REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

AYALA CORPORATION, *Petitioner,*	**CTA CASE No. 9556**
-versus-	**Members:** **CASTAÑEDA, JR., Chairperson, MINDARO-GRULLA, and BACORRO-VILLENA, *JJ.***
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** FEB 26 2020 4:30 p.m.

x---x

DECISION

MINDARO-GRULLA, J.:

Submitted for Decision on April 29, 2019 is a Petition for Review[1] filed by petitioner Ayala Corporation (Ayala) on March 29, 2017, pursuant to Section 7(a)(1)[2] of Republic Act (RA) No. 1125,[3] as amended, as well as Section 3(a)(1)[4] of

---

[1] Docket, pp. 10-19.
[2] Sec. 7. Jurisdiction. - The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;

xxx

[3] Act Creating the Court of Tax Appeals.
[4] Sec. 3. Cases within the jurisdiction of the Court in Division.- The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

Rule 4 and Section 4(a)[5] of Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended, seeking for the issuance of a Tax Credit Certificate (TCC) in the amount of Sixty-Two Million Six Hundred Sixty Thousand Seven Hundred Seventy-Six Pesos (₱62,660,776.00), representing its excess or unutilized creditable withholding taxes (CWTs) for calendar year (CY) 2014.

Respondent is being sued in his official capacity as the CIR, having been duly appointed to exercise the powers and perform the duties of his office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees and other charges, penalties imposed in relation thereto, or other matters arising under the Tax Code.

Respondent holds office and may be served with summons, notices and other processes of this Court at the 5th Floor, Bureau of Internal Revenue National Office Bldg, Bureau of Internal Revenue (BIR) Road, Diliman, Quezon City.

Petitioner is a domestic corporation duly organized and existing under the Philippine laws with principal address at 33rd floor, Tower One & Exchange Plaza, Ayala Triangle, Ayala Avenue, Makati City.

Petitioner is registered with the Bureau of Internal Revenue (BIR) as a large taxpayer with Tax Identification

---

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue.

[5] Sec. 4. Where to appeal; mode of appeal.-

(a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.

L

Number (TIN) 000153-610-000.[6] As a large taxpayer duly classified and notified by the BIR, petitioner is required to file its quarterly and annual income tax returns and other BIR forms through the Electronic Filing and Payment System (EFPS).

On April 01, 2015, petitioner filed its Annual Income Tax Return (BIR Form 1702-RT) for CY ended December 31, 2014[7] through the EFPS showing overpayment of income tax due amounting to ₱78,261,625.00, computed as follows:

Net taxable Income (loss)		₱ (5,055,829,178.00)
Tax Rate		30%
Income Tax		0.00
MCIT		₱ 17,694,834.00
Aggregate Income Tax Due		17,694,834.00
Less: Tax Credits/Payments		
Prior Year's Credits	₱ 33,295,683.00	
CWT 1st to 3rd Quarters	26,226,649.00	
CWT 4th Quarter	36,434,127.00	
Total	95,956,459.00	95,956,459.00
Total Overpayment		₱ (78,261,625.00)

On the same date, petitioner manually filed said Annual Income Tax Return (BIR Form 1702-RT) for CY ended December 31, 2014[8] with the BIR Large Taxpayer Service Office (LTSO) showing overpayment of income tax due amounting to P 78,261,625.00, computed as follows:

Net taxable Income (loss)		₱ (5,055,829,178.00)
Tax Rate		30%
Income Tax		0.00
MCIT		₱ 17,694,834.00
Aggregate Income Tax Due		17,694,834.00
Less: Tax Credits/Payments		
Prior Year's Credits	₱ 33,295,683.00	
CWT 1st to 3rd Quarters	26,226,649.00	
CWT 4th Quarter	36,434,127.00	
Total	95,956,459.00	95,956,459.00
Total Overpayment		₱ (78,261,625.00)

Petitioner then filed an administrative claim[9] for the issuance of TCC for its unutilized CWT for CY 2014 in the total amount of ₱ 62,660,776.00. The administrative claim

---

[6] Exhibit "P-1", Folder#1.
[7] Exhibit "P-7-1", Folder#1.
[8] Exhibit "P-7-3", Folder#1.
[9] Exhibit "P-9-1", Folder#2.

was filed with the BIR LTSO on March 14, 2017 together with other supporting documents.

Since the two-year prescriptive period[10] within which to apply for the issuance of TCC is about to expire, this Petition for Review was filed.

On June 5, 2017, an Answer[11] was filed by the CIR. Both parties' Pre-Trial Briefs[12] were filed on August 17, 2017.

The parties filed their Joint Stipulation of Facts and Issues (JSFI)[13] on September 13, 2017.

On January 30, 2018,[14] the Court granted the commissioning of Madonna Mia S. Dayego as the Independent Certified Public Accountant (ICPA) in this case.

Petitioner presented witnesses Maria Susana C. Bables on January 30, 2018[15] and Ms. Dayego on August 31, 2016.[16] Respondent presented no witness.[17]

On August 8, 2018, petitioner filed its Formal Offer of Evidence.[18] Respondent filed its Comment[19] on August 22, 2018. The Court issued a Resolution,[20] admitting the exhibits except exhibits "P-17-1", "P-20-2", "P25-1 (1/1) to (1/5)", "P-27-1 (1/1) to (1/5)", "P-27-259", "P-27-261 to P-27-263", "P-27-271", "P-27-273 to P-27275", "P-27-283", "P-27-285", "P-27-287 to P-27-288", "P30-4", "P-30-8", "P-30-12", "9-30-14", "9-30-17 to 9-30-20", "P-30-22", "P-36-49", "P-36-53 to P-36-55" and "P-36-50 to P-36-52" for not being found in the records.

[10] Section 229, National Internal Revenue Code of 1997, as amended.
[11] *Docket*, pp. 90-97.
[12] *Ibid.*, pp. 154-164.
[13] *Docket*, pp. 192-198.
[14] Order, *Ibid.*, pp. 255-256.
[15] *Ibid.*
[16] Order, *Ibid.*, pp. 302-303.
[17] *Minutes of the Hearing,* February 4, 2019, p. 400.
[18] *Docket*, pp. 305-337, excluding the attachments.
[19] *Ibid.*, pp. 341-345.
[20] *Ibid.*, pp. 350-353.

Petitioner filed its Manifestation and Motion[21] to admit attached Amended Formal Offer of Evidence on November 5, 2018, to correct some errors in the markings of exhibits, which the Court admitted through a Resolution[22] dated January 15, 2019 but nevertheless, denied the same exhibits previously not admitted for not being found in the records of the case.

Petitioner's documentary exhibits are as follows:

Exhibit	Description
P-1	Petitioner's Certificate of Registration issued by the Bureau of Internal Revenue (BIR)
P-2	BIR Letter dated August 21, 1998 classifying the petitioner as a Large Taxpayer
P-3-1	Petitioner's Amended Annual Income Tax (ITR) for Calendar Year (CY) 2005 duly filed through Electronic Filing and Payment System (EFPS) on April 11, 2006 at 3:07 PM
P-3-2	Petitioner's Original Annual ITR for CY 2005 duly filed through EFPS on April 11, 2006 at 2:39 PM
P-3-3	Petitioner's Annual ITR for CY 2005 manually filed with the Large Taxpayer Service Office (LTSO) on April 18, 2016
P-3-4	Petitioner's Amended Annual ITR for CY 2005 duly filed through EFPS on May 31, 2006
P-3-5	Filing Reference Number on the filing of petitioner's Amended Annual ITR for CY 2005 filed through the EFPS
P-3-6	Petitioner's Amended Annual ITR for CY 2005 manually filed with the LTSO on June 02, 2006
P-3-7	Independent Auditors' Report with comparative Financial Statements attached to petitioner's Annual ITR for CY 2005
P-4-1	Petitioner's Annual ITR for CY 2011 manually filed with the LTSO on April 24, 2012 following the instruction in Revenue Memorandum Circular (RMC) No. 15-2012
P-4-2	BIR System-generated message dated April 16, 2012 addressed to an officer of the petitioner
P-4-3	Independent Auditors' Report with comparative Financial Statements attached to petitioner's Annual ITR for CY 2011
P-4-4	Petitioner's Annual ITR for CY 2011 duly filed

[21] *Ibid.*, pp. 354-390.
[22] *Ibid.*, pp. 396-399.

	under EFPS on August 24, 2012
P-4-5	Filing Reference Number on the filing of petitioner's Annual ITR for CY 2011 filed through the EFPS
P-4-6	Line 35 of petitioner's Annual ITR for CY 2011 manually filed with the LTSO
P-4-7	Line 37 of petitioner's Annual ITR for CY 2011 manually filed with the LTSO
P-4-8	Line 37 of petitioner's Annual ITR for CY 2011 filed with through EFPS
P-5-1	Petitioner's Annual ITR for CY 2012 duly filed through the EFPS on April 15, 2013
P-5-2	Filing Reference Number on the filing of petitioner's Annual ITR for CY 2012 filed through the EFPS
P-5-3	Petitioner's Annual ITR for CY 2012 manually filed with the LTSO on April 26, 2013
P-5-4	Independent Auditors' Report with comparative Financial Statements attached to Petitioner's Annual ITR for CY 2012
P-5-5	Line 37 of petitioner's Annual ITR for CY 2012 manually filed with the LTSO
P-5-6	Line 37 of petitioner's Annual ITR for CY 2012 filed with through EFPS
P-6-1	Petitioner's Annual ITR for CY 2013 duly filed through the EFPS on April 10, 2014
P-6-2	Filing Reference Number on the filing of petitioner's Annual ITR for CY 2013 filed through the EFPS on April 10, 2014
P-6-3	Petitioner's Annual ITR for CY 2013 manually filed with the LTSO on April 22, 2014
P-6-4	Independent Auditors' Report with comparative Financial Statements attached to petitioner's Annual ITR for CY 2013
P-6-5	Lines 20 and 46 of petitioner's Annual ITR for CY 2013 manually filed with the LTSO
P-6-6	Line 21 of petitioner's Annual ITR for CY 2013 manually filed with the LTSO
P-6-7	Line 21 of petitioner's Annual ITR for CY 2013 filed with through EFPS
P-7-1	Petitioner's Annual ITR for CY 2014 duly filed through the EFPS on April 01, 2015
P-7-2	Filing Reference Number on the filing of petitioner's Annual ITR for CY 2014 filed through the EFPS on April 01, 2015
P-7-3	Petitioner's Annual ITR for CY 2014 manually filed with the LTSO on April 01, 2015
P-7-4	Independent Auditors' Report with comparative

	Financial Statements attached to petitioner's Annual ITR for CY 2014
P-7-5	Signatures of the petitioner's Treasurer and Managing Director and Chief Finance Officer as shown in page 1 of the ITR
P-7-6	Petitioner's Quarterly Income Tax Return for the First Quarter of CY 2014 filed through the EFPS on May 29, 2014
P-7-7	Petitioner's Quarterly Income Tax Return for the First Quarter of CY 2014 manually filed with the LTSO on June 10, 2014
P-7-8	Petitioner's Quarterly Income Tax Return for the Second Quarter of CY 2014 filed through the EFPS on August 26, 2014
P-7-9	Petitioner's Quarterly Income Tax Return for the Second Quarter of CY 2014 manually filed with the LTSO on August 28, 2014
P-7-10	Petitioner's Quarterly Income Tax Return for the Third Quarter of CY 2014 filed through the EFPS on November 05, 2014
P-7-11	Petitioner's Quarterly Income Tax Return for the Third Quarter of CY 2014 manually filed with the LTSO on November 06, 2014
P-7-12	Line 34, page 2 of petitioner's Annual ITR for CY 2014 manually filed with the LTSO
P-7-13	Line 21, page 1 of petitioner's Annual ITR for CY 2014 manually filed with the LTSO
P-7-14	Lines 30 to 33, page 2 of petitioner's Annual ITR for CY 2014 filed with through LTSO
P-7-15	Line 21 of petitioner's Annual ITR for CY 2014 filed with through EFPS
P-8-1	Petitioner's Annual ITR for CY 2015 duly filed through the EFPS on April 07, 2016
P-8-2	Filing Reference Number on the filing of petitioner's Annual ITR for CY 2015 filed through the EFPS on April 07, 2016
P-8-3	Page 6, Schedule 7, Line 1 of petitioner's Annual ITR for CY 2015 filed through the EFPS
P-8-4	Petitioner's Annual ITR for CY 2015 manually filed with the LTSO on April 11, 2016
P-8-5	Independent Auditors' Report with comparative Financial Statements attached to Petitioner's Annual ITR for CY 2015
P-8-6	Page 6, Schedule 7, Line 1 of petitioner's Annual ITR for CY 2015 filed with LTSO
P-8-7	Petitioner's Quarterly Income Tax Return for the First Quarter of CY 2015 filed through EFPS on May 29, 2015

h

P-8-8	Line 31A of petitioner's Quarterly Income Tax Return for the First Quarter of CY 2015 filed under EFPS
P-8-9	Petitioner's Quarterly Income Tax Return for the First Quarter of CY 2015 manually filed with the LTSO on June 10, 2015
P-8-10	Line 30A of petitioner's Quarterly Income Tax Return for the First Quarter of CY 2015 filed with the LTSO
P-8-11	Petitioner's Quarterly Income Tax Return for the Second Quarter of CY 2015 filed through the EFPS on August 24, 2015
P-8-12	Petitioner's Quarterly Income Tax Return for the Second Quarter of CY 2015 manually filed with the LTSO on August 27, 2015
P-8-13	Petitioner's Quarterly Income Tax Return for the Third Quarter of CY 2015 filed through the EFPS on November 25, 2015
P-8-14	Petitioner's Quarterly Income Tax Return for the Third Quarter of CY 2015 manually filed with the LTSO on December 02, 2015
P-9-1	Administrative Claim for issuance of TCC filed by petitioner on March 14, 2017
P-9-2	BIR Stamped Received dated March 14, 2017 appearing on the upper portion of Exhibit P-9-1
P-9-3	Signature of petitioner's Officer appearing on page 4 of Exh. P-9-1
P-10-1	CTA Decision in CTA Case No. 7754 dated March 16, 2011
P-10-2	Page 12 of CTA Decision in CTA Case No. 7754
P-10-3	Page 13 of CTA Decision in CTA Case No. 7754
P-10-4	Page 11 of CTA Decision in CTA Case No. 7754
P-10-5	Sworn Statement of Maria Susana C. Bables submitted in CTA Case No. 7754 consisting of 10 pages
P-10-6	Supplemental Sworn Statement of Maria Susana C. Bables submitted in CTA Case No. 7754 consisting of 3 pages
P-10-7	Report submitted by the ICPA in CTA Case No. 7754 consisting of 11 pages excluding its annexes and supporting documents
P-10-8	Sworn Statement of the ICPA Ma. Milagros F. Padernal submitted in CTA Case No. 7754 consisting of 16 pages
P-11-1	CTA Second Division's Decision in CTA Case No. 8629 dated October 02, 2015 consisting of 32 pages
P-11-2	CTA Second Division's Amended Decision in CTA

ℒ

	Case No. 8629 dated March 11, 2016 consisting of 9 pages
P-11-3	Judicial Affidavit of Maria Susana C. Bables submitted in CTA Case No. 8629 consisting of forty-three (43) pages
P-11-4	The first binder of ICPA Report submitted in CTA Case No. 8629 consisting of twenty-three (23) pages excluding its annexes and supporting documents
P-11-5	The second binder of ICPA Report submitted in the CTA Case No. 8629 consisting of lists and schedules from Exhibit P-16 to P-54 and their sub-markings
P-11-6	Judicial Affidavit of the ICPA Ma. Milagros F. Padernal consisting 14 pages
P-12-1	Judicial Affidavit of Maria Susana C. Bables submitted in CTA Case No. 9024 consisting of fifty-three (53) pages
P-12-2	Supplemental Judicial Affidavit of Maria Susana C. Bables submitted in CTA Case No. 9024 consisting of six (6) pages
P-12-3	The first binder of ICPA Report submitted in CTA Case No. 9024 consisting of twenty-nine (29) pages excluding its annexes and supporting documents
P-12-4	The second binder of ICPA Report submitted in CTA Case No. 9024 consisting of lists and schedules from Exhibits P-17 to P-53 and their sub-markings
P-12-5	Judicial Affidavit of the ICPA Ma. Milagros F. Padernal submitted in CTA Case No. 9024 consisting twenty-one (21) pages
P-13	Judicial Affidavit of the ICPA Madonna Mia S. Dayego consisting of five (5) pages
P-13-1	Signature of Madonna Mia S. Dayego appearing on page 4 of Exhibit P-13-1
P-14	Judicial Affidavit of Maria Susana C. Bables submitted in this case on August 16, 2017 consisting of forty-seven (47) pages
P-14-1	Signature of Maria Susana C. Bables appearing on page 46 of Exhibit P-14
P-15	The ICPA Report submitted by Madonna S. Dayego consisting of twenty-one (21) pages excluding its annexes and supporting documents
P-15-1	Signature of Madonna Mia S. Dayego appearing on page 21 of Exhibit P-15
P-15-2	USB File containing the ICPA Report and all the supporting documents that were reviewed and

	evaluated by the ICPA
P-16	Summary of Annual ITR filed by petitioner with BIR thru EFPS for CYs 2005 to 2015
P-16-1 to P-16-5	Petitioner's Annual ITR filed with BIR thru EFPS for CYs 2006 (Amended), 2007, 2008, 2009 and 2010
P-17	Summary of Annual ITR filed by petitioner with BIR LTSO for CYs 2005 to 2015
P-17-1 to P-17-5	Petitioner's Annual ITR filed with BIR LTSO for CYs 2006 (Amended), 2007, 2008, 2009 and 2010
P-18	Schedule of Creditable Taxes Withheld (CTW) for CY 2014
P-19	Summary of CTW for CY 2014 supported by Original Certificate of CWT at Source (BIR Form No. 2307) issued by Payor in the Petitioner's name
P-19-1 to P-19-209	Copies of Original Certificate of CTW at Source (BIR Form No. 2307) issued for CY 2014
P-20	Summary of CTW for CY 2014 supported by Original Certificate of CWT at Source (BIR Form No. 2307) issued by payors not in the petitioner's name
P-20-1 to P-20-4	Copies of Original Certificate of CWT at Source (BIR Form No. 2307) issued for CY 2014 by the payors not in the petitioner's name
P-21, P-21-1 (1/3) to P-21-1 (3/3)	Summary of Rental Income for CY 2014 and its general ledger
P-22, P-22-1 (1/4) to P-22-1 (4/4)	Summary of Directors' Fees for CY 2014 and its general ledger
P-23, P-23-1 (1/2) to P-23-1 (2/2)	Summary of Other Income for CY 2014 and its general ledger
P-24, P-24-1 (1/2) to P-24-1 (2/2)	Summary of Proceeds from Sales of Land CY 2014 and its general ledger
P-25, P-25-1 (1/2) to P-25-1 (2/2)	Summary of Miscellaneous Taxable Interest Income for CY 2014 and its general ledger
P-26 to P-26-1	Summary of Comparison between Summary of CTW supported by original certificate of CWT (BIR

L

(1/1) to (1/5)	Form 2307) issued by Payor in petitioner's name with SAP Customer Invoice (CI)-Printouts and Summaries of Income Payments with Tax Withheld per General Ledger for CY 2014
P-26-1 to P-26-9	Copies of SAP CI-Printouts
P-27 to P-27-1 (1/1) to (1/5)	Summary of Comparison of Payor's Name and Amount of Income Payment between the Summaries of Rental Income, Directors' Fees, Other Income, Proceeds from Sale of Land and Miscellaneous Taxable Interest Income and Petitioner's Official Receipts (OR)s Bank Credit Memo (BCM)s for CY 2014
P-27-1 to P-27-258; P-27-260; P-27-264 to P-27-270; P-27-272; P-27-276 to P-27-282; P-27-284; P-27-286; P-27-259, P-27-261 to P-27-263; P-27-271, P-27-273 to P-27-275, P-27-283, P-27-287 to P-27-288	Copies of the petitioner's Official Receipts
P-27-289 to P-27-291	Copies of petitioner's Bank Credit Memo
P-28	Schedule of Computation of Taxable Income for CY 2014
P-29	Schedule of CWT for CY 2005 consisting of two (2) pages
P-30	Summary of CWT for CY 2005 supported by Original Certificates of CTW at Source (BIR Form No. 2307) issued by the Payor in petitioner's name and stamped "Received" by BIR Large

	Taxpayers Assistance Division for CY 2005 consisting of two (2) pages
P-30-1 to P-30-54	Copy of the Certificate of CTW at Source (BIR Form No. 2307) for CY 2005
P-32, P-32-1 (1/2) to P-32-1 (2/2)	Summary of Rental Income for CY 2005 and its general ledger
P-33, P-33-1 (1/2) to P-33-1 (2/2)	Summary of Directors' Fees for CY 2005 and its general ledger
P-34, P-34-1 (1/2) to P-34-1 (2/2)	Summary of Other Income for CY 2005 and its general ledger
P-35	Summary of Comparison of Payor's name and Amount of Income Payment between Schedule of CTW at Source and Summaries of Rental Income, Director's Fees, Other Income for CY 2005 consisting of two (2) pages
P-36	Summary of Comparison of Payor's name and Amount of Income Payment between the Summaries of Rental Income, Director's Fees, Other Income and Petitioner's Official Receipts (OR), Bank Credit Memo and Bank Statements (BS) for CY 2005 consisting of three (3) pages
P-36-1 to P-36-48; P-36-57 to P-36-116; P-36-120 to P-36-131	Copy of petitioner's Official Receipts for CY 2005
P-36-49; P-36-53 to P-36-55; P-36-117; P-36-118	Copy of petitioner's Bank Credit Memo for CY 2005
P-36-50 to P-36-52; P-36-56; P-36-119	Copy of petitioner's Bank Statement for CY 2005
P-37	Schedule of Computation of Taxable Income for CY 2005
P-38	Judicial Affidavit of the ICPA Madonna Mia S. Dayego consisting of 14 pages
P-38-1	Signature of the ICPA Madonna Mia S. Dayego

L

	appearing on page 13 of the Judicial Affidavit

The ICPA Report was filed by petitioner on March 1, 2018.[23] Respondent presented no evidence.

The Memorandum[24] for the CIR filed on April 5, 2019 and the Memorandum[25] for petitioner filed on April 11, 2019 were both admitted and the case was considered submitted for decision on April 29, 2019.[26]

The parties submitted the following issues[27] for the Court's decision:

> Whether or not petitioner is entitled to the issuance of TCC in the total amount of ₱62,660,776.00 pertaining to its excess or unutilized CWTs for CY 2014.

Relevant jurisprudence and BIR Revenue Regulations provide that in order for a taxpayer to be entitled to a refund or an issuance of TCC for excess/unutilized CWT, petitioner must satisfy the following requisites:

1. The claim for refund must be filed within the two-year prescriptive period as provided under Sections 204(C) and 229 of the NIRC of 1997, as amended;

2. The fact of withholding must be 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 must be included in the return of the recipient.

---
[23] *Ibid.*, p. 263.
[24] *Ibid.*, pp. 415-426.
[25] *Ibid.*, pp. 427-447.
[26] *Ibid.*, p. 448.
[27] *Supra,* note 13.

h

Anent the first requisite, Sections 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, provide that the administrative and judicial remedy of filing a claim for refund of erroneously or excessively paid tax must be done within two years from the date of payment of the tax. In actions for refund of excess corporate income tax, the Supreme Court ruled that the two-year prescriptive period should be counted from the filing of the Final Adjustment Return because it is only during that date that the exact tax liability or refundability of the tax can be determined.[28]

The present claim covers CY 2014 for which petitioner filed its Annual ITR on April 1, 2015.[29] Counting two years from the said date, the last day for the filing of administrative and judicial claim for refund was on April 1, 2017. Hence, the administrative claim which was filed on March 14, 2017[30] and the Petition for Review which was filed on March 29, 2017 fell within the two-year prescriptive period. Clearly, petitioner satisfied the first requisite.

As 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 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." (Underlining supplied)

[28] *Commissioner of Internal Revenue vs. TMX Sales, Inc. and the Court of Tax Appeals*, G.R. No. 83736, January 15, 1992; *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et. al.*, G.R. No. 96322. December 20, 1991.

[29] *Supra*, note 7.

[30] Exhibit "P-9-2", Folder #2.

h

In compliance with the second requisite, petitioner submitted the Schedule of Creditable Taxes Withheld[31] for CY 2014, Summary[32] of CWT for CY 2014 supported by Original Certificate of CWT at Source issued by Payor in petitioner's name, and the related Certificates of CWT at Source (BIR Form No. 2307).[33] Upon verification of these documents, the ICPA provided a summary of petitioner's claimed creditable withholding taxes for CY 2014 in the amount of ₱62,660,775.96, detailed as follows:[34]

Exhibit No.	Particulars		Amount	
			Income Payments	**Equivalent CWT**
P-18	Per Schedule of Creditable Taxes Withheld for CY 2014	**(a)**	₱489,715,417.92	₱62,660,775.96
P-19	Per Summary of CWT for CY 2014 Supported by Original BIR Form No. 2307 in the Petitioner's Name and Included in the Alphalist stamped "Received" by BIR's Large Taxpayers Assistance Division.		₱497,307,679.71	₱62,520,568.77
P-26	Per Summary of Comparison of CWT for CY 2014 Supported by Original BIR Form No. 2307 in the Petitioner's Name with SAP CI - Printouts and Summaries of Income Payments with Tax Withheld per General Ledger for the CY 2014			
	Output VAT included as part of income payments per BIR Form No. 2307		(8,272,678.43)	- *
	Excess income payments per BIR Form No. 2307 over GL - not claimed by the Petitioner		(259,583.36)	(792.81)
		(b)	₱488,775,417.92	₱62,519,775.96
	Difference	**[(a)-(b)]**	**₱ 940,000.00**	**₱ 141,000.00**

** Equivalent CWTs amounting to ₱1,227,949.70 were included in petitioner's claim, which were actually withheld from output VAT included as part of income payments per BIR Form No. 2307.*

Per ICPA's Report, the difference in the amount of ₱141,000.00 pertains to CWTs supported by an original BIR Forms No. 2307 but not in petitioner's name,[35] thus, requiring a downward adjustment to the petitioner's claim.[36]

---

[31] Exhibit "P-18".
[32] Exhibit "P-19".
[33] Exhibits "P-19-1" to P-19-209", "P-20-1", "P-20-3", and "P-20-4".
[34] Exhibit "P-15", p. 8, No. 6.
[35] Exhibit "P-20".
[36] Exhibit "P-15", p. 9, No. 6.

Upon further examination, income tax withheld amounting to ₱133,210.32 in CY 2014 shall be disallowed on petitioner's claim for the reasons stated as follows:

Exhibit Reference	Period Covered	Name of Payor	Amount of Income Payment	Amount of Taxes Withheld
I. Dated outside the period of claim				
Rental Income				
P-19-42	12/31/13	Liveit Investments Ltd. - Philippine ROHQ	₱ 414,642.87	₱ 20,732.14
Director's Fees				
P-19-123	12/1/13 to 12/31/13	BPI Globe Banko, Inc.	48,000.00	7,200.00
P-19-124	12/1/13 to 12/31/13	BPI Globe Banko, Inc.	96,000.00	14,400.00
P-19-125	12/1/13 to 12/31/13	BPI Globe Banko, Inc.	48,000.00	7,200.00
P-19-126	12/1/13 to 12/31/13	BPI Globe Banko, Inc.	36,000.00	5,400.00
Other Income				
P-19-166	12/17/13	Bank of the Philippine Islands	382,000.00	57,300.00
P-19-167	12/27/13	Bank of the Philippine Islands	31,168.79	698.18
P-19-172	12/1/13 to 12/31/13	Honda Cars Makati, Inc.	14,000.00	280.00
		SUBTOTAL	**₱1,069,811.66**	**₱113,210.32**
II. BIR Form No. 2307 not in petitioner's name				
P-19-147		Manila Peninsula Hotel, Inc.	₱ 200,000.00	₱ 20,000.00
		SUBTOTAL	**₱ 200,000.00**	**₱ 20,000.00**
TOTAL			**₱1,269,811.66**	**₱133,210.32**

Thus, petitioner was able to satisfy the second requirement and established the fact of withholding for CY 2014 but only in the amount of ₱62,386,565.64, as computed below:

Per Schedule of Creditable Taxes Withheld for CY 2014 (Exhibit P-18)	₱ 62,660,775.96
Less:	
1) Disallowances per ICPA	₱ 141,000.00
2) Disallowances per Court	133,210.32
Valid CWT certificates for the taxable year 2014	**₱62,386,565.64**

ζ

Anent the third requisite of proving that the income upon which the subject taxes were withheld was included and reported in its Annual ITR for CY 2014, petitioner presented its Schedule of Creditable Taxes Withheld for the CY 2014;[37] Summary of Certificate of Creditable Taxes Withheld at source supported by original Certificate of Creditable Tax Withheld at Source issued by Payor in petitioner's Name for the CY 2014;[38] Summaries[39] of Rental Income, Directors' Fees, Other Income, Proceeds from Sale of Land and Miscellaneous Taxable Interest Income for the CY 2014, and the corresponding General Ledgers (GLs)[40] for the CY 2014; Summary[41] of Comparison of Summary of Creditable Taxes Withheld at Source supported by original certificate of creditable tax withheld at source issued by Payor in petitioner's name with SAP Customer Invoice (CI)-Printouts and Summaries of Income Payments with Tax Withheld per GL for the CY 2014; SAP CI-Printouts;[42] Summary[43] of Comparison of Payors' Name and Amount of Income Payment Between Summaries of Rental Income, Directors' Fees, Other Income, Proceeds from Sale of Land and Miscellaneous Taxable Interest Income and petitioner's official receipts (ORs) and bank credit memo (BCM); ORs;[44] BCM;[45] and, Schedule of Computation of Taxable Income for the CY 2014.[46]

The ICPA determined that the amounts of Rental Income, Directors' Fees, Other Income, Proceeds from Sale of Land, and Miscellaneous Taxable Interest Income per Summaries agree with the corresponding GL accounts for the CY 2014, to wit:[47]

Particulars	Exhibit No.	Per General Ledger	Per Summary of Income Payments (Exhibit No. P-21 to P-25)	
			Other transactions*	Per Summary of Income Payments

[37] Exhibit "P-18".
[38] Exhibit "P-19".
[39] Exhibits "P-21", "P-22", "P-23", "P-24", and "P- 25".
[40] Exhibits "P-21-1", "P-22-1", "P-23-1", "P-24-1", and "P- 25-1".
[41] Exhibit "P-26".
[42] Exhibits "P-26-1" to "P-26-9"
[43] Exhibit "P-27".
[44] Exhibits "P-27-1" to "P-27-258", "P-27-260", "P-27-264" to "P-27-270", "P-27-272", "P-27-276" to "P-27-282", "P-27-284", and "P-27-286".
[45] Exhibits "P-27-289" to "P-27-291".
[46] Exhibit "P-28".
[47] Exhibit "P-15", p. 10, letter b.

l

				with Tax Withheld
Rental Income	P-21-1	₱ 115,807,647.88	₱ 150,000.95	₱ 115,657,646.93
Directors' Fees	P-22-1	42,617,839.44	9,140,000.00	33,477,839.44
Other income	P-23-1	384,539,058.27	46,434,054.96	338,105,003.31
Proceeds from sale of land	P-24-1	3,935,746.14	3,578,603.28	357,142.86
Miscellaneous taxable interest income	P-25-1	1,288,984.79	111,199.41	1,177,785.38
Total		**₱548,189,276.52**	**₱ 59,413,858.60**	**₱488,775,417.92**

**Income payments not related to the Petitioner's claim.*

Further, the amounts of Rental Income, Directors' Fees, Other Income, Proceeds from Sale of Land, and Miscellaneous Taxable Interest Income accounts per GL of the CY 2014 was accordingly traced to those reflected in the petitioner-prepared Schedule of Computation of Taxable Income for CY 2014, except for some rounding-off differences, as follows:[48]

Particulars	Exhibit No.	Per General Ledger	Per Schedule of Computation of Taxable Income (Financial Income) (Exhibit No. P-28)	Rounding-off differences
Rental income	**P-21-1**	₱ 115,807,647.88	₱ 115,807,649.00	₱ (1.12)
Directors' fees	**P-22-1**	42,617,839.44	42,617,839.00	0.44
Other income	**P-23-1**	384,539,058.27	384,539,058.00	0.27
Proceeds from sale of land	**P-24-1**	3,935,746.14	3,935,746.00	0.14
Miscellaneous taxable interest income	**P-25-1**	1,288,984.79	1,288,984.79	-
Total		**₱548,189,276.52**	**₱548,189,276.79**	**₱ (0.27)**

Moreover, the amount of gross revenue account reflected in the taxable income column of the petitioner-prepared Schedule of Computation of Taxable Income for the CY 2014[49] tally with the total amounts of Sales/Revenues/Fees, and Non-Operating and Other Income accounts reflected in the Annual ITR[50] for the CY 2014 duly stamped "Received" by the BIR as follows:[51]

	Amount
Gross revenue reflected in the taxable income column per Schedule of Computation of Taxable Income	₱1,212,600,456.00
Gross revenue reflected in the Annual Income Tax Return	1,212,600,456.00

[48] Exhibit "P-15", p. 12, letter e.
[49] Exhibit "P-28".
[50] *Supra.* Note 7.
[51] Exhibit "P-15", p. 12, letter f.

C

duly stamped "Received" by the BIR	
Difference	**₱ -**

Based on the foregoing, and in compliance with the third requisite, petitioner was able to prove that the income payments of ₱487,505,606.26[52], with corresponding CWT of ₱62,386,565.64, formed part of the income declared in its Annual ITR for CY 2014.

Notwithstanding compliance with the aforesaid conditions, there is a need to determine whether the aforesaid CWT of ₱62,386,565.64 are unutilized and may be the proper subject of a claim for issuance of a TCC pursuant to Section 76 of the NIRC of 1997, as amended, which reads:

> "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."

[52] ₱488,775,417.92 less ₱1,269,811.66.

ℓ

Based on Section 76, in case of overpayment of income taxes, a taxable corporation has two options, it may file a claim for refund, either in the form of cash or TCC, or it may carry over the same to the succeeding taxable quarters/years until it is fully utilized. However, once the carry-over option is taken, actually or constructively it becomes irrevocable for that taxable period.[53] 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.[54]

In exercising its option, the 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 ease the administration of tax collection, these remedies are in the alternative and the choice of one precludes the other.[55]

A scrutiny of petitioner's Annual ITR[56] for CY 2014 shows that petitioner had total tax credits in the amount of ₱95,956,459.00 consisting of the (i) prior year's excess tax credits in the amount of ₱33,295,683.00, and (ii) CWT accumulated during the four (4) quarters of CY 2014 in the aggregate amount of ₱62,660,776.00, as follows:

Prior Year's Excess Credits Other Than MCIT		₱ 33,295,683.00
CWT for CY 2014		
CWT from Previous Quarter/s per BIR Form No. 2307	₱26,226,649.00	
CWT per BIR Form No. 2307 for the 4th Quarter	36,434,127.00	62,660,776.00
Total Tax Credits		**₱95,956,459.00**

[53] *Philam Asset Management, Inc., vs. Commissioner of Internal Revenue,* G.R. Nos. 156637/162004, December 14, 2005; *Systra Philippines, Inc., vs. Commissioner of Internal Revenue,* G.R. No. 176290, September 21, 2007.
[54] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands,* G.R. No. 178490, July 7, 2009.
[55] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.,* G.R. No. 112024, January 28, 1999.
[56] *Supra,* note 7.

C

Petitioner claims that its minimum corporate income tax (MCIT) due for CY 2014 in the amount of ₱17,694,834.00[57] was paid using a portion of its prior year's excess credits of ₱33,295,683.00. This leaves the prior year's excess tax credits in the amount of ₱15,600,849.00 and creditable taxes withheld during the CY 2014 in the amount of ₱62,660,776.00 totaling ₱78,261,625.00 unutilized as of December 31, 2014, as shown below:

Prior Year's Excess Credits other than MCIT	₱33,295,683.00
Less: Income Tax Due (MCIT)	17,694,834.00
Balance of Prior Year's Excess Credits	₱ 15,600,849.00
Add: Creditable Taxes Withheld - CY 2014	62,660,776.00
Excess Creditable Taxes Withheld as of December 31, 2014	**₱78,261,625.00**

Further, petitioner opted for the issuance of a TCC for its CWTs for the CY 2014 by marking the box corresponding to the option "To be issued a Tax Credit Certificate (TCC)"[58] and as evidenced by petitioner's Annual[59] ITR and Quarterly[60] ITRs for CY 2014, only the prior year's excess credits of ₱15,600,849.00 were carried over. Clearly the claimed CWTs for CY 2014 amounting to ₱62,660,776.00 were not carried over to the succeeding quarters or taxable year. Thus, the substantiated CWTs for CY 2014 in the amount of ₱62,386,565.64 may be refunded pursuant to Section 76 of the NIRC of 1997, as amended.

Records, however, reveal that petitioner failed to prove that it has sufficient prior year's excess tax credits upon which the income tax due for the CY 2014 may be applied.

As illustrated below, the prior year's excess credits reported in petitioner's 2014 Annual ITR, originated from the CWTs for the years 2005 to 2007:

Exhibit	**Taxable Year**	**Prior Year's Excess Credits**	***MCIT due***	**(Income Tax Still Due)/ Balance of Prior Year's Excess Credits**	**CWT for the year**	**EWT at the End of the Year**

[57] Exhibit "P-7-1", Lines 16 and 44, Folder #1.
[58] Exhibit "P-7-1", Line 21, Folder #1.
[59] Exhibit "P-8-3", Folder #1.
[60] Exhibits "P-8-7", "P-8-11", and "P-8-13", Line 31A, Folder #1.

L

		(a)	(b)	(c) = (a) less (b)	(d)	(e) = (c) + (d)
P-3-4	2005	₱ 14,080,672.00	₱ 5,612,835.72	₱ 8,467,836.28		₱ 8,467,836.28
P-16-1	2006	8,467,836.28	9,478,115.96	(1,010,279.68)	₱ 34,133,265.00	33,122,985.32
P-16-2	2007	33,122,985.32	10,269,099.44	22,853,885.88	33,769,015.00	56,622,900.88
P-16-3	2008	56,622,900.88	8,908,985.78	47,713,915.10		47,713,915.10
P-16-4	2009	47,713,915.10	11,306,546.70	36,407,368.40		36,407,368.40
P-16-5	2010	36,407,368.40	11,879,600.62	24,527,767.78		24,527,767.78
P-4-4	2011	24,527,767.78	7,222,902.33	17,304,865.45	39,557,207.66*	56,862,073.11
P-5-1	2012	56,862,073.11	15,519,554.22	41,342,518.89		41,342,518.89
P-6-1	2013	41,342,518.89	8,046,836.00	33,295,682.89		33,295,682.89

under 'Other Credits', described as "2005** CWTs not allowed for issuance of TCC by the CTA" per CTA Decision in CTA Case No. 7754.*[61]

Note that the total accumulated CWT for each of the CYs 2008 to 2013 were not presented as tax credits against the petitioner's income tax liabilities (MCIT due) in those years nor carried over to the 2014 Annual ITR since these pertain to petitioner's previous claims for issuance of TCC with this Court.

To substantiate the CWTs from prior years, petitioner submitted in evidence various Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307)[62] but pertaining to CY 2005 only. Petitioner was able to substantiate the amount of ₱37,092,759.16 CWTs for CY 2005, as follows:

Summary of CWTs supported by original Certificate of Creditable Tax Withheld at Source (BIR Form 2307) issued by the payor in the petitioner's name and stamped "received" by the BIR's Large Taxpayers Assistance Division for the CY 2015[63]			₱ 39,358,887.04
Less: Exceptions (Denied Exhibits for not being found in the records/not supported by BIR Form No. 2307)			
Exhibit No.	Payor	Amount of Taxes Withheld	
P-30-4	Honda Cars Alabang	₱644,720.91	
P-30-8	Honda Cars Pasig (A Branch of Honda Cars Makati, Inc.)	540,258.53	
P-30-12	Honda Cars Makati, Inc.	581,275.05	
P-30-14	Isuzu Automotive Dealership, Inc. - Isuzu Alabang	192.96	
P-30-17	Isuzu Automotive Dealership, Inc. - Isuzu Alabang	62,427.25	
P-30-18	Isuzu Automotive Dealership, Inc. - Isuzu Alabang	77,155.04	
P-30-19	Isuzu Automotive Dealership, Inc. -	81,674.18	

[61] Exhibit "P-4-4", Line 33 O/P, 2011 Annual ITR filed on August 24, 2012, Folder #1.
[62] Exhibits "P-30-1" to "P-30-54".
[63] Exhibit "P-30".

	Isuzu Alabang		
P-30-20	Isuzu Automotive Dealership, Inc. - Isuzu Alabang	55,589.01	
P-30-22	Isuzu Automotive Dealership, Inc. - Isuzu Alabang	49,045.11	
	Sonoma Services, Inc.	313.94	
	Sonoma Services, Inc.	173,475.90	2,266,127.88
Valid CWTs for CY 2005			**₱37,092,759.16**

However, the same is not sufficient to cover the total taxes due for the years 2005 to 2013, as shown below:

Valid CWTs for CY 2005		₱ 37,092,759.16
Less: MCIT Due		
CY 2005	₱ 5,612,835.72	
CY 2006	9,478,115.96	
CY 2007	10,269,099.44	
CY 2008	8,908,985.78	
CY 2009	11,306,546.70	
CY 2010	11,879,600.62	
CY 2011	7,222,902.33	
CY 2012	15,519,554.22	
CY 2013	8,046,836.00	88,244,476.77
Tax Still Due		**₱ (51,151,717.61)**

Hence, a portion of the substantiated CWT in the amount of ₱62,386,565.64 for the CY 2014 shall be applied against the income tax liability of ₱17,694,834.00[64] for the CY 2014. Consequently, petitioner's refundable excess CWTs for CY 2014 amount only to ₱44,691,731.64, computed as follows:

Substantiated CWTs	₱ 62,386,565.64
Less: Income Tax Due CY 2014	17,694,834.00
Refundable excess CWTs	**₱44,691,731.64**

WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to issue a tax credit certificate in favor of petitioner in the reduced amount of ₱44,691,731.64, representing petitioner's excess and unutilized creditable withholding taxes for calendar year 2014.

[64] Exhibit "P-7-1", Line 16, Folder #1.

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest 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 Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's attestation, 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 Division.

ROMAN G. DEL ROSARIO
Presiding Justice