REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

UNIVATION MOTOR PHILIPPINES, INC. (FORMERLY, NISSAN MOTOR PHILIPPINES, INC.)
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8637

Members:

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

Promulgated:

MAR 10 2015 ; 10:53a.m.

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DECISION

DEL ROSARIO, PJ.:

This is a Petition for Review filed by petitioner Univation Motor Philippines, Inc. (*formerly Nissan Motor Philippines, Inc.*) on April 12, 2013 pursuant to Section 229 of the National Internal Revenue Code of 1997, as amended, and Section 11 of Republic Act (RA) No. 1125, as amended by RA No. 9282, seeking the refund or the issuance of a tax credit certificate in the amount of **TWELVE MILLION EIGHT HUNDRED SIXTY EIGHT THOUSAND SEVEN HUNDRED FORTY-FIVE PESOS (₱12,868,745.00)** representing its unutilized or excess creditable withholding taxes for taxable year ending December 31, 2010.

THE FACTS

Petitioner Univation Motor Philippines, Inc., a corporation duly created and organized under Philippine laws, with principal office at Nissan

Technopark, Bo. Pulong. Sta. Cruz, Sta. Rosa, Laguna 4026, is engaged in the business of manufacturing motor vehicles.[1]

Respondent is the head of the Bureau of Internal Revenue (BIR), holding office at the BIR National Office, Diliman, Quezon City.[2] She is authorized, among others, to refund or credit taxes pursuant to Section 204 of the National Internal Revenue Code of 1997, as amended.

Petitioner filed its Quarterly Income Tax Returns (Quarterly ITR) for 2010 through the BIR's Electronic Filing and Payment System (EFPS), to wit:

Return	Date of Filing
First Quarterly ITR	27 May 2010
Amended First Quarterly ITR	28 May 2010
Second Quarterly ITR	25 August 2010
Third Quarterly ITR	23 November 2010[3]

On April 15, 2011, petitioner filed its Annual Income Tax Return for taxable year 2010 (2010 Annual ITR).[4]

On July 1, 2011, petitioner filed through the EFPS its Amended Annual Income Tax Return for taxable year 2010 (2010 Amended Annual ITR), which was manually received by the BIR on 8 July 2011 showing a total gross income of P117,084,174.00 and an overpayment of income taxes amounting to P26,103,898.52, broken down as follows:

2010

Aggregate Income Tax Due	**₱2,341,683.48**
Less:	
Prior Year's Excess Credits:	₱15,576,837.00
Creditable Tax Withheld for 2010	₱12,868,745.00
Total Tax Credits	**(P28,445,582.00)**
Total Overpayment	**(26,103,898.52)**[5]

[1] Par. 1, Joint Stipulation of Facts and Issue (JSFI), *CTA Docket*, p. 280.
[2] Par. 2, *Id.*
[3] Par. 3, *Id.*
[4] Par. 4, *Id.*
[5] Par. 5, *Id.*

As indicated under Item 33 of its 2010 Annual ITR and 2010 Amended Annual ITR, petitioner opted to claim its overpayment of income tax through the issuance of a tax credit certificate.[6]

Since petitioner's administrative claim has not yet been acted upon by the BIR, in order to preserve its right and to toll the running of the prescriptive period for its judicial claim, petitioner filed the subject Petition for Review before this Court on April 12, 2013.

In her *Answer*[7] posted on July 1, 2013, respondent raised the following special and affirmative defenses: (a) the present claim for tax refund is tainted with procedural infirmity due to petitioner's failure to submit complete documents in support of its administrative claim for refund; (b) petitioner miserably failed to exhaust administrative remedies before elevating the case to this Court; and, (c) claims for refund are construed strictly against the taxpayer and in favor of the government.

On September 10, 2013, petitioner filed an Omnibus Motion[8] to commission Ms. Ma. Milagros F. Padernal as Independent Certified Public Accountant (ICPA). Ms. Ma. Milagros F. Padernal was commissioned as ICPA on October 11, 2013.

After the pre-trial conference on October 11, 2013, the parties filed their Joint Stipulation of Facts and Issue on November 7, 2013.[9] On December 11, 2013, the parties submitted their Supplemental Joint Stipulation of Facts and Issues.[10]

The Court in a Resolution[11] dated January 2, 2014 approved the afore-mentioned Joint Stipulation of Facts and Issue and the Supplemental Joint Stipulation of Facts and Issues, and terminated the pre-trial conference. The Court issued the corresponding Pre-Trial Order[12] on March 3, 2014.

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[6] Par. 6, *Id.*; Exhibits "P-5", "P-7" and "P-8", line 33, *CTA Docket*, pp. 471, 487 and 495, respectively.
[7] Answer, *CTA Docket*, pp. 67-78.
[8] *CTA Docket*, pp. 92-100.
[9] *CTA Docket*, pp. 280-283.
[10] *CTA Docket*, pp. 317-327.
[11] *CTA Docket*, pp. 356-357.
[12] *CTA Docket*, pp. 371-385.

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During trial, petitioner presented and formally offered[13] its testimonial and documentary evidence. Petitioner's pieces of evidence were admitted in the Resolutions dated May 22, 2014[14] and August 11, 2014[15]. Respondent's counsel, on the other hand, manifested during the hearing held on May 27, 2014 that she will no longer present any evidence.

The case was submitted for decision on January 5, 2015[16] after noting the filing of petitioner's Memorandum [17] on October 1, 2014 and respondent's Memorandum[18] on October 28, 2014.

Meanwhile, on September 5, 2014, petitioner's Board of Directors unanimously approved the change of petitioner's corporate name from *"Nissan Motor Philippines, Inc."* to *"Univation Motor Philippines, Inc."*.[19] On January 30, 2015, petitioner filed a motion requesting that the necessary substitution of petitioner's corporate name be made with respect to all existing records of the case. In a Resolution[20] dated February 12, 2015, the Court granted petitioner's motion.

ISSUES

The parties jointly submitted the sole issue *of "whether or not petitioner is entitled to a tax credit certificate in the amount of Php12,868,745.00 for its excess and/or unutilized creditable withholding taxes for the taxable year ending December 31, 2010"* for the Court's resolution.[21]

THE COURT'S RULING

Section 76 of the National Internal Revenue Code of 1997 (1997 NIRC), as amended, specifies the manner by which claims for refund or credit of excess income tax payments or unutilized creditable taxes withheld (CWT) may be made by a corporate taxpayer, *viz.*:

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[13] Formal Offer of Evidence, *CTA Docket*, pp. 403-428.
[14] *CTA Docket*, pp. 618-619.
[15] *CTA Docket*, p. 642.
[16] *CTA Docket, unpaginated.*
[17] *CTA Docket, unpaginated.*
[18] *CTA Docket, unpaginated.*
[19] *CTA Docket, unpaginated.*
[20] *CTA Docket, unpaginated.*
[21] JSFI, *CTA Docket*, p. 283.

> "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 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."

Pursuant to the above-quoted provision, 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 and applied against the income tax liabilities of the succeeding taxable years. The carry-over option, however, once taken is irrevocable for the taxable period and no application for a tax refund or issuance of a tax credit certificate shall then be allowed.[22] The phrase *"for that taxable period"* refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[23]

In exercising its option, a corporation must signify in its Annual Corporate Adjustment Return (by marking the option box provided in the BIR form) its intention either to carry over the excess credit or to claim a refund. To facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other.[24]

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[22] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue,* G.R. Nos. 156637 and 162004, December 14, 2005; *Systra Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 176290, September 21, 2007.

[23] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands, G.R. No. 178490, July 7, 2009.*

[24] *Systra Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 176290, September 21, 2007 Resolution.*

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A perusal of petitioner's 2010 Annual Amended Annual ITR[25] for CY 2010 shows that petitioner had income tax credits in the total amount of ₱28,445,582.00,[26] consisting of the prior year's excess credits other than the MCIT in the amount of ₱15,576,837.00[27] and creditable withholding taxes accumulated during the four (4) quarters of CY 2010 in the aggregate amount of ₱12,868,745.00,[28] *viz.*:

Sales/Revenues/Receipts/Fees		₱ 2,151,388,316.00
Less: Cost of Sales/Services		2,093,457,153.00
Gross Income from Operation		₱ 57,931,163.00
Add: Non-Operating & Taxable Other Income		59,153,011.00
Total Gross Income		₱ 117,084,174.00
Less: Deductions		362,246,120.00
Taxable Income		₱ (245,161,946.00)
Tax Rate		30%
Income Tax		₱ 0.00
Minimum Corporate Income Tax		₱ 2,341,683.48
Tax Due		₱ 2,341,683.48
Less: Tax Credits/Payments		
Prior Year's Excess Credits other than MCIT		15,576,837.00
Creditable Tax Withheld for the...		
First Three Quarters	₱ 6,267,852.00	
Fourth Quarter	6,600,893.00	**12,868,745.00**
Total Tax Credits/Payments		₱ 28,445,582.00
Tax Payable/(Overpayment)		₱ (26,103,898.52)

As illustrated below, the prior year's excess credits of ₱15,576,837.00 originated from the creditable taxes withheld for the years 2007 and 2008 in the respective amounts of ₱19,514,513.00 and ₱16,024,714.00 (or in the total amount of ₱35,539,227.00), which are duly supported by various Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307):[29]

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[25] Exhibit "P-7", *CTA Docket*, pp. 486-487.
[26] Exhibit "P-7", line 30H, *CTA Docket*, p. 487.
[27] Exhibit "P-7", line 30A, *CTA Docket*, p. 486.
[28] Exhibit "P-7", lines 30C and 30D, *CTA Docket*, p. 486.
[29] Exhibits "P-39-1" to "P-39-134" and "P-39-135" to "P-39-354" as summarized in Exhibit "P-39".

Exh.	Year	Income Tax Due	Prior Year's Excess Credits	(Income Tax Still Due)/Balance of Prior Year's Excess Credits	CWT for the Year	Excess CWT at the end of the Year
		(a)	(b)	(c) = (b) less (a)		
P-21	2005	₱13,120,451.40	₱ -	₱ (13,120,451.40)	₱ 32,752,987.00	₱19,632,535.60
P-22	2006	-	19,632,536.00	19,632,536.00	25,287,007.00	44,919,543.00
P-23	2007	56,165,995.35	44,919,543.00	(11,246,452.35)	19,514,513.00	8,268,060.65
P-24	2008	6,188,219.90	8,268,061.00	2,079,841.10	16,024,714.00	18,104,555.10
P-3	2009	2,527,717.78	18,104,555.00	15,576,837.22	-	15,576,837.22

Petitioner's MCIT due for the year 2010 in the amount of ₱2,341,683.48 was offset against the prior year's excess credits of ₱15,576,837.00, thus leaving the balance of the prior year's excess credits of ₱13,235,153.52 and creditable taxes withheld during the year 2010 in the amount of <u>₱12,868,745.00</u> (or the total amount of ₱26,103,898.52[30]) unutilized as of December 31, 2010, as shown below:

Prior Year's Excess Credits	₱ 15,576,837.00
Less: Income Tax Due (MCIT for 2010)	2,341,683.48
Balance of Prior Year's Excess Credits	₱ 13,235,153.52
Add: Creditable Taxes Withheld During the Year	12,868,745.00
Unutilized Excess Tax Credits as of December 31, 2010	**₱ 26,103,898.52**

Inasmuch as petitioner clearly indicated its intention to be issued a Tax Credit Certificate (TCC) by marking the box corresponding to the said choice in its 2010 Annual ITR and 2010 Amended Annual ITR[31] and only the excess tax credits from taxable year 2009 in the amount of ₱13,235,154.00 were carried over by petitioner in its Quarterly ITRs[32] and Annual ITR[33] (both original and amended) for the succeeding taxable year 2011, the amount of ₱12,868,745.00 may be the proper subject of a claim for refund under Section 76 of the 1997 NIRC.

As emphasized by this Court in a number of similar cases, however, the refund of excess CWT is dependent on the taxpayer's compliance with the following three basic requirements:

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[30] Exhibit "P-7", line 33, *CTA Docket*, p. 487.
[31] Exhibits "P-5", "P-7" and "P-8", line 33, *CTA Docket*, pp. 471, 487 and 495, respectively.
[32] Exhibits "P-18", "P-19" and "P-20", line 31A, *CTA Docket*, pp. 552, 559 and 565, respectively.
[33] Exhibits "P-12" and "P-13", line 33A, *CTA Docket*, pp. 506 and 521, respectively.

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1. The claim for refund was filed within the two-year prescriptive period as provided under Section 204 (C) in relation to Section 229 of the 1997 NIRC, as amended;

2. 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. The income upon which the taxes were withheld were included in the return of the recipient, *i.e., declared as part of the gross income.* [34]

With regard to the first requisite, a taxpayer has two (2) years from the date of payment of the tax within which to claim a tax refund. Sections 204(C) and 229 of the 1997 NIRC, provide:

> "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 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."
>
> "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

[34] Section 2.58, Revenue Regulations No. 2-98, as amended; Citibank N.A. vs. Court of Appeals and CIR, 280 SCRA 459; ACCRA Investment Corporation vs. CA, 204 SCRA 957

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> 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."

In applying the foregoing provisions, the Supreme Court in ***ACCRA Investments Corporation vs. Court of Appeals, et al.***,[35] held that the two-year prescriptive period for claiming a refund of overpaid income tax/CWT commences to run on the date of filing of the Final Adjustment Return. It is only when the Final Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.[36] This guiding principle was reiterated in ***Commissioner of Internal Revenue vs. Primetown Property Group, Inc.***,[37] where it was held that the two-year prescriptive period is reckoned from the filing of the final adjustment return.

In the case at bar, petitioner filed its 2010 Annual ITR on April 15, 2011.[38] Counting from this date, petitioner had until April 15, 2013 to file an administrative claim for refund or issuance of a TCC, and to institute the corresponding judicial action. Considering that petitioner's administrative claim for refund or issuance of TCC of excess CWT for taxable year 2010 was filed with the BIR on March 12, 2012,[39] and that the corresponding judicial claim was filed before this Court on April 12, 2013, clearly, both the administrative and judicial claims were filed within the two-year prescriptive period.

With regard to the second and third requisites, Section 2.58.3 (B) of Revenue Regulations (RR) No. 02-98, as amended, states:

> **Sec. 2.58.3.** ***Claim for tax credit or refund.*** —
>
> xxx xxx xxx
>
> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is**

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[35] G.R. No. 96322, December 20, 1991.
[36] *Commissioner of Internal Revenue vs. TMX Sales, Inc., et al.*, G.R. No. 83736, January 15, 1992.
[37] G.R. No. 162155, August 28, 2007.
[38] JSFI, Stipulation of Facts, No. 4, *CTA Docket*, p. 281; Exhibit "P-5", *CTA Docket*, p. 470.
[39] Exhibits "P-10" and "P-11", *CTA Docket*, pp. 502-504.

> **established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.** (Emphasis supplied)

To prove its compliance with the second requisite, petitioner presented Schedule/Summary of Creditable Taxes Withheld for the year 2010[40] and the related Certificates of Creditable Taxes Withheld at Source (BIR Form No. 2307)[41] duly issued to it by various withholding agents for the year 2010, reflecting creditable withholding taxes in the total amount of ₱12,868,745.87[42].

Anent the third requisite, the Court was able to trace the income payments related to the substantiated CWT of ₱12,868,745.87 *(save for the amount of ₱139,127.97[43] CWT)* to petitioner's General Ledger (GL) for CY 2010, 2009, 2008 and 2006, and noted that the same were reported in petitioner's Annual ITRs for the years 2010, 2009, 2008 and 2006.

Moreover, the total amounts of sale of goods and services and other income booked by petitioner in its GL for the years 2010, 2009, 2008 and 2006 tally with the amount of sales of goods and services and other income declared in petitioner's Annual ITRs for the said years, as shown in the computation/reconciliations prepared by ICPA,[44] to wit:

Particulars	Exhibit No.	Per General Ledger and Summary GL Account Classification	Exhibit No.	Per Schedule of Computation of Taxable Income	Difference
2010					
Sales of goods and services	P-27-1	₱2,151,388,315.77		₱2,151,388,316.00	(₱ 0.23*)
Other income	P-31-1	44,993,251.59		59,153,011.00	(14,159,759.41)
		₱2,196,381,567.36	P-34	₱2,210,541,327.00	(₱14,159,759.64)
2009					
Sales of goods and services	P-27-2	₱1,709,363,914.87	P-35	₱1,709,363,915.00	(₱ 0.13*)
Other income	P-31-2	46,599,584.88		67,603,905.00	(21,004,320.12)
		₱1,755,963,499.75	P-35	₱1,776,967,820.00	(₱21,004,320.25)
2008					
Sales of goods and services	P-27-3	₱2,026,185,814.18	P-36	₱2,026,185,814.00	₱ 0.18*

[40] Exhibits "P-25" and "P-26".
[41] Exhibits "P-26-1" to "P-26-362".
[42] Rounding-off difference of ₱0.87.
[43] Exhibit "P-29", p. 166 of 166, total amount not traced to GL.
[44] Exhibit "P-40", *CTA Docket*, p. 609.

Particulars	Exhibit No.	Per General Ledger and Summary GL Account Classification	Exhibit No.	Per Schedule of Computation of Taxable Income	Difference
2006					
Other income:					
Meralco refund with terminated contract	P-31-3	₱ 48,571,420.28	P-37	₱ 144,653,630.00	(₱ 96,082,209.72)

**Due to rounding- off*

The differences in "Other Income" were accounted for as follows:

Particulars	Amount
2010	
Nontaxable miscellaneous income	₱2,597,965.00
Taxable realized foreign exchange gain	(12,878,814.00)
Taxable interest income	(3,878,909.00)
Rounding-off difference	(1.64)
	(₱14,159,759.64)
2009	
Taxable interest income classified under a separate account in the GL	(₱13,988,358.00)
Taxable realized foreign exchange gain classified under a separate account in the GL	(6,241,324.00)
Loss on write-off of tax refund offset against miscellaneous income in the GL	(788,638.00)
Dividend income exempted from tax	14,000.00
Rounding-off difference	(0.25)
	(₱21,004,320.25)
2006	
Non-taxable reversal of allowance for inventory obsolescence	₱6,582,568.00
Non-taxable gain on sale of property and equipment	305,500.00
Taxable unrealized foreign exchange gain in 2005 realized in 2006	(88,879,575.00)
Taxable realized foreign exchange gain – net	(13,515,832.00)
Taxable interest income	(574,872.00)
Rounding-off difference	1.28
	(₱ 96,082,209.72)

The foregoing reconciliations show that the Net Sales and Other Income indicated in the taxable income column of petitioner's Schedules[45] of Computation of Taxable Income for the calendar years 2010, 2009, 2008 and 2006, tally with the total amounts of Sales/Revenues/Fees and Non-Operating & Other Income declared in petitioner's Annual ITRs[46] for the same years, thus:[47]

[45] Exhibits "P-34", "P-35", "P-36" and "P-37".
[46] Exhibits "P-7", "P-3", "P-24" and "P-22".
[47] Exhibit "P-40", *CTA Docket*, p. 610.

	2010	2009	2008	2006
Amount reflected in the taxable income column per Computation of Taxable income	₱2,210,541,327	₱1,776,967,820	₱2,026,185,814	₱144,653,630
Amount shown in the Annual Income Tax Return duly stamped "Received" by the BIR:				
Sales/revenue/receipts/fees	2,151,388,316	1,709,363,915	2,026,185,814	–
Non-operating and taxable other income	59,153,011	67,603,905	–	144,653,630
	2,210,541,327	1,776,967,820	2,026,185,814	144,653,630
	₱ –	₱ –	₱ –	₱ –

Truth to tell, the total taxable revenues/income per petitioner's GL were the same amounts reported by petitioner in its Annual ITRs for the years 2010, 2009, 2008 and 2006.

The Court also found that the income payments related to the claimed CWT were recorded in petitioner's GL. The ICPA verified in her report that out of the income payments of ₱1,211,855,206.56 per Summary of Creditable Taxes Withheld on the sales of goods and services and other income,[48] she was able to trace income payments of ₱1,197,951,587.59 related to the CWT of ₱12,729,617.90 to the corresponding calendar year when these were actually recorded in the GL, summarized as follows:[49]

	Per Summary of Creditable Tax Withheld[50]		Traced to General Ledger and/or Invoices/DMs/Official Receipts/CMs					
			Income Payments Covered by BIR Form No. 2307					
Particulars	Amount of Income Payments	Amount of Tax Withheld	2006	2008	2009	2010	Total	Equivalent Tax Withheld
Sales of goods and services	**1,207,245,082.08**	**12,080,167.09**	–	**14,855,469.84**	**209,602,160.79**	**968,883,832.48**	**1,193,341,463.11**[51]	**11,941,039.12**
Other income:								
Rental income	1,174,235.64	58,711.78	–	–	–	1,174,235.64	1,174,235.64[52]	58,711.78
Management fees	2,100,000.00	315,000.00	–	–	–	2,100,000.00[53]	2,100,000.00	315,000.00
Meralco refund:								

[48] Exhibit "P-26".
[49] Exhibit "P-40", *CTA Docket*, p. 605.
[50] Exhibit "P-26".
[51] Exhibit "P-29".
[52] Exhibits "P-32-1" to "P-32-16".
[53] Exhibits "P-32-17" to "P-32-28".

With terminated service contract	1,155,640.00	369,804.80	1,155,640.00[54]	–	–	–	1,155,640.00	369,804.80
With active service contract	180,248.84	45,062.20	–	–	–	180,248.84[55]	180,248.84	45,062.20
	4,610,124.48	**788,578.78**	**1,155,640.00**	–	–	**3,454,484.48**	**4,610,124.48**	**788,578.78**
	1,211,855,206.56	**12,868,745.87**	**1,155,640.00**	**14,855,469.84**	**209,602,160.79**	**972,338,316.96**	**1,197,951,587.59**	**12,729,617.90**

Quoted hereunder is the ICPA's explanation for the difference:

> "In the normal course of business, the Petitioner's sales of goods and services to its dealers/payors are collected promptly or within the agreed credit terms ranging from 30 to 120 days. The dealers/payors issue the certificates of creditable taxes withheld (BIR Form No. 2307) upon payment of their accounts to the Petitioner. However, in 2008 and 2009, some dealers were unable to dispose their inventories, causing the delay in the settlement of their accounts under the normal credit terms granted by the Petitioner. As a result, the dealers requested that their credit terms be extended, which the Petitioner approved. xxx xxx xxx
>
> We were not able to trace the remaining amount of income payments shown in Exhibit No. P-29 totalling ₱13,903,618.97, corresponding to income tax withheld of ₱139,127.97, against the amounts in the general ledgers and/or corresponding invoices, debit and credit memos or official receipts as of the date of report due to the absence of accounting trails, since the Petitioner's withholding agents were not able to provide the details of the specific invoices from which they withheld the taxes. The amount of ₱139,127.97 should be deducted from the Petitioner's claim."[56]

In fine, petitioner was able to show that the income payments, from which the CWTs in the total amount of ₱12,729,617.90 were withheld, were declared in its 2010 Annual Amended ITR.

From all the foregoing, the Court finds that petitioner is entitled to a refund or issuance of a tax credit certificate in the reduced amount of ₱12,729,617.90 representing its excess and unutilized excess CWTs for taxable year 2010.

WHEREFORE, in light of the foregoing, Univation Motor Philippines, Inc.'s Petition for Review is hereby **PARTIALLY GRANTED**. Respondent Commissioner of Internal Revenue is hereby ordered to issue a tax credit certificate in the amount of **TWELVE**

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[54] Exhibits "P-32-29".
[55] Exhibits "P-32-30" to "P-32-37".
[56] Exhibit "P-40", *CTA Docket*, p. 606.

MILLION SEVEN HUNDRED TWENTY NINE THOUSAND SIX HUNDRED SEVENTEEN and **90/100 (₱12,729,617.90)** representing petitioner's unutilized or excess creditable withholding taxes for taxable year ending December 31, 2010.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, 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's First Division.

ROMAN G. DEL ROSARIO
Presiding Justice