REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

FORD GROUP PHILIPPINES, INC.
Petitioner,

CTA EB No. 3026
(CTA Case No. 10507)

Present:

- versus -

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

FEB 04 2026 3:50 p.m.

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DECISION

FERRER-FLORES, J.:

The **Petition for Review**[1] filed by **Ford Group Philippines, Inc.** (**Ford**) on November 14, 2024 appeals the Decision promulgated on July 10, 2024 (assailed Decision),[2] and the Resolution dated October 28, 2024 (assailed Resolution)[3] in CTA Case No. 10507, whereby the First Division of this Court (Court in Division) partially denied petitioner's claim for refund of unutilized creditable withholding taxes (CWTs) for calendar year (CY) 2018 in the amount of **₱262,074,181.00**, the dispositive portions which read as follows:

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[1] *Rollo*, pp. 1 to 25.
[2] *Id. at* 27 to 48. Penned by Associate Justice Lanee S. Cui-David and concurred in by (Ret.) Presiding Justice Roman G. Del Rosario and Associate Justice Jean Marie A. Bacorro-Villena.
[3] *Rollo*, pp. 50 to 53.

Assailed Decision:

> **WHEREFORE,** in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED.**

Assailed Resolution:

> **WHEREFORE**, the *Motion for Reconsideration* is **DENIED** for lack of merit.
>
> **SO ORDERED.**

PARTIES OF THE CASE[4]

Petitioner is registered with the Securities and Exchange Commission as the Philippine Branch Office of Ford Group Philippines, Inc. (formerly FGP, Incorporated), a foreign corporation organized and existing under the laws of the State of Delaware, United States of America. Its principal place of business is located on the 8th Floor, Filinvest One Building, Northgate Cyberzone, Filinvest City, Alabang, Muntinlupa City.

Respondent **Commissioner of Internal Revenue** (**CIR**) is vested with the authority to perform the duties of his office, including acting upon protest cases and approval of claims for refund or tax credit as provided by law and implementing regulations. Notices may be served to respondent through Room 703, Litigation Division, Bureau of Internal Revenue (BIR) National Office Building, Senator Miriam P. Defensor-Santiago Avenue, Diliman, Quezon City.

FACTUAL ANTECEDENTS

The facts as narrated by the Court in Division are as follows:[5]

> On April 13, 2019, petitioner filed its Annual Income Tax Return (ITR) for CY 2018 via the BIR's Electronic Filing and Payment System (eFPS). Subsequently, it filed an Amended Annual ITR on May 16, 2019, which reflected the following Tax Credits/Payments.

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4 Parties, *Petition for Review*, *Rollo*, p. 2.

5 The Facts, Decision dated July 10, 2024, *Rollo*, pp. 28 to 29. Citations and italics omitted.

Schedule 7 – Tax Credits / Payments	
Prior Year's Excess Credits Other Than MCIT	₱ 465,807,210.00
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	180,864,958.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	81,209,223.00
Total Tax Credits/Payments	**₱ 727,881,391.00**

Petitioner's 2018 Amended Annual ITR also reflected an overpayment of ₱695,311,325.00, computed as follows:

Part II – Total Tax Payable	
Total Income Tax Due (Overpayment)	₱ 32,570,066.00
Less: Total Tax Credits / Payments	727,881,391.00
Total Amount Payable (Overpayment)	**(₱ 695,311,325.00)**

Petitioner marked the option "To be refunded" for the overpayment in its original and amended Annual ITR for CY 2018.

On September 23, 2020, petitioner filed with the BIR an Application for Tax Credits/Refunds (BIR Form No. 1914) and a letter of even date, requesting a refund of its excess CWTs for CY 2018 in the amount of P262,074,181.00.

PROCEEDINGS BEFORE THE COURT IN DIVISION

The proceedings before the Court in Division are as follows:[6]

On May 17, 2021, petitioner elevated its claim for a refund via the present Petition for Review, alleging inaction by respondent.

On July 15, 2021, respondent filed his Motion to Admit Attached Answer and Manifestation, which the Court granted and noted in the Resolution dated October 27, 2021 which admitted the Answer.

On December 6, 2021, respondent transmitted the BIR Records of this case, consisting of 239 pages, in one (1) folder.

The Pre-Trial Conference was initially set for January 20, 2022, [19] but was later reset to and held on March 31, 2022. Prior thereto, petitioner's Pre-Trial Brief was filed on December 15, 2021, while Respondent's Pre-Trial Brief was submitted on March 8, 2022.

On April 19, 2022, the parties submitted their Joint Stipulation of Facts and Issues stating, among others, that respondent would not present a witness, considering that there is no report on the audit findings. The Court approved the same in the Resolution dated April 28, 2022, thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated May 23, 2022, was then issued.

6 Proceedings Before This Court, Decision dated July 10, 2024, *Rollo*, pp. 29 to 30. Citations and italics omitted.

As the trial ensued, petitioner presented testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Ms. Jo-Anne T. Matas, petitioner's Tax Manager; and (2) Joel C. Romano, the Court-commissioned Independent Certified Public Accountant (ICPA).

The Report of the ICPA was submitted on July 4, 2022.

Petitioner filed its Formal Offer of Evidence on July 21, 2022, to which respondent filed his Comment (on Petitioner's Formal Offer of Evidence) on August 2, 2022.

In the Resolution dated September 13, 2022, the Court admitted petitioner's offered exhibits, except for Exhibit "P-6-D," for petitioner's failure to identify the same.

Thereafter, petitioner filed a Motion for Reconsideration to the Resolution dated September 13, 2022, on September 28, 2022, while respondent failed to file a comment thereto. The Court, in the Resolution dated August 2, 2023, granted petitioner's motion, admitting in evidence Exhibit "P-6-D."

On October 7, 2022, petitioner filed its Memorandum, while respondent submitted his Memorandum on October 18, 2022.

The case was submitted for decision on August 2, 2023.

The Court in Division promulgated the assailed Decision on July 10, 2024, denying petitioner's *Petition for Review*.[7] In denying the *Petition for Review*, the Court in Division held that petitioner was able to establish the fact of withholding but only to the extent of ₱233,864,381.78, based on the comparison of the Court-commissioned ICPA of the CWTs claimed per SAWT in the amount of ₱262,074,181.00 as against the CWTs reflected in the BIR Form No. 2307 in the amount of ₱262,347,163.00. Considering that the CWT amounts per BIR Form No. 2307 do not tally with the claimed CWT amounts per SAWT and the discrepancies thereon were not reconciled, it cannot be determined with certainty whether the CWTs supported by BIR Form No. 2307 formed part of the claimed CWTs per SAWT; hence, the amount of discrepancies totaling to ₱28,209,461.36 shall be disallowed.

The Court in Division further ruled that petitioner failed to prove that the income payments subjected to CWTs were reported as part of its gross income in its AITR. The Court in Division found that petitioner did not provide a reconciliation of the difference between the amount of revenues per GL, in the amount of ₱30,015,143,074.86, and the income payments per SAWT, in the amount of ₱26,138,846,956.85, nor a detailed tracing of the income payment to the General Ledger to ascertain whether the income

[7] *Rollo*, pp. 27 to 48.

payments corresponding to the substantiated CWTs claimed were indeed included in the declared revenue per its AITR for CY 2018.

On July 31, 2024, petitioner filed a *Motion for Reconsideration*,[8] to which respondent filed its *Comment/Opposition (On Petitioner's Motion for Reconsideration dated July 10, 2024)* on August 20, 2024.[9]

The Court *a quo* promulgated the assailed Resolution on October 28, 2024,[10] denying its MR for lack of merit. In the assailed Resolution, the Court reiterated its discussion in the assailed Decision that petitioner did not proffer any reconciliation of the discrepancy between the revenues indicated in its amended AITR and AFS for CY 2018 and the figures in its SAWT. The Court emphasized that, without a detailed breakdown of the transactions or revenue/net sales per GL and SAWT, it cannot be verified whether the income payments related to the claimed CWTs were included and formed part of petitioner's reported sales in its amended CY 2018 AITR.

PROCEEDINGS BEFORE THE COURT EN BANC

The instant *Petition for Review* was filed on November 14, 2024.[11] Respondent filed his *Comment/Opposition (Re: Petition for Review dated November 14, 2024)* on December 19, 2024.[12]

Thus, on January 17, 2025, the instant case was submitted for decision.[13]

ISSUES[14]

Petitioner raised this primary issue for resolution of the Court En Banc:

> Whether or not the Honorable Court in Division erred in ruling that petitioner is not entitled to a tax refund of its excess and unutilized CWT for CY 2018, amounting to ₱262,074,181.00.

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[8] Division Docket, pp. 725 to 736.
[9] Division Docket, pp. 742 to 747.
[10] *Rollo*, pp. 50 to 53.
[11] *Id.* at 1 to 26.
[12] *Id.* at 66 to 72.
[13] *Id.* at 75.
[14] V. Statement of the Issue, *Rollo*, p. 5.

ARGUMENTS

Petitioner submits that the Court in Division committed a reversible error in the assailed Decision and Resolution by holding that petitioner failed to demonstrate that the income payments subjected to CWT were reported as part of its gross income in its Annual Income Tax Return (AITR). In disagreeing with the Court in Division, petitioner contends that the fact that income payments received were included as part of petitioner's gross income is clearly demonstrated in its CY 2018 AITR.

According to petitioner, the CWTs subject of the present *Petition* were withheld from income payments totaling ₱26,165,557.827.00, which represents the income subjected to CWT for transactions entered into and collected during CY 2018. The CWTs for the year, which were presented and marked into evidence, clearly indicate the nature of the income subject to CWT and were consistent with those reflected in the General Ledger (GL), which was also introduced as evidence. Petitioner further explains that the Court-commissioned Independent Certified Public Accountant (ICPA) detailed the comparison of the revenues declared in the CY 2018 AITR with the total income reflected in the original copies of BIR Form No. 2307. Petitioner argues that the revenue shown in the CY 2018 AITR and the income reflected in the CWT certificates can be further traced to the filed AITR and the Details of Income Payments Reflected in the Certificates of Creditable Withholding Taxes.

To satisfy the third requirement, petitioner avers that it presented in evidence its Summary Alphalist of Withholding Agents of Income Payment Subjected to Tax Withheld at Source (SAWT), its CY 2018 AITR, CY 2018 AFS, Schedule of 2018 CWT certificates and the GL. Upon review of the foregoing documents, the Court-commissioned ICPA recommended the refund in the amount ₱262,073,843.00. Petitioner also asserts that it did not carry-over the said excess and unutilized CWT credits in its quarterly and AITR for CY 2019.

Petitioner further claims that it has reconciled the discrepancy of ₱3,849,585,248.00 between the amount of revenues in the AITR (₱30,015,143,075.00) and the total income reflected in the original copies of BIR Form No. 2307 (₱26,165,557,827.00). It explains that the discrepancy was due to: (a) debits to Net Revenues per AFS/AITR not affecting income tax payment per CWT certificates since these were not part of the Selling Price per invoice and not recognized in the books at the time of sale (₱873,025,512.23); (b) the revenues not subjected by customers to CWT (e.g., Vehicle Sales Customers who are not Top 20,000 Corporations or Large Taxpayers, Export Sales Parts), amounting to ₱4,879,545,098.09; and, (c) the timing differences in the recognition of sales per books and claiming of related CWT certificates (₱156,929,836.83).

Respondent, on the other hand, counters that the Court in Division correctly ruled that petitioner is not entitled to the tax refund in the amount of ₱262,074,181.00, representing petitioner's alleged excess and unutilized CWTs. Respondent submits that the reports of the Court-commissioned ICPA are mere recommendatory and not conclusive; hence, the Court is not bound to adopt the same.

RULING OF THE COURT *EN BANC*

The instant *Petition for Review* is denied.

Timeliness of the Petition for Review

Records show that petitioner received the assailed Resolution on October 30, 2024.[15] Petitioner had 15 days therefrom, or until November 14, 2024, within which to file its *Petition for Review* before the Court *En Banc*. Clearly, on November 14, 2024, petitioner timely filed its *Petition for Review*.[16]

The Court in Division correctly held that petitioner failed to show that the income payments subjected to CWTs were reported as part of its gross income in its CY 2018 AITR.

Petitioner mainly argues that it was able to reconcile the discrepancy between its AITR and CWT Certificates in the amount of ₱3,849,585,248.00. Petitioner presented tables to reconcile the discrepancy, which was allegedly due to : (1) Debits to Net Revenues per AFS/AITR not affecting income tax payments per CWT certificates since these were not part of the Selling Price per Invoice and not recognized in the books at the time of sale; (2) Revenues not Subjected by Customers to CWT (e.g. Vehicle Sales Customers who are not Top 20,000 Corporation or Large Taxpayers, Export Sales of Parts); and, (3) timing differences in the recognition of sales per books and claiming of related CWT certificates.

Consequently, petitioner posits that it has successfully demonstrated compliance with the requirements for a CWT refund, particularly that the

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[15] *Rollo*, p. 49.
[16] Supra note 1.

income on which the taxes were withheld was properly declared as part of its gross income per CY 2018 AITR.

The Court *En Banc* disagrees.

The Court in Division, in the assailed Decision, extensively reviewed all the evidence and considered all the arguments of petitioner. In finding that petitioner failed to prove that the income payments from which the substantiated CWTs were withheld were declared as part of petitioner's gross income per AITR, the Court in Division reviewed its AITR, AFS and GL for CY 2018 and found discrepancy in the amount of ₱3,849,585,248.00. The Court also ruled that, absent any reconciliation on the difference between the amounts per GL and the income payments per SAWT or a detailed tracing of the income payments in the GL, it cannot ascertain whether the income payments were indeed included in the declared revenue per CY 2018 AITR.

Likewise, the Court in Division, in the assailed Resolution, reiterated its ruling that petitioner cannot solely rely on the Court-commissioned ICPA's findings and conclusions to support its claim as these were not conclusive and subject to further verification by the Court. The Court in Division echoed its ruling in the assailed Decision that it cannot simply assume that since the total amount of income payments declared per CWT certificates is less than the total amount of revenues reported in the AITR, the income of ₱26,165,157,827.00 found in the former, related to the claimed CWTs, necessarily formed part of the total sales of ₱30,015,143,075.00 declared in the AITR.

The Court *En Banc* notes, however, that petitioner presented this reconciliation for the first time on appeal before Us. These tables were not presented before and were not evaluated and scrutinized by the Court in Division.

When the Court in Division denied its claim for refund of CWT, petitioner did not provide an explanation on the discrepancy in its *Motion for Reconsideration*. Instead, it merely reiterated its argument that, since the amount of income payments per SAWT and CWT certificates is less than the amount declared in the AFS and AITR, the CWTs amounting to ₱26,165,157,827.00 is necessarily included in the revenues declared per AITR in the amount of ₱30,015,143,075.00.

While petitioner provided for a reconciliation or explanation on the discrepancy, these were not testified to by its witnesses nor was it even presented before the Court in Division.

Moreover, no specific evidence was presented to support the amounts which comprise each item of discrepancy. Allegedly, the revenues not subjected by customers to CWT, such as vehicle sales to customers who are not Top 20,000 corporations or Large Taxpayers, Export Sales of Parts, were not part of the explanation by the Court-commissioned ICPA. Finally, the alleged discrepancy due to timing differences in the recognition of sales per books and claiming of related CWT certificates was not substantiated by any evidence. Clearly, these are mere allegations.

As these tables and reconciliation were shown by petitioner for the first time on appeal, the Court *En Banc* reiterates that these tables and reconciliation are not pieces of evidence which can be considered by the Court in determining petitioner's claim for refund.

Section 34 of Rule 132 of the Revised Rules on Evidence[17] provides that the Court cannot consider evidence which were not formally offered.

The Supreme Court, in various cases, has relaxed the application of said rule by allowing the admission of evidence not formally offered. To be admissible, however, two essential conditions must concur: first, the same must have been duly identified by testimony duly recorded and, second, the same must have been incorporated in the records of the case.[18]

In the instant case, the reconciliation is merely incorporated in the *Petition* filed before this Court without any supporting evidence. Without any clear and convincing proof, this allegation remains as such, a mere allegation that is bare and self-serving.[19] Mere allegations are not legally compelling unless proved.[20]

As fittingly found by the Court in Division, petitioner failed to sufficiently prove its entitlement to refund of CWTs in the amount of ₱262,074,181.00 for its excess and unutilized CWTs for CY 2018.

Consequently, this Court finds no reason to grant the instant *Petition for Review*.

ACCORDINGLY, in view of the foregoing, the **Petition for Review** is **DENIED** for lack of merit. Accordingly, the Decision dated July 10, 2024 and the assailed Resolution dated October 28, 2024 are **AFFIRMED.**

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17 **SEC. 34.** *Offer of evidence.* – The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.
18 *Herman Medina vs. People of the Philippines,* G.R. No. 182648, June 17, 2015.
19 *Trinidad v. Trinidad,* G.R. No. 254695, December 6, 2023.
20 *Pacific Royal Basic Foods, Inc. v. Noche,* G.R. No. 202392, October 4, 2021.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice