Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PRHC PROPERTY MANAGERS, INC., Petitioner,	**CTA CASE NO. 8071** For: Refund of unutilized creditable withholding tax
-versus-	Present: **CASTAÑEDA, JR.**, Chairperson **CASANOVA**, and **MINDARO-GRULLA**, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 06 2012 10:15 a.m.

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DECISION

MINDARO-GRULLA, J.:

This is a Petition for Review filed on April 13, 2010 by PRHC Property Managers, Inc., as petitioner, against the Commissioner of Internal Revenue (CIR) as respondent, for the Court in Division, pursuant to Section 7 (a) (2) of Republic Act (RA) No. 1125, An Act Creating the Court of Tax Appeals, as amended[1], as well as Rule 4, Section 3 (a) (2), in

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1 Sec. 7. *Jurisdiction.* – The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
x x x x x x
(2) Inaction by 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,

relation to Rule 8, Section 4(a), of the Revised Rules of the Court of Tax Appeals (RRCTA)[2]. It involves a claim for refund of the amount of

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where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial;

x x x x x x

[2] Rule 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:

x x x x x x

(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided,* that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; P*rovided, further,* that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further,* that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;

x x x x x x

Rule 8. 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.

₱1,928,458.00, representing unutilized creditable withholding tax (CWT) for the taxable year ending December 31, 2007.

Petitioner PRHC Property Managers, Inc. is a corporation organized under Philippine laws and is engaged in the business of managing, operating, administering, maintaining, servicing, buying, leasing or selling real and/or personal properties either for itself or for others.

Respondent, on the other hand, is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), authorized and empowered by the National Internal Revenue Code (NIRC) of 1997 to decide and approve claims for refund of internal revenue taxes.

On April 15, 2008, petitioner filed with the Bureau of Internal Revenue its Annual Income Tax Return (ITR) for the taxable year ending December 31, 2007, which showed a taxable income of ₱1,091,805.00 and a corresponding tax due in the amount of ₱382,132.00.[3]

In the same Annual ITR, petitioner reported the amount of ₱1,434,076.00 as its creditable taxes withheld for the first three quarters,

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[3] Exhibit "E".

as well as the creditable taxes withheld for the fourth quarter in the amount of ₱494,382.00, or a total of ₱1,928,458.00, to wit:

Tax Credits/Payments	
Add: Creditable Tax Withheld for the First Three Quarters	₱ 1,434,076.00
Add: Creditable Tax Withheld for the Fourth Quarter	494,382.00
Total Tax Credits/Payments	₱ 1,928,458.00

Petitioner likewise indicated its intention not to carry over its excess/unutilized creditable withholding taxes by marking the box "To be refunded" in Line 31 of said ITR.

On November 4, 2008, petitioner filed a letter with BIR Revenue District Office (RDO) No. 43 requesting the refund of its unutilized creditable taxes withheld at source for taxable year 2007 in the amount of ₱1,928,458.00.[4]

However, to date, respondent has neither denied nor approved petitioner's administrative claim for refund. Hence, petitioner filed the instant Petition for Review on April 13, 2010.

On June 8, 2010, respondent filed her Answer[5] raising the following Special and Affirmative Defenses:

> "4. Claims for refund are strictly construed against the taxpayer as the same partakes the nature of tax exemption;

[4] Exhibits "B" and "C".
[5] Docket, pp. 73-75.

5. The taxpayer has the burden to show that the taxes were erroneously or illegally paid. Failure on the part of the Petitioner to prove the same is fatal to its cause of action;

6. Petitioner failed to substantiate by documentary evidence its claim for refund;

7. The Petitioner must prove that the amount of creditable withholding VAT being claimed as refund was not utilized;

8. The Petitioner should prove its legal basis for claiming the amount being refunded."

Upon approval by the Court of the "Joint Stipulation of Facts" filed by both parties, pre-trial was deemed terminated.

Trial ensued during which petitioner presented its only witness, Ma. Theresa L. Kampitan.

On December 8, 2010, petitioner filed its Formal Offer of Evidence without respondent's comment. This Court in its Resolution dated February 2, 2011 admitted Exhibits "A" to "J-1", "L" to "Z-1", "AA" to "ZZ-1", "AAA" to "ZZZ-1", "AAAA" to "XXXX-1", "ZZZZ", "ZZZZ-1", "GGGGG", "GGGGG-1", "GGGGG-4", "HHHHH", "HHHHH-1", "IIIII", "IIIII-1", "JJJJJ", "JJJJJ-1", "KKKKK", "KKKKK-1", "LLLLL" and "LLLLL-1", inclusive of sub-markings, and thereafter, petitioner was deemed to have formally rested its case.

The documentary evidence formally offered and admitted are as follows:

Exhibits	Description
A	Articles of Incorporation of PRHC Property Managers, Inc.
B	PRHC Property Managers, Inc. letter dated October 23, 2008 addressed to the Bureau of Internal Revenue
B-1	Receiving Stamp of BIR RDO No. 43-Pasig City dated November 4, 2008
B-2	Signature of Miguel R. Ortigas, Jr.
C	BIR Form No. 1914 Application for Tax Credits/Refunds of PRHC Property Managers, Inc. in the amount of ₱1,928,458.00
C-1	Signature of Miguel Ortigas, Jr.
D	PRHC Property Managers, Inc. Certificate of Registration issued by the Bureau of Internal Revenue
E	Annual Income Tax Return of PRHC Property Managers, Inc. for the calendar year ended 12/2007 consisting of three (3) pages
E-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated April 15, 2008
E-2	The check mark on the box To be refunded on Line 31
E-3	Line 23 on Income Tax in the amount of ₱382,132
E-4	Line 28A on Prior Year's Excess Credit in the amount of ₱4,843,309
E-5	Line 28C on Creditable Tax for the First Three Quarters in the amount of ₱1,434,076
E-6	Line 28D on Creditable Tax Withheld for the Fourth Quarter in the amount of ₱494,382
E-7	Line 29 on Tax Payment (Overpayment) in the amount of ₱6,389,635.00
E-8	Line 121 Signature of Miguel Ortigas, Jr.
E-9	PRHC Property Managers, Inc. Schedule of Taxes and Licenses for the year ended December 31, 2007 with the receiving stamp of BIR RDO No. 43 Pasig City dated April 15, 2008
F	Report of Independent Auditors to Accompany Income Tax Returns with the Audited Financial Statements for

	the year ending December 31, 2007 consisting of twenty-nine (29) pages
F-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated April 15, 2008
G	PRHC Property Managers, Inc. Summary of Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax at Source (SAWT) from 10-01-2007 to 12-31-2007 with receiving stamp of BIR RDO No. 43 Pasig City dated April 15, 2008
H	Form 1702Q of PRHC Property Managers, Inc. for the 3rd quarter of taxable year 2007
H-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated November 28, 2007
I	Form 1702Q of PRHC Property Managers, Inc. for the 2nd quarter of taxable year 2007
I-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated August 28, 2007
J	Form 1702Q of PRHC Property Managers, Inc. for the 1st quarter of taxable year 2007
J-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated May 29, 2007
L	Judicial Affidavit executed on August 3, 2010 consisting of five (5) pages
L-1	Signature of Tess Kampitan
M	Certificate of Creditable Tax Withheld at Source by Avalon Condominium Corp. for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007
M-1	The amount of ₱4,218.75
N	Certificate of Creditable Tax Withheld at Source by Banco de Oro-EPCI, Inc. for PRHC Property Managers, Inc. for the period 01-01-2007 to 12-31-2007
N-1	The amount of ₱21,780.94
O	Certificate of Creditable Tax Withheld at Source by Broadford Property Holdings, Inc. for PRHC Property Managers, Inc. for the period 12-31-2007
O-1	The amount of ₱2,363.20
P	Certificate of Creditable Tax Withheld at Source by Casa Miguel Condominium Corp. for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007

P-1	The amount of ₱1,993.02
Q	Certificate of Creditable Tax Withheld at Source by First Balfour, Inc. for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007
Q-1	The amount of ₱15,541.24
R	Certificate of Creditable Tax Withheld at Source by Frankfort Property Leasing for PRHC Property Managers, Inc. for the period 10-01-2007 to 10-31-2007
R-1	The amount of ₱150.00
S	Certificate of Creditable Tax Withheld at Source by Frankfort Property Leasing for PRHC Property Managers, Inc. for the period 11-01-2007 to 11-30-2007
S-1	The amount of ₱150.00
T	Certificate of Creditable Tax Withheld at Source by Frankfort Property Leasing for PRHC Property Managers, Inc. for the period 12-01-2007 to 12-31-2007
T-1	The amount of ₱150.00
U	Certificate of Creditable Tax Withheld at Source by Greenhills Properties, Inc. for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007
U-1	The amount of ₱24,688.79
V	Certificate of Creditable Tax Withheld at Source by LTA Condominium Corp. for PRHC Property Managers, Inc. for the period 10-31-2007 to 12-31-2007
V-1	The amount of ₱24,806.25
W	Certificate of Creditable Tax Withheld at Source by The Nobel Plaza Condominium Corp. for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007
W-1	The amount of ₱17,668.26
X	Certificate of Creditable Tax Withheld at Source by One Wilson Place Condominium Corp. for PRHC Property Managers, Inc. for the period 10-31-2007 to 12-31-2007
X-1	The amount of ₱736.60
Y	Certificate of Creditable Tax Withheld at Source by Philippine Amusement Enterprises, Inc. for PRHC Property Managers, Inc. for the period 11-22-2007 to 12-31-2007

Y-1	The amount of ₱2,100.00
Z	Certificate of Creditable Tax Withheld at Source by Philippine Realty and Holdings Corporation for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007
Z-1	The amount of ₱9,434.73
AA	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRCH Property Managers, Inc. for the period 10-01-2007 to 10-31-2007
AA-1	The amount of ₱89,482.50
BB	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 11-01-2007 to 11-30-2007
BB-1	The amount of ₱89,107.50
CC	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 12-01-2007 to 12-31-2007
CC-1	The amount of ₱89,107.50
DD	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 10-01-2007 to 10-31-2007
DD-1	The amount of ₱801.43
EE	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 11-01-2007 to 11-30-2007
EE-1	The amount of ₱801.43
FF	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 12-01-2007 to 12-31-2007
FF-1	The amount of ₱801.43
GG	Certificate of Creditable Tax Withheld at Source by Summit Securities, Inc. for PRHC Property Managers, Inc. for the period 12-01-2007 to 12-31-2007
GG-1	The amount of ₱4,368.00

HH	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium for PRHC Property Managers, Inc. for the period 10-01-2007 to 10-31-2007
HH-1	The amount of ₱24,404.49
II	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 11-01-2007 to 11-30-2007
II-1	The amount of ₱5,445.00
JJ	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 11-01-2007 to 11-30-2007
JJ-1	The amount of ₱18,959.49
KK	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 12-01-2007 to 12-31-2007
KK-1	The amount of ₱5,445.00
LL	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 12-01-2007 to 12-31-2007
LL-1	The amount of ₱18,959.49
MM	Certificate of Creditable Tax Withheld at Source by The Pearl Plaza, Inc. for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007
MM-1	The amount of ₱7,758.58
NN	Certificate of Creditable Tax Withheld at Source by The Pinnacle Condominium Corp. for PRHC Property Managers, Inc. for the period 10-01-2007 to 12-31-2007
NN-1	The amount of ₱11,250.00
OO	Certificate of Creditable Tax Withheld at Source by UDB International Holdings, Inc. for PRHC Property Managers, Inc. for the period 10-01-2007 to 10-31-2007
OO-1	The amount of ₱1,890.00
PP	Certificate of Creditable Tax Withheld at Source by Avalon Condominium Corp. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-31-2007
PP-1	The amount of ₱4,084.83

QQ	Certificate of Creditable Tax Withheld at Source by Casa Miguel Condominium Corp. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
QQ-1	The amount of ₱4,167.21
RR	Certificate of Creditable Tax Withheld at Source by Epsys, Inc. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
RR-1	The amount of ₱11,863.66
SS	Certificate of Creditable Tax Withheld at Source by Frankfort Property Leasing for PRHC Property Managers, Inc. for the period 08-01-2007 to 08-31-2007
SS-1	The amount of ₱150.00
TT	Certificate of Creditable Tax Withheld at Source by Frankport Property Leasing for PRHC Property Managers, Inc. for the period 09-01-2007 to 09-30-2007
TT-1	The amount of ₱150.00
UU	Certificate of Creditable Tax Withheld at Source by Greenhills Properties, Inc. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
UU-1	The amount of ₱26,781.29
VV	Certificate of Creditable Tax Withheld at Source by LTA Condominium Corp. for for PRHC Property Managers, Inc. for the period 07-31-2007 to 09-30-2007
VV-1	The amount of ₱24,806.25
WW	Certificate of Creditable Tax Withheld at Source by The Nobel Plaza Condominium Corp. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
WW-1	The amount of ₱17,668.26
XX	Certificate of Creditable Tax Withheld at Source by One Wilson Place Condominium Corp. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
XX-1	The amount of ₱977.68
YY	Certificate of Creditable Tax Withheld at Source by Philippine Realty Holdings Corporation for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
YY-1	The amount of ₱8,779.80

ZZ	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 07-01-2007 to 07-31-2007
ZZ-1	The amount of ₱89,482.50
AAA	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium for PRHC Property Managers, Inc. for the period 08-01-2007 to 08-31-2007
AAA-1	The amount of ₱89,482.50
BBB	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 09-01-2007 to 09-30-2007
BBB-1	The amount of ₱89,482.50
CCC	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 09-01-2007 to 09-30-2007
CCC-1	The amount of ₱801.43
DDD	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 08-01-2007 to 08-31-2007
DDD-1	The amount of ₱801.43
EEE	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 07-01-2007 to 07-31-2007
EEE-1	The amount of ₱801.43
FFF	Certificate of Creditable Tax Withheld at Source by Secaucus Development Corp. for PRHC Property Managers, Inc. for the period 03-01-2007 to 03-31-2007
FFF-1	The amount of ₱6,549.11
GGG	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 07-01-2007 to 07-31-2007
GGG-1	The amount of ₱24,404.49
HHH	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 08-01-2007 to 08-31-2007
HHH-1	The amount of ₱24,404.49

III	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 09-01-2007 to 09-30-2007
III-1	The amount of ₱24,404.49
JJJ	Certificate of Creditable Tax Withheld at Source by The Pearl Plaza, Inc. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
JJJ-1	The amount of ₱7,778.58
KKK	Certificate of Creditable Tax Withheld at Source by The Pinnacle Condominium Corp. for PRHC Property Managers, Inc. for the period 07-01-2007 to 09-30-2007
KKK-1	The amount of ₱11,250.00
LLL	Certificate of Creditable Tax Withheld at Source by Avalon Condominium Corp. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
LLL-1	The amount of ₱4,017.87
MMM	Certificate of Creditable Tax Withheld at Source by Campershells, Inc. for PRHC Property Managers, Inc. for the period 05-01-2007 to 05-31-2007
MMM-1	The amount of ₱18,130.58
NNN	Certificate of Creditable Tax Withheld at Source by Casa Miguel Condominium Corp. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
NNN-1	The amount of ₱3,019.72
OOO	Certificate of Creditable Tax Withheld at Source by Epsys, Inc. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
OOO-1	The amount of ₱17,795.40
PPP	Certificate of Creditable Tax withheld at Source by Equitable PCI Bank for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
PPP-1	The amount of ₱4,050.00
QQQ	Certificate of Creditable Tax Withheld at Source by Frankfort Property Leasing for PRHC Property Managers, Inc. for the period 05-01-2007 to 05-31-2007
QQQ-1	The amount of ₱750.00

RRR	Certificate of Creditable Tax Withheld at Source by Greenhills Properties, Inc. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
RRR-1	The amount of ₱24,688.79
SSS	Certificate of Creditable Tax Withheld at Source by LTA Condominium Corp. for PRHC Property Managers, Inc. for the period 04-30-2007 to 06-30-2007
SSS-1	The amount of ₱24,806.25
TTT	Certificate of Creditable Tax Withheld at Source by The Nobel Plaza Condominium Corp. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
TTT-1	The amount of ₱17,668.26
UUU	Certificate of Creditable Tax Withheld at Source by One Wilson Place Condominium Corp. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
UUU-1	The amount of ₱803.57
VVV	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 04-01-2007 to 04-30-2007
VVV-1	The amount of ₱86,250.00
WWW	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 05-01-2007 to 05-31-2007
WWW-1	The amount of ₱89,482.50
XXX	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 06-01-2007 to 06-30-2007
XXX-1	The amount of ₱89,482.50
YYY	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 05-01-2007 to 05-31-2007
YYY-1	The amount of ₱3,278.57
ZZZ	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 06-01-2007 to 06-30-2007
ZZZ-1	The amount of ₱801.43

AAAA	Certificate of Creditable Tax Withheld at Source by Philippine Realty and Holdings Corporation for Property Managers, Inc. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
AAAA-1	The amount of ₱8,691.15
BBBB	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 04-01-2007 to 04-30-2007
BBBB-1	The amount of ₱24,404.49
CCCC	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corporation for PRHC Property Managers, Inc. for the period 05-01-2007 to 05-31-2007
CCCC-1	The amount of ₱24,404.49
DDDD	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 06-01-2007 to 06-30-2007
DDDD-1	The amount of ₱24,404.49
EEEE	Certificate of Creditable Tax Withheld at Source by The Pearl Plaza, Inc. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
EEEE-1	The amount of ₱7,778.58
FFFF	Certificate of Creditable Tax Withheld at Source by The Pinnacle Condominium Corp. for PRHC Property Managers, Inc. for the period 04-01-2007 to 06-30-2007
FFFF-1	The amount of ₱11,250.00
GGGG	Certificate of Creditable Tax Withheld at Source by Avalon Condominium Corp. for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
GGGG-1	The amount of ₱4,017.86
HHHH	Certificate of Creditable Tax Withheld at Source by Casa Miguel Condominium Corp. for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
HHHH-1	The amount of ₱3,019.71
IIII	Certificate of Creditable Tax Withheld at Source by Epsys, Inc. for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
IIII-1	The amount of ₱17,795.40

JJJJ	Certificate of Creditable Tax Withheld at Source by Equitable PCI Bank for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
JJJJ-1	The amount of ₱4,050.00
KKKK	Certificate of Creditable Tax Withheld at Source by Greenhills Properties, Inc. for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
KKKK-1	The amount of ₱34,655.00
LLLL	Certificate of Creditable Tax Withheld at Source by LTA Condominium Corp. for PRHC Property Managers, Inc. for the period 01-31-2007 to 03-31-2007
LLLL-1	The amount of ₱24,806.25
MMMM	Certificate of Creditable Tax Withheld at Source by The Nobel Plaza Condominium Corp. for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
MMMM-1	The amount of ₱17,107.35
NNNN	Certificate of Creditable Tax Withheld at Source by One Wilson Place Condominium Corp. for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
NNNN-1	The amount of ₱1,785.71
OOOO	Certificate of Creditable Tax Withheld at Source by PAE Ventures, Inc. for PRHC Property Managers, Inc. for the period 03-28-2007
OOOO-1	The amount of ₱2,100.00
PPPP	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 01-01-2007 to 01-31-2007
PPPP-1	The amount of ₱89,250.00
QQQQ	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 02-01-2007 to 02-28-2007
QQQQ-1	The amount of ₱89,250.00
RRRR	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange Centre Condominium Corp. for PRHC Property Managers, Inc. for the period 03-01-2007 to 03-31-2007
RRRR-1	The amount of ₱89,250.00

SSSS	Certificate of Creditable Tax Withheld at Source by Philippine Stock Exchange, Inc. for PRHC Property Managers, Inc. for the period 01-01-2007 to 01-31-2007
SSSS-1	The amount of ₱728.57
TTTT	Certificate of Creditable Tax Withheld at Source by Philippine Realty and Holdings Corporation for PRHC Property Managers. Inc. for the period 01-01-2007 to 03-31-2007
TTTT-1	The amount of ₱8,987.58
UUUU	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 01-01-2007 to 01-31-2007
UUUU-1	The amount of ₱23,909.49
VVVV	Certificate of Creditable Tax Withheld at Source by The Makati Tuscany Condominium Corp. for PRHC Property Managers, Inc. for the period 02-01-2007 to 02-28-2007
VVVV-1	The amount of ₱24,899.49
WWWW	Certificate of Creditable Tax Withheld at Source by The Pearl Plaza, Inc. for PRHC Property Managers, Inc. for the period 01-31-2007 to 03-31-2007
WWWW-1	The amount of ₱7,778.58
XXXX	Certificate of Creditable Tax Withheld at Source by The Pinnacle Condominium Corp. for PRHC Property Managers, Inc. for the period 01-01-2007 to 03-31-2007
XXXX-1	The amount of ₱11,250.00
ZZZZ	Annual Income Tax Return of PRHC Property Managers, Inc. for the calendar year ended 12/2008 consisting of three (3) pages
ZZZZ-1	Receiving Stamp of BIR RDO No. 43A Pasig City dated April 15, 2009
GGGGG	Annual Income Tax Return of PRHC Property Managers, Inc. for the calendar year ended 12/2008 consisting of three (3) pages
GGGGG-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated April 15, 2009
GGGGG-4	Line 30A of BIR Form No. 1702 as Prior Year's Excess Credits other than MCIT in the amount of ₱4,461.177
HHHHH	Form 1702Q of PRHC Property Managers, Inc. for the 3rd quarter of taxable year 2008

HHHHH-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated November 26, 2008
IIIII	Form 1702Q of PRHC Property Managers, Inc. for the 2nd quarter of taxable year 2008
IIIII-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated August 28, 2008
JJJJJ	Form No. 1702Q of PRHC Property Manager's Inc. for the 1st quarter of the taxable year 2008
JJJJJ-1	Receiving Stamp of BIR RDO No. 43 Pasig City dated May 30, 2008
KKKKK	Supplemental Judicial Affidavit of Ma.Theresa L. Kampitan dated 30 September 2010 consisting of eleven (11) pages
KKKKK-1	Signature of Ma. Theresa L. Kampitan
LLLLL	Second Supplemental Judicial Affidavit of Ma. Theresa L. Kampitan dated October 27, 2010 consisting of three (3) pages
LLLLL-1	Signature of Ma. Theresa L. Kampitan

Initial presentation of respondent's evidence was set on March 7, 2011 and March 28, 2011. On the latter date, respondent's counsel manifested that there is as yet no Final Report on the audit examination conducted on the petitioner, thus, the parties were ordered by the Court to file their respective Memorandum. On April 27, 2011, petitioner complied with the same; while respondent failed to file her Memorandum despite notice.

Hence, in a Resolution dated May 10, 2011, the instant case was considered submitted for decision.

The parties submitted the following issues[6] for this Court's resolution:

> "I. WHETHER OR NOT PETITIONER HAS AN OVERPAYMENT IN THE AMOUNT OF ₱1,928,458.00 REPRESENTING ITS UNUTILIZED CREDITABLE TAXES WITHHELD AT SOURCE FOR THE TAXABLE YEAR 2007.
>
> II. WHETHER OR NOT THE INCOME UPON WHICH THE TAXES WERE WITHHELD FOR THE TAXABLE YEAR 2007 WERE INCLUDED IN THE INCOME TAX RETURN OF PETITIONER FOR THE YEAR 2007.
>
> III. WHETHER OR NOT PETITIONER'S UNUTILIZED CREDITABLE TAXES WITHHELD AT SOURCE IN THE AMOUNT OF ₱1,928,458.00 FOR THE TAXABLE YEAR 2007 IS SUBSTANTIATED BY DOCUMENTARY EVIDENCE.
>
> IV. WHETHER OR NOT PETITIONER IS ENTITLED TO THE REFUND OF THE AMOUNT OF ₱1,928,458.00 REPRESENTING ITS UNUTILIZED CREDITABLE TAXES WITHHELD AT SOURCE FOR THE YEAR 2007."

The main issue is whether petitioner is entitled to a refund of its unutilized creditable withholding taxes for the taxable year 2007 in the amount of ₱1,928,458.00.

Section 76 of the NIRC of 1997, as amended, provides that the corporate taxpayer's excess tax credits or overpaid income tax in a given taxable year may either be refunded (in the form of cash or tax credit

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[6] Docket, pp. 95-96.

certificate) or carried over and applied to the succeeding taxable quarters or years, to wit:

> "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."

Pursuant to this provision, petitioner's excess creditable withholding tax for the taxable year 2007 in the amount of ₱1,928,458.00 appears to be refundable considering that petitioner firmly signified its intention to claim for refund by marking the box "To be refunded" in its Annual Income Tax Return for the taxable year 2007.[7]

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[7] Exhibit "E".

Moreover, petitioner did not carry over any amount of the subject claim in its succeeding Quarterly Income Tax Returns[8] and Annual Income Tax Return[9] for the taxable year 2008 since the amount of "Prior Year's Excess Credits" reflected in the said returns pertains only to its excess tax credits as of December 31, 2006.

However, for a taxpayer to be entitled to a refund or issuance of tax credit certificate for excess creditable withholding tax at source, it must satisfy the following requisites:

1. The claim must be filed with the CIR within the two-year period from the date of payment of the tax;

2. It must be shown on the return of the recipient that the income payment received was declared as part of the gross income; and

3. The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld.[10]

As to the first requisite, Section 229 of the NIRC of 1997 provides for the reckoning point of the two-year prescriptive period, to wit:

> "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

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[8] Exhibits "HHHHH" to "JJJJJ".
[9] Exhibit "GGGGG".
[10] *Banco Filipino Savings and Mortgage Bank vs. Court of Appeals, Court of Tax Appeals and Commissioner of Internal Revenue,* G.R. No. 155682, March 27, 2007.

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." (*Emphasis supplied*)

Clearly, the reckoning of the two-year prescriptive period for the filing of a claim for refund/tax credit of excess CWT/quarterly income tax payments starts from the date of filing of the Annual Income Tax Return because it is only from this time that the refund is ascertained.[11]

In the instant case, petitioner filed its Annual Income Tax Return for the taxable year 2007 on April 15, 2008. Counting from this date, petitioner had until April 15, 2010 within which to file its claim for refund, both administratively and judicially. Therefore, petitioner's administrative claim for refund filed on November 4, 2008[12] and the Petition for Review filed on April 13, 2010, fall within the two-year period prescribed under Section 229 of the NIRC of 1997.

[11] *Commissioner of Internal Revenue vs. The Philippine American Life Insurance Co,. et al.*, G.R. No. 105208, May 29, 1995.
[12] Exhibits "B" and "C".

In compliance with the second requisite, petitioner presented various Certificates of Creditable Tax Withheld at Source[13] duly issued by its clients/affiliates for the taxable year 2007 and Summary of Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax at Source for each of the four quarters of 2007, showing total CWT amounting to ₱1,928,459.67, broken down as follows:

Taxable Year 2007	Per Summary Attached to	CWT
1st Quarter	Exhibit "J"	₱ 479,045.48
2nd Quarter	Exhibit "I",	485,958.64
3rd Quarter	Exhibit "H"	469,071.93
4th Quarter	Exhibit "G"	494,383.62
	Total	₱ 1,928,459.67

However, this Court finds that only the amount of ₱1,904,055.18 is properly substantiated with Certificates of Creditable Tax Withheld at Source, detailed as follows:

Exhibit	Withholding Agent	Income Payment	CWT
Payments for Professional Fees			
"M"	Avalon Condominium Corporation	₱ 42,187.50	₱ 4,218.75
"P"	Casa Miguel Condo. Corp.	13,286.73	1,993.02
"U"	Greenhills Properties Inc.	246,887.73	24,688.79
"V"	LTA Condo. Corp.	165,375.00	24,806.25
"W"	The Nobel Plaza Condo. Corp.	117,788.37	17,668.26
"Z"	Philippine Realty & Holdings Corp.	94,347.30	9,434.73
"AA"	Philippine Stock Exchange Centre	596,550.00	89,482.50
"BB"	Philippine Stock Exchange Centre	594,050.00	89,107.50
"CC"	Philippine Stock Exchange Centre	594,050.00	89,107.50
"MM"	The Pearl Plaza, Inc.	77,785.71	7,778.58

13 Exhibits "M" to "XXXX".

"NN"	The Pinnacle Condo. Corp.	75,000.00	11,250.00
"PP"	Avalon Condominium Corporation	40,848.22	4,084.83
"QQ"	Casa Miguel Condo. Corp.	27,781.34	4,167.21
"UU"	Greenhills Properties Inc.	246,887.73	24,688.79
"VV"	LTA Condo. Corp.	165,375.00	24,806.25
"WW"	The Nobel Plaza Condo. Corp.	117,788.37	17,668.26
"YY"	Philippine Realty & Holdings Corp.	87,798.00	8,779.80
"ZZ"	Philippine Stock Exchange Centre	596,550.00	89,482.50
"AAA"	Philippine Stock Exchange Centre	596,550.00	89,482.50
"BBB"	Philippine Stock Exchange Centre	596,550.00	89,482.50
"JJJ"	The Pearl Plaza, Inc.	77,785.71	7,778.58
"KKK"	The Pinnacle Condo. Corp.	75,000.00	11,250.00
"LLL"	Avalon Condominium Corporation	40,178.58	4,017.87
"NNN"	Casa Miguel Condo. Corp.	20,131.45	3,019.72
"PPP"	Equitable PCI Bank	27,000.00	4,050.00
"RRR"	Greenhills Properties Inc.	246,887.73	24,688.79
"SSS"	LTA Condo. Corp.	165,375.00	24,806.25
"TTT"	The Nobel Plaza Condo. Corp.	117,788.37	17,668.26
"VVV"	Philippine Stock Exchange Centre	575,000.00	86,250.00
"WWW"	Philippine Stock Exchange Centre	596,550.00	89,482.50
"XXX"	Philippine Stock Exchange Centre	596,550.00	89,482.50
"AAAA"	Philippine Realty & Holdings Corp.	86,911.50	8,691.15
"EEEE"	The Pearl Plaza, Inc.	77,758.71	7,778.58
"FFFF"	The Pinnacle Condo. Corp.	75,000.00	11,250.00
"GGGG"	Avalon Condominium Corporation	40,178.58	4,017.86
"HHHH"	Casa Miguel Condo. Corp.	20,131.44	3,019.71
"JJJJ"	Equitable PCI Bank	27,000.00	4,050.00
"KKKK"	Greenhills Properties Inc.	246,887.70	24,688.77
"LLLL"	LTA Condo. Corp.	165,375.00	24,806.25
"MMMM"	The Nobel Plaza Condo. Corp.	114,049.02	17,107.35
"PPPP"	Philippine Stock Exchange Centre	595,000.00	89,250.00
"QQQQ"	Philippine Stock Exchange Centre	595,000.00	89,250.00
"RRRR"	Philippine Stock Exchange Centre	595,000.00	89,250.00
"TTTT"	Philippine Realty & Holdings Corp.	89,875.81	8,987.58
"WWWW"	The Pearl Plaza, Inc.	77,785.71	7,778.58
"XXXX"	The Pinnacle Condo. Corp.	75,000.00	11,250.00
		₱ 10,512,637.31	₱ 1,485,848.82
Payments for Commissions			
"N"	Banco De Oro -EPCI,Inc.	₱ 141,309.40	₱ 14,130.94
"O"	Broadford Property Holdings	23,632.00	2,363.20
"R"	Frankfort Property Leasing	3,000.00	150.00
"S"	Frankfort Property Leasing	3,000.00	150.00
"T"	Frankfort Property Leasing	3,000.00	150.00
"Y"	Philippine Amusement Enterprise	21,000.00	2,100.00
"GG"	Summit Securities Inc.	43,680.00	4,368.00
"OO"	UDB International Holdings, Inc.	18,900.00	1,890.00

"SS"	Frankfort Property Leasing	3,000.00	150.00
"TT"	Frankfort Property Leasing	3,000.00	150.00
"UU"	Greenhills Properties Inc.	20,925.00	2,092.50
"FFF"	Secaucus Development Corp.	65,491.07	6,549.11
"MMM"	Campershells, Inc.	181,305.80	18,130.58
"QQQ"	Frankfort Property Leasing	15,000.00	750.00
"KKKK"	Greenhills Properties Inc.	99,662.30	9,966.23
"OOOO"	PAE Ventures, Inc.	21,000.00	2,100.00
		₱ 666,905.57	**₱ 65,190.56**
Payments for Management and Technical Consultancy Fees			
"N"	Banco De Oro -EPCI,Inc.	₱ 51,000.00	₱ 7,650.00
"HH"	The Makati Tuscany Condo. Corp.	162,696.60	24,404.49
"II"	The Makati Tuscany Condo. Corp.	36,300.00	5,445.00
"JJ"	The Makati Tuscany Condo. Corp.	126,396.60	18,959.49
"KK"	The Makati Tuscany Condo. Corp.	36,300.00	5,445.00
"LL"	The Makati Tuscany Condo. Corp.	126,396.60	18,959.49
"GGG"	The Makati Tuscany Condo. Corp.	162,696.60	24,404.49
"HHH"	The Makati Tuscany Condo. Corp.	162,696.60	24,404.49
"III"	The Makati Tuscany Condo. Corp.	162,696.60	24,404.49
"BBBB"	The Makati Tuscany Condo. Corp.	162,696.60	24,404.49
"CCCC"	The Makati Tuscany Condo. Corp.	162,696.60	24,404.49
"DDDD"	The Makati Tuscany Condo. Corp.	162,696.60	24,404.49
"UUUU"	The Makati Tuscany Condo. Corp.	159,396.60	23,909.49
"VVVV"	The Makati Tuscany Condo. Corp.	165,996.60	24,899.49
		₱ 1,840,662.60	**₱ 276,099.39**
Payments to Prime Contractors/Sub-Contractors			
"X"	One Wilson Place Condo. Corp.	₱ 49,500.00	₱ 736.60
"EE"	Philippine Stock Exchange Inc.	40,071.43	801.43
"FF"	Philippine Stock Exchange Inc.	40,071.43	801.43
"XX"	One Wilson Place Condo. Corp.	46,500.00	977.68
"UUU"	One Wilson Place Condo. Corp.	45,000.00	803.57
"NNNN"	One Wilson Place Condo. Corp.	100,000.00	1,785.71
"SSSS"	Philippine Stock Exchange Inc.	36,428.57	728.57
		₱ 357,571.43	**₱ 6,634.99**
Payments made by top 10,000 corporations to their local supplier of services			
"DD"	Philippine Stock Exchange Inc.	₱ 40,071.43	₱ 801.43
"CCC"	Philippine Stock Exchange Inc.	40,071.43	801.43
"DDD"	Philippine Stock Exchange Inc.	40,071.43	801.43
"EEE"	Philippine Stock Exchange Inc.	40,071.43	801.43
"YYY"	Philippine Stock Exchange Inc.	163,928.57	3,278.57
"ZZZ"	Philippine Stock Exchange Inc.	40,071.43	801.43
		₱ 364,285.72	**₱ 7,285.72**

Payments for Rentals of Real/Personal Properties			
"Q"	First Balfour, Inc.	₱ 310,824.79	₱ 15,541.24
"RR"	EPSYS Incorporated	237,273.20	11,863.66
"OOO"	EPSYS Incorporated	355,908.00	17,795.40
"IIII"	EPSYS Incorporated	355,908.00	17,795.40
		₱ 1,259,913.99	₱ 62,995.70
TOTAL		₱ 15,001,976.62	₱ 1,904,055.18

Anent the third requisite, a perusal of the withholding tax certificates revealed that out of the CWT of ₱1,904,055.18, the amount of ₱1,841,059.48 was withheld from petitioner's sales of services in the amount of ₱13,742,062.63; while the remaining amount of ₱62,995.70 was withheld from petitioner's rental income in the amount of ₱1,259,913.99, broken down as follows:

	Nature of Income	Amount of Income	Amount of CWT
Sales of Services			
	Professional Fees	₱ 10,512,637.31	₱ 1,485,848.82
	Commissions	666,905.57	65,190.56
	Management & Technical Consultancy Fees	1,840,662.60	276,099.39
	Payments to Prime Contractors/Subcontractors	357,571.43	6,634.99
	Payments made by Top 10,000 corporation to their local supplier of services	364,285.72	7,285.72
	Subtotal	₱ 13,742,062.63	₱ 1,841,059.48
Rentals		1,259,913.99	62,995.70
Total		₱ 15,001,976.62	₱ 1,904,055.18

In its 2007 Annual Income Tax Return[14], petitioner reflected the following gross income:

[14] Exhibit "E".

Nature of Income	Amount of Income
Sale of Services	₱ 18,575,913.00
Non-Operating and Taxable Other Income	
Rental Income	₱ 1,259,912.00
Gain on Sale	75,000.00
Others	772,004.00
Subtotal	₱ 2,106,916.00
Total	₱ 20,682,829.00

Evidently, petitioner declared in its 2007 Annual Income Tax Return the income payment from rentals in the amount of ₱1,259,913.99 (save for the minor difference of P1.99) upon which the claimed creditable taxes of ₱62,995.70 were withheld.

However, as to petitioner's income payments from sales of services, there is a discrepancy between the gross income of ₱18,575,913.00 reflected per petitioner's Annual Income Tax Return *vis-à-vis* the gross income of ₱13,742,062.63 shown per Certificates of Creditable Tax Withheld.

Moreover, petitioner failed to present documentary proofs, such as, but not limited to, detailed general ledger, sales journal, reconciliation schedules, sales invoices/receipts or any other document whereby the Court can verify the discrepancy and that the income payments of ₱13,742,062.63 related to the claimed creditable withholding taxes of ₱1,841,059.48 formed part of the ₱18,575,913.00 gross income declared in its 2007 Annual Income Tax Return.

In sum, petitioner sufficiently complied with the three requisites for refund of excess CWT only to the extent of ₱62,995.70 out of the total claimed CWT of ₱1,928,458.00.

But considering that petitioner had an income tax liability for 2007 in the amount of ₱382,132.00[15] and failed to substantiate its prior year's excess credits of ₱4,843,309.00, the CWT of ₱62,995.70 shall be applied against the income tax due of ₱382,132.00. Since the income tax due of ₱382,132.00 is greater than the claimed CWT of ₱62,995.70, there is no excess CWT for taxable year 2007 which may be refunded.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

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[15] Exhibit "E", line 27.

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.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
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.

ERNESTO D. ACOSTA
Presiding Justice