REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

CEBU HOLDINGS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7218

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:
NOV 10 2008 9:30

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DECISION

BAUTISTA, *J.*:

The *Petition for Review* seeks the issuance of tax credit certificate in the amount of P18,992,055.00, representing petitioner's alleged overpaid or excess tax payments for taxable year 2002.

Cebu Holdings, Incorporated (Petitioner) is a corporation duly organized and existing by virtue of Philippines Laws, with principal office located at the 7th Floor, Cebu Holdings Center, Cebu Business Park, Cebu City.[1] Petitioner is registered with the Bureau of Internal Revenue (BIR) as a value-added tax (VAT)-registered real estate developer, with Taxpayer Identification Number (TIN) 000-551-890-000.[2]

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[1] Par. 1, Joint Stipulation of Facts and Restatement of Issues (JSFRI), Docket, p. 79
[2] Par. 3, JSFRI, Docket, p. 79

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On the other hand, respondent is the duly appointed Commissioner of Internal Revenue vested with the authority to act as such, including the power to decide, approve and grant claims for refund or issuance of tax credit certificate of overpaid internal revenue taxes as provided by law. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.[3]

On April 15, 2003, petitioner filed with respondent's Revenue District Office No. 123, Large Taxpayers Division (LTD) Cebu, its Income Tax Return (ITR) for the year ending December 31, 2002, indicating an aggregate excess income tax payments of P38,503,472.00, computed as follows:[4]

Gross Income	191,149,784
Less: Deductions	147,535,224
Taxable Income	43,614,560
Tax Rate	32.00%
Income Tax	13,956,659
MCIT	4,377,937
Tax Due	**13,956,659**
Less:	
Prior Year's Excess Credits	33,468,076
Creditable Tax Withheld for 1st 3 Quarters	12,130,450
Creditable Tax Withheld for 4th Quarter	6,861,605
Total Tax Credits/Payments	52,460,131
Tax Payable/(Overpayment) – Prior Year's Tax Credit	(19,511,417)
Tax Payable/(Overpayment) – Current Year's Tax Credit	**(18,992,055)**

In the same ITR, petitioner indicated its option to be issued a tax credit certificate for the amount of P18,992,055.[5]

On March 4, 2005, petitioner filed with respondent's LTD-Cebu a written claim for the issuance of a tax credit certificate in the amount of P18,992,055.00, representing its excess income tax credit for the year ending December 31, 2002.[6]

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[3] Par. 2, JSFRI, Docket, p. 79
[4] Exhibit "B"; par. 4, JSFRI, Docket, p. 80
[5] Exhibit "B-2"; par. 5, JSFRI, Docket, p. 80
[6] Exhibit "D"; par. 6, JSFRI, Docket, p. 80

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To date, respondent has not acted upon petitioner's administrative claim[7]; hence this *Petition for Review* filed on April 15, 2005.

In his *Answer*[8] filed on June 20, 2005, respondent averred the following Special and Affirmative Defenses:

> "3. Petitioner alleged claim for refund/tax credit is subject to administrative routinary examination/investigation by the respondent's Bureau.
>
> 4. Petitioner failed miserably to show that the total amount of Php18,992,055.00 claimed as excess/unutilized tax credits for taxable year 2002 was erroneously or illegally collected, or that the same was properly documented.
>
> 5. Taxes paid and collected are presumed to have been paid in accordance with law; hence, not refundable.
>
> 6. In an action for tax refund/credit, the taxpayer has the burden to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund.
>
> 7. It is incumbent upon petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code.
>
> 8. Well-established is the rule that refund/tax credits are construed strictly against the taxpayer as they partake of the nature of exemption from tax."

Respondent filed his *Respondent's Pre-Trial Brief*[9] on July 6, 2005; while petitioner filed its *Petitioner's Pre-Trial Brief*[10] on July 5, 2005. Pre-Trial was held on July 8, 2005.[11]

On September 6, 2005, the parties filed their *Joint Stipulation of Facts and Restatement of Issues*[12], which the Court approved in a *Resolution* dated September 13, 2005.[13]

On June 6, 2006, the Court granted petitioner's *Motion to Avail of the Provisions of Rule 13 of the Revised Rules of the Court of Tax Appeals*[14] filed on June 2, 2006.[15]

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[7] Par. 7, JSFRI, Docket, P. 81
[8] Docket, pp. 50-52
[9] Docket, pp. 55-57
[10] Docket, pp. 68-73
[11] Docket, p. 67
[12] Docket, pp. 79-81
[13] Docket, p. 83
[14] Docket, pp. 95-96
[15] Docket, p. 100

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Accordingly, Atty. Owen Y. Algoso was commissioned as the Independent Certified Public Accountant (CPA).

The Court-commissioned Independent CPA filed his Partial Report[16] on July 6, 2006, and his Final and Consolidated Report[17] on August 3, 2006.

On November 7, 2006, petitioner filed its *Formal Offer of Evidence*[18] which the Court admitted in a *Resolution* dated January 4, 2007.[19]

In a *Resolution* dated July 25, 2007, confirming the order in open court on July 10, 2007 and upon oral motion of petitioner's counsel, respondent was declared to have waived his right to present evidence for failure of respondent's counsel to appear for several hearings despite notice.[20]

Respondent filed a *Motion for Reconsideration*[21] on August 1, 2007. However, the Court in a *Resolution*[22] dated September 4, 2007, denied the same for lack of merit.

On November 19, 2007, the case was submitted for decision, taking into consideration the respective *Memorandum* filed by petitioner on October 16, 2007 and by respondent on November 5, 2007.[23]

Hence, this decision.

The parties stipulated the following issues[24] for this Court's resolution:

> 1. Whether or not the claim for refund in the amount of P18,992,055.00 is substantiated by sufficient evidence to show that these are excess income tax credits generated by petitioner in taxable year 2002; and
>
> 2. Whether or not petitioner is entitled to the issuance of a tax credit certificate in the amount of P18,992,055.00.

The issues can be summarized as follows:

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[16] Docket, pp. 102-107
[17] Exhibit "H", Docket, pp. 171-183
[18] Docket, pp. 187-192
[19] Docket, pp. 292-293
[20] Docket, p. 301
[21] Docket, pp. 302-306
[22] Docket, pp. 313-314
[23] Docket, p. 338
[24] JSFRI, Docket, p. 81

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Whether or not petitioner is entitled to the issuance of tax credit certificate in the amount of P18,992,055.00, representing overpaid or excess tax payments for taxable year 2002.

A perusal of petitioner's amended Annual Income Tax Return for taxable year 2002[25] shows that it had total tax credits of P49,142,822.00, comprising of the prior year's excess credits of P30,150,767.00 and creditable taxes withheld for the four quarters of taxable year 2002 in the amount of P18,992,055.00. Out of the total tax credits of P49,142,822.00, petitioner utilized the amount of P13,956,659.00 to answer for its income tax liability for taxable year 2002; leaving an excess tax credits of P35,186,163.00, consisting of the creditable taxes withheld for taxable year 2002 in the amount of P18,992,055.00 and the remainder of the prior year's excess credits of P16,194,108.00, as shown below:

Sales/Revenues/Receipts/Fees		P 395,529,877.00
Less:	Cost of Sales/Services	213,551,009.00
Gross Income from Operation		P 181,978,868.00
Add:	Non-operation and Other Income	9,170,916.00
Total Gross Income		P 191,149,784.00
Less:	Deductions	147,535,224.00
Taxable Income		P 43,614,560.00
Tax Due (32%)		P 13,956,659.00
Less:	Tax Credits	
	Prior Year's Excess Credits	P 30,150,767.00
	Creditable Tax Withheld	
	1st to 3rd Quarters - 2002	P 12,130,450.00
	4th Quarter - 2002	6,861,605.00
	Total Creditable Tax Withheld - 2002	P 18,992,055.00
	Total Tax Credits	P 49,142,822.00
Tax Overpayment - prior year's tax credits		P 16,194,108.00
Tax Overpayment – current year's (2002) tax credits		**P18,992,055.00**
Tax Overpayment - Total		**P35,186,163.00**

Out of the income tax overpayment of P35,186,163.00, only the amount of P16,194,108.00 was carried-over as prior year's excess credits to the succeeding taxable year 2003 as shown in petitioner's amended Annual Income Tax Return for taxable year

[25] Exhibits "C-2" and "C-3"

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2003.[26] Inasmuch as petitioner marked the option "To be issued a Tax Credit Certificate" insofar as the excess tax credits for taxable year 2002 in the amount of P18,992,055.00 is concerned[27], the same may be the subject of a claim for issuance of tax credit certificate pursuant to Section 76 of National Internal Revenue Code (NIRC) of 1997 which reads:

> "**SEC. 76. Fiscal 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 the year, the corporation shall either:
>
> (A) Pay the balance of the 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 maybe 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."

Clearly, a taxable corporation is entitled to a refund or tax credit when the sum of the quarterly income taxes it paid during a taxable year exceeds its total income tax due for that year.

Issuance of tax credit certificate is allowed under Section 204(C) of the NIRC of 1997, as amended, in relation to Section 229 of the same code, which 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

[26] Exhibit "F-2"
[27] Exhibits "B-2" and "C-2"

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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 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."

"**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 any penalty claimed to have been collected without authority, or 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."

In addition, Section 2.58.3(B) of Revenue Regulations No. 2-98 states:

"**SECTION 2.58.3.** *Claim for Tax Credit or Refund.* –

xxx xxx xxx

(B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom."

Citing the cases of **F. Jacinto Group, Inc. vs. Commissioner of Internal Revenue**[28] and **Citibank N.A. vs. Court of Appeals, *et al.***[29], the requisites to sustain a claim for refund or tax credit are the following:

[28] CTA Case No. 4971, April 5, 1995
[29] 345 Phil. 695 (1997)

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(1) That the claim for refund was filed within the two-year prescriptive period;

(2) That the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee showing the amount paid and the amount of tax withheld therefrom; and

(3) That the income upon which the taxes were withheld were included in the return of the recipient.

Records show that petitioner complied with the first requirement. The two-year prescriptive period for the filing of a claim for refund of excess income tax paid/withheld commences from the date of filing of the final adjustment return.[30] The claimed excess creditable withholding taxes pertain to taxable year 2002 for which petitioner originally filed its Income Tax Return on April 15, 2003.[31] Counting from this date, petitioner had until April 15, 2005 within which to file its claim, both in the administrative and judicial levels. Thus, petitioner's administrative claim filed with the BIR on March 4, 2005[32] and the *Petition for Review* filed before this Court on April 15, 2005, fall within the two-year prescriptive period.

Anent the second requirement, petitioner submitted the following documents as proofs of tax withholding: Certificate Authorizing Registration[33], Withholding Tax Remittance Returns[34], and Certificates of Creditable Tax Withheld at Source[35]. Upon examination of these documents, the Independent CPA reported as follows[36]:

"**Summary of Findings**

In summary, based on the procedures performed to verify the accuracy of the amount of overpaid income tax/excess Creditable Withholding Taxes (CWTs) as of the year ended December 31, 2002 amounting to PhP 18,992,054.91 and the propriety of the documents supporting the claim for refund or tax credit of the Company on the present case at hand, we present below our findings and observation according to the particular source of creditable taxes, as follows:

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30 ACCRA Investments Corporation vs. Court of Appeals, 204 SCRA 957
31 Exhibit "B-1"
32 Exhibit "D-1"
33 Exhibit "H", Annex 2
34 Exhibit "H", Annexes 1, 3, and 4
35 Exhibit "H", Annexes 5, 7, 8, and 9
36 Exhibit "H", pages 12 and 13

Real Estate Sales - Php 6,067,093.08

A.	CWTs supported by original Withholding Remittance Return duly stamped 'Received' by the Authorized Agent Bank and were machine validated with its supporting Contract to Sell or Deed of Sale	(Annex 1)	P5,764,623.06
B.	CWT supported by Certificate Authorizing Registration; no related income declared during the taxable year 2002	(Annex 2)	18,856.25
C.	CWT supported by original Withholding Tax Remittance Return not stamped 'Received'; but were Machine Validated by the Authorized Agent Bank	(Annex 3)	141,087.59
D.	CWT supported by original Withholding Tax Remittance Return duly stamped 'Received' by Authorized Agent Bank but were not Machine Validated by the Authorized Agent Bank; but supported by BIR-Collections and Reconciliation System	(Annex 4)	142,526.18
TOTAL - CWTs per reviewed certificates			P6,067,093.08
Unaccounted Difference - passed due to immateriality			(0.00)
TOTAL - CWTs claimed per December 31, 1998 Amended ITR			P 6,067,093.08

Real Estate Leasing - Php 12,800,461.83

E.	CWTs supported by original Certificates of Creditable Tax Withheld at Source	(Annex 5)	P9,707,369.69
F.	CWTs not supported by Certificate of Creditable Tax Withheld at Source Withholding Tax	(Annex 6)	67,710.10
G.	CWTs filed out of period	(Annex 7)	2,818,260.83
H.	Double Claim	(Annex 8)	213,124.04
TOTAL - CWTs per reviewed certificates			12,806,464.66
Unaccounted difference - passed due to immateriality			(6,002.83)
TOTAL - CWTs claimed per December 31, 1998 Amended ITR			P 12,800,461.83

Other Income - Management Fees - Php 124,500.00

I.	CWTs supported by original Certificate of Creditable Tax Withheld at Source	(Annex 9)	P 124,500.00

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TOTAL - CWTs per reviewed certificates	P 124,500.00
Unaccounted Difference	(0.00)
TOTAL - CWTs claimed per December 31, 1998 Amended ITR	P 124,500.00

The Court agrees with the above findings except for the amount of P3,857.33, which was erroneously included by the Independent CPA as part of the out of period CWTs in the amount of P2,818,260.83. The certificate supporting the creditable tax of P3,857.33 shows that the same was withheld in taxable year 2002[37]. Thus, only the amount of P2,814,403.50 pertains to out of period CWTs.

Out of the total reported creditable withholding taxes of P18,992,055.00, only the amount of P15,877,961.02 represents petitioner's valid claim. The rest of the claimed creditable withholding taxes in the amount of P3,114,093.89 shall be disallowed, namely:

	Annexed to Exhibit H as	**Claimed CWTs**
CWT supported by Certificate Authorizing Registration	(Annex 2)	P 18,856.25
CWTs not supported by Certificate of Creditable Tax Withheld at Source Withholding Tax	(Annex 6)	67,710.10
CWTs filed out of period	(Annex 7)	2,814,403.50
Double Claim	(Annex 8)	213,124.04
Disallowed Creditable Withholding Taxes		**P3,114,093.89**

Proceeding on to the third requirement, petitioner, in its amended 2002 Income Tax Return[38], reflected the following sales/revenues/receipts/fees and other income:

Sales/Revenues/Receipts/Fees	
Lease of Properties	P 274,565,140.00
Sale of Goods/Properties	120,964,737.00
Total	**P395,529,877.00**
Non-Operating/Other Income	
Unrealized foreign exchange gain in 2001 realized in 2002	P 4,965,782.00
Miscellaneous	4,205,134.00
Total	**P 9,170,916.00**

[37] Exhibit "H", Annex 7, page 4
[38] Docket, p. 225

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On the other hand, the certificates and the withholding tax remittance returns show that the creditable income taxes of P15,877,961.02 were withheld on income payments totalling to P317,579,220.50, broken down as follows:

	Annexed to Exhibit H as	Income Payment	Income Tax Withheld
Real Estate Sales			
	Annex 1, page 1	P 25,809,000.00	P 1,290,450.00
	Annex 1, page 2	4,672,671.84	233,633.59
	Annex 1, page 3	5,320,625.66	266,031.28
	Annex 1, page 4	5,468,769.18	273,438.46
	Annex 1, page 5	6,335,834.82	316,791.74
	Annex 1, page 6	2,852,886.96	142,644.35
	Annex 1, page 7	2,667,689.64	133,384.48
	Annex 1, page 8	13,967,352.08	698,367.60
	Annex 1, page 9	2,859,419.55	142,970.98
	Annex 1, page 10	2,875,659.75	143,782.99
	Annex 1, page 11	5,626,124.29	281,306.21
	Annex 1, page 12	3,904,153.49	195,207.67
	Annex 1, page 13	4,748,326.75	237,416.34
	Annex 1, page 14	2,760,727.93	138,036.40
	Annex 1, page 15	22,553,000.00	1,126,650.00
	Annex 1, page 16	2,890,219.30	144,510.97
		P 115,312,461.24	P 5,764,623.06
	Annex 3, page 1	2,821,751.80	141,087.59
	Annex 4, page 1	2,850,523.66	142,526.18
		P120,984,736.70	**P6,048,236.83**
Real Estate Leasing			
	Annex 5, pp 1 to 2275	P194,027,337.20	P 9,701,366.86
	Annex 7, page 4	77,146.60	3,857.33
		P194,104,483.80	**P9,705,224.19**
Other Income-Management Fees			
	Annex 9, page 1	P 900,000.00	P 45,000.00
	Annex 9, page 2	360,000.00	18,000.00
	Annex 9, page 3	480,000.00	24,000.00
	Annex 9, page 4	120,000.00	6,000.00
	Annex 9, page 5	180,000.00	9,000.00
	Annex 9, page 6	180,000.00	9,000.00
	Annex 9, page 7	150,000.00	7,500.00
	Annex 9, page 8	120,000.00	6,000.00
		P 2,490,000.00	**P 124,500.00**
	Total:	**P317,579,220.50**	**P15,877,961.02**

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Based on the above, petitioner's revenues from lease of real properties in the amount of P274,565,140.00 as shown in its 2002 Income Tax Return is higher than the lease revenues of P194,104,483.80 reflected in the certificates. Evidently, petitioner declared in its 2002 ITR, all of the income on its lease of real properties upon which the claimed creditable income taxes of P9,705,224.19 were withheld.

However, petitioner's revenues from sales of real properties in the amount of P120,964,737.00, as shown in its ITR is lower by P19,999.70 when compared to the gross sales of P120,984,736.70 indicated in the withholding tax remittance returns. For petitioner's failure to account for the discrepancy of P19,999.70, the related creditable withholding taxes in the amount of P999.99, as computed below, shall be disallowed from petitioner's claim.

Sales of Goods/Properties per income tax return	P 120,964,737.00
Less: Sales of Real Properties per w/holding tax remittance returns	120,984,736.70
Discrepancy in sales of real properties	P 19,999.70
Multiply by: 5% withholding tax rate	0.05
Disallowed Creditable Withholding Taxes	**P 999.99**

Also, petitioner failed to show that it declared the management fees of P2,490,000.00 related to the claimed creditable withholding taxes of P124,500.00. These management fees fall under "Sale of Services" but no amount of sale of services was indicated in the Return. Although petitioner reported a "Miscellaneous" income of P4,205,134.00, it cannot be verified whether the same included the management fees of P2,490,000.00. Petitioner should have submitted documents wherein the management fees of P2,490,000.00 can be traced as forming part of its reported Miscellaneous income of P4,205,134.00.

Hence, petitioner complied with the third requisite but only to the extent of P15,752,461.03, out of the total claimed creditable withholding taxes of P15,877,961.02 with valid proofs of withholding, to wit:

Claimed creditable withholding taxes w/ valid proofs of withholding		P 15,877,961.02
Less: a.	Creditable taxes withheld pertaining to the discrepancy In sales of real properties per income tax return and per withholding tax remittance returns	999.99
b.	Creditable taxes withheld pertaining to the management fees of P2,490,000.00	124,500.00
Claimed creditable taxes withheld pertaining to petitioner's declared income in its 2002 income tax return		**P15,752,461.03**

Petitioner alleges that no amount of the creditable taxes withheld in taxable year 2002 was utilized since its prior year's excess credits of P30,150,757.00 were more than enough to offset its income tax liability for taxable year 2002 in the amount of P13,956,659.00.

However, petitioner failed to substantiate its prior year's excess credits of P30,150,757.00, save for the amount of P288,076.04, computed as follows:

Per Exhibit H Annex 7	Period Covered	Withholding Agent	Income Tax Withheld
page 1	4/1/2001 to 06/30 /01	ACA Video and Laser Tech., Inc. - Congressional	P 13,117.11
page 2	07/01/01 to 09/30/01	ACA Video and Laser Tech., Inc. - Congressional	13,117.11
page 3	10/01/01 to 10/31/01	Balletcenter, Inc.	1,667.72
page 5	12/01/01 to 12/31/01	Chiropractic – Main	1,504.75
page 6	06/01/01 to 06/30/01	The Personal Gallery Corporation/Classy Stitches	1,781.47
page 7	12/31/01 to 01/31/02	Coffee Centrale the Bean Co., Inc./Coffee Club	1,734.25
page 8	12/10/01 to 03/31/02	Cora Jacobs Collection, Inc.	3,087.30
page 9	06/01/01 to 01/31/02	Ditan Communications, Inc.	13,389.28
page 10	12/01/01 to 12/31/01	Enricke Fashion Corporation'	1,036.04
page 11	03/01/01 to 03/31/01	Gillamac's Marketing, Inc.	10,698.20
page 12	07/01/01 to 09/30/01	Greenwich Pizza Corporation	14,819.66
page 13	04/01/01 to 06/30/01	Greenwich Pizza Corporation	10,451.47
page 15	01/01/01 to 12/31/01	Gentrend Marketing	11,900.24
page 17	08/01/01 to 08/31/01	Junrex Cellphones & Accessories Inc.	5,643.23
page 18	04/01/01 to 04/30/01	Amuse Foods, Inc.	2,439.25
page 19	12/01/01 to 12/31/01	Bernadette C. Caliwara/Ligna Filipina Trading	1,431.67
page 20	01/01/01 to 12/31/01	Vicsal Development Corporation/Metro Ayala	2,672,213.75
page 27	10/01/01 to 10/31/01	Picture City International, Inc.	3,314.96
page 28	10/01/01 o 12/31/01	Simply Stitching House	4,280.58
Total Creditable Taxes Withheld – 2001			P2,787,628.04
Less: Income Tax Due – 2001 (Exhibit "I")			2,499,552.00
Excess Tax Credits - 2001			**P288,076.04**

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In sum, out of the reported prior year's excess credits of P30,150,757.00, only the amount of P288,076.04 shall be applied against the income tax liability for taxable year 2002 in the amount of P13,956,659.00. The remaining income tax liability of P13,668,582.96 shall be offset against the substantiated creditable taxes withheld in taxable year 2002 in the amount of P15,752,461.03, leaving a refundable excess tax credits of only P2,083,878.07, computed as follows:

Sales/Revenues/Receipts/Fees		P395,529,877.00
Less:	Cost of Sales/Services	213,551,009.00
Gross Income from Operation		P181,978,868.00
Add:	Non-operation & Other Income	9,170,916.00
Total Gross Income		P191,149,784.00
Less:	Deductions	147,535,224.00
Taxable Income		P 43,614,560.00
Tax Due (32%)		P 13,956,659.00
Less:	Prior year's excess credits	288,076.04
Tax Still Due		P 13,668,582.96
Less:	Substantiated Creditable Taxes Withheld	15,752,461.03
Refundable Excess Tax Credits		**P 2,083,878.07**

WHEREFORE, the instant *Petition for Review* is hereby **GRANTED**. Accordingly, respondent is hereby **ORDERED TO ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount P2,083,868.07, representing excess creditable taxes for taxable year 2002.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

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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's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division

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