REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

AECOM PHILIPPINES CONSULTANTS CORPORATION, Petitioner,	**CTA EB NO. 2744** (CTA Case No. 10008)
- versus -	Present: **DEL ROSARIO,** ***P.J.,*** **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 03 2025 3:21 p.m.

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner AECOM Philippines Consultants Corporation's (**petitioner**'s/**APCC**'s) "Motion for Reconsideration *(Re: Decision dated June 10, 2024)*"[1] (**MR**), filed on 03 July 2024, without respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) comment despite due notice.[2]

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[1] *Rollo*, pp. 172-222, with annex.
[2] See Records Verification dated 08 August 2024, id., p. 225.

Respondent seeks the reversal and setting aside of the Court *En Banc*'s Decision promulgated on 10 June 2024[3] (**assailed Decision**) in the above-captioned case. The assailed Decision denied the Petition for Review[4] for lack of merit.

In the assailed Decision, the Court *En Banc* upheld the Special Third Division's ruling that petitioner failed to prove that the income payments subjected to creditable withholding tax (**CWT**) for the fiscal year (**FY**) ended 30 September 2016 were declared as part of its gross income. Specifically, petitioner did not establish compliance with the ***second requisite***—that the income payments, on which the claimed CWTs were based, were reported as part of its gross income in its Annual Income Tax Returns (**ITRs**).

Apart from petitioner's non-compliance with the ***second requisite***, the Court *En Banc* also upheld the Special Third Division's finding that it failed to prove the existence and validity of its prior year's excess credits. Consequently, petitioner could not establish that the Regular Corporate Income Tax (**RCIT**) due for FY 2016, amounting to ₱4,539,998.00, was deemed paid.

In the instant MR[5], petitioner raises the following grounds for reconsideration: (1) the Court *En Banc* erred in ruling that the present refund claim should be strictly construed against the taxpayer; (2) denying the refund claim in its entirety was improper; (3) the finding that the Court could not determine whether the related income payments, upon which the claimed CWT was based, were reported as part of petitioner's gross income in its Annual ITR for FY 2016 was erroneous; and, (4) failing to give due weight and credence to the findings of the Court-commissioned Independent Certified Public Accountant (**ICPA**) was unjustified.

Firstly, petitioner argues that the subject refund claim is not in the nature of a tax exemption that warrants strict construction. While acknowledging that the "doctrine of strict construction of tax laws against the taxpayer" has historically guided the resolution of tax refund or credit claims, petitioner highlights recent jurisprudential developments that have allegedly refined this principle. Specifically,

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3 Id., pp. 105-133.
4 Filed on 14 April 2023, id., pp. 9-100, with annexes.
5 Supra at note 1.

citing the recent case of *Petron Corporation v. Commissioner of Internal Revenue*[6] (**Petron**), which applied the earlier case of *Commissioner of Internal Revenue v. Fortune Tobacco Corporation*[7] (**Fortune Tobacco**), petitioner points out that the Supreme Court has distinguished between a tax refund that partakes of the nature of a tax exemption and one premised on the taxpayer's erroneous payment of tax. The former requires the application of the rule of strict interpretation against the taxpayer, whereas the latter invokes the established doctrine of strict interpretation in the imposition of taxes.

Petitioner asserts that the taxes subject of this case do not involve any form of tax exemption nor are they remotely related to one. The CWTs are being claimed for a refund because they were collected in advance through the withholding tax system and exceed petitioner's income tax liability for the specified taxable period. This overcollection constitutes an erroneous payment of tax. Therefore, applying the doctrine of strict construction against petitioner is unwarranted.

On this note, petitioner maintains that it only needs to prove that the amount of tax it paid, including the taxes withheld from its income, exceeds the tax due. Petitioner emphasizes that the procedure performed by the ICPA clearly shows it did not utilize the total amount of CWT reflected in Bureau of Internal Revenue (**BIR**) Form No. 2307, amounting to ₱17,184,958.00 and the amount applied to the payment of the income tax due was sourced from the prior year's excess credit of ₱31,373,540.00.

Secondly, petitioner reiterates its stance that the audit adjustments, which were unexplained and enumerated by the ICPA, have already been accounted for and explained as merely due to timing differences in reporting. Petitioner further states that even assuming there are unexplained audit adjustments, this does not automatically entail a complete failure on its part to report or declare the income payments it received as part of gross income. In other words, the discrepancy does not conclusively mean that petitioner failed to comply with the requirement that the income upon which the taxes were withheld was included in the recipient's return, especially considering petitioner's presentation of other evidence to establish such inclusion.

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6 G.R. No. 255961, 20 March 2023.
7 G.R. Nos. 167274-75, 21 July 2008.

Citing decisions in various Court of Tax Appeals (**CTA**) cases (Division and *En Banc*)[8], petitioner reiterates that if discrepancies exist between the revenue from which the CWT was withheld and the revenue declared in the Audited Financial Statements (**AFS**) or Annual ITR, a proportional reduction or disallowance of the claimed amount corresponding to the discrepancy is appropriate, rather than a full denial of the claim.

Thirdly, contrary to the Court's finding, petitioner insists that it has sufficiently proved that the income subject to withholding was declared as part of its gross income. Petitioner argues that the requisites for claiming a tax credit or a refund of CWT do not include a requirement for the income reported in the Annual ITR to match the audit adjustments in the AFS or for such adjustments to be explained in detail. Accordingly, petitioner contends that the requirement imposed by the Court lacks support in jurisprudence.

Petitioner reasserts that the ICPA verified its gross income, from which taxes were withheld, as validly supported by Official Receipts (**ORs**) and traced to corresponding invoices, statements of accounts, and billing statements. These were further reconciled with the Project Performance Report (**PPR**) using the Project Contract Code (**PCC**), which linked recognized revenue, billings, and reported income to specific contracts. The ICPA confirmed that the income payments were properly recorded in petitioner's books, *i.e.*, the Tax Recovery General Ledger account, and accurately reflected in its AFS, ITRs, and supporting documents such as the Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307). These findings purportedly validate that the income payments were correctly declared as part of gross income for the relevant periods.

Petitioner further explains that the audit adjustments stem from its use of a different accounting method, specifically the percentage of completion method. It argues that the timing differences between its

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8 *Procter & Gamble Distributing (Philippines), Inc. v. Commissioner of Internal Revenue*, CTA Case No. 9634 , 09 July 2020; *Zuellig Pharma Corporation v. Commissioner of Internal Revenue*, CTA Case No. 8801, 05 September 2017; *Commissioner of Internal Revenue v. Philippine Bank of Communications*, CTA EB Case Nos. 1421 & 1423 (CTA Case No. 8632), 23 May 2017; *Philam Properties Corporation v. Commissioner of Internal Revenue*, CTA Case No. 8635, 03 December 2015; *Honda Cars Makati, Inc. v. Commissioner of Internal Revenue*, C.T.A. Case No. 8466, 17 September 2015; *Ayala Corporation v. Commissioner of Internal Revenue*, CTA Case No. 8262, 11 November 2013; *Philippine Bank of Communications v. Commissioner of Internal Revenue*, CTA EB Case Nos. 560 & 586 (CTA Case No. 7435), 01 June 2011.

billing of invoices to clients and the recognition of revenue based on the percentage of completion should not preclude the grant of its refund claim. The reconciliation discrepancies of revenue reported in the PPRs with that reported in the ITRs for FYs 2016, 2015 and 2014 arises from the fact that some expenses are not initially recorded in the same period they are incurred. To align revenue and project costs, external auditors make these audit adjustment entries. Accordingly, petitioner asserts that the revenue reported in the FY 2016 PPRs was properly reflected in the revenue portion of its ITRs for FYs 2016, 2015 and 2014. These audit adjustments in the ICPA Report, made by the external auditor, ensure that the correct amounts of project cost and revenue are reflected for the relevant period. This reconciliation confirms that the revenues indicated in the PPRs were duly declared as part of gross income subject to income tax in the ITR.

Lastly, petitioner contends that the outright rejection of the ICPA's findings constitutes a denial of its right to due process, as guaranteed under Article III, Section 1 of the Constitution. Regarding the Court's finding that it failed to present its Annual ITR for FY 2015—a crucial piece of evidence—petitioner argues that it only became aware of the insufficiency of the documents submitted by the ICPA when the Special Third Division denied its refund claim on that basis. Petitioner thus asserts that the interest of justice warrants granting it an opportunity to rectify and substantiate its claim.

On the other hand, as previously noted, respondent failed to file a comment on petitioner's arguments in the instant MR.

We rule below.

After a careful consideration of petitioner's arguments, the Court *En Banc* ultimately finds no merit in petitioner's MR.

THE SUBJECT CLAIM FOR REFUND OF EXCESS CREDITABLE WITHHOLDING TAX (CWT) SHOULD BE STRICTLY CONSTRUED AGAINST PETITIONER.

At the outset, We cannot agree with petitioner's contention that the subject refund claim should not be strictly construed against it on the ground that it is not in the nature of a tax exemption.

As highlighted in the assailed Decision, the Court recognizes, as it always has, that the burden of proof to establish entitlement to refund is on the claimant taxpayer.[9] Being in the nature of a claim for exemption[10], refund is construed in *strictissimi juris* against the entity claiming the refund and in favor of the taxing power.[11] This is the reason why a claimant must positively show compliance with the statutory requirements provided for under the NIRC of 1997, as amended, in order to successfully pursue one's claim.[12]

To clarify, the established doctrine of strict interpretation in the imposition of taxes, as highlighted in *Petron* — where ambiguities are resolved in favor of the taxpayer because the government has no legal right to retain taxes not owed — does <u>not</u> apply in this case. Unlike in *Petron* and contrary to petitioner's contention, the subject refund claim for excess and unutilized CWT does not arise from an erroneous payment of taxes. Instead, it partakes of the nature of a tax exemption, which must be strictly construed against the taxpayer.

A tax refund claim due to erroneous payment arises when a taxpayer pays taxes that are not legally owed or exceeds the correct amount due. Such refunds are governed by Section 229[13] of the National

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9 See *Eastern Telecommunications Philippines, Inc. v. The Commissioner of Internal Revenue*, G.R. No. 168856, 29 August 2012, citing *Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue*, G.R. No. 141973, 28 June 2005.

10 See *Commissioner of Internal Revenue. v. Solidbank Corporation*, G.R. No. 148191, 25 November 2003.

11 See *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008.

12 *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206526, 28 January 2015.

13 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. (Emphasis supplied)

Internal Revenue Code (**NIRC**) of 1997, as amended, and require proof that the payment lacked legal basis or exceeded the taxpayer's liability. For example, an erroneous payment occurs when a taxpayer pays tax under a repealed or invalid law or incorrectly applies a tax rate, resulting in overpayment. These situations reflect a fundamental error in the taxpayer's payment process. The refund serves to rectify the overpayment and prevent the government from unjustly benefiting from taxes not legally due.

In contrast, a claim for a refund of excess and unutilized CWT arises when taxes are withheld at source by a withholding agent but exceed the taxpayer's final tax liability for the taxable year. This type of refund is governed by Sections 204(C)[14] and 76[15] of the NIRC of 1997, as amended. To succeed in such a claim, the taxpayer must demonstrate that the withheld amounts were properly declared and applied to its tax liability, with the excess remaining unutilized after final computation.

Under the creditable withholding tax system, certain income payments are subject to withholding by the payor at source, with the amounts withheld credited against the recipient's final tax liability.[16] This system is designed as an advance collection mechanism to ensure

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[14] SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — …

…

(C) **Credit or refund taxes erroneously or illegally received** or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund. (Emphasis supplied)

[15] 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:

(A) Pay the balance of tax still due; or
(B) Carry-over the excess credit; or
(C) Be credited or refunded with the excess amount paid, as the case may be.

In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.

[16] See Section 2.57(B) of Revenue Regulations (**RR**) No. 2-98.

efficient revenue collection and taxpayer compliance with tax laws.[17] Importantly, this mechanism does not involve an inherent mistake or overpayment of tax. Instead, the issue of excess arises only after the taxpayer computes its total income tax liability for the year and determines that the amount withheld exceeds its actual tax obligation. Thus, the excess CWT is not an "erroneous" payment but rather the result of the taxpayer's final liability being lower than the amount pre-collected through withholding.

Given that there is no erroneous payment in excess CWT claims, the burden of proof rests on the taxpayer to demonstrate compliance with all legal requirements. A taxpayer claiming for a tax credit or refund of CWT must strictly comply with the following requisites: (1) the claim must be filed with the CIR within the two (2)-year period from the date of payment of the tax, as prescribed under Section 229 of the NIRC of 1997; (2) it must be shown on the return of the recipient that the income received was declared as part of the gross income; and, (3) the fact of withholding is established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld.[18]

PETITIONER FAILED TO PROVE THAT THE INCOME PAYMENTS SUBJECTED TO CREDITABLE WITHHOLDING TAX (CWT) WERE DECLARED AS PART OF ITS GROSS INCOME.

Petitioner once again argues that the audit adjustments enumerated by the ICPA are attributable to timing differences in reporting and do not conclusively indicate non-compliance with the requirement to include the income payments in its gross income. Citing prior CTA rulings, petitioner asserts that any discrepancies between the revenue from which CWT was withheld and the revenue declared should result in a proportional reduction or disallowance, not a full denial of its refund claim.

Petitioner is mistaken.

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[17] See *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 170257, 07 September 2011.

[18] See *Commissioner of Internal Revenue v. Philippine Bank of* Communications, G.R. No. 211348, 23 February 2022.

We reiterate that requiring a detailed explanation for each audit adjustment is essential to ensure the accuracy of the total revenues declared in petitioner's Annual ITRs. Petitioner's reliance on the ICPA's findings and its argument that audit adjustments stem from timing differences under the percentage of completion method does not exempt it from this requirement. The audit adjustments, as noted by the ICPA, affect the alignment of revenues reported across the PPRs, AFS, and ITRs. Without reconciling and explaining these adjustments in detail, it is impossible to ascertain whether the revenues reported in the PPRs genuinely match those declared in the ITRs.

For emphasis, We quote a portion of our earlier disquisition in the assailed Decision:

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> In the present Petition for Review, petitioner explained that determining whether the income payments were declared as part of gross income necessitates tracing the income payments relating to the creditable taxes withheld from the CWT Certificates to the revenues reported in the AFS and the Annual ITR. Based on petitioner's allegations, the tracing procedure can be summarized as follows:
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> (1) The income payment and withholding tax are determined from the individual CWT Certificates;
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> (2) The amount of income payment is traced to invoices and ORs that bear a particular Project Contract Code (**PCC**);
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> (3) The PCC is then presented as a line item in the PPR; and,
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> (4) The revenues reported *per* PPRs are properly reported *per* AFS and Annual ITR.
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> Taking into account the foregoing tracing procedure, **it is essential for petitioner to first prove that the revenues reported *per* PPRs are properly reported in the Annual ITR**. Once petitioner has proved that the revenues *per* PPRs are reported in the Annual ITR, the Court can proceed to determine whether the income payments shown in the CWT Certificates or BIR Forms No. 2307 were part of the revenues reported *per* PPRs.
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> In his Report, ICPA Chua made a finding that the revenues on the 2016, 2015 and 2014 PPRs were properly reported in the revenue portion of petitioner's AFS and the Annual ITRs for FYs 2016, 2015 and 2014, as shown below:

Particulars	2016	Exhibit No.	2015	Exhibit No.	2014	Exhibit No.
Revenue per Books of Account [*per* PPRs]	₱211,592,127.00	"P-326"	₱163,781,345.00	"P-327"	₱162,231,494.00	"P-328"
Revenue *per* ITR	207,381,204.00	"P-5"	152,613,178.00	"P-445"	162,247,997.00	"P-446"
Audit Adjustments	4,213,226.00	Annex "G" of the ICPA Report	(11,168,166.00)	Annex "H" of the ICPA Report	16,503.00	Annex "I" of the ICPA Report
Variance	(₱2,303.00)		₱1.00		₱-	

However, **absent an explanation justifying the reconciling items or audit adjustments shown above, the Special Third Division ruled that it cannot simply adopt the ICPA's finding that the total sales/revenues declared in the ITR tally with the total sales/revenues reported in the PPRs.**

In this regard, the Court *En Banc* sustains the Special Third Division's finding that the reconciling items or audit adjustments were not adequately explained in the ICPA Report. Specifically, there is hardly any indication in the "[r]econciliations of the PPR (Revenue GL Account) with the [r]evenue [r]eflected in the AFS/[ITR]" for FYs 2016, 2015 and 2014 (see Annexes "G", "H" and "I" of the ICPA Report, respectively) on what caused or triggered the adjustments to the total revenues recorded *per* books or PPRs to arrive at the amounts reflected in the Annual ITRs.

Notably, the ₱4,210,923.00 discrepancy between the total amount of ₱211,592,127.00 reported in the PPR for FY 2016 and the Net Sales/Revenues/Receipts/Fees reflected in the Annual ITR, which amount to ₱207,381,204.00, casts doubt on the accuracy of the amounts presented in the PPR. Similarly, for FY 2015, the ₱11,168,167.00 discrepancy between the total amount of ₱163,781,345.00 reported in the PPR and the Net Sales/Revenues/Receipts/Fees reflected in the Annual ITR, amounting to ₱152,613,178.00, also casts doubt on the accuracy of the amounts presented in the PPR. The same goes for FY 2014, where the ₱16,503.00 discrepancy between the total amount of ₱162,231,494.00 reported in the PPR and the Net Sales/Revenues/Receipts/Fees reflected in the Annual ITR, amounting to ₱162,247,997.00, further casts doubt on the accuracy of the amounts presented in the PPR.

Contrary to petitioner's contention, requiring a detailed explanation for each of the audit adjustments is crucial as this confirms the accuracy of the total revenues declared in the Annual ITRs. Logically, and as previously noted, before determining whether the income payments shown in the CWT Certificates or BIR Forms No. 2307 were part of the revenues reported *per* PPRs, it must first be established that the revenues reported *per* PPRs match those declared in the Annual ITRs. Simply put, if the accuracy of the revenues declared in the Annual ITRs cannot be established, there is no point in tracing

> **the income payments related to the creditable taxes withheld to the gross income declared therein.**[19]
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> ...

While it is true that there exist no hard and fast standards as to the kind of evidence needed to prove the ***second requisite***, *i.e.*, that the income payments, on which the claimed CWTs were based, were reported as part of its gross income in its Annual ITRs, logic dictates that the evidence must address any discrepancies or adjustments affecting the revenues declared in the Annual ITRs to ensure that they accurately reflect the taxpayer's gross income. Providing a detailed reconciliation and explanation of the audit adjustments is necessary to bridge the gap between the amounts reported in the PPRs, AFS, and ITRs, as these adjustments directly impact the validity of the refund claim.

Since petitioner failed to provide a detailed reconciliation and explanation for the audit adjustments made by the external auditor—amounting to ₱4,213,226.00, ₱11,168,166.00, and ₱16,503.00 for FYs 2016, 2015 and 2014, respectively—doubts arise regarding the accuracy of the revenues declared in the Annual ITRs for the relevant taxable periods. Without establishing the accuracy of these declared revenues, tracing the income payments reflected in the CWT certificates to the gross income reported in the Annual ITRs becomes an exercise in futility.

PETITIONER HAS NOT ESTABLISHED THE EXISTENCE AND VALIDITY OF ITS "PRIOR YEAR'S EXCESS CREDITS OTHER THAN MCIT" FOR FAILURE TO SUBMIT IN EVIDENCE ITS ANNUAL INCOME TAX RETURN (ITR) FOR THE PREVIOUS TAXABLE PERIOD.

As explained in the Assailed Decision, petitioner failed to prove the existence and validity of its "Prior Year's Excess Credits other than MCIT" amounting to ₱31,373,540.00 because it did not submit its Annual ITR for FY 2015, the previous taxable period.

[19] Citation omitted, emphasis in the original text and supplied.

Again, under Section 2.58.3 of Revenue Regulations (**RR**) No. 2-98[20], the submission of the ITR for the prior year is mandatory to show that the excess withholding tax credits were carried forward and used to offset tax liabilities in the succeeding period. Although petitioner's Amended Annual ITR for FY 2016 reflects the excess credits, there is no evidence showing that this amount was properly declared as excess credits in FY 2015. Without this crucial evidence, the Court cannot verify the validity of the claimed excess credits, leading to petitioner's failure to establish that its RCIT for FY 2016 was deemed paid. Consequently, the Court upheld the denial of petitioner's refund claim for this additional reason.

Accordingly, the Court *En Banc* finds no cogent reason to disturb the assailed Decision.

WHEREFORE, in view of the foregoing, petitioner's "Motion for Reconsideration *(Re: Decision dated June 10, 2024)*", filed on 03 July 2024, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[20] Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice