REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

FORT PILAR ENERGY, INC.,
Petitioner,

CTA CASE NO. 11064

Members:

- versus -

RINGPIS-LIBAN, *P.J.,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

9 3:0 p.m.

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DECISION

***FERRER-FLORES, J.*:**

The **Petition for Review** filed on January 5, 2023 prays for refund in the aggregate amount of **₱21,600,000.00** allegedly representing petitioner's erroneously or wrongfully collected documentary stamp tax (DST).[1]

THE PARTIES

Petitioner **Fort Pilar Energy, Inc.** is a domestic corporation organized and existing under and by virtue of Philippine laws, duly registered with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 43, and with principal office at Suite 2402, Discovery Center, 25 ADB Avenue, Ortigas Center, Pasig City.[2]

Respondent is the duly-appointed **Commissioner of Internal Revenue**, vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of his office, including the authority

[1] Summary of the Case, Pre-Trial Order dated July 14, 2023, Docket, p. 178.
[2] Par. 2.a., *Joint Stipulation of Facts and Issues* (JSFI), Docket, p. 164.

to refund and/or credit taxes under Section 204 of the National Internal Revenue Code (NIRC) of 1997, as amended.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On December 22, 2020, petitioner executed a Promissory Note,[4] for loan obligation with the Bank of Commerce (BankCom), in the total amount of ₱2,880,000,000.00. On the same day, the loan proceeds were apparently released and deposited in petitioner's BankCom bank account in the amount of ₱2,858,400,000.00.[5]

Thereafter, on January 5, 2021, petitioner paid DST amounting to ₱21,600,000.00 through check payment at United Coconut Planters Bank (UCPB) – Ortigas Branch,[6] involving the loan taken with BankCom.

On January 4, 2023, petitioner filed an administrative claim for refund with the BIR,[7] requesting for the refund or issuance of a tax credit certificate for the amount of ₱21,600,000.00, allegedly representing erroneously paid DST, as the DST due had been deducted by BankCom from petitioner's loan proceeds and remitted to the BIR *via* online electronic DST (eDST) system on January 5, 2021.

PROCEEDINGS BEFORE THIS COURT

As earlier stated, on January 5, 2023, petitioner filed the present *Petition for Review*.[8]

On March 14, 2023, respondent filed his *Answer*.[9]

The Pre-Trial Conference was set and held on May 4, 2023,[10] wherein respondent was given until May 24, 2023, either to submit the BIR Records or to make a manifestation on the same. Prior thereto, *Respondent's Pre-Trial Brief* was filed on April 24, 2023,[11] while the petitioner's *Pre-Trial Brief* was submitted on April 28, 2023.[12]

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3 Par. 2.b., JSFI, Docket, pp. 164 to 165.
4 Exhibit "P-4", Docket, pp. 108 to 109.
5 Exhibits "P-4-A" and "P-5", Docket, pp. 110 to 113.
6 Exhibit "P-6", Docket, pp. 117 to 119.
7 Exhibit "P-3-A", Docket, pp. 106 to 107.
8 Docket, pp. 7 to 26.
9 Docket, pp. 137 to 140.
10 Notice of Pre-Trial Conference dated March 20, 2023, Docket, pp. 141 to 142; Minutes of the hearing held on, and Order dated, May 4, 2023, Docket, pp. 159 to 161.
11 Docket, pp. 143 to 145.
12 Docket, pp. 146 to 154.

Respondent then filed his *Manifestation* on May 22, 2023,[13] stating that he will not be presenting witness/es and evidence in relation to this case.

On June 2, 2023, the parties submitted their *Joint Stipulation of Facts and Issues*,[14] which was admitted and approved by the Court in its Resolution dated June 21, 2023,[15] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated July 14, 2023 was then issued.[16]

As trial ensued, petitioner offered the testimonies of the following individuals, namely: (1) Ms. Patricia Ann Bulawit,[17] Accountant from GSE Managed Solutions Inc., Certified Public Accountant in-charge of handling its tax compliances; and, (2) Mr. Romeo R. Navarro,[18] BankCom's Department Head of the Central Liability and Custodianship Department.

At the hearing held on September 19, 2023, respondent again manifested that he has no witness to be presented in this case.[19]

On October 9, 2023, petitioner filed its *Formal Offer of Evidence*,[20] to which respondent filed his *Comment on the Formal Offer of Evidence of Petitioner* on October 24, 2023.[21] In the Resolution dated December 20, 2023,[22] the Court admitted petitioner's offered exhibits, *except* the following: (1) Exhibits "P-1", "P-2" and "P-2-A", for not being found in the records and for failure to identify; (2) Exhibits "P-3" and "P-3-B", for failure to submit the duly marked exhibits; (3) Exhibits "P-5-A" and "P-5-B", for failure to identify; and, (4) Exhibit "P-7", for failure to correspond with the document actually marked.

Thereafter, on January 22, 2024, petitioner filed its *Omnibus Motion (Re: Resolution dated 20 December 2023)*.[23] Respondent, however, failed to file his comment thereto.[24] In the Resolution dated May 14, 2024,[25] the Court granted petitioner's *Omnibus Motion*, admitted petitioner's Exhibits "P-3" and "P-3-B", and held that the marking of Exhibit "P-7" on BIR Form

[13] Docket, pp. 162 to 163.
[14] Docket, pp. 164 to 166.
[15] Docket, p. 176.
[16] Docket, pp. 178 to 181.
[17] Exhibit "P-9", Docket, pp. 121 to 130; Minutes of the hearing held on, and Order dated, September 19, 2023, Docket, pp. 214 to 215.
[18] Exhibit "P-13", Docket, pp. 194 to 202; Minutes of the hearing held on, and Order dated, September 19, 2023, Docket, pp. 214 to 215.
[19] Minutes of the hearing held on September 19, 2023, Docket, p. 214 (cf: Order dated September 19, 2023, Docket, p. 215).
[20] Docket, pp. 219 to 225.
[21] Docket, pp. 226 to 227.
[22] Docket, pp. 229 to 230.
[23] Docket, pp. 231 to 237.
[24] Records Verification dated March 12, 2024, issued by the Judicial Records Division of this Court, Docket, p. 246.
[25] Docket, pp. 248 to 250.

2000 is deemed cancelled and the said document shall form part of the marking of Exhibit "P-6".

Petitioner filed *via* accredited courier its *Memorandum* on November 4, 2024.[26] Respondent, however, failed to file his memorandum.[27]

The present case was submitted for decision on January 7, 2025.[28]

THE STIPULATED ISSUE

As stipulated by the parties, the issue for this Court's resolution is:

> Whether or not petitioner is entitled to a refund of the alleged erroneously paid and collected DST in the amount of ₱21,600,000.00.[29]

Petitioner's arguments

Petitioner argues that the administrative claim for tax credit was timely filed; and that, the recovery of erroneously paid taxes is clearly provided for under Section 229 of the NIRC of 1997, as amended.

Respondent's counter-arguments

Respondent, in his *Answer*, contends that petitioner's claim has no basis since no valid request for refund with the BIR was applied for and therefore, the *Petition for Review* filed with this Court is premature for failure to exhaust petitioner's administrative remedies. Respondent points out that Annex 'E' of the *Petition for Review* shows that there was only one withdrawal for January 5, 2021 amounting to ₱21,600,000.00 as reflected on the bank statement. Hence, there was only one payment that was made on the said date and not two different transactions as alleged by the petitioner, thus, there was no erroneous payment of DST to speak of.

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[26] Docket, pp. 263 to 276.
[27] Records Verification dated November 26, 2024, issued by the Judicial Records Division of this Court, Docket, p. 278.
[28] Minute Resolution dated January 7, 2025, Docket, p. 279.
[29] Par. 3.a, JSFI, Docket, p. 165.

THE COURT'S RULING

The present *Petition for Review* is meritorious.

Governing provisions for refund claims.

Sections 204(C) and 229 of the NIRC of 1997, as amended, read:

> 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 <u>in writing</u> 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. *(Emphasis and underscoring added)*
>
> xxx xxx xxx
>
> 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 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. *(Emphases added)*

The aforequoted provisions are clear: within two years from the date of payment of tax, the claimant must first file an administrative claim with respondent before filing its judicial claim with the courts of law. Both claims must be filed within a two-year reglementary period. Timeliness of the filing of the claim is mandatory and jurisdictional, and thus, the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time. It is worthy to stress that as for the judicial claim, tax law even explicitly provides that it be filed within two years from payment of the tax "regardless of any supervening cause that may arise after payment."[30]

Moreover, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which is some other similar aspect is illegal.[31] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively or in any manner wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[32]

Thus, for the present claim for refund to prosper, petitioner must not only establish that it has timely filed its refund claim, it must likewise prove that the subject DST was erroneously or illegally paid.

Petitioner complied with the two-year prescriptive period under the law.

Respondent contends that, in contrary to petitioner's allegation that it filed its administrative claim for tax credit or refund on March 21, 2022, a perusal thereof, would reveal that the document was not received by RDO No. 43 or any of the BIR offices. Respondent further insists that petitioner even admitted that it did not file BIR Form No. 1914 (Application for Tax Credits/Refunds), which is a material form in all applications for tax credits and/or refunds. Hence, respondent claims that petitioner has no valid request for refund with the BIR, and the *Petition for Review* filed with this Court is premature for failure to exhaust petitioner's administrative remedies.

Respondent also asserts that in paragraph 4.12 of the *Petition for Review*, petitioner alleges that it refiled its administrative claim for tax credit or refund on January 4, 2023, just one day before filing this *Petition for Review*. Even after the alleged refiling, respondent avers that a perusal of

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30 *Commissioner of Internal Revenue vs. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.

31 *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.

32 *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

the *Petition for Review* discloses that petitioner still did not file BIR Form No. 1914 (Application for Tax Credit/Refund).

On the other hand, petitioner avers that the two-year prescriptive period for claiming a tax credit or refund on the erroneously paid DST expired on January 5, 2023. Thus, petitioner argues that it has complied with the requirement when it filed its administrative claim on June 30, 2022, then again on January 4, 2023.

The Court agrees with petitioner.

A claimant must first file a written claim for refund, categorically demanding recovery of erroneously or illegally paid taxes with the respondent within two years from the payment of the tax.

In *Commissioner of Internal Revenue vs. Acosta*,[33] the Supreme Court emphasized that a written claim for refund must first be filed with respondent before resorting to court action, to wit:

> In our view, the law is clear. **A claimant must first file a written claim for refund, categorically demanding recovery of overpaid taxes with the CIR, before resorting to an action in court.** This obviously is intended, first, to afford the CIR an opportunity to correct the action of subordinate officers; and second, to notify the government that such taxes have been questioned, and the notice should then be borne in mind in estimating the revenue available for expenditure. *(Emphasis added)*

Apropos, before a party is allowed to seek the intervention of the courts, it is a pre-condition that he/she avail of all administrative processes afforded him/her, such that if a remedy within the administrative machinery can be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his/her jurisdiction, then such remedy must be exhausted first before the court's power of judicial review can be sought, otherwise, the premature resort to the court is fatal to one's cause of action.[34]

At the outset, it appears that petitioner wrote a letter dated March 21, 2022 to the BIR RDO No. 43,[35] claiming for a refund or tax credit of erroneously paid DST, which was allegedly filed with the BIR on June 30, 2022.[36] As noted by respondent and admitted by petitioner's witness, Ms.

[33] G.R. No. 154068, August 3, 2007.
[34] *Commissioner of Internal Revenue vs. Court of Tax Appeals (Second Division), et al.*, G.R. No. 207843, July 15, 2015.
[35] Exhibit "P-3", Docket, pp. 239 to 240.
[36] Q&A No. 27, Exhibit "P-9", Docket, p. 126.

Patricia Ann Bulawit, [37] however, the same does not bear any stamped received by the BIR. Hence, the same lacks probative value as it does not prove the fact of filing of petitioner's administrative claim for refund with the BIR on said date.

It is worthy to note that the administrative claim referred under Sections 204(C) and 229 of the NIRC of 1997, as amended, refers to any written claim for refund filed with respondent or his duly authorized representative; and that, the administrative claim need not be in the form of an BIR Form No. 1914 (Application for Tax Credits/Refunds). Hence, petitioner's written claim for refund with stamped received by the BIR on January 4, 2023,[38] complies with the requirement that a claimant must first file a written claim for refund.

Even granting that an BIR Form No. 1914 (Application for Tax Credits/Refunds) is required for a claim for tax refund or credit to prosper, a reading of petitioner's administrative claim for refund shows that one of the supporting documents attached thereto is actually a BIR Form No. 1914 (Application for Tax Credits/Refunds), referred therein as Annex "F",[39] which petitioner likewise presented in evidence although with no stamped received by the BIR.[40]

In this case, petitioner paid or remitted the DST on January 5, 2021 to the BIR.[41] Correspondingly, the two-year prescriptive period to file both the administrative and judicial claims for refund under the aforequoted Sections 204(C) and 229 of the NIRC of 1997, as amended, ends on January 5, 2023.

Petitioner's administrative claim for refund was filed on January 4, 2023 before respondent,[42] and the judicial claim for refund filed before this Court on January 5, 2023.[43] Thus, both administrative and judicial claims fell within the two-year prescriptive period.

Correspondingly, petitioner timely filed its administrative and judicial claims.

Respondent, however, insists that petitioner is in bad faith for allegedly filing an administrative claim with the BIR one day before its

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[37] Transcript of Stenographic Notes (TSN) taken during the hearing held on September 19, 2023, pp. 5 to 6.
[38] Exhibit "P-3-A", Docket, pp. 106 to 107.
[39] Exhibit "P-3-A", Docket, at p. 107.
[40] Exhibit "P-3-B", Docket, p. 241.
[41] Exhibit "P-6", Docket, pp. 117 to 119.
[42] Exhibit "P-3-A", Docket, pp. 106 to 107.
[43] Docket, pp. 7 to 26.

claim for refund prescribed, thus, petitioner prohibited the respondent to make an assessment and/or audit investigation on its claim.

The Court disagrees with respondent.

In *Commissioner of Internal Revenue vs. Estate of Mr. Charles Marvin Romig, Represented by its Sole Heir Mrs. Maricel Narciso Romig* (*Romig* case),[44] the Supreme Court ruled as follows:

> Sections 204 and 229 of the 1997 NIRC provide for the refund of erroneously or illegally collected taxes. **Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.** Said provisions state:
>
> xxx xxx xxx
>
> Based on the above-quoted provisions, it is manifestly clear that an administrative claim for refund must precede the filing of a judicial claim and that both claims must be filed within the two years from the payment of the tax. **In the instant case, the two-year period to file a claim for refund is reckoned from June 30, 2015, the date respondent paid the estate tax amounting to PHP 4,565,439.07. <u>Since the Estate first filed its administrative claim at 8:00 a.m. on June 28, 2017, and thereafter its judicial claim at 4:47 p.m. on even date, both claims were filed on time or within the two-year prescriptive period provided by law</u>.**
>
> **<u>It is of no moment that there is only a short interval between the filing of the two claims</u>. The law merely requires that both claims are filed within the two-year period.** In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*,[45] where therein petitioner similarly argued that the judicial claim for refund, which was filed barely 10 days from the filing of the administrative claim, was premature and violative of the doctrine of exhaustion of administrative remedies, this Court held that, 'from the plain language of the law, it does not matter how far apart the administrative and judicial claims were filed, or whether the [CIR] was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.'
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> Moreover, the Court agrees with the finding of the CTA Second Division and CTA *En Banc* that the Estate's immediate resort to court action was justified, considering that the prescriptive period was about to expire. Under the circumstances, if the Estate had waited for the CIR to act on its administrative claim knowing fully well that the two-year period was about to lapse, it would have resultantly forfeited its right to seek judicial recourse, thereby suffering irreparable damage. Hence, respondent cannot be faulted for acting in such a manner to protect its interest and right to recover the taxes it erroneously paid to the government.

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[44] G.R. No. 262092, October 9, 2024.
[45] G.R. No. 226592, July 27, 2021.

> **While the Court recognizes that the CIR may not have had the proper chance to act on the matter within their jurisdiction because of the short period of time between the filing of the two claims, the silence or insufficiency in the law on what is to be considered a reasonable period for the CIR to resolve a claim for refund of taxes is one that can be addressed not by judicial pronouncement, but by appropriate legislation.** *(Emphases and underscoring added)*

The foregoing jurisprudential pronouncements confirm that the law merely requires that both claims are filed within the two-year reglementary period. So long as the said claims are lodged within such period, the judicial claim may, thus, be taken cognizance of by this Court. This holds true even when the filing of the administrative claim and subsequently, the judicial claim, are merely hours apart, such as in the *Romig* case.

As already noted, the subject DST was paid or remitted on January 5, 2021.[46] Considering that the administrative and judicial claims for refund of petitioner were filed on January 4, 2023[47] and January 5, 2023,[48] respectively, petitioner correctly and timely sought judicial redress within the two-year prescriptive period, since the same is about to expire, notwithstanding that its administrative and judicial claims were filed only one day apart. Thus, petitioner cannot be considered to have failed to exhaust administrative remedies before elevating the present case to this Court.

The alleged erroneous DST payment was proven by petitioner.

In the present case, the erroneous payment of DST amounting to ₱21,600,000.00 supposedly arose from the double payment made by petitioner upon its loan with BankCom.

Section 173 of the NIRC of 1997, as amended, provides that loan agreements are subject to DST, to wit:

> SEC. 173. *Stamp Taxes Upon Documents, Loan Agreements, Instruments and Papers.* – Upon documents, instruments, **loan agreements** and papers, and upon acceptances, assignments, sales and transfers of the obligation, right or property incident thereto, **there shall be levied, collected and paid for, and in respect of the transaction so had or accomplished, the corresponding documentary stamp taxes** prescribed in the following Sections of this Title, by the person making, signing, issuing, accepting, or transferring the same wherever the document is made, signed, issued, accepted or transferred **when the**

[46] Exhibit "P-6", Docket, pp. 117 to 119.
[47] Exhibit "P-3-A", Docket, pp. 106 to 107.
[48] Docket, pp. 7 to 26.

> **obligation or right arises from Philippine sources** or the property is situated in the Philippines, and the same time such act is done or transaction had: *Provided*, That whenever one party to the taxable document enjoys exemption from the tax herein imposed, the other party who is not exempt shall be the one directly liable for the tax. *(Emphases added)*

In relation thereto, Section 179 of the NIRC of 1997, as amended, provides for the rate of DST on debt instruments, as follows:

> SEC. 179. *Stamp Tax on All Debt Instruments.* — **On every original issue of debt instruments, there shall be collected a documentary stamp tax of One peso and fifty centavos (P1.50) on each Two hundred pesos (P200), or fractional part thereof, of the issue price of any such debt instruments**: *Provided*, That for such debt instruments with terms of less than one (1) year, the documentary stamp tax to be collected shall be of a proportional amount in accordance with the ratio of its term in number of days to three hundred sixty-five (365) days: *Provided, further*, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan.
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> For purposes of this section, the term debt instrument shall mean instruments representing borrowing and lending transactions including but not limited to debentures, certificates of indebtedness, due bills, bonds, loan agreements, including those signed abroad wherein the object of contract is located or used in the Philippines, instruments and securities issued by the government or any of its instrumentalities, deposit substitute debt instruments, certificates or other evidences of deposits that are either drawing interest significantly higher than the regular savings deposit taking into consideration the size of the deposit and the risks involved or drawing interest and having a specific maturity date, orders for payment of any sum of money otherwise than at sight or on demand, promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation. (*Emphasis added*)

DST is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale or transfer of an obligation, right or property incident thereto. **DST is actually an excise tax because it is imposed on the transaction rather on the document.**[49] Thus, the presence of a transaction determines whether the DST should be imposed under the foregoing provision.

In relation thereto, the DST return shall be filed and the tax paid within five days after the close of the month when the taxable document was made, signed, issued, accepted, or transferred.[50]

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[49] *Commissioner of Internal Revenue vs. First Express Pawnshop Company, Inc.*, G.R. Nos. 172045-46, June 16, 2009.

[50] Section 5 of Revenue Regulations No. 6-2001 (SUBJECT: Amending Pertinent Provisions of Revenue Regulations Nos. 1-98, 2-98, as Amended, and 7-95, as Amended, and Revenue Memorandum Circular No. 1-98 Relative to the Inclusion of Additional Taxpayers to be Subject to Final Withholding

As can be seen from Promissory Note No. 910-60-113329-2 dated December 22, 2020, [51] petitioner obtained a loan amounting to ₱2,880,000,000.00 from BankCom, thus, DST should be imposed in the amount of ₱21,600,000.00 (₱2,880,000,000.00 / ₱200.00 x ₱1.50) payable on or before January 5, 2021.

To support that the subject DST were remitted and paid to BIR twice, petitioner presented the following documentary evidence:

1. Disclosure Statement dated December 22, 2020;[52]
2. BankCom passbook with Saving Account No. xxx-xx-xxx015-1 PHP;[53]
3. BTR-BIR Deposit Slip dated January 5, 2021 and Monthly Documentary Stamp Tax Declaration/Return (BIR Form No. 2000) for December 2020, stamped received by UCPB – Ortigas Branch on January 5, 2021;[54]
4. BankCom's eDST Transactions Report from 01-05-2021 to 01-05-2021 with Utilize DST Confirmation;[55]
5. Loan/Trade Instruction Sheet dated December 22, 2020 issued by BankCom;[56]
6. Consumer Loans Operations Department's Documentary Stamp Tax Report as of December 31, 2020;[57] and,
7. Certification issued by BankCom dated August 7, 2023,[58] stating that petitioner remitted to BankCom the amount of ₱21,600,000.00 as DST for Promissory Note No. 910-60-113329-2.

Upon a cursory examination of the said Disclosure Statement, the net proceeds from the loan is ₱2,858,400,000.00 and the amount deducted as DST is ₱21,600,000.00, to wit:

1. LOAN GRANTED (Amount to be financed)	₱2,880,000,000.00
...	
3. NON-FINANCE CHARGES	
...	
c. Documentary/Science Stamps	21,600,000.00
...	

Tax, Revision of the Withholding Tax Rates on Certain Income Payments Subject to Creditable Withholding Tax, Time for the Filing of Various Tax Returns and Payment of the Taxes Due Thereon and Others).

[51] Exhibit "P-4", Docket, pp. 108 to 109.
[52] Exhibit "P-4-A", Docket, pp. 110 to 111.
[53] Exhibit "P-5", Docket, pp. 112 to 113.
[54] Exhibit "P-6", Docket, pp. 117 to 119.
[55] Exhibit "P-7", Docket, pp. 256 to 258.
[56] Exhibit "P-10", Docket, p. 210.
[57] Exhibit "P-11", Docket, pp. 211 to 212.
[58] Exhibit "P-12", Docket, p. 213.

Total non-finance charges	₱ 21,600,000.00
4. TOTAL DEDUCTIONS FROM PROCEEDS OF LOAN	₱ 21,600,000.00
5. NET PROCEEDS OF LOAN	₱2,858,400,000.00

...

The net proceeds of the loan in the amount of ₱2,858,400,000.00 was then deposited to petitioner's BankCom bank account with Account Number xxx-xx-xxx015-1 on December 22, 2020.[59]

BankCom's eDST Transactions Report[60] shows that it remitted DST amounting to a total of ₱41,496,073.80, which includes DST amounting to ₱22,516,657.50 under Alphanumeric Tax Code (ATC) Code DS106.[61]

In relation thereto, the Documentary Stamp Tax Report as of December 31, 2020[62] issued by the Consumer Loans Operations Department of BankCom, shows that the total DST of ₱22,516,657.50 includes DST in the amount of ₱21,600,000.00 pertaining to the loan extended to petitioner in the amount of ₱2,880,000,000.00.

Also, during the examination of petitioner's witness, Mr. Navarro, he testified that only the net proceeds was credited to petitioner's bank account and that the DST due to petitioner was remitted to the BIR,[63] to wit:

Q: How much was the total loan?

A: It was 2 billion 880 million.

Q: Were you able to debit this full amount to the petitioner?

A: No, Sir. We credited only the proceeds of the loan deducted the documentary stamp tax.

Q: How much is that?

A: 2.6 something.

[59] Exhibit "P-5", Docket, at p. 113.
[60] Exhibit "P-7", Docket, pp. 242 to 244.
[61] DS106 is described as "Original Issue of All Debt Instruments"; Refer to Revenue Memorandum Order No. 9-2018 [SUBJECT: Creation and Modification of Alphanumeric Tax Code (ATC) of Selected Revenue Source under Republic Act (RA) No. 10963, Otherwise Known as Tax Reform for Acceleration and Inclusion (TRAIN) Act].
[62] Exhibit "P-11", Docket, pp. 211 to 212.
[63] TSN taken during the hearing held on September 19, 2023, pp. 17 to 18.

Q: How much was the DST?

A: 21.6 million.

Q: When were you able to debit this to the BIR?

A: It was remitted January 5 of 2021.

xxx xxx xxx

JUSTICE SAN PEDRO:
Re-direct?

ATTY. VIDAL:
You mentioned in your Judicial Affidavit that the DST amount is 2.6 million?

A: Yes

Q: Why is the DST Transaction Report marked "P-7", why does it state 22.5 million?

A: Because the other documentary stamp paid by other clients were computed under the Report.

Based on the foregoing, it is clear that BankCom deducted the DST amounting to ₱21,600,000.00 from petitioner's loan and remitted the same to the BIR on January 5, 2021.

On the other hand, petitioner presented the BTR-BIR Deposit Slip dated January 5, 2021 and Monthly Documentary Stamp Tax Declaration/Return (BIR Form No. 2000) for December 2020, stamped received by UCPB – Ortigas Branch on January 5, 2021[64] to prove that it also remitted and paid the DST due on its loan with BankCom in the amount of ₱21,600,000.00.

Considering that the foregoing documents were unrefuted by respondent, the inevitable conclusion is that there was indeed an erroneous or illegal paid DST, which, must, thus, be refunded.

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[64] Exhibit "P-6", Docket, pp. 117 to 119.

That no one shall unjustly enrich oneself at the expense of another is a long-standing principle prevailing in our legal system. This applies not only to individuals but to the State as well. In the field of taxation where the State exacts strict compliance upon its citizens, the State must likewise deal with taxpayers with fairness and honesty. The harsh power of taxation must be tempered with evenhandedness. Hence, under the principle of *solutio indebiti*, the Government has to restore to petitioner the sums representing erroneous payments of taxes.[65]

WHEREFORE, in light of the foregoing considerations, the present **Petition for Review** is **GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND** to petitioner in the aggregate amount of **₱21,600,000.00** representing the latter's erroneously or wrongfully collected DST on January 5, 2021.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[65] *Filinvest Development Corporation vs. Commissioner of Internal Revenue, et al.*, G.R. No. 146941, August 9, 2007.

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