REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

AECOM PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9239

Members:

UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

FEB 2 3 2021
10:46 a.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before this Court is petitioner's **Motion for Reconsideration** ***(Re: Decision Rendered on April 2, 2019)***, filed through registered mail on April 23, 2019 and received by the Court on April 29, 2020, without respondent's comment per Records Verification Report dated June 6, 2019.

On April 2, 2019, this Court promulgated a Decision denying petitioner's claim for refund of its excess and unutilized creditable withholding tax (CWT) for fiscal year (FY) 2013 for failure to prove its entitlement thereto, the dispositive portion of which reads as follows:

> "**WHEREFORE**, the instant Petition for Review filed by petitioner Aecom Philippines, Inc. on January 14, 2016, is hereby **DENIED**, for lack of merit.
>
> **SO ORDERED**."

In its Motion, petitioner raises the following grounds in support of its arguments, *viz.*:

I. The Court erred in its conclusion that a discrepancy between the amount of prior year's excess credits being claimed and the total creditable withholding taxes (CWTs) reflected in the BIR Forms No. 2307 shall invalidate the claim for refund in its entirety;

II. There was mistake and excusable negligence which ordinary prudence could not have guarded against and by reason of which the rights of petitioner has probably been impaired in accordance with Section 5 of Rule 15 of the Revised Rules of the Court of Tax Appeals, as amended, when the independent certified public accountant submitted unreadable scanned copies of various schedules and exhibits; and

III. The Court erred in ruling that the gross income payments relating to the petitioner's creditable withholding tax (CWT) were not declared and reflected in its Annual Income Tax Returns for Fiscal Years (FY) 2013 and 2012.

As to the first ground, petitioner insists that it satisfactorily met the requirements for its claim for refund to prosper when it succeeded to prove the fact of withholding in an amount more than enough to satisfy the prior year's excess credit being claimed. Petitioner argues that since the fact of withholding was adequately proven by presenting BIR Forms No. 2307 and, that the amount of the tax withheld were also ascertained by the court-commissioned Independent Certified Public Accountant (ICPA) to be sufficient to cover the amount of income tax liability for FY 2013, petitioner should therefore be allowed to offset the prior year's excess credit against the income tax liability for FY 2013. Petitioner contends that requiring the submission of prior years' annual income tax returns (AITRs) is only a recent development in the evidentiary procedure considering that relevant laws and jurisprudence do not require the submission of such as definitive precondition for a judicial claim for refund of excess unutilized creditable withholding tax.

With regard to the second ground, petitioner submits that it had discharged the diligence required of it to ensure that the claim of refund was supported by adequate and appropriate documents so that the original copies and/or original printouts of the documents furnished to the ICPA for examination were readable and legible. Petitioner manifests that the inadvertent mistake on the part of the ICPA in the submission of "blurred" or "hardly readable" exhibits was due to the large volume of scanned pages of the supporting documents rendering the ICPA unable to check each and every page thereof. As such, petitioner requested that a new trial be granted, to allow it to present the pieces of evidence deemed lacking by the Court on the ground of mistake or excusable negligence which ordinary prudence could not have guarded against.

As to the third ground, petitioner asserts that the income payments related to the claimed CWTs can be traced to and were declared as part of the gross income in both the petitioner's Audited Financial Statements (AFS) and

AITRs for taxable years 2013 and 2012. Petitioner manifests that the procedures performed by the ICPA, Mr. Clifford Chua, to verify that the income payments formed part of petitioner's gross income as declared in its income tax return were discussed in detail in Annex C of the ICPA Report.

Subsequently, in a *Resolution* dated February 18, 2020, the Court granted petitioner's request to present the said documents attached to its Omnibus Motion for Reconsideration and Motion for New Trial. The case was then set for a commissioner's hearing for comparison and marking of the same on March 3, 2020 and for the presentation of petitioner's evidence on March 18, 2020. In the meantime, the resolution of petitioner's Motion for Reconsideration was held in abeyance.

On July 21, 2020, petitioner filed the Supplemental Formal Offer of Evidence, to which respondent interposed no objection, offering Exhibits **"P-725"**, **"P-726"**, **"P-727"**, **"P-728"**, **"P-729"**, and **"P-730"**, as well as the clear copies of Exhibits **"P-78"**, **"P-283"**, **"P-508"**, **"P-509"** and **"P-510"**, which were previously admitted as petitioner's evidence but were found by the Court to be "hardly readable". Thus, in a *Resolution* dated October 13, 2020, this Court admitted all of the said exhibits and thereafter deemed the present Motion for Reconsideration submitted for resolution.

After consideration, this Court finds petitioner's Motion for Reconsideration bereft of merit.

To recall, the Court denied petitioner's claim for refund in the amount of ₱13,982,433.00 for its failure to prove that it has sufficient prior years' excess tax credits upon which the portion of the income tax due for the FY 2013 may be applied, as held in the assailed Decision:

> "Note however, that there is discrepancy between the prior year's excess CWTs being claimed by petitioner as deduction from its income tax due for FY 2013 (Php26,255,791.00) and the total CWTs reflected in the BIR Forms No. 2307 presented by petitioner for FYs 2009 to 2012 (Php58,063,821.99). Hence, there is doubt as to whether the examined BIR Forms No. 2307 included those which were already claimed as deduction in petitioner's corresponding prior years. The Court however was unable to verify the same as petitioner failed to present its AITRs for the prior year's covered by said CWTs (*i.e.*, FYs 2009 to 2012). Thus, the Court cannot ascertain whether the CWTs in the amount of Php58,063,821.99 as represented by said CWTs pertain to petitioner's total excess tax credits over its income tax liabilities for FYs 2009 to 2012.

Since petitioner failed to prove that it had prior years excess credits, petitioner's current year's creditable withholding taxes of Php20,532,439.00 are not sufficient to cover its income tax due for FY2013 in the amount of Php28,817,444.00, as illustrated below:

Income tax due for 2013	₱ 28,817,444.00
Paid through	
Prior year's excess credits	-
Current year's CWT credits, before ICPA and Court disallowances	20,532,439.00
Income tax still due	**₱ 8,285,005.00**

Given that there are no excess CWTs for FY 2013 which may be the subject of a claim for refund under Section 76 of the NIRC of 1997, as amended, petitioner's claim for refund of excess and unutilized creditable income taxes withheld or FY 2013 must be denied."[1]

Now, petitioner cites the cases *of Commissioner of Internal Revenue v. Philippine National Bank,*[2] wherein the Supreme Court held that the "certificate of withholding tax withheld at source is the competent proof to establish the fact that the taxes are withheld", and *Commissioner of Internal Revenue v. Team [Philippines] Operations Corporation [formerly Mirant (Phils.) Operations Corporation],*[3] wherein the Supreme Court further explained that "the certificate of creditable tax withheld at source were duly signed and prepared under penalties of perjury, the figures appearing therein are presumed to be true and correct" to support its argument that the presentation of CWT Certificates (BIR Form 2307) constitutes competent proof of the existence and validity of taxpayer's CWT and that the submission of AITRs for prior years 2009 to 2012 is not a prerequisite for the grant of the judicial claim of refund of excess and unutilized creditable taxes withheld.

Unfortunately, this Court does not agree.

At the outset, it is clear that the subject claim pertains to "overpaid taxes" which petitioner would like to refund based on the relevant provisions of the law. First and foremost, the overpayment must be proven. The excess credits may be sourced from prior year's excess credits and those that may have been withheld in the current year. Thereafter, only the remaining balance after these tax credits have been applied to the current income tax liability is, strictly speaking, the overpaid and refundable amount.

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[1] Decision pp. 12 to 13, Docket – Vol. 3, pp. 1057 to 1058.
[2] G.R. No. 180290, September 29, 2014
[3] G.R. No. 179260, April 2, 2014

Also, since petitioner is claiming prior years' unutilized creditable tax withheld accumulated from FYs 2009 to 2012, the fact that there is a discrepancy raises a suspicion of whether the amount included in the claim is supported by CWT certificates that were not previously claimed as credit against its income tax payable during the years 2009 to 2012. Hence, the AITRs for the prior years of 2009 to 2012 are relevant for the purpose of reconciling the discrepancy noted by the Court in the assailed Decision.

Perforce, it must be stressed that the sufficiency of a claimant's evidence and the determination of the amount of refund are questions of fact, which are for the judicious determination by this Court of the evidence on record. Accordingly, the presentation of the AITRs for the prior years, contrary to petitioner's belief, is not the crux of the matter in the assailed Decision. Rather, it is petitioner's failure to convincingly prove that it has sufficient prior year's excess CWT to cover its income tax liability for FY 2013.

Indeed, the BIR Forms No. 2307 establish the fact that taxes were withheld for the subject FY years 2009 to 2012 but these documents per se do not prove that the same represent excess taxes withheld without the presentation of the Annual Income Tax Returns (AITRs) for the same period. It is only through the submission of the AITRs that the Court would be able to ascertain that the total amount reflected per certificates actually represent the remaining creditable income taxes withheld from petitioner after deducting therefrom its income tax liabilities for the same period.

Besides, the general rule is that the burden is on the taxpayer to prove the factual basis of the claims for refund to justify its entitlement thereto. This is because tax refunds are in the nature of tax exemptions, the statutes of which are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.[4] In this case, since petitioner opted to claim a refund of its excess CWT for FY 2013, it becomes incumbent upon the petitioner to prove that it has sufficient prior year's excess CWT to cover its reported income tax liability for FY 2013 in order to ascertain if the CWT subject of refund remains unutilized. Failure to do so, the income tax liability for FY 2013 shall be offset with the substantiated unutilized CWT for FY 2013.

Notably, to substantiate the CWTs from prior years, petitioner presented and offered in evidence its prior years' AITRs for the FYs 2009 to 2012 in its *Supplemental Formal Offer of Evidence*, in support of its Motion for Reconsideration, which reflected the following income taxes due in the aggregate amount of ₱30,986,723.52 as follows:[5]

Exhibit	FY	Income Tax Due

[4] *Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue*, G.R. No. 141973, June 28, 2005.
[5] Exhibits "P-725" to "P-730", Docket – Vol. 3, pp. 1370 to 1393.

"P-725"	2009	₱ 630,400.26
"P-726"	2010	5,693,216.30
"P-728"	2011	14,015,409.00
"P-730"	2012	10,647,697.96
		₱30,986,723.52

On the other hand, the previously submitted BIR Forms No. 2307 for FYs 2009 to 2012 which were found to be valid in the assailed Decision amounted to ₱58,063,821.99[6] which when applied against petitioner's total income tax due of ₱30,986,723.52, there still remains an amount of ₱27,077,098.47 excess tax credits as of the end of FY 2012.

Evidently, with the presentation of its AITRs for FYs 2009 to 2012, petitioner was able to establish that it had prior years' excess tax credits of ₱27,077,098.47 which can be credited against its income tax liability for FY 2013 in the amount of ₱28,817,444.00[7]. The remaining ₱1,740,345.53 income tax due for FY 2013 shall be offset against the claimed CWTs for FY 2013 which shall be found to be properly substantiated.

To reiterate, in order to be entitled to the refund sought, petitioner must prove compliance with the following requirements of the law, to wit:

1. The claim must be filed with the CIR within the two-year period from the date of payment of the tax;
2. The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld; and
3. It must be shown on the return that the income received was declared as part of the gross income.[8]

As to the first requisite, it was already settled in the assailed Decision, petitioner timely filed both its administrative and judicial claims for refund, satisfying the first requisite.[9]

With regard to the second requisite, the Court initially found that out of the ₱20,532,439.00 reported CWTs for FY 2013, only the amount of ₱19,159,392.45[10] was properly supported with BIR Forms No. 2307. Included in the total disallowed CWTS of ₱1,373,046.55[11] is the amount of

[6] Decision p. 12, last paragraph, Docket – Vol. 3, p. 1057.
[7] Exhibit "P-5", CD Exhibit.
[8] Section 2.58 of Revenue Regulations No. 2-98, as amended; *Citibank N.A. v. Court of Appeals*, G.R. No. 107434, October 10, 1997; *ACCRA Investment Corporation v. Court of Appeals*, G.R. No. 96322, December 20, 1991.
[9] Decision pp. 14 to 15, Docket – Vol. 3, p. 1059 to 1060.
[10] Decision p. 21, Docket – Vol. 3, p. 1066.
[11] (₱20,532,439.00 less ₱19,159,392.45).

₱1,249,142.02 which was supported with BIR Form No. 2307 marked as Exhibit "P-78", which was originally denied admission for not being legible or readable.

However, petitioner re-submitted a copy of Exhibit "P-78",[12] which upon examination thereof, the Court finds that the CWT reflected therein in the amount of ₱1,249,141.91 is valid. This increases the amount of CWTs for FY 2013 which is properly supported with BIR Forms No. 2307 from ₱19,159,392.45 to ₱20,408,534.36, in compliance with the second requisite.

As to the third requisite, the Court ruled in the assailed Decision that, to wit:

> "Guided by the foregoing, to ascertain whether the income corresponding to the excess CWTs being claimed were reported in the year of claim, the Court must trace the income payments from the CWT certificates to the related Official Receipts and Invoices and the recording thereof to the Tax Recovery General Ledger (Creditable Withholding Tax ledger) to Accounts Receivable and Work in Progress Account or Revenue Account and Reimbursements Ledger (*Exhibits* 'P-508', 'P-509', 'P-510').
>
> Using Annex 'F' of the ICPA Report, the Court attempted to trace each CWT to the alleged recording in petitioner's books. However, the tracing proved futile **as the scanned copies of the supporting ledgers (*i.e.*, Exhibits 'P-283', 'P-508' to 'P-510') were hardly readable**. Moreover, the Court was unable to verify whether the total income recorded per petitioner's books tallies with that reflected in its 2013 ITR. Hence, petitioner failed to prove that the income upon which the taxes were withheld were included in the return of the recipient."[13] *(Emphasis supplied)*

In its Supplemental Formal Offer of Evidence, petitioner re-submitted copies of Exhibits "P-283" (Tax Recovery General Ledger Account), "P-508" (Progress Service Report for FY 2013), "P-509" (Progress Service Report for FY 2012) and "P-510" (Reimbursements Account). Along with these documents, petitioner elucidated in its Motion for Reconsideration how the Court can match the CWTs to the income declared, to wit:

> "41. The income payments and the corresponding tax withheld are evidenced by Certificate of Creditable Tax Withheld at Source (BIR Form No. 2037), which are shown as exhibits in the Report of the Independent Certified Public Accountant. The period the income payments were declared as part of gross

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[12] Docket – Vol. 3, p. 1267.
[13] Decision p. 24, Docket – Vol. 3, p. 1069.

> income may be traced in petitioner's books using the Project Contract Code (PCC). The PCC serves as a reference code for each project. By using the PCC, the progression of a project can be traced including how much income was declared from such project."

From there, petitioner proceeded to present the summary of the tracing wherein it is shown that the related income payments per CWT certificates (Columns A to D) were duly reported during the taxable years 2013 and 2012 (Columns F and G), with the corresponding PCC (Column E) as reference for the progression of each project, which determines the amount of gross income declared for that particular taxable year.

Petitioner continues to explain that in order to determine that the income payments were declared as part of gross income, the income payments relating to the creditable taxes withheld must be traced from the certificates to the revenue reported in the Audited Financial Statements and the Annual Income Tax Returns following the diagram below:

Certificates of Tax Withheld (BIR Form No. 2307)	Accounts Receivable (AR) Account Ledger	Project Status Report (PSR) Account Ledger	Audited Financial Statements (AFS) & Income Tax Returns (ITR)
Ascertained that income payments reported in the BIR Form 2307 are properly supported by Official Receipts and Invoices	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	Ascertained that the supporting project contracts recorded in the AR accounts ledgers containing income payment reported per BIR Form 2307 are properly recorded in the PSR Revenue account	Ascertained that the Revenue reported per PSR revenue account are properly reported per AFS and ITR.

Petitioner further explains that upon identifying the official receipts and invoices of each particular income payment, the same may be traced to a particular PCC. The PCC identifies each construction project of the petitioner. Each official receipt and invoice can be traced to a particular PCC. By identifying the **official receipts and invoices** that corresponds to a **particular PCC**, the **amount of income payments recognized for each project**, including the period it was declared as part of gross income, may be ascertained.

From there, petitioner clarifies that the **total income recognized by petitioner from all its projects is reported in the Progress Service Report (PSR)**. By cross-referencing the **individual PCCs to the PSR**, the amount and period of declaration of the income payments may be ascertained. Upon

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identifying the official receipts and invoices of each particular income payment, the same may be traced to a particular PCC. The PCC identifies each construction project of petitioner. Each official receipts and invoice can be traced to a particular PCC.

Accordingly, having that in mind, this Court traced the income payment per CWT certificate to the PSRs for FYs 2012 and 2013, using the PCC assigned to the income payment based on the schedule prepared by the ICPA. Moreover, this Court likewise traced to the Tax Recovery Ledger, the CWT withheld as recorded in the books of petitioner.

First, the Court traced the total Sales/Revenues in both the AITRs and PSRs for FYs 2012 and 2013 and found that both reflected the same Sales/Revenues, as shown below, indicating that whatever is reflected in the FYs 2012 and 2013 PSRs was duly reported in the AITRs for the same years, to wit:

Taxable Year	Per PSR (YTD-GR)	Exhibit	Per AITR	Exhibit
FY 2012	₱351,432,750.90	"P-509"[14]	₱351,432,751.00	"P-730"[15]
FY 2013	324,574,236.63	"P-508"[16]	324,574,237.00	"P-5-2"[17]

With regard to the actual tracing of the income payments per CWT certificates to the gross revenues per PSRs, the Court used the Schedule provided by the ICPA that reflects the income payments, the CWT withheld therefrom, the corresponding PCC, and the alleged revenue recorded in the PSRs. The same was replicated in petitioner's Motion.

However, this Court notes several observations.

First, based on the ICPA-prepared schedule alone, petitioner has total income payments of ₱205,421,696.30, from which CWTs totaling ₱20,408,534.47 was withheld, the latter amount being the present claim for refund. On the other hand, the total of the revenues under the PSR 2013 and PSR 2012 columns have a sum of ₱195,859,066.37.

The discrepancy within the schedule in the amount of ₱9,562,629.93 is unreconciled.

Second, upon actual tracing procedure, the following income payments have corresponding PCCs that were actually not found in the PSRs for FYs

[14] Docket – Vol. 3, p. 1334.
[15] Docket – Vol. 3, p. 1388.
[16] Docket – Vol. 3, p. 1309.
[17] CD exhibit.

2013 and 2012, or whose PCCs reflect a zero balance in the "YTD GR" of the PSRs, to wit:

Payor	Income Payment	Tax Withheld	Exh. No. BIR Form 2307	PCC
International Container Terminal Services Inc.	₱ 231,758.16	₱ 4,635.16	P-98	51052607.03
	2,941,062.66	58,821.25	P-99	
	3,964,992.38	79,299.85	P-100	
	96,296.21	1,925.92	P-101	
	7,921,356.32	158,427.13	P-102	
	14,325,684.02	286,513.68	P-103	
	641,633.12	12,832.66	P-104	
	20,158,166.56	403,163.33	P-105	
	418,683.00	8,373.66	P-106	
Asian Terminals Inc.	4,534,068.53	680,110.28	P-77	51053310
FCF Minerals Corporation	987,452.49	148,117.87	P-80	51054110
	389,160.83	58,374.12	P-84	
	389,160.83	58,374.12		
	658,301.66	98,745.25	P-85	
	389,160.83	58,374.12		
Filinvest Land Inc.	1,706,000.00	255,900.00	P-89	51055410
	216,294.67	32,444.20	P-95	
San Miguel Corporation	582,330.00	87,349.50	P-121	MNLD122445

Third, the Court finds that most of the income payments with PCCs that are reported do not tie up with the amounts in the PSRs. Take for instance this tabulation of petitioner's income payments to Asian Terminals, Inc. with PCC of MNLD-11589:

Payor	Income Payment	Tax Withheld	Exh. No. BIR Form 2307	PCC
Asian Terminals Inc.	₱ 4,980,005.40	₱ 747,000.81	P-74	MNLD-11589
Asian Terminals Inc.	4,099,177.27	614,876.59	P-75	MNLD-11589
Asian Terminals Inc.	4,821,131.07	723,169.66	P-76	MNLD-11589
Asian Terminals Inc.	4,534,068.53	680,110.28	P-77	51053310
				51053310
				MNLD-11589
				MNLD-11589
				MNLD-11589
				51053310
				MNLD-11589
TOTAL	**₱18,434,382.27**	**₱2,765,157.34**		

PCC MNLD-11589 PER PSR 2013 UNDER 'YTD GR' COLUMN	**22,977,558.77**			
Discrepancy - Income Payment not recorded under PSR – "YTD GR"	**₱ 4,543,176.50**			

It can be observed that Exhibit "P-77" specifically is matched to PCCs "MNLD-11589" and "51053310". However, as discussed previously, PCC "51053310" is not found in the PSRs. Moreover, the amount recorded with the said corresponding PCC does not tie up with the income payment.

Fifth, it was noted that some income payments are represented by mixed PCCs, and there is no available breakdown to clearly show how much of the income payment was recorded into each PCC. For example:

<table>
<tr><th>Payor</th><th>Income Payment</th><th>Tax Withheld</th><th>Exh. No. BIR Form 2307</th><th>PCC</th></tr>
<tr><td>MANILA WATER COMPANY</td><td rowspan="5">₱12,235,364.07</td><td rowspan="5">₱1,835,304.61</td><td rowspan="5">P-109</td><td></td></tr>
<tr><td>MANILA WATER COMPANY</td><td>MNLD 11548</td></tr>
<tr><td>MANILA WATER COMPANY</td><td>MNLD12065WW</td></tr>
<tr><td>MANILA WATER COMPANY</td><td>51053410</td></tr>
<tr><td>MANILA WATER COMPANY</td><td></td></tr>
<tr><td rowspan="2">Maynilad Water Service, Inc.</td><td rowspan="2">815,507.53</td><td rowspan="2">122,326.13</td><td rowspan="2">P-110</td><td>MNLD113227</td></tr>
<tr><td>MNLD12252WW</td></tr>
<tr><td rowspan="4">Maynilad Water Service, Inc.</td><td rowspan="4">2,664,480.00</td><td rowspan="4">399,672.00</td><td rowspan="4">P-112</td><td>MNLD12252WW</td></tr>
<tr><td>MNLD12252WW</td></tr>
<tr><td>MNLD12212WW</td></tr>
<tr><td>MNLD12212WW</td></tr>
</table>

Moreover, the Court was not able to trace these income payments as exactly reported in the 2013 PSR. Therefore, petitioner failed to prove that the related revenue was duly recorded in its books.

Also, the same holds true for the income payments received from Sagittarius Mines, Inc. wherein these are assigned to PCCs "MNLD12294" and "MNLD12266". However, under the 'YTD GR' column, MNLD12294 reflects

₱2,961,267.88 and ₱36,930,025.19 for FYs 2012 and 2013, respectively, and MNLD 12266 reflects ₱386,558.35 and ₱2,177,248.89, respectively, whereas per BIR Forms No. 2307, the income payments are as follows:

Payor	Income Payment	Tax Withheld	Exh. No. BIR Form 2307	PCC
Sagittarius Mines, Inc.	₱10,403,095.07	₱1,560,464.26	P-117	MNLD12294
				MNLD12266
				MNLD12266
				MNLD12266
				MNLD12294
				MNLD12294
				MNLD12294
				MNLD12266
				MNLD12266
				MNLD12266
				MNLD12266
				MNLD12294
				MNLD12294
	7,613,575.47	1,142,036.32	P-118	MNLD12294, MNLD12266
				MNLD12294, MNLD12266
	10,943,345.87	1,641,501.88	P-119	MNLD12294
				MNLD12266
				MNLD12294
				MNLD12266
				MNLD12294
				MNLD12294
				MNLD12294
				MNLD12266
	7,418,535.09	1,12,780.26	P-120	MNLD12294

Clearly, there is a discrepancy between what is being claimed and the gross income that the Court can trace to the books of petitioner. Obviously, the Court cannot simply allow the refund of such claim without petitioner specifically proving to the Court how exactly these income payments can be traced in the gross income for FYs 2012 and 2013.

Furthermore, even some income payments that are assigned to only one PCC, did not tie up with the amount registered in the 2012 and 2013 PSRs under "YTD-GR", to wit:

Payor	Income Payment	Tax Withheld	Exh. No. BIR Form 2307	PCC	PSR 2013– YTD GR	PSR 2012– YTD GR	Income Payment Per BIR Form No. 2307 is higher/(lower)
Far Southeast Gold Resources, Inc.	₱8,327,613.47	₱1,249,142.02	P-78	MNLD12189	₱18,962,702.23		₱(10,635,088.76)
Oceanagold Philippines, Inc.	571,900.00	85,785.00	P-113	MNLD12163	713,703.95		(141,803.95)

Oceanagold Philippines, Inc.	345,231.00	6,904.62	P-114	MNLD12038WC	3,324,039.91		(2,978,808.91)
Oceanagold Philippines, Inc.	1,802,138.05	188,083.21	P-115	MNLD12038WC		₱10,290,461.94	7,474,720.89
Oceanagold Philippines, Inc.	1,013,603.00	5,303.57	P-116				
Rockwell Land Corporation	265,178.50	5,303.57	P-116	MNLD13216WC	846,699.36		(581,520.86)

In view of the foregoing, the Court shall disallow the untraceable income payments but will, however, allow the following income payments that tie-up with the amounts reflected in the PSRs, to wit:

Payor	Income Payment	Tax Withheld	Exh. No. BIR Form 2307	PCC	PSR 2012 and 2013 - YTD GR
Sta. Clara International Corporation	₱2,130,000.00	₱ 319,500.00	P-129	MNLD12305	2,130,000.00
Sureste Properties Inc.	565,900.00	84,885.00	P-130	MNLD-11539	223,000.00
Sureste Properties Inc.				MNLD-12056	342,900.00
Taganito Mining Corporation	581,268.00	87,190.20	P-132	MNLD12240	581,268.00
Team Energy Corporation	2,520,000.00	378,000.00	P-134	MNLD13029	3,600,000.00
Team Energy Corporation	1,080,000.00	162,000.00	P-136		
				MNLD-12164-169	
Team Sual Corporation	2,063,580.51	309,537.08	P-140	MNLD-12164-169	2,063,580.51
TOTAL		**₱1,341,112.28**			

In fine, petitioner complied with the three basic requisites for the refund of excess CWT but only to the extent of ₱1,341,112.28.

However, as stated earlier, petitioner still has a remaining income tax liability for FY 2013 in the amount of ₱1,740,345.53 after offsetting its prior years' excess credits for FYs 2009 to 2012. As such, when the said amount is deducted from petitioner's properly substantiated CWTs for FY 2013 of ₱1,341,112.28, there is no excess amount which may be refunded pursuant to Section 76 of the National Internal Revenue Code (NIRC) of 1997, as amended, as shown in the table below, to wit:

Properly Substantiated CWTs for FY 2013	₱ 1,341,112.28
Less: Balance of Income Tax Due After Offsetting Prior Years' Excess Credits	1,740,345.53
Income Tax Still Due	**₱(399,233.25)**

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

We Concur:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice