REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SPECIAL FIRST DIVISION</u>

AECOM PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8971

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
OCT 09 2018 ; 10:10 am

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RESOLUTION

MINDARO-GRULLA, *J.*:

For resolution is petitioner's **Motion for Reconsideration (Re: Decision Rendered on May 7, 2018)**, filed on May 30, 2018, with respondent's **Comment/Opposition (To Petitioner's Motion for Reconsideration)**, filed on June 27, 2018.

Petitioner seeks reconsideration of the Court's Decision dated May 7, 2018 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **DENIED** for insufficiency of evidence.
>
> **SO ORDERED**."

In the assailed Decision, this Court found that petitioner failed to meet the third requisite for the claim for refund or issuance of Tax

Credit Certificate (TCC), i.e., that it is shown on the return of the recipient that the income payment received was declared as part of the gross income, as provided under Section 2.58.3 (B) of RR No. 02-98, as amended.

As found by this Court, petitioner's total gross income declared in its Annual Income Tax Return (ITR) for FY 2012 amounted to ₱355,754,070.00. On the other hand, the withholding tax certificates reveal that the Creditable Withholding Taxes (CWT) in the amount of ₱26,937,862.50 was withheld on gross income payments in the amount of ₱266,743,675.69.

However, this Court cannot determine whether the gross income payments of ₱266,743,675.69 indeed formed part of the gross income of ₱355,754,070.00 reported by petitioner in its Annual ITR for fiscal year 2012.

In its motion for reconsideration, petitioner raises the following arguments: (1) the gross income payment that was received and is related to petitioner's claimed CWT was declared and reflected in its Annual Income Tax Returns for 2012 and 2011; and (2) Section 2.58.3(B) of Revenue Regulations (RR) No. 2-98, as amended, only requires, among others, that the income payments be declared as part of the gross income. It does not have to be on the same taxable year of the claim.

On the other hand, respondent avers that the Court was correct in dismissing the case for insufficiency of evidence due to petitioner's failure to present its detailed general ledger and sales register or any other document whereby the income payments related to the claimed CWT can be traced and confirmed as forming part of the income reflected in its Annual ITR for FY 2012.

After a careful study of the above allegations, the Court finds petitioner's motion bereft of merit.

Petitioner still failed to prove that the gross income payment that was received and is related to its claimed CWT was declared and reflected in its Annual ITRs for 2012 and 2011

In its motion for reconsideration, petitioner asserts that the income payments from which the income tax was withheld were declared as part of the gross income in both its Audited Financial Statements (AFS) and ITRs for taxable years 2012 and 2011.

To support its allegation, petitioner presented a summary of the tracing wherein it was shown that the related income payments that are duly supported by withholding tax certificates were reported in the years 2012 and 2011, indicating the Project Contract Code (PCC) as reference for the progression of each project to determine the amount of gross income declared in the particular taxable year, to wit:

Payor	Exhibit No	Income Payment	Tax Withheld	Taxable year the income was declared	Project Contract Code
Aecom Philippines Consultant Corp.	P-22	₱ 742,500.00	₱ 111,375.00	2012	MNLD11574
Aecom Philippines Consultant Corp.	P-23	10,293,245.51	205,864.91	2012	MNLD11574
Aecom Philippines Consultant Corp.	P-24	619,080.00	92,862.00	2012	MNLD11574
Aecom Philippines Consultant Corp.	P-25	263,359.50	5,267.19	2012	MNLD11574
Aecom Philippines Consultant Corp.	P-26	4,112,890.00	82,257.80	2012	MNLD11574
Aecom Philippines Consultant Corp.	P-27	2,715,310.00	407,296.50	2012	MNLD11574
Asian Terminals Inc.	P-28	7,543,740.20	1,131,561.03	2012 and 2011	MNLD10533, MNLD10544, AND MNLD 11589
Asian Terminals Inc.	P-29	6,919,678.40	1,037,951.76	2012	MNLD10544, MNLD11589, AND MNLD12056
Asian Terminals Inc.	P-30	6,207,071.00	931,060.65	2012	MNLD11533 AND MNLD11589
Asian Terminals Inc.	P-31	5,447,544.40	817,131.66	2012	MNLD11533 AND MNLD11589
Far Southeast-Gold Resources Inc.	P-32	313,980.00	47,097.00	2012	MNLD11583
Far Southeast-Gold Resources Inc.	P-33	158,070.00	23,710.50	2012	MNLD11583
Far Southeast-Gold Resources Inc.	P-34	149,360.00	22,404.00	2012	MNLD11583
Far Southeast-Gold Resources Inc.	P-35	115,480.00	17,322.00	2012	MNLD11583
Far Southeast-Gold Resources Inc.	P-36	22,657,361.53	3,398,604.23	2012	MNLD12189
Far Southeast-Gold Resources Inc.	P-37	275,040.00	41,256.00	2012	MNLD11583
Fcf Minerals Corporation	P-38	1,848,864.49	277,329.67	2012	MNLD10541, MNLD11521, AND MNLD11588
Fcf Minerals Corporation	P-39	719,988.00	107,998.20	2012	MNLD12039 AND MNLD11521
Fcf Minerals Corporation	P-40	243,996.00	36,599.40	2012	MNLD12039
Fcf Minerals Corporation	P-41	1,299,160.49	194,874.07	2012	MNLD10541 AND MNLD11588
Fcf Minerals Corporation	P-42	329,150.83	49,372.62	2012	MNLD10541
Fcf Minerals Corporation	P-43	658,301.66	98,745.25	2012	MNLD10541
Fcf Minerals Corporation	P-44	314,194.50	47,129.18	2012	MNLD11550
Fcf Minerals Corporation	P-45	243,996.00	36,599.40	2012	MNLD12039
Fcf Minerals Corporation	P-46	243,996.00	36,599.40	2012	MNLD12039
Filinvest Land Inc.	P-47	164,500.00	3,290.00	2012	MNLD10554
Filinvest Land Inc.	P-48	244,928.50	4,898.57	2012	MNLD10554
Filinvest Land Inc.	P-49	980,071.50	19,601.43	2012	MNLD10554

Filinvest Land Inc.	P-50	156,250.00	23,437.50	2012	MNLD10554
Filinvest Land Inc.	P-51	329,000.00	49,350.00	2012	MNLD10554
Filinvest Land Inc.	P-52	329,000.00	49,350.00	2012	MNLD10554
Filinvest Land Inc.	P-53	125,000.00	18,750.00	2012	MNLD10554
Filinvest Land Inc.	P-54	1,960,000.00	294,000.00	2012	MNLD10554
Filinvest Land Inc.	P-55	250,000.00	37,500.00	2012	MNLD10554
Filinvest Land Inc.	P-56	980,000.00	147,000.00	2012	MNLD10554
First Gen Hydro Power Corporation	P-57	74,692.60	11,203.89	2012	MNLD11582
First Gen Hydro Power Corporation	P-58	298,770.40	44,815.56	2012	MNLD11582
Int'L Container Terminal Services Inc.	P-59	18,011,106.34	360,222.13	2012 and 2011	MNLD07603
Int'L Container Terminal Services Inc.	P-60	7,855,627.20	157,112.54	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-61	10,520,430.74	210,408.61	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-62	5,581,935.71	111,638.71	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-63	236,576.79	4,731.54	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-64	5,383,882.01	107,677.64	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-65	5,390,544.92	107,810.90	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-66	6,233,049.63	124,660.99	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-67	5,336,110.56	106,722.21	2012	MNLD07603
Int'L Container Terminal Services Inc.	P-68	6,309,696.88	126,193.94	2012	MNLD07603
Manila Water Company	P-69	24,925,016.73	3,738,752.51	2012 and 2011	MNLD11501 AND MNLD11553
Manila Water Company	P-70	10,606,350.52	1,590,952.58	2012	MNLD10534, MNLD11501, MNLD11548, AND MNLD12065WW
Manila Water Company	P-71	10,631,997.14	1,594,799.57	2012 and 2011	MNLD10534 AND MNLD12065WW
Manila Water Company	P-72	8,974,219.70	1,346,132.96	2012	MNLD11548 AND MNLD11553
Maynilad Water Services, Inc.	P-73	3,571,783.87	535,767.58	2012 and 2011	MNLD10552 AND MNLD11571
Maynilad Water Services, Inc.	P-74	524,642.87	78,696.43	2012 and 2011	MNLD10552 AND MNLD11571
Maynilad Water Services, Inc.	P-75	409,357.13	61,403.57	2012 and 2011	MNLD10552 AND MNLD11571
Oceana Gold	P-76	1,372,490.00	27,449.80	2012	MNLD12038WC
Oceana Gold	P-77	2,182,436.00	43,648.72	2012	MNLD12038WC
Oceana Gold	P-78	7,403,147.00	148,062.94	2012	MNLD12038WC
Quezon Power (Phil.) Ltd. Co.	P-79	50,065.00	7,509.75	2012	MNLD11542
Sagittarius Mines, Inc.	P-80	16,351,284.40	2,452,692.66	2011	MNLD11584
Sagittarius Mines, Inc.	P-81	1,456,004.33	218,400.65	2011	MNLD11584
Sagittarius Mines, Inc.	P-82	484,840.00	72,726.00	2012	MNLD12266
San Miguel Corporation	P-83	175,000.00	26,250.00	2012	MNLD12087WC
San Miguel Corporation	P-84	516,530.40	77,479.56	2012	MNLD12087WC
San Miguel Corporation	P-85	167,500.00	25,125.00	2012	MNLD12245WC
San Miguel Corporation	P-86	168,644.00	25,296.60	2012	MNLD12087WC
Shell Philippines Exploration B.V.	P-87	286,500.00	5,730.00	2012	MNLD12197
Silangan Mindanao Mining	P-88	2,864,824.00	429,723.60	2012	MNLD12198
Silangan Mindanao Mining	P-89	4,297,236.00	644,585.40	2012	MNLD12198
Sureste Properties, Inc.	P-90	780,500.00	117,075.00	2012	MNLD11539
Sureste Properties, Inc.	P-91	669,000.00	100,350.00	2012	MNLD11539
Sureste Properties, Inc.	P-92	67,500.00	1,350.00	2012	MNLD12089
Sureste Properties, Inc.	P-93	257,175.00	38,576.25	2012	MNLD12056
Sureste Properties, Inc.	P-94	557,500.00	83,625.00	2012	MNLD11539

Taganito Mining Corporation	P-95	1,275,478.80	191,321.82	2012	MNLD12240
Taganito Mining Corporation	P-96	1,913,218.20	286,982.73	2012	MNLD11555
Team Energy Corporation	P-97	2,210,650.07	331,597.51	2012	MNLD11555 AND MNLD11558
Team Energy Corporation	P-98	2,210,650.07	331,597.51	2011	MNLD11555, MNLD11556, MNLD11557, AND MNLD11558
Team Energy Corporation	P-99	554,697.47	83,204.62	2012	MNLD12173
Team Sual Corporation	P-100	5,304,096.20	795,614.43	2012 and 2011	MNLD11559, MNLD11560, MNLD11561, MNLD11562, MNLD11563, MNLD11564, AND MNLD11565
Team Sual Corporation	P-101	2,336,808.50	46,736.17	2012	MNLD12164, MNLD12165, MNLD12166, MNLD12167, MNLD12168, AND MNLD12169
Total		**₱ 266,743,675.69**	**₱ 26,937,862.50**		

Petitioner claims that as per testimony of the Court-commissioned Independent Certified Public Accountant (ICPA), petitioner recognizes income based on percentage of completion method as stated in page 9, note 1 of the notes to AFS of the petitioner.[1] Under this method, income of a particular project is recognized over a long time, often spanning several years, based on the percentage of completion of the project. A project is evaluated on a regular basis to determine the percentage of completion at a given time.

Moreover, petitioner explains that under this method, although the income is recognized, the income payments would be made only when there are billings made. The billings do not necessarily have to be during the same period in which the income was recognized. As such, an income is recognized in a particular period while the income payment and the associated creditable taxes withheld would be recognized in a subsequent period.

To prove that the income payments of the subject CWTs were declared as part of the gross income reported in the AFS and ITR, petitioner explains its procedures as follows:

1. *Certificate of Tax Withheld (BIR Form 2307):* Ascertained that income payments reported in the BIR Form 2307 are properly supported by Official Receipts and Invoices.

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[1] Exhibit "P-235", Q & A No. 14 of Amended Judicial Affidavit of Atty. Clifford E. Chua, April 7, 2016.

2. *Accounts Receivable (AR) Account Ledger:* Ascertained that the supporting invoices containing the income payments in BIR Form 2307 are properly recorded in the Accounts Receivable with corresponding number projects contracts.

3. *Project Status Report (PSR) Account Ledger:* Ascertained that the supporting project contracts recorded in the AR accounts ledger containing income payments reported per BIR Form 2307 are properly recorded in the PSR revenue account.

4. *Audited Financial Statements (AFS) & Income Tax Returns (ITR):* Ascertained that the Revenue reported per PSR revenue account are properly reported per AFS and ITR.

According to petitioner, based on the foregoing procedures, the income payments received as per BIR Form 2307 can be traced to the official receipts and invoices issued by petitioner, to wit:

Payor	Tax Base	BIR Form No. 2307 Exhibit No	OR No.	Invoice No
APCC	₱ 263,359.50	P-25	242	PH12-165
				PH12-154
				PH12-153
APCC	619,080.00	P-24	242	PH12-165
				PH12-154
				PH12-153
APCC	4,112,890.00	P-26	295	
Asian Terminals	7,543,740.20	P-28	140	PH11-226
			152	PH11-113
			154	PH11-153
			156	PH11-239
			165	PH11-238
			172	PH12-008
				PH12-031
Asian Terminals	6,919,678.40	P-29	173	PH12-030
			174	PH12-032
			185	PH12-070
			207	PH12-130
			212	PH12-132
			215	PH12-134
			217	PH12-139
			218	PH12-131
Asian Terminals	6,207,071.00	P-30	225	PH12-127
			228	PH12-155

			229	PH12-157
			232	PH12-156
			244	PH12-172
			250	PH12-171
			258	PH12-188
			262	PH12-187
Asian Terminals	5,447,544.40	P-31	265	PH12-194
			269	PH12-211
			271	PH12-212
			280	PH12-231
			286	PH12-254
			291	PH12-155
			292	PH12-232
Far Southeast Gold Resources Inc	313,980.00	P-32	192	PH12-107
Far Southeast Gold Resources Inc	158,070.00	P-33	226	PH12-146
Far Southeast Gold Resources Inc	149,360.00	P-34	240	PH12-164
Far Southeast Gold Resources Inc	115,480.00	P-35	256	PH12-185
Far Southeast Gold Resources Inc	22,657,361.53	P-36	255	PH12-186
Far Southeast Gold Resources Inc	275,040.00	P-37	276	PH12-209
FCF Minerals Corporation	1,848,864.49	P-38	203	PH12-138
				PH12-089
				PH12-090
				PH12-137
FCF Minerals Corporation	719,988.00	P-39	222	PH12-091
				PH12-088
FCF Minerals Corporation	243,996.00	P-40	234	PH12-170
FCF Minerals Corporation	1,299,160.49	P-41	254	PH12-184
				PH12-192
FCF Minerals Corporation	329,150.83	P-42	279	PH12-233
FCF Minerals Corporation	658,301.66	P-43	279	PH12-234
FCF Minerals Corporation	314,194.50	P-44	270	PH12-213
FCF Minerals Corporation	243,996.00	P-45	287	PH12-252
FCF Minerals Corporation	243,996.00	P-46	287	PH12-253
Filinvest Land Inc	164,500.00	P-47	143	PH11-172
Filinvest Land Inc	244,928.50	P-48	145	PH11-099
Filinvest Land Inc	980,071.50	P-49	153	PH11-218
Filinvest Land Inc	156,250.00	P-50	180	PH12-025
Filinvest Land Inc	329,000.00	P-51	181	PH12-027
Filinvest Land Inc	329,000.00	P-52	188	PH12-073
Filinvest Land Inc	125,000.00	P-53	211	PH12-075
Filinvest Land Inc	1,960,000.00	P-54	235	PH12-074
Filinvest Land Inc	250,000.00	P-55	236	PH12-145
Filinvest Land Inc	980,000.00	P-56	178	PH12-210
First Gen Hydro Power Corporation	74,692.60	P-57	179	PH12-081
First Gen Hydro Power Corporation	298,770.40	P-58	206	PH12-113
International Container Terminal Services Inc	18,011,106.34	P-59	147	PH11-223
				PH11-236
				PH11-240
				PH12-034
International Container Terminal Services Inc	7,855,627.20	P-60	175	PH12-069
International Container Terminal Services Inc	10,520,430.74	P-61	195	PH12-110
				PH09-126A

				PH12-104
				PH12-095
				PH09-126B
International Container Terminal Services Inc	5,390,544.92	P-65	221	PH12-129
International Container Terminal Services Inc	236,576.79	P-63	246	PH12-140
International Container Terminal Services Inc	5,581,935.71	P-62	245	PH12-152
International Container Terminal Services Inc	5,383,882.01	P-64	248	PH12-175
International Container Terminal Services Inc	6,233,049.63	P-66	268	PH12-204
International Container Terminal Services Inc	5,336,110.56	P-67	281	PH12-224
International Container Terminal Services Inc	6,309,696.88	P-68	282	PH12-216
				PH12-182
Manila Water Company	24,925,016.73	P-69	162	PH12-023
			163	PH12-057
			166	PH12-208
			167	PH12-056
Manila Water Company	10,606,350.53	P-70	194	PH12-055
			197	PH12-059
			199	PH12-117
			204	PH12-112
Manila Water Company	10,631,997.14	P-71	251	PH11-228
			260	PH12-167
				PH12-176
Manila Water Company	8,974,219.70	P-72	259	PH12-189
			277	PH12-177
			294	PH12-235
Maynilad Water Services Inc	3,571,783.87	P-73	151	PH11-225
			160	PH11-242
			161	PH12-029
			176	PH11-210
Oceana Gold	1,372,490.00	P-76	223	PH12-150
Oceana Gold	2,182,436.00	P-77	233	PH12-151
Oceana Gold	7,403,147.00	P-78	263	PH12-190
			296	PH12-262
Quezon Power Ltd Co	50,065.00	P-79	193	PH12-068
Sagittarius Mines Inc	16,351,284.40	P-80	168	PH11-229
Sagittarius Mines Inc	1,456,004.33	P-81	191	PH11-230
Sagittarius Mines Inc	484,840.00	P-82	293	PH12-261
San Miguel Corporation	175,000.00	P-83	209	PH12-096
San Miguel Corporation	516,530.40	P-84	219	PH12-147
San Miguel Corporation	167,500.00	P-85	272	PH12-221
San Miguel Corporation	168,644.00	P-86	288	PH12-207
Shell Exploration B.V.	286,500.00	P-87	249	PH12-169
Silangang Mindanao Mining	2,864,824.00	P-88	238	PH12-166
Silangang Mindanao Mining	4,297,236.00	P-89	283	PH12-198
Sureste Properties Inc	780,500.00	P-90	177	PH12-033
Sureste Properties Inc	669,000.00	P-91	190	PH12-103
Sureste Properties Inc	67,500.00	P-92	189	PH12-119B
Sureste Properties Inc	257,175.00	P-93	213	PH12-139

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Sureste Properties Inc	557,500.00	P-94	230	PH12-158
Taganito Mining Corporaion	1,275,478.80	P-95	261	PH12-215
Taganito Mining Corporation	1,913,218.20	P-96	299	PH12-275
Team Energy Corporation	2,210,650.07	P-97	146	PH12-066
				PH12-065
Team Energy Corporation	2,210,650.07	P-98	186	PH11-160
				PH11-216
Team Energy Corporation	554,697.47	P-99	285	PH12-201
Team Sual Corporation	5,304,096.20	P-100	158	PH12-067
			201	PH11-162
Team Sual Corporation	2,336,808.50	P-101	275	PH12-219
Grand Total	**₱ 252,058,620.19**			

Petitioner maintains that upon identifying the official receipts and invoices of each particular income payment, the same may be traced to a particular PCC. The PCC allegedly identifies each construction project of the petitioner, illustrated by petitioner as follows:

OR No.	Invoice No	Project Contract Code
242	PH12-165	MNLD11574
	PH12-154	
	PH12-153	
242	PH12-165	
	PH12-154	
	PH12-153	
295		
140	PH11-226	MNLD10544
152	PH11-113	MNLD10533
154	PH11-153	MNLD10544
156	PH11-239	MNLD11589
165	PH11-238	MNLD11589
172	PH12-008	MNLD11589
	PH12-031	MNLD11589
173	PH12-030	MNLD11589
174	PH12-032	MNLD11589
185	PH12-070	MNLD11589
207	PH12-130	MNLD11589
212	PH12-132	MNLD11589
215	PH12-134	MNLD10544
217	PH12-139	MNLD12056
218	PH12-131	MNLD11589
225	PH12-127	MNLD11589
228	PH12-155	MNLD11589
229	PH12-157	MNLD10533
232	PH12-156	MNLD11589
244	PH12-172	MNLD11589
250	PH12-171	MNLD11589

258	PH12-188	MNLD11589
262	PH12-187	MNLD11589
265	PH12-194	MNLD10533
269	PH12-211	MNLD11589
271	PH12-212	MNLD11589
280	PH12-231	MNLD11589
286	PH12-254	MNLD11589
291	PH12-155	MNLD11589
292	PH12-232	MNLD11589
192	PH12-107	MNLD11583
226	PH12-146	MNLD11583
240	PH12-164	MNLD11583
256	PH12-185	MNLD11583
255	PH12-186	MNLD12189
276	PH12-209	MNLD11583
203	PH12-138	MNLD10541
	PH12-089	
	PH12-090	MNLD11588
	PH12-137	MNLD11521
222	PH12-091	MNLD12039
	PH12-088	MNLD11521
234	PH12-170	MNLD12039
254	PH12-184	MNLD11588
	PH12-192	MNLD10541
279	PH12-233	MNLD10541
279	PH12-234	MNLD10541
270	PH12-213	MNLD11550
287	PH12-252	MNLD12039
287	PH12-253	MNLD12039
143	PH11-172	MNLD10554
145	PH11-099	MNLD10554
153	PH11-218	MNLD10554
180	PH12-025	MNLD10554
181	PH12-027	MNLD10554
188	PH12-073	MNLD10554
211	PH12-075	MNLD10554
235	PH12-074	MNLD10554
236	PH12-145	MNLD10554
178	PH12-210	MNLD10554
179	PH12-081	MNLD11582
206	PH12-113	MNLD11582
147	PH11-223	MNLD07603
	PH11-236	MNLD07603
	PH11-240	MNLD07603
	PH12-034	MNLD07603
175	PH12-069	MNLD07603
195	PH12-110	MNLD07603
	PH09-126A	MNLD07603
	PH12-104	MNLD07603
	PH12-095	MNLD07603

	PH09-126B	MNLD07603
221	PH12-129	MNLD07603
246	PH12-140	MNLD12158
245	PH12-152	MNLD07603
248	PH12-175	MNLD07603
268	PH12-204	MNLD07603
281	PH12-224	MNLD07603
282	PH12-216	MNLD07603
	PH12-182	MNLD07603
162	PH12-023	MNLD11501
163	PH12-057	MNLD11501
166	PH12-208	MNLD11553
167	PH12-056	MNLD11553
194	PH12-055	MNLD11548
197	PH12-059	MNLD10534
199	PH12-117	MNLD11501
204	PH12-112	MNLD12065WW
251	PH11-228	MNLD10534
260	PH12-167	MNLD12065WW
	PH12-176	MNLD10534
259	PH12-189	MNLD11553
277	PH12-177	MNLD11548
294	PH12-235	MNLD11553
151	PH11-225	MNLD11571
160	PH11-242	MNLD11571
161	PH12-029	MNLD11571
176	PH11-210	MNLD10552
223	PH12-150	MNLD12038WC
233	PH12-151	MNLD12038WC
263	PH12-190	MNLD12038WC
296	PH12-262	MNLD12038WC
193	PH12-068	MNLD11542
168	PH11-229	MNLD11584
191	PH11-230	MNLD11584
293	PH12-261	MNLD12266
209	PH12-096	MNLD12087WC
219	PH12-147	MNLD12087WC
272	PH12-221	MNLD12245WC
288	PH12-207	MNLD12087WC
249	PH12-169	MNLD12197
238	PH12-166	MNLD12198
283	PH12-198	MNLD12198
177	PH12-033	MNLD11539
190	PH12-103	MNLD11539
189	PH12-119B	MNLD12089
213	PH12-139	MNLD12056
230	PH12-158	MNLD11539
261	PH12-215	MNLD12240
299	PH12-275	MNLD12240
146	PH12-066	MNLD11555

	PH12-065	MNLD11558
186		MNLD11555
	PH11-160	MNLD11556
		MNLD11557
		MNLD11558
		MNLD11555
	PH11-216	MNLD11557
		MNLD11558
285	PH12-201	MNLD12173
		MNLD11559
		MNLD11560
		MNLD11561
158	PH12-067	MNLD11562
		MNLD11563
		MNLD11564
		MNLD11565
201		MNLD11559
		MNLD11560
	PH11-162	MNLD11561
		MNLD11562
		MNLD11563
		MNLD12164
		MNLD12165
275	PH12-219	MNLD12166
		MNLD12167
		MNLD12168

Petitioner further alleges that by identifying the official receipts and invoices that correspond to a particular PCC, the amount of income payments recognized for each project, including the period it was declared as part of the gross income, may be ascertained.

The total income recognized by petitioner from all its construction projects is allegedly reported in the Progress Service Report (PSR), which is then used in the preparation of the AFS for the taxable years 2012 and 2011. As asserted by petitioner, the amount of revenue reported in the AFS and ITR for 2012 was taken from the totals of the MTD column of the PSR.[2] Similarly, the amount of revenue reported in the AFS and in the ITR for 2011 was also taken from the totals of the MTD Columns of the PSR.[3]

Based on the foregoing assertions of petitioner, the Court summarized the MTD revenue amounts taken from the totals of the

[2] Exhibit "P-229", ICPA Report, pp. 66, 69, 71, 72, 74, 79 and 81.
[3] Exhibit "P-229", ICPA Report, pp. 82, 83, 84, 86, 88, 89, 90, 91, 92, 97, and 100.

MTD column of the PSR for years 2012 and 2011[4] and compared the same with the amounts of revenue per AFS/ITR, as follows:

FY 2012	
Particulars	**MTD Revenue**
3110 TRA-Highway	₱ 4,043,828.00
3112 TRA-Marine	110,761,361.00
3232 WUD-Urban Development	28,276,343.00
3237 WUD-Water	45,125,090.00
3508 ENE-Power & Energy	(202,213.00)
3520 EM-Environmental Management	125,555,674.00
3735 PDD-Planning & Development	43,230,073.00
Per MTD	**₱ 356,790,156.00**
Per AFS/ITR	**351,432,751.00**
Difference	***₱ 5,357,405.00***
FY 2011	
Particulars	**MTD Revenue**
3106 TRA-RSS	₱ 1,360,443.00
3110 TRA-Highway	5,408,989.00
3111 TRA-Aviation	44,995.00
3112 TRA-Marine	99,014,605.00
3232 WUD-Marine Development	16,483,215.00
3237 WUD-Water	79,517,679.00
3415 BE-MEP	(51,149.00)
3417 BE-Strucutal	65,724.00
3508 ENE-Power & Energy	449,982.00
3520 EM-Environmental Management	57,361,441.00
3735 PDD-Planning & Development	39,302,715.00
Per MTD	**₱ 298,958,639.00**
Per AFS/ITR	**317,050,222.00**
Difference	***₱ (18,091,583.00)***

From the above table, it can be gleaned that there were differences in MTD revenue amounts vis-à-vis the revenue amounts per AFS/ITR for years 2012 and 2011. Nowhere in the records of the case can such discrepancies be attributed to. Neither did petitioner provide a reconciliation and explain what constitute the discrepancies. Even if petitioner indicated in the first table, as presented above, the year where the income payments related to the claimed CWTs were declared, the Court cannot trace the same with certainty in the PSR. In other words, the Court still cannot ascertain whether the income payments of the subject CWTs were indeed declared in petitioner's Annual ITR for the FY 2012, or in prior years as petitioner claims.

[4] The line details of the MTD Columns are printed in very small font that it becomes unreadable and cannot be clearly seen.

Therefore, petitioner failed to comply with the third requisite.

Petitioner must prove that the income payments related to the claimed CWTs were declared as part of the income in any given year, be it in the current or prior years, as the case may be.

Petitioner alleges that Section 2.58.3(B) of Revenue RR No. 2-98, as amended only requires, among others, that the income payments has been declared as part of the gross income. It does not have to be on the same taxable year of the claim.

According to petitioner, it declared the income payments related to the claimed CWTs in fiscal years 2012 and 2011. Petitioner posits that the fact that portion of income payments was declared in prior years would not affect its compliance with the third requisite since Section 2.58.3(B) of RR No. 2-98 requires only the declaration of income payments as part of the gross income.

While it is correct that the law does not require that the income payments related to the claimed CWTs be included in the AFS/ITR of the petitioner/recipient on the same taxable year of the claim, still, petitioner must prove that the same were declared as part of the income in any given year, be it in the current or prior years, as the case may be.

Not even the testimony of petitioner's witness, Ma. Lourdes Lascona,[5] that petitioner has documents to prove that petitioner included in its gross income declared per AFS/ITR the income payments subjected by the customers to CWT, can support petitioner's claim there being no proper reconciliation of the amounts per supporting documents submitted to substantiate the same.

Likewise, the ICPA Report stating that "With respect to procedure no. 6, I ascertained that the income payments related to the amount being claimed were declared as Sales /Revenues/Receipts/Fees" is as well of no moment for there is nothing in the record to back it up.

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[5] Exhibit "P-16", Q & A No 24 of Judicial Affidavit of Ma. Lourdes Lascona, June 24, 2015, docket, vol. I, p. 97.

It bears stressing that under Section 2.58.3(B) of RR No. 2-98, claims for refund involving creditable tax withheld shall be given due course when it is shown that the income payment has been declared as part of the gross income of the claimant. It is in this regard that petitioner fatally failed.

As cases filed before this Court are litigated de novo, party-litigants should prove every minute aspect of their cases.[6] Thus, there should be no room for inconsistencies, especially on the part of claimant, who has the burden of proof to establish the factual basis of its claim for tax refund.

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.[7]

Accordingly, the Court finds no cogent reason to reverse or modify the assailed Decision promulgated on May 7, 2018. Therefore, the instant Motion for Reconsideration should be denied for insufficiency of evidence.

WHEREFORE, premises considered, petitioner's **Motion for Partial Reconsideration (Re: Decision Rendered on May 7, 2018)** is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

[6] *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008.
[7] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.