REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

GOLDEN ARCHES DEVELOPMENT CORPORATION, Petitioner,	**C.T.A. CASE NO. 6659**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** MAR 16 2007

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DECISION

CASTAÑEDA, JR., *J*.:

This case involves a claim for refund or issuance of a tax credit certificate in the amount of Forty Eight Million Nine Hundred Fourteen Thousand Four Hundred Thirty Four Pesos (P48,914,434.00) allegedly representing excess creditable withholding taxes for the taxable year ended December 31, 2000.

Golden Arches Development Corporation ("petitioner"), a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, is engaged in the business of leasing real property with principal address located at the 17th Floor, Citibank Centre, Paseo De Roxas, Makati City.[1]

The Commissioner of Internal Revenue ("respondent"), on the other hand, is vested by law with authority, among others, to approve and grant claims for credit or refund of overpaid or erroneously paid taxes pursuant to the provisions of the National Internal Revenue Code ("NIRC"), with office address at the 4th Floor BIR National Office Building, Agham Road, Diliman, Quezon City.[2]

For the period of January 1, 2000 to December 31, 2000, various lessees allegedly withheld income taxes accruing from rentals paid for the lease of petitioner's real properties and remitted the same to the Bureau of Internal Revenue ("BIR").

On April 18, 2001, petitioner filed its annual income tax return for the taxable year 2000 declaring the following:[3]

Sales/Revenues/Receipts/Fees	P1,170,559,624.00
Less: Cost of Sales/Services	767,216,485.00
Gross Income from Operation	P 403,343,139.00
Add: Non-operating & other income	2,648,912.00
Total Gross Income	P 405,992,051.00
Less: Deductions	1,053,737,706.00
Taxable Income	P(647,745,655.00)
Tax Rate	32%
Income Tax	P NIL
Minimum Corporate Income Tax	P 8,119,841.00
Less: Tax Credits/Payments	
Creditable Tax Withheld for the First Three Quarters	P 39,822,098.00
Creditable Tax Withheld for the Fourth Quarter	16,915,676.00
Total Tax Credits/Payments	P 56,737,774.00
Tax Overpayment	P (48,617,933.00)

1 Par. 1, Facts Admitted, Rollo, p. 67.
2 Par. 2, Facts Admitted, Rollo, p. 67.
3 Exhibit A.

On December 4, 2001, petitioner filed an amended income tax return for the taxable year 2000 reflecting the following:[4]

Sales/Revenues/Receipts/Fees	P1,170,559,624.00
Less: Cost of Sales/Services	767,216,485.00
Gross Income from Operation	P 403,343,139.00
Add: Non-operating & other income	2,648,912.00
Total Gross Income	P 405,992,051.00
Less: Deductions	678,737,706.00
Taxable Income	P(272,745,655.00)
Tax Rate	32%
Income Tax	P -
Minimum Corporate Income Tax	P 8,119,841.00
Less: Tax Credits/Payments	
Creditable Tax Withheld for the First Three Quarters	P 39,822,098.00
Creditable Tax Withheld for the Fourth Quarter	17,212,177.00
Total Tax Credits/Payments	P 57,034,275.00
Tax Overpayment	P (48,914,434.00)

Petitioner likewise indicated therein its option to have said tax overpayment refunded.

On February 12, 2003, petitioner filed an application for tax credit or refund of the amount of P48,914,434.00 representing excess creditable taxes withheld for taxable year 2000 before the Large Taxpayers District, BIR Revenue Region No. 8 of Makati City.[5]

Respondent's inaction on its claim prompted petitioner to appeal by way of a Petition for Review before this Court on April 14, 2003.

In his Answer, respondent interposed the following Special and Affirmative Defenses:

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[4] Exhibit B.

[5] Exhibit D; Par. 7, Admitted Facts, Rollo, p. 68.

"3. Assuming without admitting that petitioner filed a claim for refund, the same is subject to investigation by the Bureau of Internal Revenue;

4. Petitioner failed to demonstrate that the subject of the case at bar was erroneously or illegally collected;

5. Taxes paid and collected are presumed to have been made inaccordance with law and regulations, hence, not refundable;

6. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to refund and failure to adduce sufficient proof is fatal to the action for tax refund/credit;

7. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code, as amended; and

8. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation and as such, they are looked upon with disfavor."[6]

During trial, both parties proffered numerous documents. As its witness, petitioner's Accountant Cornelia Naguit attested that the petitioner incurred excess creditable taxes for taxable year 2000; while respondent presented Ms. Josa C. Gomez who testified to inspecting petitioner's books of account by virtue of a letter of authority issued by the Large Taxpayer's Division.

In a resolution dated September 1, 2006, this Court deemed the case submitted for decision without any memorandum filed by the respondent.

The issues in this case as stipulated by the parties are as follows:

"1. Whether or not petitioner has unutilized excess creditable withholding taxes as of December 31, 2000 in the amount of P48,914,434.00 arising from its rental income for the

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[6] Rollo, pp. 32- 33, citations omitted.

taxable year 2000 which is a proper subject of a claim for refund pursuant to Section 76 of the National Internal Revenue Code of 1997, as amended;

2. Whether or not the said creditable withholding taxes of petitioner for the taxable year 2000 are substantiated by documentary evidence;

3. Whether or not the rental income of petitioner upon which the taxes were withheld were declared part of petitioner's gross revenue in its 2000 income tax return;

4. Whether or not said excess/unutilized creditable withholding taxes as of December 31, 2000 were not applied as tax credit against petitioner's tax liability for the respective succeeding year/s; and

5. Whether or not petitioner has shown compliance with the provisions of Section 204(C) and 229 of the Tax Code". [7]

Section 76 of the National Internal Revenue Code (NIRC) of 1997 provides:

> 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 against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that

[7] Rollo, pp. 68-69.

taxable period and no application for cash refund or issuance of a tax credit shall be allowed therefor.

From the foregoing, the corporate taxpayer's excess tax credits or overpaid income tax in a given taxable year may either be refunded (either in the form of cash or tax credit certificate) or carried-over/applied to the succeeding taxable years. However, once the option to carry-over has been made, the same becomes irrevocable for that taxable period.

In the present case, a closer look at petitioner's amended 2000 income tax return shows that it had excess creditable withholding taxes for taxable year 2000 in the amount of P48,914,434.00 which petitioner marked as "To be refunded" (*Exhibit B*). Further, in its 2001 income tax return, petitioner reported no amount of prior year's excess credits (*Exhibit C-1*). In which case, petitioner's excess creditable taxes withheld for the year 2000 in the amount of P48,914,434.00 may be the proper subject of a claim for refund under Section 76 of the NIRC of 1997.

Nonetheless, petitioner must prove compliance with the following basic requirements in order to be entitled to the refund claim of P48,914,434.00:

1. That the claim for refund was filed within the two-year prescriptive period provided under Section 204 (C) in relation to Section 229 of the National Internal Revenue Code of 1997;

2. That the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. That the income upon which the taxes were withheld were included in the return of the recipient ***[Section 2.58.3(B) of Revenue Regulations No. 2-98; Citibank, N.A. vs. Court of***

Appeals and CIR, 280 SCRA 459; ACCRA Investments Corporation vs. Court of Appeals, 204 SCRA 957].

Based on the records of this case, petitioner complied with the first requirement. The reckoning of the two-year prescriptive period for the filing of a claim for refund or tax credit certificate of excess creditable withholding tax/quarterly tax payment starts from the date of filing of the annual income tax return. ***[ACCRA Investments Corporation vs. Court of Appeals, 204 SCRA 957 (1991); Commissioner of Internal Revenue vs. TMX Sales, Inc., 205 SCRA 184 (1992)].*** Petitioner originally filed its income tax return for taxable year 2000 on April 18, 2001 *(Exhibit A)*. However, the last day required by law to file the said return was on April 16, 2001.[8] Hence, the two-year prescriptive period started to run on the earlier date of April 16, 2001 and petitioner had until April 16, 2003 within which to file its claim both in the administrative and judicial levels. Therefore, petitioner's administrative claim filed on February 12, 2003 *(Exhibits D & D-1)* and the Petition for Review filed on April 14, 2003 are well within the two-year prescriptive period.

In compliance with the second requisite, petitioner presented Certificates of Creditable Tax Withheld at Source issued to it by various withholding agents *(Exhibits F-1 to F-9; H-1 to H-57; J-1 to J-41; K-1 to K-41 and L-1 to L-16)* which showed creditable withholding taxes in the total amount of P57,094,877.33, detailed as follows:

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[8] April 15, 2001 being a Sunday.

EXHIBIT	PAYOR/WITHHOLDING AGENT	INCOME PAYMENT	INCOME TAX WITHHELD
I. Lease of Real Property			
F-1	Blue Dairy Corporation	P 499,999.98	P 24,999.99
F-2	Davao City Food Industries	1,144,644.17	57,232.22
F-3	Giant Arches Food Corporation	858,400.63	42,920.03
F-4	Golden City Food Industries Inc.	370,749.65	18,537.48
F-5	Golden SouthFoods, Inc.	1,436,479.88	71,824.01
F-6	Havi Food Services Phils., Inc.	7,881,220.00	394,061.00
F-7	Johnarches Foods	1,218,138.20	60,906.91
F-8	Mc George Food Industries Inc.	231,557,823.70	11,577,891.19
F-9	Retiro Golden Foods, Inc.	494,553.60	24,727.68
H-1	An-Cel "A" Corporation	1,078,885.23	53,944.26
H-2	An-Cel "A" Corporation	1,190,329.40	59,416.47
H-3	An-Cel "A" Corporation	878,875.62	43,953.78
H-4	An-Cel "A" Corporation	950,425.13	47,521.25
H-5	Blue Dairy Corporation	499,999.98	25,000.00
H-6	Cebu Golden Food Industries Inc.	1,057,218.26	52,860.92
H-7	Cebu Golden Food Industries Inc.	1,026,639.58	51,331.97
H-8	Cebu Golden Food Industries Inc.	1,167,726.82	58,386.34
H-9	Davao City Food Industries	1,084,960.40	54,269.87
H-10	Edsa Food Industries Inc.	1,214,078.38	60,703.92
H-11	Giant Arches Food Corporation	1,969,659.92	98,483.00
H-12	Giant Arches Food Corporation	931,013.04	46,550.65
H-13	Golden City Food Industries Inc.	361,366.75	18,068.33
H-14	Golden SouthFoods, Inc.	2,702,946.62	135,147.32
H-15	Havi Food Services Phils., Inc.	8,098,484.80	404,924.24
H-16	Lim Gollayan, Jessica Tan	749,642.30	37,482.11
H-17	Lim Gollayan, Jessica Tan	795,093.17	39,754.65
H-18	Johnarches Foods	1,246,302.93	62,315.14
H-19	Mariel Food Corporation	455,641.41	22,585.80
H-20	Mariel Food Corporation	1,061,131.97	53,056.59
H-21	Gocheco, Edward Chan	628,027.47	31,401.38
H-22	Gocheco, Edward Chan	415,523.48	20,776.17
H-23	McColby's Inc.	651,624.39	32,581.22
H-24	McColby's Inc.	706,254.55	35,312.73
H-25	McColby's Inc.	609,397.44	30,469.87
H-26	McColby's Inc.	660,486.36	33,024.32
H-27	McColby's Inc.	210,000.00	10,500.00
H-28	McColby's Inc.	210,000.00	10,500.00
H-29	McColby's Inc.	396,866.21	19,843.31
H-30	McColby's Inc.	346,729.32	17,336.46
H-31	Mc DLC Foods, Inc.	508,110.23	25,405.51
H-32	Mc DLC Foods, Inc.	446,469.28	22,323.46
H-33	Mc DLC Foods, Inc.	1,648,686.62	82,434.34
H-34	Mc DLC Foods, Inc.	1,777,832.91	88,891.65
H-35	Mc George Food Industries Inc.	230,772,062.08	11,538,603.10
H-36	Mc Gill Food Industries Inc.	703,131.68	35,156.60
H-37	Mc Gill Food Industries Inc.	685,426.77	34,271.36

H-39	Mc Philip Food Industries, Inc.	1,124,347.08	56,217.35
H-40	Mc Philip Food Industries, Inc.	956,316.04	47,815.77
H-41	Mc Philip Food Industries, Inc.	1,436,057.72	71,802.89
H-42	Golden Arches Development Corporation	1,178,522.82	58,826.14
H-43	Golden Arches Development Corporation	1,310,051.76	65,502.59
H-44	Nestor S. Dela Merced II	517,500.00	25,875.00
H-45	Nestor S. Dela Merced II	471,500.00	23,575.00
H-46	Nestor S. Dela Merced II	953,457.15	47,672.86
H-47	Nestor S. Dela Merced II	811,057.54	40,552.88
H-48	Nestor S. Dela Merced II	82,634.71	4,131.74
H-49	Nestor S. Dela Merced II	74,274.18	3,713.71
H-50	Nestor S. Dela Merced II	220,115.13	11,005.76
H-51	Nestor S. Dela Merced II	229,570.92	11,478.54
H-52	Cabuay Noemi Bernardo	602,830.57	30,141.54
H-53	Cabuay Noemi Bernardo	545,225.30	27,261.26
H-54	SPF Food Service	1,563,598.60	78,179.93
H-55	SPF Food Service	1,494,022.13	74,701.11
H-56	VZG Food Industries Inc.	510,686.98	25,534.35
H-57	VZG Food Industries Inc.	501,897.37	25,094.88
J-1	An-Cel "A" Corporation	1,045,717.92	52,285.90
J-2	An-Cel "A" Corporation	820,903.23	41,045.16
J-3	Blue Dairy Corporation	499,999.98	25,000.00
J-4	Cebu Golden Food Industries Inc.	994,821.35	49,741.07
J-5	Davao City Food Industries	1,121,067.90	56,053.39
J-6	Edsa Food Industries Inc.	1,231,406.29	61,570.32
J-7	Edsa Food Industries Inc.	1,220,338.44	61,016.92
J-8	Edsa Food Industries Inc.	918,581.57	45,929.08
J-9	Geneva Food, Inc.	726,367.65	36,318.39
J-10	Geneva Food, Inc.	690,401.67	34,520.09
J-11	Geneva Food, Inc.	648,713.89	32,435.69
J-12	Giant Arches Food Corporation	1,752,147.57	87,607.38
J-13	Giant Arches Food Corporation	794,670.07	39,733.50
J-14	Golden City Food Industries Inc.	329,603.14	16,480.15
J-15	Havi Food Services Phils., Inc.	7,933,351.60	396,667.58
J-16	Golden Arches Development Corporation	1,147,065.40	57,353.27
J-17	Golden Arches Development Corporation	1,036,639.40	51,831.97
J-18	KSL Food Services	780,273.08	39,013.65
J-19	KSL Food Services	618,579.57	30,928.98
J-20	Gocheco, Edward Chan	603,396.83	30,169.84
J-21	Gocheco, Edward Chan	408,051.16	20,402.56
J-22	McColby's Inc.	104,007.27	5,200.35
J-23	McColby's Inc.	104,007.27	5,200.35
J-24	McColby's Inc.	104,007.27	5,200.35
J-25	McColby's Inc.	437,707.56	21,885.37
J-26	McColby's Inc.	172,911.57	8,645.58
J-27	McColby's Inc.	179,816.49	8,990.82
J-28	McColby's Inc.	179,816.49	8,990.82
J-29	McColby's Inc.	604,687.60	30,234.38
J-30	McColby's Inc.	210,000.00	10,500.00
J-31	McColby's Inc.	342,746.83	17,137.34
J-32	Mc George Food Industries Inc.	231,374,487.80	11,568,724.39
J-34	Mc Philip Food Industries, Inc.	521,622.10	26,081.11

J-35	Mc Philip Food Industries, Inc.	504,686.95	25,234.35
J-36	Mc Philip Food Industries, Inc.	1,141,352.58	57,067.63
J-37	Mc Philip Food Industries, Inc.	1,104,533.49	55,226.67
J-38	Mc Philip Food Industries, Inc.	867,741.55	43,387.08
J-39	Mc Philip Food Industries, Inc.	1,160,542.79	58,027.14
J-40	Retiro Golden Foods, Inc.	720,127.60	36,006.38
J-41	VZG Food Industries Inc.	525,221.66	26,261.10
K-1	Ng Alfonso Lee	339,799.02	16,989.96
K-2	Ng Alfonso Lee	339,799.02	16,989.96
K-3	Ng Alfonso Lee	373,778.91	18,688.95
K-4	Ng Alfonso Lee	373,778.91	18,688.95
K-5	Ng Alfonso Lee	471,347.88	23,567.40
K-6	Ng Alfonso Lee	455,172.89	22,758.65
K-7	Ng Alfonso Lee	425,905.42	21,295.27
K-8	Ng Alfonso Lee	428,332.67	21,416.63
K-9	Ng Alfonso Lee	652,858.25	32,642.91
K-10	Ng Alfonso Lee	604,256.17	30,212.80
K-11	Ng Alfonso Lee	656,590.40	32,829.52
K-12	Ng Alfonso Lee	666,651.68	33,332.58
K-13	Ng Alfonso Lee	407,456.63	20,372.83
K-14	Ng Alfonso Lee	369,402.83	18,470.13
K-15	Ng Alfonso Lee	437,500.11	21,875.00
K-16	Ng Alfonso Lee	424,914.47	21,245.72
K-17	An-Cel "A" Corporation	1,137,648.80	56,882.44
K-18	An-Cel "A" Corporation	663,119.64	33,155.98
K-19	Blue Dairy Corporation	500,000.01	25,000.00
K-20	Cebu Golden Food Industries Inc.	1,017,515.26	50,875.76
K-21	Cebu Golden Food Industries Inc.	891,519.00	44,573.45
K-22	Cebu Golden Food Industries Inc.	1,132,102.00	56,605.10
K-23	Cebu Golden Food Industries Inc.	1,151,237.60	57,561.88
K-24	Edsa Food Industries Inc.	1,392,476.20	69,623.82
K-25	Geneva Food, Inc.	663,545.79	33,177.28
K-26	Giant Arches Food Corporation	1,860,270.52	93,013.53
K-27	Giant Arches Food Corporation	1,761,615.39	88,080.76
K-28	Giant Arches Food Corporation	767,748.44	38,387.42
K-29	Mc Glenn Foods	2,243,202.09	112,160.11
K-30	Mc Glenn Foods	2,148,191.14	107,409.56
K-31	Mc Glenn Foods	2,716,938.50	135,846.92
K-32	Mc Glenn Foods	1,973,573.24	98,678.65
K-33	Golden City Food Industries Inc.	357,625.11	17,881.24
K-34	Golden SouthFoods, Inc.	3,436,285.19	171,814.27
K-35	Golden SouthFoods, Inc.	2,590,362.24	129,518.10
K-36	Havi Food Services Phils., Inc.	8,890,083.20	444,504.16
K-37	Lim Gollayan, Jessica Tan	800,500.20	40,025.00
K-38	Dy, Jessica Lim Gollayan	812,922.11	40,646.08
K-39	Golden Arches Development Corporation	1,171,154.10	58,557.70
K-40	Golden Arches Development Corporation	851,331.53	42,566.57
K-41	KSL Food Services	653,783.82	32,689.20
K-42	KSL Food Services	424,907.20	21,245.36
K-43	KSL Food Services	482,002.24	24,100.11
K-44	KSL Food Services	282,856.60	14,142.83
K-45	Mariel Food Corporation	487,464.50	24,373.22

K-46	Mariel Food Corporation	487,468.48	24,373.43
K-47	Mariel Food Corporation	506,641.32	25,332.07
K-48	Mariel Food Corporation	920,478.13	46,023.90
K-49	Mariel Food Corporation	780,571.55	39,028.57
K-50	Mariel Food Corporation	820,495.30	41,024.77
K-51	Gocheco, Edward Chan	608,101.92	30,405.10
K-52	Gocheco, Edward Chan	560,413.27	28,020.66
K-53	Gocheco, Edward Chan	423,076.01	21,153.80
K-54	Gocheco, Edward Chan	424,276.45	21,213.82
K-55	McColby's Inc.	104,007.27	5,200.35
K-56	McColby's Inc.	495,126.36	24,756.32
K-57	McColby's Inc.	179,816.49	8,990.82
K-58	McColby's Inc.	666,996.56	33,349.83
K-59	McColby's Inc.	210,000.00	10,500.00
K-60	McColby's Inc.	328,499.54	16,424.98
K-61	Mc Daniel's Food Corporation	688,828.15	34,441.41
K-62	Mc DLC Foods, Inc.	429,133.61	21,456.68
K-63	Mc DLC Foods, Inc.	388,440.00	19,422.00
K-64	DLC Foods Inc.	1,211,683.81	60,584.19
K-65	DLC Foods Inc.	388,440.00	19,422.00
K-66	Mc George Food Industries Inc.	238,210,199.80	11,910,509.99
K-67	Mc Gill Food Industries Inc.	709,410.20	35,470.51
K-68	Mc Gill Food Industries Inc.	680,547.96	34,027.40
K-69	Mc Jola, Inc.	1,980,834.20	99,041.71
K-70	Mc Jola, Inc.	1,698,290.20	84,914.51
K-71	Mc Jola, Inc.	1,445,500.20	72,275.01
K-72	Mc Jola, Inc.	1,280,352.80	64,017.64
K-73	Lopez Eusebio Soriano	1,220,810.40	61,040.52
K-74	Lopez Eusebio Soriano	1,326,776.40	66,338.82
K-75	Lopez Eusebio Soriano	605,914.40	30,295.72
K-76	Lopez Eusebio Soriano	917,303.60	45,865.18
K-78	Mc Philip Food Industries, Inc.	547,573.97	27,378.70
K-79	Mc Philip Food Industries, Inc.	1,049,571.49	52,478.57
K-80	Mc Philip Food Industries, Inc.	1,004,311.03	50,215.55
K-81	Retiro Golden Foods, Inc.	436,041.60	21,802.08
K-82	Retiro Golden Foods, Inc.	618,059.00	30,902.95
K-83	Nee Mee Fooeds Corporation	1,231,332.19	61,566.61
K-84	Nee Mee Fooeds Corporation	1,311,875.38	65,593.78
K-85	Nestor S. Dela Merced II	517,500.00	25,875.00
K-86	Nestor S. Dela Merced II	517,500.00	25,875.00
K-87	Nestor S. Dela Merced II	702,577.56	35,128.88
K-88	Nestor S. Dela Merced II	797,307.36	39,865.37
K-89	Nestor S. Dela Merced II	81,220.31	4,061.02
K-90	Nestor S. Dela Merced II	71,487.43	3,574.37
K-91	Nestor S. Dela Merced II	234,012.29	11,700.61
K-92	Nestor S. Dela Merced II	220,485.12	11,024.26
K-93	RSA Food Service	820,449.80	41,022.49
K-94	RSA Food Service	388,800.40	19,440.02
K-95	RSA Food Service	976,638.20	48,831.91
K-96	RSA Food Service	1,611,102.60	80,555.13
K-97	RSA Food Service	1,605,945.80	80,297.29
K-98	SPF Food Service	1,482,171.46	74,108.57

K-99	SPF Food Service	1,036,312.12	51,815.61
K-100	TGY & Kids, Inc.	1,406,611.20	70,330.56
K-101	TGY & Kids, Inc.	1,423,409.40	71,170.47
K-102	TGY & Kids, Inc.	1,388,155.20	69,407.76
K-103	TGY & Kids, Inc.	1,395,819.40	69,790.97
K-104	VZG Food Industries Inc.	495,168.42	24,758.42
L-3	Davao City Food Industries	1,166,727.56	58,336.36
L-4	Golden Laoag Foods Corporation	538,488.20	26,924.41
L-5	Golden Laoag Foods Corporation	541,325.79	27,066.29
L-6	Golden Laoag Foods Corporation	833,847.27	41,692.36
L-7	Golden Laoag Foods Corporation	621,516.90	31,075.85
L-8	Mc Daniel's Food Corporation	689,859.62	34,492.98
L-9	Mc Daniel's Food Corporation	661,756.98	33,087.85
L-10	Mc Daniel's Food Corporation	684,376.89	34,218.84
L-11	Cabuay Noemi Bernardo	560,278.63	28,013.94
L-12	Cabuay Noemi Bernardo	617,043.51	30,852.18
L-13	Jessica F. Fernandez	172,500.00	8,625.00
L-14	Fernandez Jessica F. QSCV Enterprises	258,750.00	12,937.50
L-15	Fernandez Jessica F. QSCV Enterprises	371,213.00	18,560.65
L-16	Fernandez Jessica F. QSCV Enterprises	400,595.40	20,029.77
Subtotal		**P 1,138,502,528.67**	**P 56,924,759.40**
II. Sale of Services (Payment to Contractors and Professional/Talent Fees			
H-38	Mc Mighty Foods Corporation	P 401,105.82	P 20,055.29
J-33	Mc Mighty Foods Corporation	421,253.12	21,062.66
K-77	Mc Mighty Foods Corporation	389,020.78	19,451.04
L-1	Double Rise Foods Inc.	1,499,600.40	74,980.02
L-2	Double Rise Foods Inc.	691,378.40	34,568.92
Subtotal		**P 3,402,358.52**	**P 170,117.93**
TOTAL		**P 1,141,904,887.19**	**P 57,094,877.33**

The creditable withholding taxes reflected per certificates in the amount of P57,094,877.33 is higher than the creditable withholding taxes of P57,034,275.00 reported per petitioner's amended 2000 income tax return. The discrepancy of P60,602.33 was due to: 1) the creditable tax of P60,703.92 withheld by Edsa Food Industries for the period January to March 2000 with covering certificate marked as Exhibit H-10 but which was not reported by petitioner in its amended 2000 income tax return and 2) transposition errors made by petitioner in the amount of P101.59 per its Summaries of Creditable Withholding Tax Certificates (*Exhibits F, H, J & K*) and Summary of Rental Income per Withholding Tax Certificate for the year 2000 (*Exhibit M*), as shown below:

Creditable Taxes Withheld per Certificates		P 57,094,877.33
Less: 1.) Creditable withholding taxes with certificate but not reported in the 2000 income tax return	P (60,703.92)	
2.) transposition errors made by petitioner per Summaries of Certificates of Creditable Withholding Tax (*Exhibits F, H, J & K*) and Summary of Rental Income per Withholding Tax Certificate for the year 2000 (*Exhibit M*)	101.59	
		P (60,602.33)
Creditable Taxes Withheld per petitioner's 2000 income tax return		P 57,034,275.00

Moreover, We note that the two certificates marked as Exhibits L-15 and L-16 with the related creditable withholding taxes of P38,590.42 were dated outside the subject period of claim, hence, must be denied. Consequently, petitioner was able to substantiate by proper certificates only the creditable withholding taxes of P56,995,684.58, computed as follows:

	Income Payment	Income Tax Withheld
Creditable withholding taxes with certificates		
I. Lease of Real Property	P 1,138,502,528.67	P 56,924,759.40
II. Sale of Services	3,402,358.52	170,117.93
Total Creditalbe withholding taxes with certificates	P 1,141,904,887.19	P 57,094,877.33
Less: 1.) Creditable withholding tax w/ covering certificate but was not reported in the amended 2000 income tax return		
1. Lease of Real Property		
Exhibit H-10	P 1,214,078.38	P 60,703.92
2.) Creditable withholding taxes for which the covering certificates were dated outside the subject period of claim		
I. Lease of Real Property		
Exhibit L-15	371,213.00	18,560.65
Exhibit L-16	400,595.40	20,029.77
3.) Transposition errors made by petitioner	-	(101.59)
	P 1,985,886.78	P 99,192.75
Creditable withholding taxes w/ valid certificates		
I. Lease of Real Property	P 1,136,516,641.89	P 56,825,566.65
II. Sale of Services	3,402,358.52	170,117.93
Total Creditable withholding taxes w/ valid certificates	**P 1,139,919,000.41**	**P56,995,684.58**

We now proceed to the third requirement. In its amended 2000 income tax return, petitioner's declared gross income from lease of real properties amounted to P1,166,309,624.00 (*Exhibit B-4*) which is higher when compared with the gross rental income of P1,136,516,641.89 reflected in the certificates. As clearly explained by petitioner's Accountant, Ms. Cornelia Naguit, such discrepancy was due to the: 1) rental income payments received and reported by petitioner in 2000 but it failed to secure the corresponding certificates and 2) rental income payments collected in prior year but recognized/reported only in 2000 *(pages 12 & 13, TSN, February 18, 2004).* Evidently, the gross rental income payment of P1,136,516,641.89 from which the creditable taxes of P56,825,566.65 were withheld formed part of the gross rental income of P1,166,309,624.00 declared by petitioner in its amended 2000 income tax return.

On the same vein, petitioner's gross income from sales of services amounting to P3,402,358.52 from which the creditable taxes of P170,117.93 were withheld, formed part of the gross income from sales of services amounting to P4,250,000.00 reflected in Schedule A(1) of its amended 2000 income tax return (*Exhibit B).*

In fine, We find petitioner to have sufficiently complied with the requisites for the refund or issuance of a tax credit certificate representing unutilized excess creditable withholding taxes for taxable year 2000 in the reduced amount of P48,875,843.58, computed as follows:

Minimum Corporate Income Tax Due	P 8,119,841.00
Less: Substantiated Creditable Taxes Withheld	56,995,684.58
Excess Creditable Taxes Withheld	P 48,875,843.58

IN VIEW OF THE FOREGOING, the Petition for Review is hereby *PARTIALLY GRANTED*. Accordingly, respondent is **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the reduced amount of P48,875,843.58 representing unutilized or excess creditable withholding taxes for the taxable year ended December 31, 2000.

SO ORDERED.

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

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
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.

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

ERNESTO D. ACOSTA
Presiding Justice