REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special Third Division

DIDDLEY BOW INVESTMENTS HOLDINGS B.V., Petitioner,	**CTA CASE NO. 9759**
	Members:
-versus-	**UY**, *Chairperson*, **RINGPIS-LIBAN**, *and* **MODESTO-SAN PEDRO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 02 2023 8:00 a.m.

x--x

DECISION

RINGPIS-LIBAN, *J.*:

The Case

The *Petition for Review* prays that the Court render judgment ordering respondent to refund or issue a tax credit certificate (TCC) in the amount of ₱8,389,431.00, allegedly representing final withholding tax (FWT) erroneously withheld on the interest income derived by petitioner from January 26, 2016 to August 17, 2016.[1]

The Parties

Petitioner Diddley Bow Investments Holdings B.V. is a corporation established or incorporated in the Netherlands, with address at Oude Lindestraat 70, 6411 EJ Herleen, the Netherlands.[2] It is not registered as a corporation or partnership with the Philippine Securities Exchange Commission, and it is not engaged in trade or business in the Philippines.[3]

---

[1] Pre-Trial Order dated July 4, 2019, Docket – Vol. 1, p. 327.

[2] Exhibit "P-1", Docket – Vol. 1, pp. 489 to 500; and Exhibits "P-2" and "P-3", Docket – Vol. 2, pp. 501 to 506.

[3] Par. 2, Statement of the Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. 1, p. 312; Exhibit "P-4", Docket – Vol. 2, p. 507.

Respondent is the duly appointed Commissioner of Internal Revenue, vested with authority, among others, to act upon and approve claims for refund or tax credit of overpaid or erroneously paid internal revenue taxes, including final income tax withheld on interest income received by non-residents. He holds office at the 5th Floor, Bureau of Internal Revenue (BIR) National Office Building, Agham Road, Diliman, Quezon City.[4]

Antecedents (Administrative Level)

Petitioner, through its custodian, JP Morgan Chase Bank N.A., and its sub-custodian, Hongkong & Shanghai Banking Corp. (HSBC), invested in various Treasury Bonds (T-Bonds), with maturities of more than one (1) year. The yield of the T-Bonds was represented by coupons, which are computed as a percentage of the face value of the T-Bonds on a *per annum* basis and payable semi-annually.[5]

During the period from January to August 2016, petitioner derived interest income from its investments in T-Bonds in the total amount of ₱41,947,155.00, which was subjected to FWT at the rate of twenty percent (20%), equivalent to a total amount of ₱8,389,431.00.[6] The FWT on petitioner's interest income from Philippine T-Bonds were withheld and remitted to the BIR by the Bureau of Treasury (BoTr).[7]

On October 2, 2017, petitioner filed with the BIR an administrative claim for the refund of or the issuance of a TCC in the amount of ₱8,389,431.00, representing the FWT erroneously withheld on the interest income derived by petitioner during the period from January 26, 2016 to August 17, 2016.[8]

Proceedings Before This Court

To preserve its right to judicially claim a refund of the FWT erroneously withheld on its interest income for the period from January 26, 2016 to August 17, 2016, petitioner filed the present *Petition for Review* with this Court on January 26, 2018.[9] N

---

[4] Par. 1, Statement of the Facts, JSFI, Docket – Vol. 1, p. 312.
[5] Par. 3, Statement of the Facts, JSFI, Docket – Vol. 1, p. 313.
[6] Par. 4, Statement of the Facts, JSFI, Docket – Vol. 1, p. 313.
[7] Par. 5, Statement of the Facts, JSFI, Docket – Vol. 1, p. 313.
[8] Par. 6, Statement of the Facts, JSFI, Docket – Vol. 1, p. 313.
[9] Docket – Vol. 1, pp. 10 to 28; and Par. 7, Statement of the Facts, JSFI, Docket – Vol. 1, p. 313.

Respondent's *Answer* was posted on May 4, 2018,[10] interposing the following special and affirmative defenses, to wit:

"SPECIAL AND AFFIRMATIVE DEFENSES

4. Petitioner's claim for refund is subject to administrative investigation and/or examination by the respondent. As a matter of fact, the said claim for tax refund has been denied by the revenue officer who handled the case for failure to submit the required documents to support the claim for tax refund. In order to validly claim for tax refund, it is imperative for petitioner to prove its compliance with the submission of complete documents.

5. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable.

6. Accordingly, the claimants of those refunds bear the burden of proving the factual basis of their claims and of showing, by words too plain to be mistaken, that the legislature intended to exempt them.

7. And finally, basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same. Moreover, statutes in derogation of sovereignty such as those containing exemption from taxation should be strictly construed in favor of the State. In this regard, taxation is the rule and exemption is the exception. The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted."

On July 16, 2018, respondent transmitted the BIR docket for the case, consisting of thirty-eight (38) pages.[11]

Respondent's Pre-Trial Brief was filed on July 19, 2018,[12] while *Petitioner's Pre-Trial Brief* was submitted on July 20, 2018.[13]

The Pre-Trial Conference was initially scheduled on July 24, 2018.[14] However, upon posting of petitioner's *Urgent Motion to Defer Pre-Trial Conference* on July 17, 2018,[15] the said Pre-Trial Conference was reset to October 23, 2018.[16]

---

[10] Docket – Vol. 1, pp. 78 to 80.
[11] Compliance dated July 16, 2018, Docket – Vol. 1, pp. 92 to 93.
[12] Docket – Vol. 1, pp. 119 to 121.
[13] Docket – Vol. 1, pp. 122 to 130.
[14] Docket – Vol. 1, pp. 81 to 82.
[15] Docket – Vol. 1, pp. 131 to 135.
[16] Resolution dated July 27, 2018, Docket – Vol. 1, p. 139.

Petitioner filed another *Urgent Motion to Defer Pre-Trial Conference* on October 17, 2018.[17] In the Resolution dated October 19, 2018,[18] the Court granted the said *Urgent Motion*, and cancelled the previously scheduled Pre-Trial Conference, and reset the same to January 29, 2019.

On January 23, 2019, petitioner again filed an *Urgent Motion to Defer Pre-Trial Conference*,[19] which was granted by the Court in the Resolution dated January 28, 2019.[20] The Pre-Trial Conference was then finally scheduled and held on May 7, 2019.[21]

On May 27, 2019, the parties filed their *Joint Stipulation of Facts and Issues* (JFSI).[22] In the Resolution dated June 14, 2019,[23] the Court approved the said JSFI, and deemed the termination of the Pre-Trial. The Pre-Trial Order dated July 4, 2019 was then issued by the Court.[24]

Trial ensued.

During trial, petitioner presented its documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Atty. Rachelle Anne D. Gutierrez,[25] a Junior Associate at Salvador Llanillo & Bernardo, Attorneys-at-Law; (2) Ms. Ms. Bettina Marie B. Tuazon,[26] a Vice President at the Client Service Section of the Securities Services Department of HSBC Philippine Branch; (3) Mr. Paul Arthur Olivarez Bautista,[27] Assistant Vice President – Corporate Actions at the Securities Services Department of HSBC; and (4) Ms. Janice Co,[28] a Vice President at the Service Delivery Team of the Securities Services Department of HSBC Philippine Branch.

On January 6, 2019, petitioner filed its *Formal Offer of Evidence (with Motion to Set Commissioner's Hearing)*.[29] In the Resolution dated January 16, 2020,[30] the Court granted the said *Motion to Set Commissioner's Hearing*. Thereafter,

---

[17] Docket – Vol. 1, pp. 140 to 144.
[18] Docket – Vol. 1, p. 149.
[19] Docket – Vol. 1, pp. 153 to 157.
[20] Resolution dated January 28, 2019, Docket – Vol. 1, p. 159.
[21] Resolution dated January 28, 2019, Docket – Vol. 1, p. 159; Minutes of the hearing held on, and Order dated, May 7, 2019, Docket – Vol. 1, pp. 308 to 310.
[22] Docket – Vol. 1, pp. 312 to 320.
[23] Docket – Vol. 1, p. 322
[24] Docket – Vol. 1, pp. 327 to 333.
[25] Exhibit "P-15", Docket – Vol. 1, pp. 182 to 192; Minutes of the hearing held on, and Order dated, August 29, 2019, Docket – Vol. 1, pp. 405 to 407.
[26] Exhibit "P-16", Docket – Vol. 1, pp. 242 to 249; Minutes of the hearing held on, and Order dated, September 26, 2019, Docket – Vol. 1, pp. 408 to 410.
[27] Exhibit "P-17", Docket – Vol. 1, pp. 260 to 276; Minutes of the hearing held on, and Order dated, November 28, 2019, Docket – Vol. 1, pp. 463 to 465.
[28] Exhibit "P-18", Docket – Vol. 1, pp. 420 to 431; Minutes of the hearing held on, and Order dated, November 28, 2019, Docket – Vol. 1, pp. 463 to 465.
[29] Docket – Vol. 1, pp. 476 to 488.
[30] Docket – Vol. 2, p. 596.

petitioner filed its *Supplemental Formal Offer of Evidence* on February 7, 2020.[31] The Court ordered respondent to file his comment/opposition on petitioner's *Formal Officer of Evidence* and *Supplemental Formal Offer of Evidence.*[32] Respondent, however, failed to file to do so.[33]

In the Resolution dated September 11, 2020,[34] the Court admitted petitioner's offered exhibits.

On February 1, 2020, respondent filed via email a *Manifestation,*[35] stating that he will no longer present any witness in the instant case. Thus, in the Resolution dated February 2, 2020,[36] the Court cancelled respondent's presentation of evidence, and granted the parties thirty (30) days from notice to submit their respective memorandum.

On March 15, 2021, petitioner filed its *Memorandum* with the Court.[37] Respondent, however, failed to file his memorandum.[38]

The present case was deemed submitted for decision on April 19, 2022.[39]

<u>The Issue</u>

The parties submitted the following issue for the resolution of this Court, to wit:

> "Whether or not Petitioner is entitled to the refund and/or the issuance of a tax credit certificate in the amount of Php8,389,431.00, representing erroneously withheld FWT on the interest income derived by Petitioner during the period of January 26, 2016 to August 17, 2016 on its investments in Philippine T-Bonds."[40]

[31] Docket – Vol. 2, pp. 600 to 606.
[32] Resolution dated January 14, 2020, Docket – Vol. 2, p. 594; Resolution dated February 13, 2020, Docket – Vol. 2, p. 614.
[33] Records Verification Report dated June 18, 2020 issued by the Judicial Records Division of this Court, Docket – Vol. 2, p. 618.
[34] Docket – Vol. 2, pp. 620 to 622.
[35] Docket – Vol. 2, pp. 623 and 624.
[36] Docket – Vol. 2, pp. 627 to 628.
[37] Docket – Vol. 2, pp. 629 to 652.
[38] Records Verification Report dated April 6, 2022 issued by the Judicial Records Division of this Court, Docket – Vol. 2, p. 663.
[39] Resolution dated April 19, 2022, Docket – Vol. 2, p. 665.
[40] Proposed Issue for Stipulation, JSFI, Docket – Vol. 1, p. 313.

Petitioner's arguments:

Petitioner argues that it filed its administrative and judicial claims for refund within the two-year prescriptive period fixed by law; that petitioner's interest income derived from Philippine T-Bonds for the period from January 2016 to August 2016 was erroneously subjected to FWT; that the interest income received by petitioner from its investments in Philippine T-Bonds is exempt from income tax and consequently, from FWT; that petitioner derived interest income in the gross amount of ₱41,947,155.00 from its investments in Philippine T-Bonds for the period from January 1, 2016 to August 31, 2016 which as subjected to FWT at the rate of 20%; and that the FWT on petitioner's interest income from Philippine T-Bonds for the period January 1, 2016 to August 17, 2016, amounting to ₱8,389,431.00 was remitted and paid to the BIR.

Respondent's arguments:

Respondent argues that petitioner's claim for tax refund is subject to administrative review; that the claim had been denied by the revenue officer for failure of petitioner to submit the required documents to support its claim; that taxes paid and collected and paid are presumed to have been paid in accordance with law and regulations and, hence, not refundable; that claimants bear the burden of proof; and that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same.

The Court's Ruling

We rule in favor of petitioner.

Governing provisions for refund claims.

Sections 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997 read:

> "SEC. 204. *Authority of the Commissioner to Compromise/Abate and Refund or Credit Taxes.* — The Commissioner may —
>
> xxx xxx 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**

ᐟ

> **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 added)*
>
> "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." *(Emphases added)*

These provisions are clear: within two (2) years from the date of payment of tax, the claimant must first file an administrative claim with respondent before filing its judicial claim with the courts of law. Both claims must be filed within a two (2)-year reglementary period. Timeliness of the filing of the claim is mandatory and jurisdictional, and thus the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time.[41] Thus, so long as the judicial claim was filed within two (2) years from the date of payment of the tax or penalty, and within such period, an administrative claim was filed before filing such judicial claim, this Court has jurisdiction to entertain the latter.

Moreover, the foregoing provisions allow 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 aspect is illegal.[42]

Thus, for the present claim for refund to prosper, petitioner must not only establish that it has timely filed its refund claim, it must likewise prove that the subject FWT paid fall under the above-stated definition of "erroneous or illegal tax".

---

[41] *Commissioner of Internal Revenue vs. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.

[42] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.

Petitioner complied with the two-year prescriptive period under the law.

In this case, the BoTr paid and remitted to the BIR the FWT on the first coupon payment on January 29, 2016.[43] Counting two years from such date, petitioner had until January 29, 2018, at the earliest, within which to file its claim both in the administrative and judicial levels. Clearly, petitioner's administrative claim[44] filed on October 2, 2017 and the subsequent appeal before this Court on January 26, 2018 were within the two-year period prescribed by law.

The subject FWT has been erroneously or illegally paid or collected.

Section 28(B)(5)(a) of the NIRC of 1997, as amended, provides as follows:

> "SEC. 28. *Rates of Income Tax on Foreign Corporations.* —
>
> xxx xxx xxx
>
> (B) *Tax on Nonresident Foreign Corporation.* —
>
> xxx xxx xxx
>
> (5) ***Tax on Certain Incomes Received by a Nonresident Foreign Corporation.*** —
>
> (a) ***Interest on Foreign Loans.* — A final withholding tax at the rate of twenty percent (20%) is hereby imposed on the amount of interest on foreign loans contracted on or after August 1, 1986;**" *(Emphasis added)*

Relative thereto, Section 2.57-1(I)(5) of Revenue Regulations (RR) No. 2-98, as amended, reads:

> "Sec. 2.57-1. *Income Payments Subject to Final Withholding Tax.* – The following forms of income shall be subject to final withholding tax at the rates herein specified:
>
> xxx xxx xxx
>
> (I) *Income Derived From all Sources Within the Philippines by Non-Resident Foreign Corporation.* – **The following shall be subject to final withholding**

[43] Exhibit "P-12", Docket – Vol. 2, pp. 571 to 574.
[44] Exhibit "P-13", Docket – Vol. 2, pp. 575 to 582; Par. 6, Statement of Facts, JSFI, Docket – Vol. 1, p. 313.

> **tax based on the gross amount of income and at the rate of tax prescribed therefor:**
>
> xxx xxx xxx
>
> **(5) Interest on foreign loans contracted on or after August 1, 1986 – Twenty percent (20%)".** *(Emphases added)*

Based on the foregoing provisions, the law requires that interest on foreign loans contracted on or after August 1, 1986, is subject to income tax, and must be subject to FWT, at the rate of 20%.

Relative thereto, Section 32(A)(4), and (B)(5) of the NIRC of 1997 provides as follows:

> "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:**
>
> xxx xxx xxx
>
> (4) **Interests;**
>
> xxx xxx xxx
>
> (B) *Exclusions from Gross Income.* – **The following items shall not be included in gross income and shall be exempt from taxation under this Title:**
>
> xxx xxx xxx
>
> (5) ***Income Exempt under Treaty.*** **– Income of any kind, to the extent required by any treaty obligation binding upon the Government of the Philippines.**" *(Emphases supplied)*

Based on the foregoing provisions, *"interests"* are regarded, in general, as covered under the definition of *"gross income"* under the law. Said item, however, is *excluded* as such, and *exempt* from income taxation, to the extent required by any treaty obligation binding upon the Government of the Philippines.

Thus, the above-stated 20% withholding tax rate for interests on foreign loans may be reduced to the extent required by a tax treaty entered into by the Government of the Philippines.

In this case, petitioner invokes the *Convention between the Kingdom of the Netherlands and the Republic of the Philippines for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income* (RP-Netherlands Tax Treaty), Article 11 of which reads, in part, as follows:

"ARTICLE 11
INTEREST

1. Interest arising in one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such interest may also be taxed in the State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed:

   a) 10 per cent of the gross amount if such interest is paid:

      (i) in connection with the sale on credit of any industrial, commercial or scientific equipment, or
      (ii) on any loan of whatever kind granted by a bank, or any other financial institution,
      (iii) in respect of public issues of bonds, debentures or similar obligations.

   b) 15 per cent of the gross amount of the interest in all other cases.

3. **Notwithstanding the provisions of paragraph 2:**

   a) **interest arising in one of the States and paid in respect of a bond, debenture or other similar obligation of the Government of that State or of a political subdivision or local authority thereof shall be exempt from tax in that State;**" *(Emphasis added)*

The RP-Netherlands Tax Treaty is thus clear that interest arising in one of the States and paid in respect of a bond, debenture or other similar obligation of the Government of that State or of a political subdivision or local authority thereof shall be exempt from tax in that State.

The Secretary of Finance, through the BoTr,[45] is authorized under Section 1 of Republic Act (RA) No. 245,[46] as amended, to issue evidences of indebtedness such as **treasury bills and bonds** to meet public expenditures or to provide for the purchase, redemption, or refunding of any obligations.[47] It is authorized to borrow from time to time **on the credit of the Republic of the**

[45] Section 1, Executive Order No. 449 (1997).
[46] AN ACT AUTHORIZING THE SECRETARY OF FINANCE TO BORROW TO MEET PUBLIC EXPENDITURES AUTHORIZED BY LAW, AND FOR OTHER PURPOSES.
[47] *Banco De Oro, et al. vs. Republic of the Philippines, et al.*, G.R. No. 198756, August 16, 2016.

Philippines such sum or sums as in his or her judgment may be necessary, and to issue therefor evidences of **indebtedness of the Philippine Government.**[48]

Thus, the subject T-Bonds are obligations of the Republic of the Philippines, and the interests accruing or arising therefrom are *exempt* from income taxation in the Philippines, pursuant to the Section 32(B)(5) of the NIRC of 1997, in relation to Article 11(3)(a) of the RP-Netherlands Tax Treaty.

To recall, petitioner, through its custodian, JP Morgan Chase Bank N.A., and its sub-custodian, HSBC, invested in various T-Bonds, with maturities of more than one (1) year. The yield of the T-Bonds was represented by coupons, which are computed as a percentage of the face value of the T-Bonds on a *per annum* basis and payable semi-annually.[49]

HSBC issued the Entitlement Report dated April 24, 2019 for petitioner for the period from January to December 2016[50] which shows in part the interest income or coupon entitlement remitted to JP Morgan Chase Bank N.A., for the benefit of petitioner. Based on the said Report, the gross coupon entitlement of Securities Account No. 026-012484-557, which pertain to petitioner, was ₱41,947,155.00; and the BoTr withheld 20% FWT in the amount of ₱8,389,431.00 from the gross coupon entitlements. Thus, the net coupon entitlement of Securities Account No. 026-012484-557 for the period January 2016 to December 2016 amounted to ₱33,557,724.00, to wit:

International Security Identification Numbers (ISINs)	Coupon Date	Petitioner's Holdings	Interest (Gross)	Taxes Withheld	Interest (Net of Tax)
PIBD0716A488	27 January 2016	₱ 300,630,000.00	₱ 10,522,050.00	₱ 2,104,410.00	₱ 8,417,640.00
PIBD0316D206	25 April 2016	802,940,000.00	6,523,887.50	1,304,777.50	5,219,110.00
PIBD0518E723	23 May 2016	328,914,000.00	3,494,711.25	698,942.25	2,795,769.00
PIBD0317E212	22 May 2016	67,910,000.00	976,206.25	195,241.25	780,965.00
PIBD0719K560	22 May 2016	894,540,000.00	17,331,712.50	3,466,342.50	13,865,370.00
PIBD1018A451	31 July 2016	33,220,000.00	975,837.50	195,167.50	780,670.00
PIBD0718H511	18 August 2016	84,910,000.00	2,122,750.00	424,550.00	1,698,200.00
		₱2,513,064,000.00	**₱41,947,155.00**	**₱8,389,431.00**	**₱33,557,724.00**

To prove that the BoTr withheld the final taxes on the coupon entitlements of Securities Account No. 026-012484-557 for the period January 1, 2016 to December 31, 2016 covering Account No. 104-0001 and RHSBC00000C, petitioner presented the following documents:

1. BoTr Statements of Taxes Withheld on the Coupon Due on the T-Bond Holdings of HSBC – Custody Account,[51]

[48] Section 1, RA No. 245, as amended.
[49] Par. 3, Statement of the Facts, JSFI, Docket – Vol. 1, p. 313.
[50] Exhibit "P-7", Docket – Vol. 2, pp. 536 to 537.
[51] Exhibits "P-9-a" to "P-9-c", Docket – Vol. 2, pp. 543 to 553.

which show the details of the T-Bonds recorded under the HSBC's Custody Account, including that of petitioner, which earned interest during the period January 1, 2016 to December 31, 2016.

2. BoTr Journal Entry Vouchers (JEVs),[52] which show the records of the BoTr of the remittances to BIR of the taxes withheld on interest in Government Securities;

3. Certificates of Final Tax Withheld at Source (BIR Form No. 2306) issued by BoTr;[53]

4. Certificate from the Revenue Accounting Division (RAD) of the BIR,[54] confirming that the International Security Identification Numbers (ISIN) in relation to the petitioner's claim were verified from the records of its Division and that the same were subjected to FWT.

Based on the BoTr's Statements of Taxes Withheld on the Coupon Due on the T-Bond Holding of HSBC-Custody Account, the BoTr withheld final taxes in the total amount of ₱1,264,423,854.19 on its coupon payments of ₱6,357,169,545.53, and the net amount of ₱5,092,745,691.34 was remitted by the BoTr to HSBC's Demand Deposit Account for the period January 1, 2016 to December 31, 2016, to wit:

Exhibit	Total Interest (Gross)	Total Taxes Withheld	Interest (Net of Tax)
"P-9-a"	₱ 1,665,999,193.58	₱ 333,199,838.78	₱ 1,332,799,354.80
"P-9-b"	4,655,438,876.95	924,077,720.41	3,731,361,156.54
"P-9-c"	35,731,475.00	7,146,295.00	28,585,180.00
Total	**₱ 6,357,169,545.53**	**₱ 1,264,423,854.19**	**₱ 5,092,745,691.34**

Likewise, the Certificates of Final Tax Withheld at Source (BIR Form No. 2306) show that the total tax withheld by the BoTr amounted to ₱1,264,423,854.19, to wit:

Exhibit	Payee	Period Covered	Tax Withheld
"P-11-a"	The Hongkong & Shanghai Banking Corp. - Custody Account (104-0001)	April 1, 2016 to April 30, 2016	₱ 7,146,295.00
"P-11-b"	The Hongkong & Shanghai Banking Corp. (Custody Account)	January 1, 2016 to December 31, 2016	1,257,277,559.19
		Total FWT	**₱ 1,264,423,854.19**

Of the foregoing amounts, the net coupon entitlement of petitioner's Securities Account No. 026-012484-557 is ₱33,557,724.00, and the remainder belongs to the other clients of HSBC.

[52] Exhibits "P-10-a" to "P-10-e", Docket – Vol. 2, pp. 554 to 566.
[53] Exhibits "P-11-a" and "P-11-b", Docket – Vol. 2, pp. 569 to 570.
[54] Exhibit "P-12", Docket – Vol. 2, pp. 571 to 574.

To ascertain that the coupon entitlements of petitioner form part of the coupons shown in the BoTr's Statement of Taxes Withheld on the Coupon Due on the T-Bond Holdings of HSBC – Custody Account for the period January 1, 2016 to December 31, 2016, this Court matched the ISIN, coupon payment dates and interest rates of the T-Bonds reported therein with the ISIN/Security ID Nos., coupon payment dates, and interest rates stated in HSBC's Entitlement Report. Verily, the T-Bonds shown in the BoTr's Statement of Taxes Withheld are inclusive of the amounts corresponding to the T-Bonds shown in HSBC's Entitlement Report.

Moreover, the BIR, through its RAD, issued a Certification[55] confirming that the following ISINs of petitioner's securities, were verified from its records, *viz.*:

ISIN	BoTr JEV No.	Date	BIR JEV No.	Date
PIBD0716A488	16-01-00608	29 January 2016	2016-01-000116	29 January 2016
PIBD0316D206	16-04-03245	29 April 2016	2016-04-000908	29 April 2016
PIBD0518E723	16-05-03945	31 May 2016	2016-05-001156	31 May 2016
PIBD0317E212	16-05-03945	31 May 2016	2016-05-001156	31 May 2016
PIBD0719K560	16-05-03945	31 May 2016	2016-05-001156	31 May 2016
PIBD1018A451	16-08-05975	10 August 2016	2016-08-001983	31 August 2016
PIBD0718H511	16-08-06280	22 August 2016	2016-08-001983	31 August 2016

In fine, considering that the interests on the T-Bonds are exempt from income tax under Section 32(B)(5) of the NIRC of 1997, in relation to Article 11(3)(a) of the RP-Netherlands Tax Treaty, the aggregate amount of ₱8,389,431.00, representing 20% FWT on the said interest income earned by petitioner from January 2016 to August 2016, was erroneously collected, and thus, must be refunded in favor of petitioner.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**. Accordingly, respondent is **ORDERED** to refund or issue a TCC in favor of petitioner the amount of ₱8,389,431.00, representing erroneously collected FWT on the interest income earned in various T-Bonds issued by the BoTr from January 2016 to August 2016.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[55] Exhibit "P-12", Docket – Vol. 2, pp. 571 to 574.

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice