**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

# SPECIAL FIRST DIVISION

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| **AYALA CORPORATION,** Petitioner, | **CTA CASE NO. 9024** |
| | Members: |
| - versus - | **DEL ROSARIO,** *P.J., Chairperson,* **UY,** and **MINDARO-GRULLA,** *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** Respondent. | Promulgated: JUL 18 2019 ; 2:02pm |

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## RESOLUTION

**MINDARO-GRULLA, *J.*:**

For resolution of the Court is respondent's **Motion for Partial Reconsideration (re: Amended Decision promulgated on 25 March 2019)**, filed on April 15, 2019 without petitioner's comment, as per Records Verification dated June 13, 2019.

Respondent seeks reconsideration of the Amended Decision dated March 25, 2019 the dispositive portion of which reads:

> "**WHEREFORE**, in view of the foregoing, respondent's **Motion for Partial Reconsideration (re: Decision promulgated on 13 February 2018)** is **DENIED** while petitioner's **Motion for Partial Reconsideration** is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of the Decision dated February 13, 2018 should be amended to read as follows:

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> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱127,292,477.20**, representing petitioner's excess or unutilized creditable withholding taxes for calendar years 2012 and 2013.
>
> **SO ORDERED**."

In the instant motion, respondent alleges that this Court erred in ruling that petitioner is entitled to a refund of unutilized excess creditable withholding tax (CWT) for calendar years (CYs) 2012 and 2013 in the amount of ₱127,292,477.20 despite no evidence of actual remittance to the Bureau of Internal Revenue (BIR).

Respondent avers that the law and the BIR issuances provide that in order for any claim for refund to prosper, it is incumbent upon the claimant to prove actual remittance of the withheld taxes to the BIR. Allegedly, petitioner should have presented evidence to prove actual remittance of the same.

Respondent argues that he is not obliged to prove before the Court the non-remittance of the alleged withheld taxes, but it is the duty of petitioner to prove otherwise.

Respondent reiterates that Revenue Regulation (RR) No. 2-2006 is a valid regulation and that petitioner failed to prove that the alleged withheld taxes came to the hands of BIR, thus, petitioner is not entitled to any refund.

The Court finds that the arguments posited by respondent in the instant motion are mere repetition of his previous arguments in his Motion for Partial Reconsideration (re: Decision promulgated on 13 February 2018) which have been duly considered and adequately discussed in the assailed Amended Decision.

Accordingly, the Court maintains its ruling that the certificate of creditable tax withheld at source is the competent proof to establish

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the fact that taxes are withheld.[1] Moreover, it has been held in *Commissioner of Internal Revenue vs. Asian Transmission Corporation*[2], that proof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner.

In this case, petitioner was able to establish the fact of withholding by submitting the Schedule of Creditable Taxes Withheld for the years 2012 and 2013 and the relevant Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307).

Based on the foregoing, this Court finds no compelling reason to reverse or modify the assailed Amended Decision.

**WHEREFORE**, premises considered, respondent's **Motion for Partial Reconsideration (re: Amended Decision promulgated on 25 March 2019)** is **DENIED** for lack of merit.

**SO ORDERED**.

Cielito N. Mindaro-Grulla
**CIELITO N. MINDARO-GRULLA**
Associate Justice

WE CONCUR:

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ERLINDA P. UY**
Associate Justice

[1] *Commissioner of Internal Revenue vs. Philippine National Bank,* G.R. No. 180290, September 29, 2014.
[2] G.R. No. 179617, January 19, 2011.