a claim for refund or credit has been duly filed with the Commissioner. These provisions respectively read:

> *SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. – The Commissioner may –*
>
> *x x x x*
>
> *(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 <u>with the Commissioner</u> a claim for credit or refund <u>within two (2) years after the payment of the tax or penalty</u>****: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.*
>
> *x x x x*
>
> ***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, of any sum alleged to have been excessively or in any manner wrongfully 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***

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> ***the date of payment of the tax or penalty*** *regardless of any supervening cause that may arise after payment: x x x. (Emphases and underscoring supplied)*

xxx xxx xxx.

With respect to the remittance filed on March 10, 2003, the Court agrees with the ratiocination of the CTA En Banc in debunking the alleged failure to exhaust administrative remedies. Had CBK Power awaited the action of the Commissioner on its claim for refund prior to taking court action knowing fully well that the prescriptive period was about to end, it would have lost not only its right to seek judicial recourse but its right to recover the final withholding taxes it erroneously paid to the government thereby suffering irreparable damage.

Also, while it may be argued that, for the remittance filed on June 10, 2003 that was to prescribe on June 10, 2005, CBK Power could have waited for, at the most, three (3) months from the filing of the administrative claim on March 4, 2005 until the last day of the two-year prescriptive period ending June 10, 2005, that is, if only to give the BIR at the administrative level an opportunity to act on said claim, the Court cannot, on that basis alone, deny a legitimate claim that was, for all intents and purposes, timely filed in accordance with Section 229 of the NIRC. There was no violation of Section 229 since the law, as worded, only requires that an administrative claim be priorly filed.

In the foregoing instances, attention must be drawn to the Court's ruling in P.J. Kiener Co., Ltd. v. David (Kiener), wherein it was held that in no wise does the law, i.e., Section 306 of the old Tax Code (now, Section 229 of the NIRC), imply that the Collector of Internal Revenue first act upon the taxpayer's claim, and that the taxpayer shall not go to court before he is notified of the Collector's action. In Kiener, the Court went on to say that the claim with the Collector of Internal Revenue was intended primarily as a notice of warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow, viz.:

> *The controversy centers on the construction of the aforementioned section of the Tax Code which reads:*
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> > *SEC. 306. Recovery of tax erroneously or illegally collected. No suit or proceeding shall be*

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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 excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Collector of Internal Revenue; 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 begun after the expiration of two years from the date of payment of the tax or penalty.

The preceding provisions seem at first blush conflicting. It will be noticed that, whereas the first sentence requires a claim to be filed with the Collector of Internal Revenue before any suit is commenced, the last makes imperative the bringing of such suit within two years from the date of collection. But the conflict is only apparent and the two provisions easily yield to reconciliation, which it is the office of statutory construction to effectuate, where possible, to give effect to the entire enactment.

To this end, and bearing in mind that the Legislature is presumed to have understood the language it used and to have acted with full idea of what it wanted to accomplish, it is fair and reasonable to say without doing violence to the context or either of the two provisions, that by the first is meant simply that the Collector of Internal Revenue shall be given an opportunity to consider his mistake, if mistake has been committed, before he is sued, but not, as the appellant contends that pending consideration of the claim, the period of two years provided in the last clause shall be deemed interrupted. ***Nowhere and in no wise does the law imply that the Collector of Internal Revenue must act upon the claim, or that the taxpayer shall not go to court before he is notified of the Collector's action.*** *x x x.* ***We understand the filing of the claim with the Collector of Internal Revenue to be intended primarily as a notice of warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow.*** *x x x. (Emphases supplied)"*

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Evidently, the filing of administrative claim for refund under the NIRC and the filing of judicial claim for refund to forestall the running of the two-year prescriptive period for claiming tax refunds[8] is a taxpayer claimant's right and does not violate the doctrine of exhaustion of administrative remedies.

As to petitioner's protestations that respondent should prove the remittance to BIR of the withholding taxes claimed for refund and also to prove that it was liable only for MCIT and not the normal income tax, are likewise bereft of merit.

Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits.[9] In addition, proof that the claimant was liable only for MCIT and not the normal income tax is likewise not a condition to claim for a refund of unutilized tax credits. In claiming refund for unutilized creditable withholding taxes, the pertinent provision of the National Internal Revenue Code is Section 76 as follows:

> *SEC. 76. Final Adjustment Return. — Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:*
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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.*
>
> *In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for*

[8] Commissioner of Internal Revenue v. Philippine Airlines, Inc., G.R. Nos. 212536-37, 27 August 2014.
[9] Commissioner of Internal Revenue v. Philippine National Bank, G.R. 180290, September 29, 2014, citing Commissioner of Internal Revenue v. Asian Transmission Corporation, G.R. N. 179617, January 19, 2011.

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cash refund or issuance of a tax credit certificate shall be allowed therefor."

The Court recognizes, as it always has, that the burden of proof to establish entitlement to refund is on the claimant taxpayer. Being in the nature of a claim for exemption, refund is construed in strictissimi juris against the entity claiming the refund and in favor of the taxing power. This is the reason why a claimant must positively show compliance with the statutory requirements provided for under the NIRC in order to successfully pursue one's claim.[10] It is settled jurisprudence[11] that a taxpayer claiming for a tax credit or refund of creditable withholding tax must comply with the following requisites:

1) The claim must be filed with the CIR within the two-year period from the date of payment of the tax;
2) It must be shown on the return that the income received was declared as part of the gross income; and
3) The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld.

However, We shall no longer discuss the requirements since petitioner does not contest respondent's compliance with the requirements. As aptly found by this Court's Division, respondent complied with the requirements for claiming for refund of excess and unutilized Creditable Withholding Tax (CWT), to wit:

In the instant case, records show that petitioner electronically filed its CY 2011 Annual ITR on July 24, 2012.

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[10] Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206526, January 28, 2015

[11] Banco Filipino Savings and Mortgage Bank vs. Court of Appeals, Court of Tax Appeals and Commissioner of Internal Revenue, G.R. No. 155682, March 27, 2007; Commissioner of Internal Revenue vs. Far East Bank & Trust Company (now Bank of the Philippine Islands), G.R. No. 173854, March 15, 2010; United International Pictures AB vs. Commissioner of Internal Revenue, G.R. No. 168331, October 11, 2012; Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206526, January 28, 2015; Republic of the Philippines , represented by the Commissioner of Internal Revenue, vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation), G.R. No. 188016. January 14, 2015.

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Counting from this date, petitioner had until July 24, 2014 within which to file its administrative claim as well as its judicial claim for the issuance of TCC. Thus, petitioner's administrative claim for refund filed on April 2, 2014 and the subsequent appeal via Petition for Review filed before this Court on April 14, 2014 are well within the two-year prescriptive period provided by law. Clearly, the first requisite has been satisfied.

In compliance with the second requisite, petitioner submitted a Schedule of Creditable Taxes Withheld for CY 2011 and various Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) to prove the fact of withholding of the subject claim in the amount of P22,415,723.00. The Court-commissioned Independent Certified Public Accountant, Ms. Ma. Milagros F. Padernal, examined the said documents and no exception was found, as noted in her Report dated December 8, 2014.

xxx xxx xxx.

In fine, petitioner was able to satisfy the second requisite but only to the extent of P22,360,650.65 (P22,415,723.00 less P55,072.35).

Anent the third requisite, petitioner must prove that the income payments from which the substantiated CWTs of P22,360,650.65 were withheld were included in the reported amount of income in its Annual ITR for CY 2011.

As corroborated by the Independent CPA, the CWTs of P22,415,723.37 correspond to the total income payments of P1,633,588,778.07, which comprised of sales of goods and services to corporate customers, insurance companies and "pass through" transactions paid through credit cards in the total amount of P1,587,360,565.53 and of other income, such as, rental, management fees, income as insurance agent and others-dealer's incentives in the total amount of P46,228,212.54.

Out of the P1,633,588,778.07 income payments, only the amount of P1,412,333,728.09, with the corresponding CWTs of P20,016,910.38, was traced to the general ledgers (GL) and/or invoices, journal vouchers (JV), official receipts (OR), production reports (PR) and check vouchers (CV) of petitioner for CYs 2010 and 2011, xxx:

xxx xxx xxx.

However, the CWTs of P20,016,910.38 related to the verified income payments of P1,412,333,728.09 included the amount of P27,146.38 that was already disallowed for

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not being properly supported by BIR Form No. 2307. Consequently, the amount of P27,146.38 should be deducted from the total CWTs of P20,016,910.38 to arrive at petitioner's substantiated CWTs of P19,989,764.00

As discussed earlier, since the prior year's excess credits did not cover the entire income tax due for CY 2011, the substantiated CWTs of P19,989,764.00 shall be utilized to pay the remaining tax liability of P2,375,653. 73. Thus, petitioner's substantiated unutilized excess CWTs for CY 2011 amounts to P17,614,110.27, xxx."

Accordingly, finding no reversible error, the Court En Banc finds no cogent reason or justification to disturb the conclusions reached by the CTA Second Division.

WHEREFORE, the Petition for Review is **DENIED,** for lack of merit. Accordingly, the Decision dated June 27, 2017, rendered by the Second Division of this Court in CTA Case No. 8806, and its Resolution dated October 18, 2017 are **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation among the members of the Court En Banc before the case was assigned to the writer of the opinion of the Court En Banc.

ROMAN G. DEL ROSARIO
Presiding Justice