REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PRIME INVESTMENT KOREA INC., Petitioner,	**CTA CASE NO. 9814**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* and **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: NOV 19 2020 11:24 am

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DECISION

***DEL ROSARIO, P.J.*:**

This is a Petition for Review[1] filed on April 13, 2018 by Prime Investment Korea Inc. (*petitioner*) against the Commissioner of Internal Revenue (*respondent*), praying that judgment be rendered ordering respondent to grant petitioner a refund or issue a tax credit certificate in the aggregate amount of ₱14,126,817.00, representing corporate income tax paid by petitioner on junket gaming operations for taxable year 2015.

THE PARTIES

Petitioner is a corporation organized and existing under the laws of the Philippines[2] with Certificate of Incorporation issued by the Securities and Exchange Commission (SEC) on November 9, 2012.[3] Its business address is at 2702 Roxas Boulevard, Barangay 076, Pasay City, Philippines.[4] It is authorized, among others, to conduct, maintain and operate the business of recreation, games and

[1] CTA Docket Vol. I, pp. 10-109 (*inclusive of annexes*).
[2] Par. 1, II. Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), CTA Docket Vol. I, p. 412.
[3] Exhibit "P-1", CTA Docket Vol. II, p. 679.
[4] *Supra* note 2.

amusement.[5] It is registered with the Bureau of Internal Revenue (BIR) as a taxpayer in accordance with Section 236 of the National Internal Revenue Code (NIRC) of 1997, as amended with Tax Identification Number (TIN) 008-410-374-00000 under BIR Certificate of Registration No. OCN 8RC0001164461E dated August 29, 2017 issued by the Large Taxpayers Service, Revenue District Office No. 126-Regular Large Taxpayers Audit Division (RLTAD) III.[6]

Respondent is the Commissioner of the BIR with office address at the BIR National Office Building, BIR Road, Diliman, Quezon City.[7] He is empowered among others, to decide disputed assessments, refunds of internal revenue taxes, fees, and other charges, penalties in relation thereto, and other matters arising from the implementation of the NIRC of 1997, as amended, and other laws administered by the BIR.

THE FACTS

On July 3, 2013, petitioner and the Philippine Amusement and Gaming Corporation (PAGCOR) entered into a Junket Agreement,[8] providing petitioner a Grant of Authority pursuant to Presidential Decree (P.D.) No. 1869[9] to conduct junket gaming operations at PAGCOR's Casino Filipino-Midas.

Subsequently, petitioner and PAGCOR executed a Supplement to Junket Agreement[10] on September 13, 2013,[11] providing petitioner a Grant of Authority to introduce and offer supplementary services for its junket gaming operations at PAGCOR's Casino Filipino-Midas.

The above Grants of Authority were extended and renewed by virtue of the parties' execution of the Junket Agreement and a Supplement to Junket Agreement on June 10, 2016.[12]

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[5] Par. 3, II. Stipulation of Facts, JSFI, CTA Docket Vol. I, p. 413.
[6] Par. 4, II. Stipulation of Facts, JSFI, CTA Docket Vol. I, p. 413; Exhibit "P-7" and "P-7-a", CTA Docket Vol. II, pp. 745-746.
[7] Par. 2, II. Stipulation of Facts, JSFI, CTA Docket Vol. I, p. 412.
[8] Exhibit "P-3", CTA Docket Vol. II, pp. 709-722.
[9] Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 1632, Relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR).
[10] Exhibit "P-4", CTA Docket Vol. II, pp. 723-727.
[11] Par. 5, II. Stipulation of Facts, JSFI, CTA Docket Vol. I, p. 413.
[12] Par. 6, II. Stipulation of Facts, JSFI, CTA Docket Vol. I, p. 413; Exhibit "P-5", CTA Docket, Vol. II, pp. 728-739; Exhibit "P-6", CTA Docket Vol. II, pp. 740-744.

On April 14, 2016, petitioner filed its Annual Income Tax Return (ITR) (BIR Form No. 1702-RT) for taxable year 2015,[13] showing ₱12,810,488.00 as amount of income tax payable, which petitioner paid on April 15, 2016.[14]

On April 12, 2018, petitioner filed with the BIR Large Taxpayers Service an administrative claim for refund or issuance of tax credit certificate (TCC) in the aggregate amount of ₱14,126,817.00, relative to the alleged erroneously, wrongfully, illegally or excessively paid corporate income tax on e-junket gaming revenues for taxable year 2015.[15]

Claiming inaction on its claim for refund or issuance of TCC, petitioner filed the present Petition for Review before the Court on April 13, 2018.[16] The case was raffled to the Second Division.

On August 1, 2018, within the extended periods granted by the Court,[17] respondent filed his Answer,[18] interposing the following special and affirmative defenses: (i) there is no law exempting petitioner from income tax on revenues from junket gaming operations; (ii) petitioner never paid any franchise tax, and thus, it was never granted any franchise or license by PAGCOR; (iii) there was no erroneous payment of corporate income tax on gaming revenues for taxable year 2015; (iv) the case of *Bloomberry Resorts and Hotels, Inc. vs. BIR*[19] *(2016 Bloomberry case)* relied upon by petitioner is not applicable; and, (v) it is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not *ipso facto* granted upon filing of a claim.

In view of the reorganization of the three (3) Divisions of the Court, pursuant to Court of Tax Appeals Administrative Circular No. 02-2018 dated September 18, 2018, the present case was transferred to this Division in the Order dated September 24, 2018.[20]

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[13] Par. 7, II. Stipulation of Facts, JSFI, CTA Docket Vol. I, p. 413; Exhibit "P-8", CTA Docket Vol. II, pp. 750-758.
[14] Exhibit "P-8-b", CTA Docket Vol. II, P.759.
[15] Par. 8, II. Stipulation of Facts, JSFI, CTA Docket Vol. I, p. 413; Exhibit "P-15", CTA Docket Vol. II, pp. 792-799.
[16] *Supra* note 1.
[17] Order dated May 23, 2018, CTA Docket Vol. I, p. 116; Order dated June 25, 2018, CTA Docket Vol. I, p. 121; Order dated July 31, 2018, CTA Docket Vol. I, p. 127.
[18] CTA Docket Vol. I, pp. 128-142.
[19] G.R. No. 212530, August 10, 2016.
[20] CTA Docket Vol. I, p. 156.

Respondent's Pre-Trial Brief[21] was filed on January 18, 2019, while the Pre-Trial Brief for Petitioner[22] was filed on January 21, 2019.

During the January 24, 2019 Pre-Trial Conference, the parties were ordered to file their Joint Stipulation of Facts and Issues.[23]

On February 13, 2019, the parties filed their Joint Stipulation of Facts and Issues.[24] In the Resolution dated February 20, 2019,[25] the Court approved the parties' Joint Stipulation of Facts and Issues, terminated the Pre-Trial, and directed the issuance of a Pre-Trial Order. On April 1, 2019, the Court issued the Pre-Trial Order.[26]

During trial, petitioner presented the following witnesses: Atty. Rufino A. Alicante, Jr.,[27] legal counsel and corporate secretary of petitioner; Ms. Celina H. Lim, [28] corporate treasurer of petitioner; Mr. Miguel F. Tolentino, Jr., [29] operations manager of petitioner; and Mr. Salvador G. Valentino, Jr.,[30] pit officer in the PAGCOR junket monitoring team.

Petitioner's formally offered exhibits, as contained in its Formal Offer of Evidence[31] filed on November 14, 2019, were admitted in the Court's Resolution dated January 31, 2020,[32] after taking into consideration respondent's Comment thereon filed on November 21, 2019,[33] and petitioner's Reply filed on December 3, 2019.[34]

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[21] CTA Docket Vol. I, pp. 158-161.
[22] CTA Docket Vol. I, pp. 238.
[23] Minutes of the Hearing dated January 24, 2019, CTA Docket Vol. I, pp. 251-253; Order dated January 24, 2019, CTA Docket Vol. I, pp. 257-258.
[24] CTA Docket Vol. I, pp. 412-420.
[25] CTA Docket Vol. I, p. 422.
[26] CTA Docket Vol. I, pp. 436-444.
[27] Minutes of the Hearing dated May 21, 2019, CTA Docket Vol. I, pp. 446-448; Order dated May 21, 2019, CTA Docket Vol. I, p. 449.
[28] Minutes of the Hearing dated May 21, 2019, CTA Docket Vol. I, pp. 446-448; Order dated May 21, 2019, CTA Docket Vol. I, p. 449; Minutes of the Hearing dated August 13, 2019, CTA Docket Vol. I, pp. 572-574; Order dated August 13, 2019, CTA Docket Vol. I, pp. 576-577.
[29] Minutes of the Hearing dated August 13, 2019, CTA Docket Vol. I, pp. 572-574; Order dated August 13, 2019, CTA Docket Vol. I, pp. 576-577; Order dated October 8, 2019, CTA Docket Vol. I, pp. 637-639.
[30] Order dated October 8, 2019, CTA Docket Vol. I, pp. 637-639.
[31] CTA Docket Vol. II, pp. 657-678.
[32] CTA Docket Vol. II, pp. 865-870.
[33] Comment (on Petitioner's Formal Offer of Evidence), CTA Docket Vol. II, pp. 843-845.
[34] Reply [to Respondent's Comment on Petitioner's Formal Offer of Evidence], CTA Docket Vol. II, pp. 851-858.

In the same Resolution, the parties were given a period of thirty (30) days from receipt thereof within which to file their respective memoranda,[35] considering respondent's earlier manifestation that he would not be presenting testimonial evidence.[36]

On February 26, 2020, respondent filed his Memorandum[37] while the Memorandum for Petitioner was filed on July 1, 2020. [38] In the Resolution dated July 22, 2020, the case was submitted for decision.

THE ISSUES

The issues for consideration of the Court, as stipulated by the parties, are the following:

1. Whether petitioner is exempt from corporate income tax on junket and/or e-junket gaming revenues pursuant to Section 13 of P.D. No. 1869;

2. Whether petitioner is authorized by PAGCOR to operate junket and e-junket gaming operations; and,

3. Whether petitioner is entitled to the refund of, or issuance of TCC for, the aggregate amount of ₱14,126,817.00, representing erroneously, wrongfully, illegally and excessively paid corporate income tax on gaming revenues for taxable year 2015.[39]

PETITIONER'S ARGUMENTS[40]

Petitioner argues that the tax exemption provided in Section 13(2) of P.D. No. 1869 extends to persons with whom PAGCOR has a contractual relationship in connection with gaming operations and furnishing of essential services and/or technical services. According to petitioner, since it is duly licensed by PAGCOR to actually and directly conduct junket gaming operations at PAGCOR's Casino Filipino-Midas

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[35] *Id.*
[36] *Supra* note 33.
[37] CTA Docket Vol. II, pp. 871-907.
[38] CTA Docket Vol. II, pp. 909-953.
[39] III. Stipulation of Issues, JSFI, CTA Docket Vol. I, pp. 413-414; II. B. Stipulation of Issues, Pre-Trial Order, CTA Docket Vol. I, pp. 437-438.
[40] V. Discussion, Memorandum for Petitioner, CTA Docket Vol. II, pp. 918-951.

by virtue of the Junket Agreement dated July 3, 2013 and Supplement Junket Agreement dated September 13, 2013, said tax exemption should inure to the benefit of, and extend to petitioner. Petitioner also cites the *2016 Bloomberry* case,[41] and avers that petitioner is subject only to five percent (5%) franchise tax in lieu of all kinds of taxes, including corporate income tax, just like PAGCOR itself.

Moreover, petitioner claims that it has sufficiently established the due payment of franchise tax to PAGCOR and PAGCOR's subsequent remittance of franchise tax to BIR on behalf of petitioner, through documentary evidence (i.e. PAGCOR's Statement of Franchise Tax Remittance and Schedule of Franchise Tax Payable attached to its Percentage Tax Return) and testimonial evidence. Petitioner also insists that, contrary to respondent's assertion, it does not bring in only pre-registered non-Philippine players.

Finally, petitioner avers that it has complied with both substantive and procedural requirements for a claim for refund or issuance of a TCC, and has established the fact of its erroneous payment of corporate income tax and the legal basis therefor.

RESPONDENT'S ARGUMENTS[42]

Respondent counters that the instant judicial claim should be denied for being filed out of time. According to respondent, the two (2)-year period to file claim for refund should be counted from the date of payment of the corporate income tax. Since petitioner paid the corporate income taxes for the first (1st), second (2nd) and third (3rd) quarters on June 1, 2015, September 1, 2015, and December 1, 2015, respectively, the periods within which the claims for refund must be filed should end on June 1, 2017, September 1, 2017, and December 1, 2017, respectively. As the administrative claim and judicial claim were made only on April 12, 2018 and April 13, 2018 respectively, both were filed beyond the period provided by law.

Furthermore, respondent insists that there is no law exempting petitioner from income tax on revenues from junket gaming operations. Respondent posits that the tax exemption granted by P.D. No. 1869 does not inure to the benefit of entities who are merely authorized to bring in junket players to play in the junket gaming rooms at PAGCOR and to rent tables in PAGCOR casinos, such as petitioner.

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[41] *Supra* note 19.
[42] IV. Arguments and Discussions, Memorandum, CTA Docket Vol. II, pp. 874-894; Answer, CTA Docket, pp. 128-142.

Respondent also alleges that petitioner never paid any franchise tax, and thus, it was never granted any franchise or license by PAGCOR. The five percent (5%) franchise tax allegedly paid by petitioner was actually paid by PAGCOR for conducting junket gaming operations.

Moreover, petitioner is still liable to pay deficiency taxes assessed for taxable year 2015, since for that period, the tax exemption granted to PAGCOR was withdrawn by Republic Act (R.A.) No. 9337, and the doctrines laid down in *PAGCOR vs. The Bureau of Internal Revenue (2011 PAGCOR Case)*[43] and *PAGCOR vs. The Bureau of Internal Revenue, et al.* (*2014 PAGCOR case*).[44]

Respondent also asserts that the 2016 *Bloomberry* case relied upon by petitioner has no retroactive effect and should not be applied to the case of petitioner, which involves the taxable year 2015. Further, petitioner, which is merely authorized to bring in junket players to play in the gaming rooms and collect gross receipts generated from such gaming operations, is not similarly situated with the taxpayer in the 2016 *Bloomberry* case, which is considered a franchisee or licensee.

Finally, respondent avers that it is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not *ipso facto* granted upon filing of a claim. For petitioner's failure to present sufficient evidence to prove that it is entitled to the refund sought, the present Petition for Review must be denied.

THE COURT'S RULING

Timeliness of the filing of the administrative and judicial claims

Before delving into the merits of petitioner's claim for refund, the Court shall make a determination on the timeliness of the filing of petitioner's administrative and judicial claims.

Sections 204(C) and 229 of the NIRC of 1997, as amended, provide for the period within which a claim for refund of internal revenue

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[43] *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, et al.*, G.R. No. 172087, March 15, 2011.
[44] *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, et al.*, G.R. No. 215427, December 10, 2014.

taxes which are erroneously, illegally and wrongfully collected must be filed. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund,[45] *viz.:*

> "**SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** – The Commissioner may-
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> xxx xxx xxx
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> (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 stamped 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 in writing 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.**" *(Boldfacing supplied)*
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> "**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.
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> **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 therefore, 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." *(Boldfacing supplied)*

Pursuant to the aforequoted provisions, to be entitled to a refund of erroneously or illegally collected tax, the following requisites must be complied with:

1. The tax has been erroneously or illegally collected, or the penalty has been collected without authority, and/or any sum has been excessively or in any manner wrongfully collected; and,

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[45] *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.),* G.R. No. 231581, April 10, 2019.

2. The administrative and judicial claims for refund or credit has been filed within two (2) years from the date of payment of tax, or penalty, regardless of any supervening cause that may arise after payment.

The Supreme Court has consistently ruled that a claim for refund or credit with the BIR and the subsequent appeal to this Court must be filed within two (2) years from the date of payment of the tax[46] and that the judicial claim may not be maintained until a claim for refund or credit has been duly filed with the CIR.[47]

Respondent contends that petitioner's claim for refund for taxes paid together with the filing of the 1st, 2nd, and 3rd quarter returns were filed out of time, since the two (2)-year period to file the claim for refund should be reckoned from the date of payment of the quarterly corporate income tax, and not from the filing of the Final Adjustment Return or the Annual ITR.

Respondent is mistaken.

In *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*,[48] the Supreme Court held that in refund cases involving excessively paid corporate income taxes, in which the corporate taxpayer is required to file and pay income tax on a quarterly basis, the two (2)-year prescriptive period should be computed from the time of filing the Final Adjustment Return or the Annual ITR, *viz.*:

> "As correctly pointed out by the CIR, the cases cited by Metrobank involved corporate income taxes, in which the corporate taxpayer is required to file and pay income tax on a quarterly basis, with such payments being subject to an adjustment at the end of the taxable year. As aptly put in *CIR v. TMX Sales, Inc.*, '**payment of quarterly income tax should only be considered [as] mere installments of the annual tax due. These quarterly tax payments which are computed based on the cumulative figures of gross receipts and deductions in order to arrive at a net taxable income, should be treated as advances or portions of the annual income tax due, to be adjusted at the end of the calendar or fiscal year.** x x x Consequently, **the two-year prescriptive period x x x should be computed from the time of filing of the Adjustment Return or Annual Income Tax Return and final payment of income tax.**' Verily, since quarterly income

[46] *CBK Power Company Limited vs. Commissioner of Internal Revenue,* G.R. Nos. 193383-84, January 14, 2015 and *Commissioner of Internal Revenue vs. CBK Power Company Limited,* G.R. Nos. 193407-08, January 14, 2015.
[47] *Commissioner of Internal Revenue vs. Goodyear Philippines, Inc.,* G.R. No. 216130, August 3, 2016.
[48] G.R. No. 182582, April 17, 2017.

> tax payments are treated as mere 'advance payments' of the annual corporate income tax, there may arise certain situations where such "advance payments" would cover more than said corporate taxpayer's entire income tax liability for a specific taxable year. Thus, it is only logical to **reckon the two (2)-year prescriptive period from the time the Final Adjustment Return or the Annual Income Tax Return was filed, since it is only at that time that it would be possible to determine whether the corporate taxpayer had paid an amount exceeding its annual income tax liability."** *(Boldfacing and underscoring supplied.)*

Applying the pronouncement in *Metropolitan Bank & Trust Company*, since petitioner filed its Annual ITR on April 14, 2016 and subsequently paid ₱12,810,488.00 as income taxes on April 15, 2016, the filing of its administrative claim for refund of erroneously paid corporate income tax on April 12, 2018 and the Petition for Review on April 13, 2018,[49] were both done within the prescribed period. Hence, the Court has acquired jurisdiction over the present case.

PAGCOR's income from junket gaming operations is subject to corporate income tax

According to petitioner, Section 13(2) of P.D. No. 1869 exempts PAGCOR from any kind or form of tax or fees, charges or levies of whatever nature, except for a five percent (5%) franchise tax. Further, petitioner posits that the exemption extends to it, by virtue of the Junket Agreement and Supplement to Junket Agreement it executed with PAGCOR.

Section 13(2) of P.D. No. 1869 provides:

> "Section 13. Exemptions –
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> xxx xxx xxx
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> (2) Income and other taxes. — (a) Franchise Holder: No tax of any kind or form, income or otherwise, as well as fees, charges or levies of whatever nature, whether National or Local, shall be assessed and collected under this Franchise from the Corporation; nor shall any form of tax or charge attach in any way to the earnings of the Corporation, except a Franchise Tax of five (5%) percent of the gross revenue or earnings derived by the Corporation from its operation under this Franchise. Such tax shall be due and payable quarterly to the National Government and shall be in lieu of all kinds of

[49] *Supra* note 1.

> taxes, levies, fees or assessments of any kind, nature or description, levied, established or collected by any municipal, provincial, or national government authority.
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> (b) Others: The exemptions herein granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the Corporation or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise and to those receiving compensation or other remuneration from the Corporation or operator as a result of essential facilities furnished and/or technical services rendered to the Corporation or operator.
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> The fee or remuneration of foreign entertainers contracted by the Corporation or operator in pursuance of this provision shall be free of any tax."

In the *2014 PAGCOR* case,[50] the Supreme Court had the occasion to clarify which of PAGCOR's income is subject only to five percent (5%) franchise tax under P.D. 1869, as amended, and which of its income is subject to corporate income tax. In affirming BIR's classification of income from junket operations as income from other related operations, the Supreme Court elucidated that the same is indeed subject to corporate income tax, *viz.*:

> "For clarity, it is worthy to note that under P.D. 1869, as amended, PAGCOR's income is classified into two: (1) income from its operations conducted under its Franchise, pursuant to Section 13(2) (b) thereof (income from gaming operations); and (2) income from its operation of necessary and related services under Section 14(5) thereof (income from other related services). In RMC No. 33-2013, respondent further classified the aforesaid income as follows:
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> 1. PAGCOR's income from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools, includes, among others:
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> a) Income from its casino operations;
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> b) Income from dollar pit operations;
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> c) Income from regular bingo operations; and

[50] *Supra* note 44.

d) Income from mobile bingo operations operated by it, with agents on commission basis. Provided, however, that the agents' commission income shall be subject to regular income tax, and consequently, to withholding tax under existing regulations.

2. Income from **'other related operations' includes**, but is not limited to:

a) Income from licensed private casinos covered by authorities to operate issued to private operators;

b) Income from traditional bingo, electronic bingo and other bingo variations covered by authorities to operate issued to private operators;

c) Income from private internet casino gaming, internet sports betting and private mobile gaming operations;

d) Income from private poker operations;

e) **Income from junket operations;**

f) Income from SM demo units; and

g) Income from other necessary and related services, shows and entertainment.

After a thorough study of the arguments and points raised by the parties, and in accordance with our Decision dated March 15, 2011, we sustain petitioner's contention that **its income from gaming operations is subject only to five percent (5%) franchise tax under P.D. 1869, as amended, while its income from other related services is subject to corporate income tax pursuant to P.D. 1869, as amended, as well as R.A. No. 9337**. This is demonstrable.

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For proper guidance, the first classification of PAGCOR's income under RMC No. 33-2013 (i.e., income from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools) should be interpreted in relation to Section 13(2) of P.D. No. 1869, which pertains to the income derived from issuing and/or granting the license to operate casinos to PAGCOR's contractees and licensees, as well as earnings derived by PAGCOR from its own operations under the franchise. On the other hand, the second classification of

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> PAGCOR's income under RMC No. 33-2013 (i.e., income from other related operations) should be interpreted in relation to Section 14(5) of P.D. No. 1869, which pertains to income received by PAGCOR from its contractees and licensees in the latter's operation of casinos, as well as PAGCOR's own income from operating necessary and related services, shows and entertainment." *(Boldfacing supplied)*

From the foregoing, it is clear that PAGCOR's income from operations of other related services, including junket gaming operations, is subject to corporate income tax and not to the five percent (5%) franchise tax, pursuant to Section 14(5) of P.D. No. 1869, as amended and R.A. No. 9337. Section 14(5) of P.D. No. 1869 states:

> "SECTION 14. Other Conditions.-
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> xxx xxx xxx
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> (5) Operation of related services. The Corporation is authorized to operate such **necessary and related services, shows and entertainment. Any income that may be realized from these related services shall not be included as part of the income of the Corporation for the purpose of applying the franchise tax, but the same shall be considered as a separate income of the Corporation and shall be subject to income tax**." *(Boldfacing supplied)*

As discussed in the *2014 PAGCOR* case, R.A. No. 9337, which withdrew the income tax exemption of PAGCOR under R.A. No. 8424, merely reinstated PAGCOR's tax liability on income from other related services.[51]

Petitioner, like PAGCOR, is not exempt from corporate income tax on income derived from junket operations

Having established that PAGCOR's income from junket gaming operations is not exempt from corporate income tax, petitioner's argument that it is exempt from corporate income tax pursuant to Section 13 of P.D. No. 1869, insofar as its income from its junket gaming operations is concerned, does not hold water.

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[51] *Id.*

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In the 2016 *Bloomberry* case,[52] the Supreme Court explicitly held:

> "For the same reasons that made us conclude in the December 10, 2014 Decision of the Court sitting En Banc in G.R. No. 215427 that PAGCOR is subject to corporate income tax for 'other related services', **we find it logical that its contractees and licensees shall likewise pay corporate income tax for income derived from such 'related services'.**" (Boldfacing supplied)

PAGCOR's contractees and licensees shall likewise pay corporate income tax for income derived from such "other related services", including income from junket operations. Section 14(5) of P.D. No. 1869 is clear in stating that any income that may be realized from these related services shall not be included as part of the income for the purpose of applying the franchise tax, but the same shall be considered as a separate income and shall be subject to income tax.

It is a cardinal rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application.[53]

In fine, petitioner, as a contractee of PAGCOR by virtue of the Junket Agreement and Supplement to Junket Agreement executed between them, is not exempt from payment of corporate income tax for income derived from its junket gaming operations.

Tax refunds, being in the nature of tax exemptions, are construed in *strictissimi juris* against the taxpayer and liberally in favor of the government.[54] The burden in claiming tax refund rests upon the taxpayer which petitioner has failed to discharge. For failing to prove its entitlement to a tax refund, petitioner's claim must perforce be denied.

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

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[52] *Supra* note 19.
[53] *Amores vs. House of Representatives Electoral Tribunal*, G.R. No. 189600, June 29, 2010, citing *Twin Ace Holdings Corporation vs. Rufina and Company*, G.R. No. 160191, June 8, 2006.
[54] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice