REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special Second Division

MELCO RESORTS LEISURE (PHP) CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10514

Members:

RINGPIS-LIBAN, *P.J.*,
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

MAY 0 4 2026

1:40pm

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AMENDED DECISION

RINGPIS-LIBAN, *J.*:

For resolution are the "Motion for Partial Reconsideration (Re: Decision promulgated 6 January 2026)"[1] of Respondent Commissioner of Internal Revenue (CIR) timely filed on January 26, 2026, and the "Motion for Partial Reconsideration [of Decision dated January 6, 2026]"[2] of Petitioner Melco Resorts Leisure (PHP) Corporation (Melco or Petitioner) timely filed on February 2, 2026, both seeking partial reconsideration of the Decision dated January 6, 2026[3] (the Decision), on the following grounds:

The sole ground being raised by the CIR is whether the Honorable Court erred in ruling that petitioner is entitled to a refund in the reduced amount of ₱12,620,976.15 allegedly representing erroneous and unutilized withholding tax on its gaming revenues for taxable year 2018.

[1] Docket – Vol. 3, unpaginated.
[2] *Id.*, unpaginated.
[3] *Id.*, unpaginated.

On the other hand, petitioner Melco raises the following grounds in its bid for reconsideration:

1. It proved that the income payments amounting to ₱168,436,849.05 from credit card transactions with equivalent CWTs in the aggregate amount of ₱842,170.85 were declared as part of its 2018 Annual ITR, as duly traced, confirmed, and verified by the court-commissioned Independent Certified Public Accountant (ICPA) in the Amended ICPA Report.

2. Under the principle of *solutio indebiti*, the Government has to restore to Melco the sums representing erroneous payments of taxes; and a claim for excess/unutilized CWT refund under Section 76 of the NIRC requires proof only by preponderance of evidence, not *strictissimi juris.*

The dispositive portion of the assailed Decision reads:

> "**ACCORDINGLY**, in light of the foregoing considerations, the present Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to refund or issue a tax credit certificate in favor of petitioner the amount of ₱12,620,976.15, representing erroneous and unutilized withholding tax on its gaming revenues for taxable year 2018.
>
> **SO ORDERED**."[4]

PROCEDURAL ANTECEDENTS

Petitioner Melco Resorts Leisure (PHP) Corporation is a corporation duly organized under Philippine laws, engaged in developing and operating tourist facilities, including hotel casino entertainment complexes, and engaged in casino gaming activities.[5] It is a licensee of the Philippine Amusement and Gaming Corporation (PAGCOR), having been issued an Amended Certificate of Affiliation & Provisional License on January 28, 2013,[6] and subsequently a Gaming License dated April 29, 2015, and Gaming License (Amended) dated August 8, 2018, valid until July 11, 2033, for casino operations in Entertainment City, Parañaque City, under the brand name City of Dreams Manila.[7]

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[4] *Id.*

[5] Docket – Vol. I, p. 412, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), par. 1.

[6] Docket – Vol. 2, p. 730, Exhibit "P-2".

[7] *Id.*, pp. 731 to 732, Exhibits "P-3" and "P-4".

Petitioner filed its Annual Income Tax Return (ITR) for taxable year 2018 on April 15, 2019, via eFPS.[8] On April 12, 2021, it filed an administrative claim for refund with the Large Taxpayers Service of the BIR in the amount of ₱24,798,420.00, representing allegedly erroneously withheld and unutilized creditable withholding taxes (CWTs) for taxable year 2018.[9] Petitioner filed the Petition for Review via electronic mail on April 14, 2021.[10]

After full trial on the merits, this Court promulgated the Decision dated January 6, 2026,[11] partially granting the Petition and ordering the refund of ₱12,620,976.15 representing erroneous CWTs on Petitioner's gaming revenues, while denying the refund of ₱12,171,230.60 representing unutilized CWTs on non-gaming revenues for failure to establish the third requisite—that the income upon which the taxes were withheld was declared as part of Petitioner's gross income in its Annual ITR for taxable year 2018.

Respondent received a copy of the Decision on January 16, 2026,[12] and timely filed the CIR's Motion for Partial Reconsideration on January 26, 2026. Petitioner likewise received a copy of the Decision on January 16, 2026,[13] and filed Petitioner's Motion for Partial Reconsideration on February 2, 2026. Respondent filed an Opposition on February 27, 2026. The motions are now submitted for resolution.

THE RULING OF THE COURT

The CIR's Motion for Partial Reconsideration is **DENIED**. Petitioner's Motion for Partial Reconsideration is **PARTIALLY GRANTED**.

The CIR's Motion for Partial Reconsideration

The exemption of gaming revenues from income tax and withholding tax is settled.

Section 13(2)(b) of PD No. 1869,[14] as interpreted by the Supreme Court in *Bloomberry Resorts and Hotels, Inc. v. Bureau of Internal Revenue*,[15] is clear: the tax exemption enjoyed by PAGCOR under its franchise inures to the benefit of and

[8] *Id.*, pp. 744 to 756, Exhibits "P-7", "P-7-1", and "P-7-2".
[9] *Id.*, pp. 786 to 798, Exhibits "P-11" and "P-11-1".
[10] *Id.* at Note 5, pp. 8 to 40.
[11] *Id.* at Note 3.
[12] *Id.* at Note 1.
[13] *Id.* at Note 2.
[14] CONSOLIDATING AND AMENDING PRESIDENTIAL DECREE NOS. 1067-A, 1067-B, 1067-C, 1399 AND 1632, RELATIVE TO THE FRANCHISE AND POWERS OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR).
[15] G.R. No. 212530, August 10, 2016.

extends to all corporations with whom PAGCOR or its operator has any contractual relationship in connection with casino operations authorized under the Franchise, upon PAGCOR's payment of the 5% franchise tax in lieu of all other taxes. This Court correctly applied that ruling in the Decision. The CIR's renewed challenge to the grant of the gaming-revenue refund does not identify any palpable error of law or grave abuse of discretion. The movant merely re-argues positions already considered and correctly rejected.

The Court is not persuaded. The income subject of the refund -- credit card settlement receipts from BDO attributable exclusively to buy-in transactions at designated gaming cage terminals -- is unambiguously income from the operation of casino gaming activities, not from "other related services" subject to regular corporate income tax. The Merchant Agreement with BDO, the MID/Terminal Address identification system, and the BIR Forms 2307 all confirm this classification. The Decision's factual finding on this point is correct and will not be disturbed.

PAGCOR's payment of the 5% franchise tax was duly established.

The Court's finding that PAGCOR paid the 5% franchise tax for taxable year 2018 rests on documentary evidence properly admitted in the record: the Statement of Franchise Tax Remittances for Calendar Year 2018 issued by PAGCOR[16] and the BIR Forms 2553 filed by PAGCOR for the 1st through 4th quarters of 2018.[17] As the Supreme Court held in *Philippine Amusement and Gaming Corporation (PAGCOR) v. BIR*,[18] PAGCOR's payment of the 5% franchise tax is the operative fact that activates the tax exemption for its contractees and licensees. That fact has been established. The CIR's assertion that mere allegation was presented is directly contradicted by the record.

Proof of actual remittance by the withholding agent is not required of Petitioner.

The movant's insistence notwithstanding, the rule is settled. Section 2.58.3(B) of Revenue Regulations No. 2-98, as amended, expressly provides: "Proof of remittance is the responsibility of the withholding agent."[19] Petitioner is the payee-recipient, not the withholding agent. The BIR Forms 2307 issued by BDO to Petitioner constitute the prescribed evidence of withholding.[20]

[16] *Id.* at Note 6, p. 801, Exhibit "P-14".
[17] *Id.*, pp. 804 to 823, Exhibits "P-16 and series", "P-17 and series", "P-18 and series", and "P-19 and series".
[18] G.R. No. 215427, December 10, 2014.
[19] Section 2.58.3(B), Revenue Regulations No. 2-98, as amended.
[20] Exhibits "P-25-1" to "P-25-79", USB marked as "P-21-2".

Petitioner's obligation is to present those certificates; it has done so. The burden of proving that taxes withheld were not remitted to the government lies with the BIR, not with the refund claimant.[21] This argument is further barred as a new argument raised for the first time in a motion for reconsideration, without any showing that jurisdiction or constitutionality is implicated.

The gaming revenues were correctly reported as exempt income in the Annual ITR.

The CIR's final ground -- that Petitioner failed to prove its gaming income was declared in its Annual ITR -- misapprehends the structure of the return. Petitioner's gaming revenues are exempt from corporate income tax under PD No. 1869. They are therefore reported in the exempt income column of the Annual ITR, not in the taxable column. The ICPA verified, and this Court confirmed in the Decision, that Petitioner's gaming revenues attributable to credit card transactions at cage terminals -- traced through BDO Bank Statements,[22] Journal Vouchers, and the General Ledger -- correspond to the income payments on which the ₱12,627,189.40 in CWTs were withheld, reduced to ₱12,620,976.15 after the Court's own disallowances.[23] A second reading of the assailed Decision reveals no such error.

The CIR's Motion for Partial Reconsideration is accordingly **DENIED** in its entirety. The Decision's grant of refund in the amount of ₱12,620,976.15 is affirmed.

<u>Petitioner's Motion for Partial Reconsideration</u>

The applicable standard of proof for excess CWT refund claims under Section 76 of the NIRC is preponderance of evidence, not strictissimi juris.

The Court grants reconsideration on the standard of proof applicable to Petitioner's non-gaming CWT refund claim. In *Commissioner of Internal Revenue v. Sonoma Services, Inc.*,[24] the Supreme Court drew a clear doctrinal line: a claim for tax refund premised on the government's erroneous or illegal collection of taxes -- grounded on the principle of *solutio indebiti* -- requires proof only by preponderance of evidence, as in any ordinary civil case. Strict construction

[21] *Philippine Bank of Communications v. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.
[22] Exhibit "P-28-1", USB marked as "P-21-2".
[23] *Id.* at Note 3, (gaming CWT disallowances: ₱610,000.00 not within period of claim; ₱632,649.68 not traced to bank statement).
[24] G.R. No. 263916, August 18, 2025

against the claimant applies only where the refund claim partakes of the nature of a tax exemption rooted in legislative grace. The Supreme Court reiterated this distinction in *Tullett Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*,[25] which specifically addressed excess CWT refund claims under Section 76 of the NIRC.

Petitioner's claim for excess and unutilized CWTs under Section 76 of the NIRC is not founded on a statutory grant of exemption. It arises from the government's collection of CWTs from income payments that Petitioner could not apply against any income tax liability because it had none for taxable year 2018. Such a claim is rooted in the fundamental tenet of equity that the State shall not unjustly enrich itself at the expense of its taxpayers.[26] The applicable standard, therefore, is preponderance of evidence. The Court reconsiders its prior ruling to the extent that it applied *strictissimi juris* to the evaluation of the non-gaming CWT refund claim.

The ICPA-verified evidence establishes, by preponderance, that income payments of ₱168,436,849.05 were declared in Petitioner's Annual ITR for taxable year 2018.

Table 34 of the Amended ICPA Report specifically identifies the net amount of non-gaming income payments recommended for refund, after all downward adjustments, at ₱168,436,849.05, with equivalent CWTs of ₱842,170.85.[27] The ICPA's reconciliation traces this subset of non-gaming income payments through two separate pathways:

First, for hotel operations: Table 29 of the Amended ICPA Report reconciles credit card FO payment reconciliations against Journal Vouchers and General Ledger–Cash Receipts, tracing income payments to the GL-Cash Receipts of Petitioner's Workday Financial Management computerized accounting system.[28]

Second, for food and beverage operations: Table 30 reconciles bank statements against Journal Vouchers and GL-Cash Receipts through the same pathway.[29] The total of these two traceable subsets, net of all recommended downward adjustments, is ₱168,436,849.05 in income payments, yielding CWTs of ₱842,170.85.

[25] G.R. No. 257219, July 15, 2024.
[26] *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015.
[27] *Id.* at Note 6, p. 33, Amended ICPA Report (Exhibit "P-21"), Table 34: Recommendations – Non-Gaming Activities.
[28] *Id.*, p. 30, Table 29.
[29] *Id.*, p. 31, Table 30.

Taken cumulatively, the BIR Forms 2307, credit card payment reconciliations, bank statements, journal vouchers, and the general ledger -- all evaluated by the ICPA -- constitute a preponderance of evidence establishing that the income from which these CWTs were withheld was received by Petitioner, processed through its accounting system, and included in its non-gaming revenue reported in the Audited Financial Statements and the Annual ITR for taxable year 2018. The non-gaming revenue of ₱6,181,048,219.39 per the General Ledger, which reconciles to ₱6,181,049,000.00 per the AFS and ₱2,306,857,299.00 in the taxable column of the Annual ITR, is an aggregate figure that encompasses the credit card income payments in question. The ICPA's tracing of the specific ₱168,436,849.05 subset to the Journal Vouchers and GL-Cash Receipts satisfies, under the preponderance standard, the requirement that the income from which the CWTs were withheld be declared as part of gross income in the return.

The Court finds, consistent with the Supreme Court's instruction in *Tullett Prebon* that source documents sifted and evaluated by the ICPA warrant judicious appreciation rather than wholesale disregard, that Petitioner has discharged its burden of proof by preponderance of evidence for the amount of ₱842,170.85. A claimant's burden of proof is to establish the factual basis of its claim;[30] that burden has been met for this discrete, ICPA-identified subset of the non-gaming CWT claim.

The remaining ₱11,329,059.75 in non-gaming CWTs (₱12,171,230.60 less ₱842,170.85) is not covered by the specific ICPA tracing in Tables 29 and 30, and Petitioner has not presented sufficient evidence to link those additional CWTs to income declared in its Annual ITR for taxable year 2018. Tax refunds, even those grounded on *solutio indebiti*, require the claimant to establish with sufficient specificity the income payments on which the withheld taxes were based.[31] The claim for refund is denied as to that balance.

WHEREFORE, premises considered, the Motion for Partial Reconsideration filed by the Commissioner of Internal Revenue is hereby **DENIED** for lack of merit. The Motion for Partial Reconsideration filed by Petitioner Melco Resorts Leisure (PHP) Corporation is hereby **PARTIALLY GRANTED.** The Decision dated January 6, 2026 is **AFFIRMED** with **MODIFICATION** in that Respondent Commissioner of Internal Revenue is **ORDERED to REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of Petitioner Melco Resorts Leisure (PHP) Corporation the total amount of **₱13,463,146.00**, representing (a) **₱12,620,976.15** in erroneous and unutilized withholding taxes on gaming revenues for taxable year 2018, and (b) **₱842,170.85** in excess creditable withholding taxes on non-gaming revenues for taxable year 2018.

[30] *Citibank, N.A. v. Court of Appeals, et al.*, G.R. No. 107434, October 10, 1997.
[31] *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc., et al.*, G.R. No. 127105, June 25, 1999.

In all other respects, the Decision stands.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
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 before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice