REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SONY PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10917**
	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 24 2025 2:05 pm

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DECISION

ANGELES, *J.*:

Before the Court is a *Petition for Review* filed by Sony Philippines, Incorporated (petitioner) against the Commissioner of Internal Revenue (respondent), praying for the Court to render judgment ordering respondent to refund to petitioner the amount of ₱58,022,111.00 representing unutilized creditable withholding taxes (CWT) for the fiscal year (FY) ended March 31, 2020.[1]

FACTS

Petitioner is a corporation duly organized and existing under the laws of the Philippines. It is primarily engaged in the business of selling, marketing, manufacturing, procuring and providing repair services for consumer type electronic products and other products bearing the trademark "SONY", including parts, materials and components thereof, in the Philippines.[2] It is registered with the Bureau of Internal Revenue (BIR) under Taxpayer Identification Number (TIN) 005-338-777-00000, with registered address at 12/F Inoza Tower, 40th Street Bonifacio Global City, Fort Bonifacio, Taguig City.[3]

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[1] *Petition for Review*, Docket – Vol. I, p. 37.
[2] Exhibit "P-2", Docket – Vol. 3, pp. 1450 to 1463.
[3] Exhibits "P-3" and "P-4", Docket – Vol. 3, pp. 1464 to 1467.

Respondent is the chief of the BIR who is empowered by law to perform the duties of said office including, among others, the power to assess and collect all national internal revenue taxes, fees and charges, and to enforce all forfeitures, penalties, and fines connected therewith.[4]

On July 15, 2020, petitioner filed its original *Annual Income Tax Return* (BIR Form No. 1702-RT) for FY ended March 31, 2020[5] (original Annual ITR) which reflected the following Tax Credits/Payments:[6]

Schedule 7 – Tax Credits/Payments	
Prior Year's Excess Credits Other Than Minimum Corporate Income Tax (MCIT)	194,855,590
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	45,620,396
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	12,401,715
Total Tax Credits/Payments	**252,877,701**

The original Annual ITR also reflected an overpayment of ₱224,282,872.00, computed as follows:[7]

Part II – Total Tax Payable	
Total Income Tax Due (Overpayment)	28,594,829
Less: Total Tax Credits/Payments	252,877,701
Total Amount Payable (Overpayment)	**(224,282,872)**

In the original Annual ITR, petitioner marked the option *"To be refunded"* for overpayment.[8]

On September 29, 2020, petitioner filed its amended Annual ITR for FY ended March 31, 2020[9] (amended Annual ITR) which reflected the following Tax Credits/Payments:[10]

Schedule 7 – Tax Credits/Payments	
Prior Year's Excess Credits Other Than MCIT	194,855,590
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	45,620,396

[4] Par. 1, Admitted Facts, *Joint Stipulation of Facts & Issues* (JSFI), Docket – Vol. I, p. 604.
[5] Exhibit "P-29", Docket – Vol. 3, pp. 1866 to 1873.
[6] Exhibit "P-29", Schedule 7 - Tax Credits/Payments, Docket – Vol. 3, p. 1871.
[7] Exhibit "P-29", Part II – Total Tax Payable, Docket – Vol. 3, p. 1866.
[8] Exhibit "P-29", Line 21, Docket – Vol. 3, p. 1866.
[9] Exhibit "P-30", Docket – Vol. 3, pp. 1874 to 1881.
[10] Exhibits "P-30-A" and "P-30-B", Docket – Vol. 3, p. 1879.

Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	12,401,715
Total Tax Credits/Payments	**252,877,701**

The amended Annual ITR reflected an overpayment of ₱224,284,512.00, computed as follows:[11]

Part II – Total Tax Payable	
Total Income Tax Due (Overpayment)	28,593,189
Less: Total Tax Credits/Payments	252,877,701
Total Amount Payable (Overpayment)	**(224,284,512)**

In the amended Annual ITR, petitioner likewise marked the option *"To be refunded"* for overpayment.[12]

On June 23, 2022, petitioner filed with the BIR Regular Large Taxpayer Audit Division I, a letter of even date,[13] together with the *Application for Tax Credits/Refunds* (BIR Form No. 1914),[14] requesting for the refund of unutilized CWT for FY ended March 31, 2020, in the amount of ₱58,022,111.00.

Records of the case bear no evidence that respondent had acted on petitioner's aforesaid application for tax refund.

PROCEEDINGS BEFORE THE COURT

On July 14, 2022, petitioner filed the present *Petition for Review*.[15]

On November 22, 2022, respondent filed his *Answer*[16] to the present *Petition*, and transmitted the *BIR Records* of the case, consisting of 1393 pages in four (4) folders.[17]

The Pre-Trial Conference was then set and later held on March 9, 2023.[18] Prior thereto, *Respondent's Pre-Trial Brief* was filed on

[11] Exhibit "P-30", Part II – Total Tax Payable, Docket – Vol. 3, p. 1874.
[12] Exhibits "P-30-C", Docket – Vol. 3, p. 1874.
[13] Exhibit "P-6", Docket – Vol. 3, pp. 1470 to 1479.
[14] Exhibit "P-7", Docket – Vol. 3, p. 1480.
[15] *Petition for Review*, Docket – Vol. I, pp. 6 to 40, with Annexes.
[16] Docket – Vol. I, pp. 515 to 525.
[17] *Compliance* dated November 17, 2022, Docket – Vol. I, pp. 528 to 530.
[18] Resolution dated December 13, 2022, Docket – Vol. I, p. 534; Notice of Pre-Trial Conference dated December 22, 2022, Docket – Vol. I, pp. 535 to 537; Minutes of the hearing held on, and Order dated, March 9, 2023, Docket – Vol. I, pp. 565 to 570.

January 9, 2023,[19] while *Petitioner's Pre-Trial Brief* was submitted on March 2, 2023.[20]

On March 28, 2023, the parties filed their *Joint Stipulation of Facts & Issues*,[21] which was approved by the Court in the Resolution dated April 24, 2023,[22] thereby terminating the Pre-Trial. The Pre-Trial Order was issued on May 26, 2023.[23]

Trial ensued. Petitioner offered the testimonies of the following individuals, namely: (1) Ms. Eloisa R. Ancog,[24] its Head of Corporate Planning/Finance and Compliance Division; and (2) Mr. Joseph Cedric V. Calica,[25] the Court-commissioned Independent Certified Public Accountant (ICPA).[26] The *ICPA Report*[27] was submitted on July 7, 2023.

On August 10, 2023, petitioner filed its *Formal Offer of Evidence*,[28] to which respondent filed his *Comment (Re: Supplemental Formal Offer of Evidence)* on August 11, 2023.[29] In the Resolution dated October 11, 2023,[30] the Court admitted petitioner's offered exhibits, *except* Exhibits "P-37-B" and "P-37-C", for failure to present the originals for comparison.

On November 6, 2023, petitioner filed its *Motion for Reconsideration [Re: Resolution dated 11 August 2023]*,[31] submitting the originals of the denied exhibits and praying that the same be admitted. Respondent failed to file his comment thereto.[32]

Subsequently, petitioner filed a *Manifestation with Motion to Admit the Amended Motion for Reconsideration dated 14 November 2023* on November 14, 2023,[33] stating that petitioner noticed that the

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[19] Docket – Vol. I, pp. 538 to 541.
[20] Docket – Vol. I, pp. 548 to 563.
[21] Docket – Vol. I, pp. 604 to 613.
[22] Docket – Vol. I, p. 619.
[23] Docket – Vol. II, pp. 1101 to 1113.
[24] Exhibit "P-31", Docket – Vol. II, pp. 626 to 642; Minutes of the hearing held on, and Order dated, May 24, 2023, Docket – Vol. II, pp. 1097 to 1097-B and 1098 to 1098-B, respectively.
[25] Exhibit "P-32", Docket – Vol. II, pp. 1376 to 1396; Minutes of the hearing held on July 26, 2023, Docket – Vol. 3, pp. 1405.
[26] *Oath of Commission* dated May 24, 2023, Docket – Vol. II, p. 1097-C; Minutes of the hearing held on, and Order dated, May 24, 2023, Docket – Vol. II, pp. 1097 to 1097-B and 1098 to 1098-B, respectively.
[27] Exhibit "P-38", Docket – Vol. II, pp. 1120 to 1201.
[28] Docket – Vol. 3, pp. 1406 to 1426.
[29] Docket – Vol. 3, pp. 1888 to 1890.
[30] Docket – Vol. 3, pp. 1898 to 1899.
[31] Docket – Vol. 3, pp. 1900 to 1907.
[32] Records Verification Report dated March 18, 2024, issued by the Judicial Records Division of this Court Docket – Vol. 3, p. 1974.
[33] Docket – Vol. 3, pp. 1912 to 1917.

title of its Motion for Reconsideration should have contained the date October 11, 2023, instead of August 11, 2023, and praying that the attached Amended Motion for Reconsideration[34] be admitted into the records of the case. Respondent again failed to file his comment thereto.[35]

In the Resolution dated September 17, 2024,[36] the Court granted both petitioner's *Motion to Admit the Amended Motion for Reconsideration dated 14 November 2023*, and *Amended Motion for Partial Reconsideration [Re: Resolution dated 11 October 2023]*, thereby admitting Exhibits "P-37-B" and "P-37-C".

Respondent filed a *Manifestation* on October 9, 2023,[37] stating that he will not be presenting any witness for this case. Respondent then filed his *Memorandum* on November 11, 2023,[38] while petitioner submitted its *Memorandum* on November 21, 2023.[39]

The case was submitted for decision on September 17, 2024.[40]

ISSUE

The issue for the Court's resolution is whether petitioner is entitled to the refund of alleged unutilized creditable withholding taxes for the fiscal year ending 31 March 2020 in the amount of Fifty-Eight Million Twenty-Two Thousand One Hundred Eleven Pesos (₱58,022,111.00).[41]

Petitioner's arguments

Petitioner argues that it is entitled to a tax refund of its unutilized excess creditable taxes withheld and remitted to the respondent, considering that it is fully compliant with the requirements laid down by law and jurisprudence to allow such claim. In particular, petitioner alleges the following:

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[34] Docket – Vol. 3, pp. 1921 to 1929.
[35] Records Verification Report dated April 11, 2024, issued by the Judicial Records Division of this Court Docket – Vol. 3, p. 1976.
[36] Docket – Vol. 3, pp. 1980 to 1982.
[37] Docket – Vol. 3, pp. 1894 to 1896.
[38] Docket – Vol. 3, pp. 1933 to 1941.
[39] Docket – Vol. 3, pp. 1943 to 1970.
[40] Resolution dated September 17, 2024, Docket – Vol. 3, pp. 1980 to 1982.
[41] *Pre-Trial Order* dated May 26, 2023, Docket – Vol. II, p. 1107.

First, its claim for refund was filed within the two (2)-year prescriptive period. Since it filed its 2020 Annual ITR on July 15, 2020 using the Electronic Filing and Payment System (EFPS), it had two (2) years from such filing, or until July 15, 2022 to file both its administrative and judicial claim for tax refund. Thus, when petitioner filed its administrative claim on June 23, 2022, and its judicial claim on July 14, 2022, both claims were timely filed;

Second, the income payments from which taxes were withheld were included as part of the gross income declared in the 2020 Annual ITR. It explains that the amount of income payments per the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) totaled ₱5,802,150,217.00, which is the same amount considered and reported as CWTs in petitioner's 2020 Annual ITR. Petitioner presented the following table:[42]

Total Net Sales declared in the Annual ITR for the fiscal year ended March 31, 2020	Php5,465,150,217
Total Amount of Income Payments reflected in the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307)	Php5,802,211,092
Discrepancy	Php337,060,875

Petitioner claims that the discrepancy in the amount of ₱337,060,875.00 is due to the fact that: (a) some of petitioner's income payors are not part of those corporations which are required to withhold 1% on the regular purchase of goods; and, (b) some income payments were declared in prior year's Annual ITR covering TYs 2017, 2018, 2019 or different periods due to delays in the collection of certain payments by petitioner. Petitioner reconciles the discrepancy, as follows:[43]

Sales of Goods/Properties	5,583,516,310.00
Sales of Services	81,540,269.00
Gross sales	**5,665,056,579.00**
Less: Sales returns, discounts and allowances	199,906,362.00
Total Net sales declared in the annual ITR for the fiscal year ended March 31, 2020	**5,465,150,217.00**
Total Amount of income Payments reflected in Summary Alphalist of Withholding Tax at Source	5,802,211,092.00
Discrepancy	**(337,060,875.00)**

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[42] *Memorandum* dated November 21, 2023, Docket – Vol. 3, p. 1955.
[43] *Id.*

Petitioner further states that the total net sales per Annual ITR was derived from petitioner's Audited Financial Statements (AFS) annual gross sales amounting to ₱5,665,056,579.00 less sales returns, discounts and allowances of ₱199,906,362.00. It also states that the ICPA Calica was able to trace the total net sales of ₱5,465,150,217.00 from the schedules to the books of accounts by comparing the Schedule of Creditable Income Tax Withheld against the company's quarterly and annual income tax returns;

Third, the fact of withholding is substantiated by BIR Form No. 2307 issued by customers/income payors to petitioner;

Fourth, petitioner elected to refund the excess creditable withholding tax in the 2020 Annual ITR; and,

Fifth, the amount claimed for refund was not carried over or applied to the succeeding year. Petitioner explains that for FY ended March 31, 2020, petitioner's 2020 Annual ITR reported a net tax overpayment of ₱224,284,512.00, which included prior year's excess credit of ₱194,855,590.00 declared in its 2019 Annual ITR. Petitioner elected to apply for refund the amount of ₱60,157,273.00 which refers to the unutilized CWTs for FY ended March 31, 2020. Petitioner claims that for the succeeding quarterly income tax returns, and the 2021 Annual ITR, the ₱58,022,111.00 sought to be refunded was not carried over and applied to offset the tax payable in FY ended March 31, 2021.

Respondent's counter-arguments

Respondent contends that petitioner failed to exhaust administrative remedies because barely thirteen (13) days from the filing of its administrative claim for refund on March 15, 2023, petitioner filed the present petition on March 28, 2023.

He also argues that petitioner's claim of ₱58,022,111.00 representing unutilized CWT for the FY ended March 31, 2020, is subject to determination of sufficiency of proper documentation. He claims that petitioner did not provide supporting documents to show that the income from which the CWT was withheld was declared in its ITR. He points out that there is no direct linkage between the CWT being claimed and the income as reflected in the Annual ITR.

Respondent further claims that petitioner's failure to submit documents supporting its administrative claim for refund makes the same pro-forma. As such, the filing thereof should not be taken as proper compliance with the requirements of the law that an administrative claim for refund should have been filed prior to the institution of a judicial claim for refund. Consequently, without a validly and duly filed administrative claim for refund, this Court is without jurisdiction to entertain the present *Petition*.

Lastly, respondent, citing Section 2 of Revenue Regulations (RR) No. 2-2006, maintains that it is incumbent upon the claimant to prove actual remittance of the alleged withheld taxes to the BIR.

RULING OF THE COURT

The present *Petition for Review* must be denied.

At the outset, Section 76 of the National Internal Revenue Code of 1997 (Tax Code), as amended, gives a taxable corporation two (2) options on how to treat any excess total quarterly income tax payments over total income tax due in a given taxable year, 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. *(Emphasis supplied)*

Based on the above provision, the taxable corporation may either: (1) carry-over the excess amount to the succeeding taxable quarters/years until it is fully utilized, or (2) file a claim for refund in the form of cash or tax credit certificate.

With respect to the *first* option, once the same is taken, actually or constructively, it becomes irrevocable, such that the taxpayer cannot later on opt to apply for a refund of the very same excess income tax credit.[44] The following phrase *"for that taxable period"* merely identifies the excess income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer.[45]

In exercising its option, the corporation must signify in its annual corporate adjustment return its intention, either to carry over the excess credit or to claim a refund. To facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other.[46]

In this case, a perusal of petitioner's amended Annual ITR for FY 2020[47] shows that it had a total tax credit of ₱252,877,701.00,[48] derived as follows:

Prior Year's Excess Credits other than MCIT		₱ 194,855,590.00
Add: Creditable Taxes Withheld – FY 2020		
Creditable tax withheld for the first three quarters	₱ 45,620,396.00	
Creditable tax withheld per BIR Form 2307 for the 4th quarter	12,401,715.00	58,022,111.00
Total tax credits		**₱252,877,701.00**

Petitioner claims that its income tax due for FY 2020 in the amount of ₱28,593,189.00[49] was paid using a portion of its prior year's excess credits of ₱194,855,590.00, leaving the prior year's excess credits in the amount of ₱166,262,401.00 and the creditable taxes withheld during the FY 2020 in the amount of ₱58,022,111.00, or a total of ₱224,284,512.00 unutilized as of March 31, 2020, as shown below:

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[44] *Rhombus Energy, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206362, August 1, 2018, citing the case of *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015; *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 & 162004, December 14, 2005; *Systra Philippines, Inc vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.

[45] *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, supra; *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.

[46] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.

[47] Exhibit "P-30", Docket – Vol. 3, pp. 1874 to 1881.

[48] Exhibit "P-30", Schedule 7 - Tax Credits/Payments, Docket – Vol. 3, p. 1879.

[49] Exhibit "P-30", Line 44, Docket – Vol. 3, p. 1875.

Prior Year's Excess Credits other than MCIT	₱ 194,855,590.00
Less: Tax Due (MCIT)	28,593,189.00
Balance of Prior Year's Excess Credits	₱ 166,262,401.00
Add: Creditable Taxes Withheld – FY 2020	58,022,111.00
Excess Creditable Withholding Taxes as of March 31, 2020	**₱224,284,512.00**

Since petitioner marked the box corresponding to the option ***"To be refunded"*** in its original[50] and amended[51] Annual ITR for FY 2020, the CWTs for that year in the amount of ₱58,022,111.00 may be the proper subject of a claim for refund under Section 76 of the Tax Code.

Petitioner's option to refund the amount of ₱58,022,111.00 is further supported by the fact that petitioner carried over only the amount of ₱166,262,401.00 as prior year's excess tax credits other than MCIT in its Annual ITR for FY 2021.[52] The latter amount already excluded the CWTs being claimed for refund in this case.

Considering the foregoing, We now determine whether petitioner has complied with the following requisites that entitle a taxpayer to a refund or an issuance of tax credit certificate for unutilized excess CWT:

1. The claim for refund must be filed within the two (2)-year prescriptive period as provided under Sections 204(C) and 229 of the NIRC of 1997;

2. The fact of withholding must be established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. The income upon which the taxes were withheld must be included in the return of the recipient.[53]

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[50] Exhibit "P-29", Line 21, Docket – Vol. 3, p. 1866.
[51] Exhibit "P-30-C", Docket – Vol. 3, p. 1874.
[52] Exhibit "P-21-A", Docket – Vol. 3, p. 1533.
[53] *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, supra; *United International Pictures AB vs. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012; *Citibank N.A. vs. Court of Appeals*, et al., G.R. No. 107434, October 10, 1997; *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; Section 2.58, Revenue Regulations No. 2-98, as amended.

It must be noted that it is not the duty of the government to disprove a taxpayer's claim for refund. Rather, the burden of establishing the factual basis of a claim for a refund rests on the taxpayer.[54] As such, it behooves petitioner to establish its compliance with the foregoing requisites.

Petitioner's administrative and judicial claims for refund were timely filed

Anent the *first* requisite, the pertinent provisions are Sections 204(C) and 229 of the Tax Code, which read:

> 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 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.
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> xxx xxx xxx
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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.
>
> **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

[54] *Commissioner of Internal Revenue v. Far East Bank & Trust Company*, G.R. No. 173854, March 15, 2010.

> upon which payment was made, such payment appears clearly to have been erroneously paid. *(Emphasis supplied)*

The above provisions mandate that both the administrative and judicial claims for refund of erroneously or excessively paid tax must be done within two (2) years from the date of payment of the tax.

It is well-settled that the two (2)-year prescriptive period for claiming a refund of overpaid income tax/CWTs commences to run on the date of filing of the Final Adjustment Return (or Annual ITR).[55] This is so because it is only when the Final Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.[56] In other words, it is only logical to reckon the two (2)-year prescriptive period from the time the Final Adjustment Return or the Annual ITR is filed, since it is only at that time that it would be possible to determine whether the corporate taxpayer paid an amount exceeding its annual income tax liability.[57]

Here, petitioner filed its original Annual ITR for FY ended March 31, 2020 on July 15, 2020.[58] Thus, petitioner had two (2) years from July 15, 2020, or until July 15, 2022, to file both its administrative and judicial claims for refund of excess CWT.

Given that petitioner filed its administrative claim with BIR on June 23, 2022,[59] and that it filed the present judicial claim on July 14, 2022,[60] both claims for refund of unutilized excess CWTs were timely filed within the two (2)-year prescriptive period.

Turning to another point, respondent argues that petitioner failed to exhaust administrative remedies when it filed its judicial claim only a few days after it filed its administrative claim.

This point, however, was already settled by the Supreme Court in *Commissioner of Internal Revenue vs. Carrier Air Conditioning Philippines, Inc.*,[61] where it held that as long as both the administrative

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[55] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, supra; *Commissioner of Internal Revenue vs. TMX Sales, Inc., et al.*, G.R. No. 83736, January 15, 1992; *Commissioner of Internal Revenue vs. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, May 29, 1995.
[56] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, supra.
[57] *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.
[58] Exhibit "P-29", Docket – Vol. 3, pp. 1866 to 1873.
[59] Exhibits "P-6" and "P-7", Docket – Vol. 3, pp. 1470 to 1480.
[60] Docket – Vol. I, pp. 6 to 44.
[61] G.R. No. 226592, July 27, 2021.

and judicial claims for refund are filed within the two (2)-year prescriptive period, there is no legal impediment to the judicial claim for refund. The Supreme Court held, to wit:

> A closer reading of Sections 204 and 229 of the 1997 National Internal Revenue Code, in conjunction with Section 7 of Republic Act No. 9282, reveals a problem of what is considered a 'reasonable period' for the Commissioner of Internal Revenue to act on a claim for refund of taxes.
>
> Section 229, which requires a prior administrative claim before a judicial claim is filed, recognizes the Commissioner of Internal Revenue's primary jurisdiction to decide refunds of internal revenue taxes. It gives the Commissioner 'an opportunity to consider [their] mistake, if mistake has been committed,' or to investigate and ascertain the veracity of the claim, before they are sued. This Court in *CBK Power Company*,[62] citing *P.J. Kiener*,[63] held that the primary purpose of filing an administrative claim is to serve as a *notice or warning* to the Commissioner that *court action would follow unless the tax or penalty is refunded.* This necessarily implies that the Commissioner has sufficient time to examine, evaluate, and act on the matter within their jurisdiction.
>
> On the other hand, Section 7 of Republic Act No. 9282 grants the Court of Tax Appeals exclusive appellate jurisdiction over a decision or 'inaction deemed denial' of the Commissioner in a claim for refund. Under its clear wording, the Court of Tax Appeals can take cognizance of appeals in cases of the Commissioner's 'inaction' only where the 1997 National Internal Revenue Code specifically provides a period for the Commissioner to act on a claim for refund. However, unlike in claims for refund of input value-added tax, the 1997 National Internal Revenue Code does not prescribe a specific period within which the Commissioner must resolve the claim for refund or credit of erroneously paid taxes.
>
> **Sections 204 and 229 fixed the same period of two years for filing an administrative claim for refund before the Bureau of Internal Revenue and to sue before the Court of Tax Appeals. *CBK Power Company* explained that as long as these two acts fall within the two-year period, there is no legal impediment to the judicial claim for refund.**
>
> **Consequently, from the plain language of the law, it does not matter how far apart the administrative and judicial claims were filed, or whether the Commissioner of Internal Revenue was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.**
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> Thus, in *CBK Power Company*, as with subsequent cases, this Court upheld the propriety of the taxpayer's judicial claim instituted

[62] That is, *CBK Power Company Limited vs. Commissioner of Internal Revenue*, 750 Phil. 748 (2015).

[63] That is, *P.J. Kiener Company, Ltd. vs. David*, 92 Phil. 945 (1953).

as early as five[64] and 13[65] days after the administrative claim had been filed, on the ground that both claims were filed within the two-year prescriptive period.

The Court of Tax Appeals likewise allowed judicial claims filed simultaneously, or one to 28 days from the administrative claim's filing, on the same ground that both claims were filed within the two-year prescriptive period.

In much earlier cases, however, it was the Commissioner who was considered long delayed in resolving the administrative claims. Hence, this Court has held that the taxpayer need not wait for the Commissioner's decision, and may file its judicial claim when the two-year prescriptive period is about to lapse.

xxx xxx xxx

In these cases, the written claim for refund was duly filed at the administrative level, but the claim had not been acted upon by the Commissioner (then Collector) of Internal Revenue. Since the two-year period was about to lapse, the taxpayer was held justified in filing its judicial claim, without waiting for the Commissioner's decision, to protect its interest. Otherwise, should the Commissioner render an adverse decision after the two-year period, the taxpayer would be barred, to its prejudice, from pursuing its appeal to the Court of Tax Appeals.

These cases show that the lack of a specific period fixed by the law within which the Commissioner must decide the claim has led to delays, to the taxpayer's prejudice. On the other hand, there were instances when the Commissioner was deprived of the opportunity to act on the matter within their jurisdiction because of the short interval between the filing of the administrative claim and the filing of the judicial claim. This is so because the law merely provides two years for a taxpayer to file the administrative claim and judicial claim, with the former required to be filed first.

Nonetheless, the silence or insufficiency in the law on the reasonable period for the Commissioner's action is one that can be addressed not by judicial pronouncement, but by appropriate legislation. *(Emphasis supplied)*

To emphasize that it does not matter how far apart the administrative and judicial claims are filed, in *Commissioner of Internal Revenue vs. Estate of Mr. Charles Marvin Romig, Represented by its Sole Heir Mrs. Maricel Narciso Romig* (*Romig* case),[66] the High Court ruled, thus:

[64] *Commissioner of Internal Revenue vs. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, 802 Phil. 636 (2016).
[65] *Commissioner of Internal Revenue vs. Goodyear Philippines, Inc.*, 792 Phil. 484 (2016).
[66] G.R. No. 262092, October 9, 2024.

✓

Sections 204 and 229 of the 1997 NIRC provide for the refund of erroneously or illegally collected taxes. **Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.** Said provisions state:

xxx xxx xxx

Based on the above-quoted provisions, it is manifestly clear that an administrative claim for refund must precede the filing of a judicial claim and that both claims must be filed within the two years from the payment of the tax. In the instant case, the two-year period to file a claim for refund is reckoned from June 30, 2015, the date respondent paid the estate tax amounting to PHP 4,565,439.07. **Since the Estate first filed its administrative claim at 8:00 a.m. on June 28, 2017, and thereafter its judicial claim at 4:47 p.m. on even date, both claims were filed on time or within the two-year prescriptive period provided by law.**

It is of no moment that there is only a short interval between the filing of the two claims. The law merely requires that both claims are filed within the two-year period. In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*,[67] where therein petitioner similarly argued that the judicial claim for refund, which was filed barely 10 days from the filing of the administrative claim, was premature and violative of the doctrine of exhaustion of administrative remedies, this Court held that, 'from the plain language of the law, it does not matter how far apart the administrative and judicial claims were filed, or whether the [CIR] was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.'

Moreover, the Court agrees with the finding of the CTA Second Division and CTA *En Banc* that the Estate's immediate resort to court action was justified, considering that the prescriptive period was about to expire. Under the circumstances, if the Estate had waited for the CIR to act on its administrative claim knowing fully well that the two-year period was about to lapse, it would have resultantly forfeited its right to seek judicial recourse, thereby suffering irreparable damage. Hence, respondent cannot be faulted for acting in such a manner to protect its interest and right to recover the taxes it erroneously paid to the government.

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

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[67] G.R. No. 226592, July 27, 2021.

In light of the foregoing jurisprudential pronouncements, and **before** the enactment of Republic Act No. 11976, otherwise known as the Ease of Paying Taxes Act which now provides for a One Hundred Eighty (180)-day period within which respondent must act on the administrative claim for refund of erroneously or illegally collected taxes,[68] the Tax Code merely required that both administrative and judicial claims were filed within the two (2)-year reglementary period. Thus, so long as the said claims were lodged within such period, the judicial claim may be taken cognizance of by this Court.

In the present case, the two (2)-year prescriptive period was about to lapse. Hence, to protect its interest, petitioner was justified in filing its judicial claim without waiting for respondent's decision on its administrative claim. Doing otherwise would be tantamount to petitioner forfeiting its right to seek judicial recourse. It bears stressing that per the above jurisprudence, Sections 204 and 229 of the Tax Code merely required that both refund claims are filed within the two (2)-year prescriptive period.

For these reasons, petitioner's judicial claim for refund, which was timely filed within the two (2)-year prescriptive period, is proper and cannot be dismissed on the ground of failure to exhaust administrative remedies.

Petitioner established the fact of withholding, but only to the extent of ₱48,319,793.95

With regard to the *second* and *third* requisites, Section 2.58.3(B) of RR No. 2-98, as amended, states:

> Sec. 2.58.3. *Claim for Tax Credit or Refund.* —
>
> xxx xxx xxx
>
> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.** *(Emphasis supplied)*

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[68] Section 31, Ease of Paying Taxes Act, Republic Act No. 11976, January 5, 2024.

The *second* requisite commands petitioner to prove the fact of withholding of the claimed CWT through a copy of the statement duly issued by the payor (withholding agent) to the payee showing the names of the payor and payee, the income payment, and the amount of tax withheld therefrom.

In *Commissioner of Internal Revenue vs. Philippine National Bank*,[69] the Supreme Court held that the *Certificate of Creditable Tax Withheld at Source* (BIR Form No. 2307), complete in relevant details, is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the said certificate to be presented and to testify personally to prove its authenticity.[70]

In this case, petitioner submitted various *Certificates of Creditable Tax Withheld at Source* (BIR Form No. 2307)[71] issued by its various withholding agents covering the subject period, as well as the *Schedule of Creditable Income Tax Withheld*[72] for FY 2020 reflecting CWT in the total amount of ₱58,022,110.92,[73] with related income payments of ₱5,802,211,092.00,[74] which were duly examined by the ICPA and summarized by him, as follows:

REGISTERED NAME	AMOUNT OF INCOME PAYMENT	AMOUNT OF TAX WITHHELD	Exhibit Number
8TELCOM	₱18,896,283.00	₱188,962.83	-
ABENSON LIBERTY APPLIANCE INC	16,516,624.00	165,166.24	"P-34-A-1" to "P-34-A-3"
ABENSON VENTURES INC	794,532,234.00	7,945,322.34	"P-34-A-4" to "P-34-A-7"
ADDESSA CORPORATION	20,415,238.00	204,152.38	"P-34-A-8" to "P-34-A-27"
ALTURAS ABENSON APPLIANCE BOHOL INC	20,905,664.00	209,056.64	"P-34-A-28" to "P-34-A-31"
ANSON @ HOME INC	16,754,112.00	167,541.12	"P-34-A-32" to "P-34-A-57"
ANSON EMPORIUM CORP	103,555,267.00	1,035,552.67	"P-34-A-58" to "P-34-A-67"
ANSON MARKETING AND COMMERCIAL INC	55,258,214.00	552,582.14	"P-34-A-68" to "P-34-A-79"
APPLIANCE CENTRUM	38,357,471.00	383,574.71	"P-34-A-80" to "P-34-A-86"
ARMED FORCES AND POLICE MUTUAL BENEFIT INC	1,383,020.00	13,830.20	"P-34-A-87" to "P-34-A-90"
ASIAN HOME APPLIANCE CENTER CO INC	28,162,393.00	281,623.93	"P-34-A-91" to "P-34-A-126"
ATTIVO REALTY DEVELOPMENT CORPORATION	13,840,942.00	138,409.42	"P-34-A-127" to "P-34-A-130"
AUTOMATIC APPLIANCES INC	116,812,049.00	1,168,120.49	"P-34-A-131" to "P-34-A-148"
AV SURFER SUBIC CORP	10,754,761.00	107,547.61	"P-34-A-149" to "P-34-A-152"
AVID SALES CORPORATION	381,270,197.00	3,812,701.97	"P-34-A-153" to "P-34-A-155"
AVLS ALL VISUAL & LIGHTS SYSTEMS CORP	5,578,653.00	55,786.53	-

[69] G.R. No. 180290, September 29, 2014.
[70] *Id.*
[71] Exhibits "P-34-A-1" to "P-34-A-992", USB (submitted on July 7, 2023).
[72] Exhibit "P-34-A", USB (submitted on July 7, 2023).
[73] Exhibit "P-34-A", Column C, Line 1026, USB (submitted on July 7, 2023).
[74] Exhibit "P-34-A", Column B, Line 1026, USB (submitted on July 7, 2023).

BANBROS COMMERCIAL INC	20,090,504.00	200,905.04	"P-34-A-156" to "P-34-A-157"
CAMERA SOUND INC	1,877,768.00	18,777.68	"P-34-A-158" to "P-34-A-160"
CAMERAHAUS INC	18,067,801.00	180,678.01	"P-34-A-161" to "P-34-A-171"
CENTRAL QUALITY APPLIANCE INC	12,940,198.00	129,401.98	"P-34-A-172" to "P-34-A-177"
CITY SUPERMARKET INCORPORATED	34,767,160.00	347,671.60	"P-34-A-178" to "P-34-A-181"
CITYSUPER INCORPORATED	244,785.00	2,447.85	-
COLOURS FOTOSHOP	16,082,676.00	160,826.76	-
COSTSAVERS SUPERMARKET INC	18,138,463.00	181,384.63	"P-34-A-182" to "P-34-A-209"
CSI WAREHOUSE CLUB INC	6,676,494.00	66,764.94	"P-34-A-210" to "P-34-A-227"
DAVAO IMPORT DIST INC	7,332,355.00	73,323.55	"P-34-A-228" to "P-34-A-248"
DBK ELECTRONICS	31,131,403.00	311,314.03	"P-34-A-249" to "P-34-A-298"
DES APPLIANCE PLAZA INC	61,776,226.00	617,762.26	"P-34-A-299" to "P-34-A-394"
DESMARK CORPORATION	249,434,906.00	2,494,349.06	"P-34-A-395" to "P-34-A-424"
DIGI-KADEN INC	36,059,575.00	360,595.75	-
DINGO SMART INNOVATIONS INC	1,853,793.00	18,537.93	-
DU EK SAM INCORPORATED	269,312,027.00	2,693,120.27	"P-34-A-425" to "P-34-A-432"
DUTY FREE PHILIPPINES CORPORATION	110,442,855.00	1,104,428.55	"P-34-A-433" to "P-34-A-442"
ELECTROWORLD INC	4,085,574.00	40,855.74	"P-34-A-443" to "P-34-A-446"
EXTRAORDINARY PRODUCTS TRADE AND MKTG INC	4,422,524.00	44,225.24	"P-34-A-447" to "P-34-A-453"
FIESTA APPLIANCE CENTER INC.	46,884,615.00	468,846.15	"P-34-A-454" to "P-34-A-465"
FULE JUAN TY / GEC STATIONERY & GEN MERCH	169,969.00	1,699.69	-
GLORIA BAZAAR - OZAMIS	2,828,202.00	28,282.02	-
GREATWORLD APPLIANCES CENTER INC	4,505,152.00	45,051.52	"P-34-A-466" to "P-34-A-467"
HENRYS PROFESSIONAL PHOTO MARKETING INC	158,301,016.00	1,583,010.16	"P-34-A-468" to "P-34-A-477"
HOLIDAY APPLIANCE PLAZA INC	2,562,061.00	25,620.61	"P-34-A-478" to "P-34-A-482"
HOTEL PHILIPPINE PLAZA INC	919,422.00	9,194.22	-
ICLICK DIGISHOP CORP	6,934,241.00	69,342.41	-
IMPERIAL APPLIANCE CORPORATION	784,488,353.00	7,844,883.53	"P-34-A-483" to "P-34-A-517"
IN-A-JIFFY ENTERPRISES	44,806.00	448.06	-
J & R ELECTRONICS AND APPLIANCE CENTER INC	3,710,903.00	37,109.03	"P-34-A-518" to "P-34-A-536"
K APPLIANCE INC	11,230,850.00	112,308.50	"P-34-A-537" to "P-34-A-540"
KEY LARGO CAR ACCESSORIES CENTER	110,606.00	1,106.06	"P-34-A-541" to "P-34-A-544"
LYCEUM OF THE PHILIPPINES UNIVERSITY	4,434,161.00	44,341.61	"P-34-A-545" to "P-34-A-550"
LYR MARKETING CORPORATION	1,120,470.00	11,204.70	"P-34-A-551" to "P-34-A-554"
MACYS PHOTO VIDEO STORE	496,875.00	4,968.75	-
MAGIC APPLIANCES	47,725,423.00	477,254.23	"P-34-A-555" to "P-34-A-584"
MAYER PHOTO INC	985,553.00	9,855.53	-
MELCO RESORTS LEISURE (PHP) CORPORATION	9,605,528.00	96,055.28	"P-34-A-585" to "P-34-A-587"
METRO ILOCOS APPLIANCE INC	4,043,601.00	40,436.01	"P-34-A-588" to "P-34-A-599"
METRO PLAZA THE APPLIANCE CENTER CORP	40,584,592.00	405,845.92	"P-34-A-600" to "P-34-A-626"
MIKES SUPERSTORE	1,574,615.00	15,746.15	"P-34-A-627" to "P-34-A-628"
OMNI SOLID SERVICES INC	18,500.00	185.00	-
PAN APPLIANCE CORPORATION	2,132,444.00	21,324.44	"P-34-A-629" to "P-34-A-635"
PERFECTSHOT	280,000.00	2,800.00	-
PHILIPPE GADGETS & ACCESSORIES INC	2,602,935.00	26,029.35	"P-34-A-636"
PINNACLE APPLIANCE INC	19,142,705.00	191,427.05	"P-34-A-637" to "P-34-A-640"
POS MARKETING ENTERPRISES INC	9,437,334.00	94,373.34	"P-34-A-641" to "P-34-A-657"
POUNDIT INC	140.00	1.40	-
POWER MAC CENTER INC	71,249.00	712.49	-
QUALITY APPLIANCE PLAZA INC	33,546,133.00	335,461.33	"P-34-A-658" to "P-34-A-669"

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RAINBOW APPLIANCE PLAZA INC	2,553,143.00	25,531.43	"P-34-A-670" to "P-34-A-672"
RJ HOMES THE APPLIANCE PLAZA INC	88,295,365.00	882,953.65	"P-34-A-673" to "P-34-A-676"
RL APPLIANCE INCORPORATED	49,134,777.00	491,347.77	"P-34-A-677" to "P-34-A-702"
ROBINSONS APPLIANCE CORP	159,266,738.00	1,592,667.38	"P-34-A-703" to "P-34-A-706"
ROYAL STAR APPLIANCE MARKETING INC	890,649.00	8,906.49	"P-34-A-707" to "P-34-A-709"
S & J CALEON MARKETING INC	25,574,359.00	255,743.59	"P-34-A-710" to "P-34-A-713"
S1 TECHNOLOGIES INC	1,541,278.00	15,412.78	"P-34-A-714"
SAVERS ELECTRONIC WORLD INC	91,879,086.00	918,790.86	"P-34-A-715" to "P-34-A-768"
SCAN AND PRINT GRAPHICS HOUSE INC	8,779,226.00	87,792.26	"P-34-A-769"
SCRAP SALES	48,833.00	488.33	-
SILICON FOREST PHILS	6,539,199.00	65,391.99	"P-34-A-770"
SOLID ELECTRONICS CORP	72,728,599.00	727,285.99	"P-34-A-771" to "P-34-A-834"
SOLID VIDEO CORPORATION	9,535,560.00	95,355.60	"P-34-A-835" to "P-34-A-896"
SPECIAL APPLIANCE PLAZA INC	4,386,128.00	43,861.28	"P-34-A-897" to "P-34-A-901"
SPH CREDIT CONTROL	1,028,948.00	10,289.48	-
STAR APPLIANCE CENTER INC	1,368,292,397.00	13,682,923.97	"P-34-A-902" to "P-34-A-911"
SUPER EAST ASIA ENTERPRISES INC	72,795,749.00	727,957.49	"P-34-A-912" to "P-34-A-950"
TAGUM FIESTA APPLIANCE INC	15,320,186.00	153,201.86	"P-34-A-951" to "P-34-A-976"
THE LANDMARK CORPORATION	1,111,674.00	11,116.74	"P-34-A-977"
TRINITY APPLIANCE CENTER	1,339,579.00	13,395.79	-
UNIDENTIFIED	- 2,031,429.00	- 20,314.29	-
UPSON INTERNATIONAL CORPORATION	1,137,039.00	11,370.39	-
URQUAN INC	8,992,011.00	89,920.11	-
WESTERN GRAND CENTRAL CO INC	38,920,224.00	389,202.24	"P-34-A-978" to "P-34-A-981"
WESTERN MARKETING CORPORATION	17,983,088.00	179,830.88	"P-34-A-982" to "P-34-A-985"
WILLY AND SONS CORPORATION	6,860,612.00	68,606.12	"P-34-A-986" to "P-34-A-991"
WRENLEYS APPLIANCE PLAZA INC	966,491.00	9,664.91	-
YUSEN LOGISTICS PHILIPPINES INC	118,920.00	1,189.20	"P-34-A-992"
TOTAL	**₱5,802,211,092.00**	**₱58,022,110.92**	

Relatedly, in his *Report*,[75] the ICPA made the following findings:

Total Amount of Claim for Tax Refund	**P**	**58,022,111.00**
Total Amount of Creditable Income Taxes withheld Indicated in the SAWT		58,022,110.92
Discrepancies in the amount claim vs. amount per SAWT		0.08
Less: Exceptions noted on Creditable Withholding Taxes per BIR Form 2307		
No BIR Form 2307 submitted (Exhibit "P-35-A")		10,668,592.36
No TIN/Wrong TIN of the Petitioner (Exhibit "P-35-B")		59,346.70
Not in the period covered of Claim (Exhibit "P-35-C")		4,031.12
		10,731,970.18
TOTAL AMOUNT OF UNUTILIZED CREDITABLE INCOME TAXES WITHHELD VALID FOR CLAIM CTA CASE No. 10917 For the Fiscal Year ended March 31, 2020	**P**	**47,290,140.74**

[75] Exhibit "P-38", Docket – Vol. II, p. 1129.

However, upon further examination of the *Schedule of Creditable Income Tax Withheld,*[76] and comparison of the same with the corresponding BIR Form No. 2307,[77] the total verified amount of tax withheld is ₱48,383,171.77.[78] This is ₱9,638,939.23 less than the claimed amount of ₱58,022,111.00, representing an over-claimed amount, which the ICPA refers to as *"No BIR Form 2307 submitted"* (Exhibit "P-35-A").

In view thereof, petitioner was able to satisfy the *second* requisite, but only to the extent of the duly substantiated CWTs amounting to **₱48,319,793.95**, as computed below:

Total Amount of Claim		₱58,022,111.00
Less: Exceptions		
Over-Claimed/No BIR Form 2307	₱9,638,939.23	
No TIN/Wrong TIN of the Petitioner	59,346.70	
Not in the period covered of Claim	4,031.12	9,702,317.05
Substantiated BIR Form 2307		**₱48,319,793.95**

Respondent contends that it is incumbent upon petitioner to present evidence to prove actual remittance of the alleged withheld taxes to the BIR, and that he is not obliged to prove before the Court non-remittance of the same. Respondent posits that proof of actual remittance of the alleged withheld taxes to the BIR is indispensable in a claim for refund of excess CWT.

Respondent's contention utterly fails.

The Supreme Court in *Commissioner of Internal Revenue vs. Philippine National Bank*[79] already declared that, and explained in length why proof of actual remittance to the BIR of the taxes withheld is not required in a claim for refund of unutilized excess tax credits, *viz.*:

> Petitioner's posture that respondent is required to establish actual remittance to the Bureau of Internal Revenue deserves scant consideration. **<u>Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits. Under Sections</u>**

[76] Exhibit "P-34-A", USB (submitted on July 7, 2023).
[77] Exhibits "P-34-A-1" to "P-34-A-992", USB (submitted on July 7, 2023).
[78] Exhibit "P-34-A", Sum of column M, USB (submitted on July 7, 2023).
[79] *Supra*, note 69.

57 and 58 of the 1997 National Internal Revenue Code, as amended, it is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with responsibility of withholding and remitting income taxes.

This court's ruling in *Commissioner of Internal Revenue v. Asian Transmission Corporation*,[80] citing the Court of Tax Appeals' explanation, is instructive:

> . . . proof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner. Section 2.58.3(B) of Revenue Regulations No. 2-98 clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. **In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Section 57 and 58 of the NIRC of 1997, as amended, the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent . . . has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents.** *(Emphasis supplied)*

Given the foregoing, respondent's above contention cannot be sustained.

Petitioner failed to prove that the income payments from which taxes were withheld were declared as part of its gross income in its Annual ITR

[80] G.R. No. 179617, January 19, 2011.

For the *third* requisite, petitioner must prove that its customer's income payments from which the substantiated CWTs were withheld were declared as part of its gross income. Petitioner must show to the Court that the amount of income received per the *Certificates of Creditable Tax Withheld at Source* (BIR Form No. 2307) were reported in the Annual ITR. The relation between the income received per the said certificates and the income reported in the Annual ITR can be demonstrated by tracing such income to, among others, the revenue transactions recorded in the general ledger book for FY 2020. Such tracing is necessary to verify and ascertain that the related income was duly reported as revenues for FY 2020.

Scrutiny of petitioner's *Schedule of Creditable Income Tax Withheld*[81] reveals that the claimed CWT amounting to ₱58,022,111.00, were withheld from income payments amounting to ₱5,802,211,092.00, which amount is higher than the income reported in petitioner's Annual ITR for FY 2020 (₱5,465,150,217.00),[82] to wit:

Sale of Goods/Properties	₱ 5,583,516,310.00
Sale of Services	81,540,269.00
Total	₱ 5,665,056,579.00
Less: Sales Returns, Allowances and Discounts	199,906,362.00
Net Sales/Revenues/Receipts/Fees	₱ 5,465,150,217.00
Amount of income payments per Schedule of Creditable Income Tax Withheld	5,802,211,092.00
Difference in Income	**₱ 337,060,875.00**

In his *Report*, the ICPA explained that the difference amounting to ₱337,060,875.00 is due to the fact that some of petitioner's income payors are not part of those corporations which are required to withhold 1% on the regular purchase of goods.[83] The ICPA further concluded that the income payments received by petitioner from its transactions subject to withholding tax were completely and correctly declared as part of its gross income in its AFS and Annual ITR for FY 2020.[84] He described the procedures performed to arrive at such conclusion as follows:[85]

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[81] Exhibit "P-34-A", USB (submitted on July 7, 2023).
[82] Exhibit "P-30", Schedule 1, Docket – Vol. 3, p. 1876.
[83] Exhibit "P-38", par. 10, Findings, Docket – Vol. II, p. 1128.
[84] *Id.*
[85] Exhibit "P-38", par. 3, Procedures Performed, Docket – Vol. II, p. 1126.

3. Examination of Petitioner's Income Upon which the Taxes were Withheld

a) We tied up the amount of income upon which the taxes were withheld and declared in the return of the taxpayer for the fiscal year ended March 31, 2020 with the Company's annual sales in the audited financial statements and AITR (see Exhibits 'P-34', 'P-25', 'P-29' and 'P-30').

b) We ascertained that the income upon which the taxes were withheld were included as part of the gross income, properly recorded in the Company's books of accounts, in relation to the sales found in the AITR and audited financial statements (see Exhibits 'P-25', 'P-29' and 'P-30').

However, upon careful review of the *ICPA Report*, it appears that while the ICPA categorically found that there was proper recording of income in petitioner's books, there was no mention of any tracing of such income to the general ledger books of petitioner, or of any process carried out, or of any measure whatsoever taken to determine the actual itemized composition of the sales reported in petitioner's Annual ITR and AFS. Instead, the ICPA merely made a **general statement** that he tied up the amounts of income and ascertained that the income payments were indeed reported.

Further, while the ICPA made reference to Exhibits "P-34-A", "P-30", and "P-25" (*i.e., Schedule of Creditable Income Tax Withheld*, Annual ITR, and AFS, respectively), there was no mention of petitioner's submission of any general ledger account under which the reported sales were recorded, or any other documents that would aid the Court in verifying whether the income payments related to the claimed CWTs were indeed declared in petitioner's Annual ITR.

The Court underscores that is not bound by the findings of the ICPA, as provided under Section 3, Rule 13 of the Revised Rules of Court of Tax Appeals, which states:

> SEC. 3. *Findings of independent CPA.* – The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party processing such documents and, secondarily, by the independent CPA. **The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification.** *(Emphasis supplied)*

As can be gleaned from the foregoing, the ICPA's findings are not conclusive upon the Court and are subject to the latter's verification, to determine its accuracy, veracity and merit. To be sure, the Court may either adopt or reject the ICPA's findings, wholly or partially, depending on the outcome of its own independent verification.

In the case at bar, based on the evidence presented, the Court is unable to confirm the veracity of petitioner's claim that it duly reported the sales related to the subject claimed withholding taxes. A mere conclusory statement by the ICPA in support of petitioner's claim, unaccompanied by a demonstration of the basis for such conclusion, does not suffice to justify a favorable ruling from this Court.

Consequently, there being insufficient proof to establish that the income upon which the claimed CWTs were withheld were included in petitioner's gross income in its Annual ITR, the Court cannot definitively rule that petitioner complied with the *third* requisite for entitlement to a refund of or an issuance of tax credit certificate for unutilized excess CWTs. Verily, petitioner's non-compliance with the *third* requisite is fatal to its claim.

For the sake of emphasis, notwithstanding prior mention, a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund.[86] This is because tax refunds are in the nature of tax exemptions which are regarded as in derogation of sovereign authority; as such, they are to be construed *strictissimi juris* against the person or entity claiming the refund.[87]

In view of petitioner's failure to discharge the burden of proof in the present judicial claim for tax refund, the same must necessarily fail.

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

SO ORDERED.

HENRY S. ANGELES
Associate Justice

[86] *Citibank, N.A. vs. Court of Appeals, et al.*, G.R. No. 107434, October 10, 1997.
[87] *Commissioner of Internal Revenue vs. S.C. Johnson and Son, Inc., et al.*, G.R. No. 127105, June 25, 1999.

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CATHERINE T. MANAHAN
Associate Justice
Third Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's *Attestation*, it is hereby certified that the conclusions in the above *Decision* were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice