REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

FORD GROUP PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10067

Members:

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

Promulgated:

MAY 0 8 2024

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DECISION

RINGPIS-LIBAN, J.:

Before this Court is the *Petition for Review* filed under Rule 4 Section 3(a)(2) of the Revised Rules of Court of Tax Appeals in relation to Section 7(a)(2) of Republic Act No. (RA) 9282 and Section 4 of the National Internal Revenue Code, as amended (1997 NIRC), which seeks the review of petitioner's claim for tax refund representing excess and unutilized creditable withholding taxes (CWTs) for the taxable year 2016 in the amount of ₱365,591,056.00.[1]

THE PARTIES

Petitioner Ford Group Philippines, Inc. is registered with the Securities and Exchange Commission as the Philippine Branch Office of Ford Group Philippines, Inc. (formerly, FGP, Incorporated),[2] a foreign corporation organized and existing under the laws of the State of Delaware, United States of America. Its principal place of business is located at 8th Floor, Filinvest One Building, Northgate Cyberzone, Filinvest City, Alabang, Muntinlupa City.[3]

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[1] Statement of the Case, Pre-Trial Order dated January 2, 2020, Docket – Vol. II, p. 553.
[2] Exhibit "P-5", Docket – Vol. II, pp. 790 to 817.
[3] Par. B(1), *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. II, pp. 501 to 502; Exhibits "P-1", "P-2" and "P-3", Docket – Vol. II, pp. 750 to 787.

Petitioner is engaged in wholesale distribution and importation of automotive vehicles, parts and components and the provision of services relating to the same.[4] It is also registered with the BIR with Taxpayer's Identification No. 206-377-654-00000.[5]

Respondent Commissioner of Internal Revenue is empowered to perform the duties of his office, including acting upon on protest cases and approval of claims for refund or tax credit as provided by law and implementing regulations. He can be served with notices at BIR National Office Bldg., BIR Road, Diliman, Quezon City.[6]

THE FACTS

On April 11, 2017, petitioner filed its *Annual Income Tax Return* (BIR Form No. 1702-RT) for taxable year 2016 (2016 Annual ITR),[7] which reflected the following Tax Credits/Payments:[8]

Schedule 7 - Tax Credits/Payments	
Prior Year's Excess Credits Other Than Minimum Corporate Income Tax (MCIT)	₱ 313,662,410.00
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	282,919,773.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	82,671,283.00
Total Tax Credits/Payments	**₱679,253,466.00**

Petitioner's 2016 Annual ITR also reflected an overpayment of ₱636,729,959.00, computed as follows:[9]

Part II – Total Tax Payable	
Total Income Tax Due (Overpayment)	₱ 42,523,507.00
Less: Total Tax Credits/Payments	679,253,466.00
Total Amount Payable (Overpayment)	**₱ 636,729,959.00**

Petitioner marked the option *"To be refunded"* for overpayment in its 2016 Annual ITR.[10]

On April 5, 2019, petitioner filed with the BIR an *Application for Tax Credits/Refunds* (BIR Form No. 1914)[11] and letter of even date[12] requesting for a

[4] Exhibits "P-2" and "P-3-A", Docket – Vol. II, pp. 760 and 762, respectively.
[5] Exhibit "P-4", Docket – Vol. II, pp. 788 to 789.
[6] Par. A(1), JSFI, Docket – Vol. II, p. 501.
[7] Exhibit "P-6", Docket – Vol. II, pp. 819 to 826.
[8] Exhibit "P-6-A", Docket – Vol. II, p. 824.
[9] Exhibit "P-6-B", Docket – Vol. II, p. 819.
[10] Exhibit "P-6-C", Docket – Vol. II, p. 819.
[11] Exhibit "P-11", Docket – Vol. II, p. 842.

refund of its excess CWTs for calendar year 2016 in the amount of ₱365,591,056.00.

On April 11, 2019, petitioner filed the present *Petition for Review*.[13] The case was initially raffled to this Court's Third Division.

Respondent filed his *Answer* on July 1, 2019[14] interposing the following special and affirmative defenses, to wit: (1) petitioner is not entitled to refund of the alleged excess and unutilized CWTs for taxable year 2016 in the amount of ₱365,591,056.00; (2) in the instant case, petitioner did not provide supporting documents to show that income from which CWTs being claimed was declared in the Annual ITR; (3) petitioner should have presented evidence to prove actual remittance of the same alleged taxes to the BIR; (4) petitioner must prove compliance with Revenue Memorandum Order (RMO) No. 53-98 and Revenue Regulations (RR) No. 2-2006, to give support to the validity of its claim for unutilized CWTs for taxable year 2016; and (5) in the case at bar, petitioner miserably failed to substantiate its administrative claim for refund filed with respondent, as it failed to submit the complete requirements under RMO No. 53-98.

On August 27, 2019, respondent transmitted the *BIR Records* for this case consisting of 366 pages in one (1) folder.[15]

The Pre-Trial Conference was set and held on October 22, 2019.[16] Prior thereto, petitioner's *Pre-Trial Brief* and *Respondent's Pre-Trial Brief* were both filed on October 17, 2019.[17]

On November 11, 2019, the parties submitted their *Joint Stipulation of Facts and Issues*[18] which was admitted and approved by the Court in the Resolution dated November 13, 2019[19] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated January 2, 2020 was then issued.[20]

As trial ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following individuals, namely: (1) Ms. Jo-Anne T. Matas,[21] petitioner's Tax Manager; and (2) Atty. Conrado M.

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[12] Exhibit "P-12", Docket – Vol. II, pp. 843 to 845.
[13] Docket – Vol. I, pp. 10 to 24.
[14] Docket – Vol. I, pp. 111 to 120.
[15] Respondent's *Compliance* dated August 27, 2019, Docket – Vol. I, pp. 128 to 129.
[16] Notice of Pre-Trial Conference dated July 2, 2019, Docket – Vol. I, pp. 122 to 123; Minutes of the hearing held on, and Order dated, October 22, 2019, Docket – Vol. I, pp. 496 and 498 to 500, respectively.
[17] Docket – Vol. I, pp. 480 to 489 and 491 to 493, respectively.
[18] Docket – Vol. II, pp. 501 to 508.
[19] Docket – Vol. II, p. 510.
[20] Docket – Vol. II, pp. 553 to 558.
[21] Exhibit "P-16", Docket – Vol. I, pp. 135 to 143; Minutes of the hearing held on, and Order dated, February 13, 2020, Docket – Vol. II, pp. 596 to 598.

Briones,[22] the Court-commissioned Independent Certified Public Accountant (ICPA).[23]

The *Report* of the ICPA was submitted on July 20, 2020.[24]

On October 9, 2020, petitioner filed its *Formal Offer of Evidence*,[25] to which respondent submitted his *Comment/Opposition (to Petitioner's Formal Offer of Evidence) with Manifestation* on October 22, 2020,[26] stating, among others, that respondent will no longer present his witness.

In the Resolution dated December 21, 2020,[27] the Court admitted petitioner's offered exhibits, *except* for Exhibits "P-14-11", "P-14-126", "P-14-145", "P-14-146", "P-14-168", "P-14-169", "P-14-170", "P-14-186", "P-14-204", "P-14-222", "P-14-223", "P-14-224", "P-14-225", "P-14-226", "P-14-230" and "P-14-235", for failure to present the originals for comparison. In the same Resolution, the Court noted respondent's *Manifestation.*

Thereafter, petitioner filed a *Motion for Reconsideration to the Resolution dated December 21, 2020* on February 19, 2021,[28] praying for the admission of the aforesaid exhibits, except for Exhibit "P-14-235", while respondent failed to file a comment to the said *Motion.*[29] The Court, however, in the Resolution dated June 23, 2023,[30] still denied the admission of these exhibits.

In the meantime, per the Notice of Resolution dated June 5, 2023,[31] the present case was transferred to the Second Division of this Court.

On February 5, 2021, respondent filed his *Memorandum* with the Court,[32] while petitioner submitted its *Memorandum* on May 17, 2021.[33]

The case was submitted for decision on June 23, 2023.[34]

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[22] Exhibits "P-39", Docket – Vol. II, pp. 669 to 679; Minutes of the hearing held on, and Order dated, September 23, 2020, Docket – Vol. II, pp. 734 to 736.
[23] *Oath of Commission* dated January 22, 2020, Docket – Vol. II, p. 565; Minutes of the hearing held on, and Order dated, January 22, 2020, Docket – Vol. I, pp. 564 and 566 to 567, respectively.
[24] Exhibit "P-17", Docket – Vol. II, pp. 617 to 631.
[25] Docket – Vol. II, pp. 737 to 745.
[26] Docket – Vol. III, pp. 1091 to 1094.
[27] Docket – Vol. III, pp. 1101 to 1102.
[28] Docket – Vol. III, pp. 1117 to 1119.
[29] Records Verification dated May10, 2023, issued by the Judicial Records Division of this Court, Docket – Vol. III, p. 1146.
[30] Docket – Vol. III, pp. 1150 to 1152.
[31] Docket – Vol. III, p. 1148.
[32] Docket – Vol. III, pp. 1103 to 1114.
[33] Docket – Vol. III, pp. 1123 to 1143.
[34] Resolution dated June 23, 2023, Docket – Vol. III, pp. 1150 to 1152.

THE ISSUE

The parties agreed on the following issue for resolution of this Court, to wit:

> "WHETHER OR NOT THE PETITIONER IS ENTITLED FOR TAX REFUND OF ITS ALLEGED EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAX (CWT) FOR THE YEAR 2016 AMOUNTING TO PHP365,591,056.00."[35]

Petitioner's arguments:

Petitioner argues that the claim for refund should be granted because all necessary elements are present; that petitioner has filed both the administrative claim for refund and judicial claim within the two (2) year prescriptive period provided for in Section 229 of the Tax Code; that the fact of withholding can be established by the *Certificates of Creditable Withholding Tax Withheld at Source* (BIR Form No. 2307) issued by different payors during the taxable year in question to the petitioner, showing the amount paid and the amount of tax withheld; that the fact that the income payments received were declared as part of its gross income is clearly shown in petitioner's Annual ITR for the taxable year 2016; that its 2016 Annual ITR showed that petitioner placed a tick mark on the box next to the words *"To be refunded"*; and that petitioner did not carry-over the excess 2016 CWTs subject of the present petition.

Respondent's counter-arguments:

Respondent contends that petitioner is not entitled to refund of the alleged excess and unutilized CWTs for taxable year 2016 in the amount of ₱365,591,056.00; that petitioner did not provide supporting documents to show that income from which the CWTs being claimed was declared in the AITR; that petitioner should have presented evidence to prove actual remittance of the same alleged taxes to the BIR; and that petitioner failed to prove compliance with RMO No. 53-98 and RR No. 2-2006.

THE COURT'S RULING

The present *Petition for Review* is denied.

Before delving into the merits of this case, this Court shall first address respondent's contention that due to petitioner's failure to submit relevant documents under RMO No. 53-98 and RR No. 2-2006, he was deprived of the opportunity and time to study petitioner's claim and to fully exercise his

[35] Par. C, JSFI, Docket – Vol. II, p. 502.

function. Respondent contends that failure on the part of the taxpayer to submit relevant documents on the administrative level, makes the administrative claim for refund or credit *pro-forma* and shall be construed as if no administrative claim was filed at all.

We disagree with respondent.

The submission of complete documents stated in RMO No. 53-98 and RR No. 2-2006 is not a requirement for a grant of tax refund.

A cursory reading of RMO No. 53-98[36] and RR No. 2-2006[37] shows that nowhere is it stated that the non-submission of the documents enumerated therein would *ipso facto* result in the denial of the claim for tax refund or credit. In fact, RR No. 2-2006 merely imposes a penalty of fine for non-submission of the information or statement required therein, but not the outright denial of any claim for tax refund or credit.

Moreover, in *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue* (*Pilipinas Total Gas* case),[38] the Supreme Court, citing *Commissioner of Internal Revenue vs. Team Sual Corporation (formerly Mirant Sual Corporation)*,[39] pointed out that there is nothing under RMO No. 53-98 that requires the submission of complete documents for a grant of a refund or credit, to wit:

> "As can be gleaned from the above, RMO No. 53-98 is addressed to internal revenue officers and employees, for purposes of equity and uniformity, to guide them as to what documents they may require taxpayers to present **upon audit of their tax liabilities. Nothing stated in the issuance would show that it was intended to be a benchmark in determining whether the documents submitted by a taxpayer are actually complete to support a claim for tax credit or refund of excess unutilized excess VAT**. As expounded in *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*:

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[36] Subject: Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which Comprise a Complete Tax Docket.

[37] Subject: Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT) to Tax Returns With Claimed Tax Credits due to Creditable Tax Withheld at Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments.

[38] G.R. No. 207112, December 8, 2015.

[39] G.R. No. 205055, July 18, 2014.

> The CIR's reliance on RMO 53-98 is misplaced. There is nothing in Section 112 of the NIRC, RR 3-88 or RMO 53-98 itself that requires submission of the complete documents enumerated in RMO 53-98 for a grant of a refund or credit of input VAT. The subject of RMO 53-98 states that it is a 'Checklist of Documents to be Submitted by a Taxpayer upon **Audit** of his Tax Liabilities x x x.' In this case, TSC was applying for a grant of refund or credit of its input tax. There was no allegation of an audit being conducted by the CIR. Even assuming that RMO 53-98 applies, it specifically states that some documents are required to be submitted by the taxpayer 'if applicable.'
>
> Moreover, if TSC indeed failed to submit the complete documents in support of its application, the CIR could have informed TSC of its failure, consistent with Revenue Memorandum Circular No. (RMC) 42-03. However, the CIR did not inform TSC of the document it failed to submit, even up to the present petition. The CIR likewise raised the issue of TSC's alleged failure to submit the complete documents only in its motion for reconsideration of the CTA Special First Division's 4 March 2010 Decision. Accordingly, we affirm the CTA EB's finding that TSC filed its administrative claim on 21 December 2005, and submitted the complete documents in support of its application for refund or credit of its input tax at the same time.
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> [Emphasis included. Underlining Ours.]

As explained earlier and underlined in *Team Sual* above, taxpayers cannot simply be faulted for failing to submit the complete documents enumerated in RMO No. 53-98, absent notice from a revenue officer or employee that other documents are required. Granting that the BIR found that the documents submitted by Total Gas were inadequate, it should have notified the latter of the inadequacy by sending it a request to produce the necessary documents in order to make a just and expeditious resolution of the claim.

Indeed, a taxpayer's failure with the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund of excess unutilized excess VAT. This holds especially true when the application for tax credit or refund of excess unutilized excess VAT has arrived at the judicial level. After all, in the judicial level or when the case is elevated to the

> Court, the Rules of Court governs. Simply put, the question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court." *(Emphasis added)*

It must be noted that while the above case involves a claim for tax refund or credit of unutilized VAT, We find that the principle enunciated therein is also applicable in a claim for tax refund or issuance of tax credit certificate of unutilized CWTs.

As held in the *Pilipinas Total Gas* case, RMO No. 53-98 is merely a guide to revenue officers as to what documents they may require taxpayers to present upon audit of their tax liabilities and is never intended to be a benchmark in determining whether the documents submitted by a taxpayer are actually complete to support a claim for tax credit or refund. Moreover, the Supreme Court categorically ruled that the failure of the taxpayer to submit the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund.

In any case, even when this Court ought to disregard the said ruling in the *Pilipinas Total Gas* case, and petitioner was indeed *not* able to submit the required documents at the administrative level, the same is of no moment. In *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*,[40] the Supreme Court ruled as follows:

> "In this case, it was the inaction of petitioner CIR which prompted respondent to seek judicial recourse with the CTA. Petitioner CIR did not send any written notice to respondent informing it that the documents it submitted were incomplete or at least require respondent to submit additional documents. As a matter of fact, petitioner CIR did not even render a Decision denying respondent's administrative claim on the ground that it had failed to submit all the required documents.
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> Considering that the administrative claim was never acted upon, there was no decision for the CTA to review on appeal *per se*. However, this does not preclude the CTA from considering evidence that was not presented in the administrative claim with the BIR. Thus, RA No. 1125 states:
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> > Section 8. *Court of record; seal; proceedings.* — 'The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by

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[40] G.R. No. 231581, April 10, 2019.

> law, but such proceedings shall not be governed strictly by technical rules of evidence.

> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.

> Cases filed in the CTA are litigated *de novo* as such, respondent 'should prove every minute aspect of its case by presenting, formally offering and submitting x x x to the Court of Tax Appeals all evidence x x x required for the successful prosecution of its administrative claim. Consequently, **the CTA may give credence to all evidence presented by respondent, <u>including those that may not have been submitted to the CIR</u> as the case is being essentially decided in the first instance.**" *(Emphasis and underscoring added)*

Since this case is being essentially decided in the first instance, as respondent's inaction on petitioner's claim for refund prompted the latter to seek judicial recourse, this Court may give credence to all evidence presented by petitioner, including those that may not have been submitted at the administrative level.

Petitioner complied with Section 76 of the NIRC of 1997, and has not carried over the excess CWTs being claimed for refund.

Pertinent to the resolution of the present case is Section 76 of the National Internal Revenue Code (NIRC) of 1997, which is quoted hereunder for ready reference:

> "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."

The above provision discusses the two (2) options of a taxable corporation whose total quarterly income tax payments in a given taxable year exceed its total income tax due. The taxpayer 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. However, once the carry-over option is taken actually or constructively it becomes irrevocable for that taxable period.[41] The phrase *"for that taxable period"* refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[42]

In exercising its option, the corporation must signify in its annual corporate adjustment return (*by marking the option box provided in the BIR form*) 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.[43]

A perusal of petitioner's Annual ITR for taxable year 2016 shows that petitioner had income tax credits in the total amount of ₱679,253,466.00, consisting of the: (i) prior year's excess credits other than MCIT in the amount of ₱313,662,410.00, and (ii) CWTs accumulated during the four (4) quarters of taxable year 2016 in the aggregate amount of ₱365,591,056.00, shown as follows:[44]

Prior Year's Excess Credits other than MCIT		₱ 313,662,410.00
Add: Creditable Tax Withheld – Taxable Year 2016		
For the first three quarters	₱282,919,773.00	

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[41] *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.

[42] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.

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

[44] Exhibit "P-6-A" (Schedule 7 – Tax Credits/Payments), Docket – Vol. II, p. 824.

For the 4th quarter	82,671,283.00	365,591,056.00
Total Tax Credits		**₱679,253,466.00**

Petitioner claims that it utilized a portion of its prior year's excess credits in the amount of ₱313,662,410.00 to pay for its income tax due for taxable year 2016 in the amount of ₱42,523,507.00,[45] leaving a balance of its prior year's excess credits of ₱271,138,903.00 and creditable taxes withheld during the taxable year 2016 in the amount of ₱365,591,056.00, totaling ₱636,729,959.00,[46] which is unutilized as of December 31, 2016, as shown below:

Prior Year's Excess Credits other than MCIT	₱313,662,410.00
Less: Income Tax Due	42,523,507.00
Balance of Prior Year's Excess Credits	₱271,138,903.00
Add: Creditable Taxes Withheld – Taxable Year 2016	365,591,056.00
Excess Creditable Taxes Withheld as of December 31, 2016	**₱636,729,959.00**

Pursuant to Section 2.58.3 of RR No. 2-98, quoted below, the submission of petitioner's Annual ITR for taxable year 2015 is sufficient to prove its prior year's excess credits other than MCIT in the amount of ₱313,662,410.00:

> "Sec. 2.58.3. *Claim for Tax Credit or Refund.* —
>
> xxx xxx xxx
>
> (C) Excess Credits. – An individual or corporate taxpayer's excess expanded withholding tax credits for the taxable quarter/year shall automatically be allowed as a credit against his income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, provided **he submits with his income tax return, a copy of the first page of his income tax return for the previous taxable period showing the amount of his excess withholding tax credits**, and on which return he has not opted for a cash refund or tax credit certificate." *(Emphasis added)*

Based on the above provision, the excess CWTs of a taxable year, which were opted to be carried-over to the succeeding taxable year, are automatic credits against the income tax due of such succeeding taxable year, so long as the amount of excess CWTs are evidenced by the ITR for the taxable year when such excess credits arose.

[45] Exhibit "P-6" (Line No. 16, Part II – Total Tax Payable), Docket – Vol. II, p. 819.
[46] Exhibit "P-6" (Line No. 20, Part II – Total Tax Payable), Docket – Vol. II, p. 819.

In this case, petitioner presented its Annual ITR for taxable year 2015 showing the excess tax credits amounting to ₱313,662,410.00, representing the sum of the ₱60,783,715.00 excess tax credits prior to taxable year 2015, and ₱252,878,695.00 unutilized creditable taxes withheld during taxable year 2015, as shown below:[47]

Prior Year's Excess Credits other than MCIT		₱ 126,215,462.00
Income Tax Due		65,431,747.00
Excess Prior Year's Excess Credits Other Than MCIT		₱ 60,783,715.00
Add: Creditable Tax Withheld – Taxable Year 2015		
For the First Three Quarters	₱ 160,210,855.00	
For the Fourth Quarter	92,667,840.00	252,878,695.00
Total Excess Tax Credits as of December 31, 2015		**₱ 313,662,410.00**

Since petitioner marked the box corresponding to the option *"To be refunded"* in its Annual ITR for taxable year 2016,[48] the CWT for taxable year 2016 in the amount of ₱365,591,056.00 *may* be a proper subject of a claim for cash refund pursuant to Section 76 of the NIRC of 1997.

This refund option was further affirmed by petitioner when it carried over only the amount of ₱271,138,903.00 as prior year's excess tax credits in its Quarterly[49] and Annual[50] ITRs for taxable year 2017. Said amount excludes the CWTs being claimed for refund in this case amounting to ₱365,591,056.00.

However, petitioner failed to prove that the income payments subjected to CWTs were reported as part of its gross income in its Annual ITR.

In addition to the requisites provided under Section 76 of the NIRC of 1997, jurisprudence and pertinent RRs provide that in order for a taxpayer to be entitled to a refund or an issuance of tax credit certificate for unutilized excess CWTs, the following three (3) requisites must be further complied with:

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

[47] Exhibit "P-29-a" (Line 20, Part II – Total Tax Payable and Schedule 7 – Tax Credits/Payments).
[48] Exhibit "P-6" (Line 21), Docket – Vol. II, p. 819.
[49] Exhibits "P-7" to "P-9" (Line 31A), Docket – Vol. II, pp. 827, 829 and 831.
[50] Exhibit "P-10" (Line 1, Schedule 7 – Tax Credits/Payments), Docket – Vol. II. p. 839.

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.[51]

Thus, it behooves petitioner to establish the foregoing requisites.

Regarding the *first* requisite, the pertinent provisions are Sections 204(C) and 229 of the NIRC of 1997, which provide:

"SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –

xxx xxx xxx

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files 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." *(Emphasis added)*

"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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[51] *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; *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.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Emphasis added)*

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[52] (or Annual ITR). 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.[53] 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 was 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.[54]

Here, petitioner filed its Annual ITR via the electronic filing and payment system or eFPS of the BIR on April 11, 2017.[55] Thus, counting from April 11, 2017, petitioner had until April 11, 2019, within which to file both its administrative and judicial claims.

Considering that petitioner filed its administrative claim for refund with BIR on April 5, 2019,[56] while the present judicial claim was filed on April 11, 2019,[57] both claims for refund of unutilized/excess CWTs were seasonably filed within the two-year prescriptive period.

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

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[52] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; *Commissioner of Internal Revenue vs. TMX Sales, Inc. and the Court of Tax Appeals*, 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.
[53] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, G.R. No. 83736, January 15, 1992.
[54] *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.
[55] Exhibit "P-6", Docket – Vol. II, pp. 819 to 826.
[56] Exhibits "P-11" and "P-12", Docket – Vol. II, pp. 842 to 845.
[57] Docket – Vol. I, pp. 10 to 24.

> 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 added)*

The *second* requisite mandates petitioner to prove the fact of withholding of the claimed CWTs 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* ("PNB case"),[58] 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, to wit:

> "**The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates.**
>
> In *Banco Filipino Savings and Mortgage Bank v. Court of Appeals*, this court declared that a certificate is complete in the relevant details that would aid the courts in the evaluation of any claim for refund of excess creditable withholding taxes:
>
> xxx xxx xxx
>
> Moreover, as correctly held by the Court of Tax Appeals En Banc, the figures appearing in the withholding tax certificates can be taken at face value since these documents were executed under the penalties of perjury, pursuant to Section 267 of the 1997 National Internal Revenue Code, as amended, which reads:
>
> xxx xxx xxx
>
> Thus, upon presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly." *(Emphasis added)*

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[58] G.R. No. 180290, September 29, 2014.

Based on the foregoing jurisprudential pronouncements, it is undeniable that the fact of withholding may be established by presenting the pertinent BIR Forms No. 2307 complete in relevant details.

However, respondent contends that the proof of actual remittance of the taxes withheld to the BIR is indispensable in a claim for refund of excess CWTs.

We disagree with respondent.

In the *PNB* case, the Supreme Court contradicts respondent's contention as follows:

> "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</u>. Under Sections 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*,[59] 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**

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

> **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.**" *(Emphases and underscoring added)*

Thus, respondent's contention that proof of actual remittance of the taxes withheld to the BIR is indispensable has no leg to stand on.

To prove the fact of withholding, petitioner presented various BIR Forms No. 2307 issued to it by its clients for taxable year 2016 which reflected CWTs in the total amount of ₱366,221,573.38, detailed as follows:

Payor	Period Covered		Income Payments	CWT (1%/2%)	Exhibit No(s).
DEARBORN MOTORS CO., INC.	1st Quarter	₱	1,682,301,090.55	16,824,415.25	"P-19-a" to "P-19-f"
	2nd Quarter		1,992,542,748.23	19,927,014.26	"P-19-bg" to "P-19-bl", "P-19-cf"
	3rd Quarter		1,727,373,897.42	17,275,672.40	"P-19-dl" to "P-19-do", "P-19-ei", "P-19-fc"
	4th Quarter		1,592,791,909.27	15,934,598.27	"P-19-fs" to "P-19-fx"
	Subtotal	**₱**	**6,995,009,645.47**	**69,961,700.18**	
EVEREST MOTORS, INC.	1st Quarter	₱	406,711,140.21	4,067,111.40	"P-19-g", "P-19-ab", "P-19-ap"
	2nd Quarter		394,636,539.27	3,946,365.40	"P-19-bm", "P-19-cg", "P-19-cw"
	3rd Quarter		317,490,878.67	3,174,908.79	"P-19-dp", "P-19-ej", "P-19-fo"
	4th Quarter		510,994,993.23	5,109,949.93	"P-19-fy", "P-19-gu", "P-19-hj"
	Subtotal	**₱**	**1,629,833,551.38**	**16,298,335.52**	
FAIRLANE AUTOMOTIVE VENTURES, INC.	1st Quarter	₱	1,293,795,089.86	12,937,950.89	"P-19-h" to "P-19-i", "P-19-ac" to "P-19-ad", "P-19-aq", "P-19-ar"
	2nd Quarter		1,549,250,475.60	15,492,799.77	"P-19-bn" to "P-19-bo", "P-19-ch" to "P-19-ci", "P-cx"

				to "P-cy"
	3rd Quarter	1,134,233,027.29	11,347,090.33	"P-19-dq", "P-19-dr", "P-19-ek", "P-19-el", "P-19-fd", "P-19-fe"
	4th Quarter	1,379,305,036.07	13,797,026.62	"P-19-fz", "P-19-ga", "P-19-gv", "P-19-gw", "P-19-hk", "P-19-hl"
	Subtotal	**₱ 5,356,583,628.82**	**53,574,867.61**	
FORD EDSA, INC.	1st Quarter	₱ 526,594,343.90	5,265,943.44	"P-19-j" to "P-19-m", "P-19-as", "P-19-at"
	2nd Quarter	533,159,106.11	5,331,591.06	"P-19-bp", "P-19-bq", "P-19-cj", "P-19-ck", "P-19-cz", "P-19-da"
	3rd Quarter	382,469,161.31	3,824,691.61	"P-19-ds", "P-19-dt", "P-19-em", "P-19-en", "P-19-ff", "P-19-fg"
	4th Quarter	327,536,953.99	3,275,369.53	"P-19-gb" to "P-19-ge"
	Subtotal	**₱ 1,769,759,565.31**	**17,697,595.64**	
GLOBAL CARS PHILIPPINES, INC.	1st Quarter	₱ 1,176,293,066.00	11,766,411.20	"P-19-n", "P-19ae", "P-19-au"
	2nd Quarter	1,149,327,052.00	11,494,783.79	"P-19-br", "P-19cl", "P-19-db"
	3rd Quarter	1,069,425,032.50	10,696,810.93	"P-19-du", "P-19-eo", "P-19-fh"
	4th Quarter	792,533,922.00	7,928,857.02	"P-19-gf", "P-19-gx", "P-19-hm"
	Subtotal	**₱ 4,187,579,072.50**	**41,886,862.94**	
GLOBAL CITY AUTO SALES, INC	1st Quarter	₱ 1,481,346,118.00	14,814,688.69	"P-19-o" to "P-19-q"
	2nd Quarter	1,695,215,157.00	16,952,151.57	"P-19-bs" to "P-19-bu"
	3rd Quarter	1,412,702,875.00	14,127,028.75	"P-19-dv" to "P-19-dx"
	4th Quarter	1,408,672,232.50	14,087,430.53	"P-19-gg" to "P-19-gi"
	Subtotal	**₱ 5,997,936,382.50**	**59,981,299.54**	
GLOBAL CITY CAR LEASE & TRANSPORT CORP	2nd Quarter	₱ 1,580,357.14	15,803.57	"P-21-a"
	Subtotal	**₱ 1,580,357.14**	**15,803.57**	
MATTERHORN MOTOR, INC.	1st Quarter	₱ 1,447,450,130.47	14,474,501.31	"P-19-r", "P-19-af", "P-19-av"
	2nd Quarter	1,539,120,294.09	15,391,202.94	"P-19-bv", "P-19-cm", "P-19-dc"
	3rd Quarter	1,198,218,757.53	11,982,187.57	"P-19-dy", "P-19-ep", "P-19-

				fi"
	4th Quarter	1,067,261,041.87	10,672,610.42	"P-19-gj", "P-19-gy", "P-19-hn"
	Subtotal	**₱ 5,252,050,223.96**	**52,520,502.24**	
MICHIGAN MOTORS, INC.	1st Quarter	₱ 453,703,064.00	4,562,342.50	"P-19-s", "P-19-ag", "P-19-aw"
	2nd Quarter	356,004,812.50	3,560,765.06	"P-19-bw", "P-19-cn", "P-19-dd"
	3rd Quarter	366,314,884.50	3,664,399.41	"P-19-dz", "P-19-eq", "P-19-fp
	4th Quarter	356,899,786.00	3,570,546.37	"P-19-gk", "P-19-gz", "P-19-ho"
	Subtotal	**₱ 1,532,922,547.00**	**15,358,053.34**	
MILLENNIUM CARS MINDANAO, INC.	1st Quarter	₱ 780,866,735.38	7,810,232.32	"P-19-t" to "P-19-z", "P-19-ah" to "P-19-an", "P-19-ax" to "P-19-az", "P-19-ba" to "P-19-bd"
	2nd Quarter	898,839,243.58	8,990,593.19	"P-19-bx" to "P-19-bz", "P-19-ca" to "P-19-cd", "P-19-co" to "P-19-cu", "P-19-de" to "P-19-dk"
	3rd Quarter	496,568,598.37	4,968,448.29	"P-19-ea" to "P-19-eg", "P-19-er" to "P-19-ez", "P-19-fj" to "P-19-fn"
	4th Quarter	992,298,724.51	9,924,304.07	"P-19-gl" to "P-19-gs", "P-19-ha" to "P-19-hh", "P-19-hp" to "P-19-hu"
	Subtotal	**₱ 3,168,573,301.84**	**31,693,577.87**	
NYK AUTO LOGISTICS PHILIPPINES, INC.	3rd Quarter	₱ 4,510,888.23	90,217.76	"P-22-a"
	Subtotal	**₱ 4,510,888.23**	**90,217.76**	
SEWELLS GROUP PHILIPPINES INC.	1st Quarter	₱ 55,470.00	2,773.50	"P-20-a" to "P-20-c"
	2nd Quarter	73,960.00	3,698.00	"P-20-d" to "P-20-f"
	Subtotal	**₱ 129,430.00**	**6,471.50**	
SOUTHERN TEXTILE MILLS, INC.	3rd Quarter	₱ 12,727.73	127.28	"P-21-b"
	Subtotal	**₱ 12,727.73**	**127.28**	
WESTCOAST AUTOMOTIVE CORPORATION	1st Quarter	₱ 276,800,782.56	2,768,241.65	"P-19-aa", "P-19-ao", "P-19-be", "P-19-bf"
	2nd Quarter	106,677,781.37	1,067,238.29	"P-19-ce", "P-19-cv"
	3rd Quarter			"P-19-eh", "P-

		145,541,928.52	1,455,419.29	19-fa", "P-19-fb", "P-19-fq", "P-19-fr"
	4th Quarter	184,025,617.67	1,840,256.18	"P-19-gt", "P-19-hi", "P-19-hv"
	Subtotal	**₱ 713,046,110.12**	**7,131,155.41**	
WPP MARKETING COMMUNICATIONS INC	3rd Quarter	₱ 250,149.00	5,002.98	"P-21-c"
	Subtotal	**₱ 250,149.00**	**5,002.98**	
Total		**₱ 36,609,777,581.00**	**366,221,573.38**	

It is to be noted that the total amount of ₱366,221,573.38 CWTs shown on the aforesaid BIR Forms No. 2307 is higher by ₱630,517.38 when compared with the amount of ₱365,591,056.00 CWTs reported in petitioner's 2016 Annual ITR[60] and prayed for in the present *Petition for Review*.[61] Thus, the Court shall use as reference point the lower amount of ₱365,591,056.00 in the determination of petitioner's refundable claim.

Upon examination of the BIR Forms No. 2307 and other relevant documents presented by petitioner, the Court-commissioned ICPA recommended the disallowance amounting to ₱117,624.00 from petitioner's refund claim, for the following reasons:[62]

Exhibit No.	Particulars	Amount
"P-20-a" to "P-20-f"	Creditable Withholding Tax Certificates where the Address of the Payee is Not Indicated	₱ 6,472.00
"P-21-a" to "P-21-c"	Creditable Withholding Tax Certificates where the Tax Identification Number of the Payor Signatory is Not Indicated	20,934.00
"P-22-a"	No Original Copy of Creditable Withholding Tax Certificates Provided	90,218.00
Total		**₱ 117,624.00**

The Court agrees with the disallowance amounting to ₱90,217.76 for petitioner's failure to present the original copy of the supporting BIR Form No. 2307[63] pursuant to Section 3, Rule 130 of the Revised Rules on Evidence.

With regard to the recommended disallowance im in the amount of ₱6,471.50,[64] the Court finds the supporting BIR Forms No. 2307 valid. The lack of petitioner's address in the BIR Forms No. 2307 is not fatal to petitioner's claim. Petitioner's name and TIN which were clearly stated therein are sufficient to prove that the said BIR Forms No. 2307 were indeed issued to

[60] Exhibit "P-6" (The sum of ₱282,919,773.00 and ₱82,671,283.00 under Line Nos. 5 and 6, respectively, Schedule 7 – Tax Credits/Payments), Docket – Vol. II, p. 824.
[61] Docket – Vol. I, p. 21.
[62] Exhibit "P-7" (V. Conclusion, pp. 6 to 7), Docket – Vol. II, pp. 623 to 624.
[63] Exhibit "P-22-a".
[64] Exhibits "P-20-a" to "P-20-f".

petitioner, being the payee or recipient of the income, which was subjected to withholding tax.

Similarly, the Court finds the BIR Forms No. 2307[65] supporting petitioner's CWT claim in the amount ₱20,933.83 valid. Failure to indicate the TIN of the payor's signatory is not fatal to petitioner's claim. What is relevant to the claim is that the BIR Forms No. 2307 contain the payor's name, payor's TIN, printed name and signature of the payor's authorized representative who attested that the BIR Forms No. 2307 were made under the penalties of perjury.

Thus, petitioner has shown compliance with the *second* requisite, *i.e.*, the establishment of the fact of withholding but only to the extent of the claimed amount of ₱365,500,838.24 as computed below:

Amount of CWT claim per petitioner's 2016 Annual ITR/Petition for Review	₱ 365,591,056.00
Less: CWT claim for which no original copy of BIR Form No. 2307 was provided	90,217.76
CWT claim properly supported with BIR Forms No. 2307	**₱365,500,838.24**

The *third* requisite requires petitioner to prove that its income payments subjected to creditable withholding tax were reported as part of its gross income in its Annual ITR.

An examination of petitioner's Annual ITR and Audited Financial Statements (AFS) for taxable year 2016 shows that petitioner's reported total sales amounted to ₱40,517,011,631.00 in its Annual ITR[66] and ₱40,517,011,000.00 in its AFS[67] for taxable year 2016.

To prove that the income payments related to the claimed CWTs were declared as part of the reported sales in its 2016 Annual ITR, petitioner offered in evidence its General Ledger (GL) for taxable years 2016 which reflected the following revenue/net sales account balances totaling ₱40,517,011,631.43:[68]

Account Description	Account Balance
DELIVERY & TRUCKING (23A01A00_IFDT)	₱ (125,764,790.70)
Rev Veh-Dealer Gross.	(40,425,466,458.99)
ADM-MKTG-OTHERS (23A01A21_VROT)	8,237,265.31
ADM-RETAIL VAR.MKTG EXP (23A01A1_VRRE)	522,808,418.55
Rev Veh-Var Mktg Retail.	17,845,539.03
ADM-FLEET VAR.MKTG EXP (23A01A23_VRFL)	26,012,982.11

[65] Exhibits "P-21-a" to "P-21-c".
[66] Exhibit "P-6-D" (Line 30, Part IV – Computation of Tax), Docket – Vol. II, p. 820.
[67] Exhibit "P-30" (Page 7).
[68] Exhibit "P-31" (Pages 2 and 3).

Rev Veh-Var Mktg Fleet.	93,035.71
Var Marketing wholesale (23A01B21_VRWS)	321,363,414.67
Rev P&A-Dealers Gross.	(1,006,361,294.69)
Harmonised Remuneration Scheme (23A55GOO_ERA)	(160,231.27)
Rev P&A interco	(9,677,835.67)
O/Ded-Sundry-Other	86,783,932.19
COS-Customer Appreciation	67,274,392.32
Total	**₱(40,517,011,631.43)**

However, without the detailed transactions comprising the aforesaid revenue/net sales account balances, the Court cannot trace or verify whether the income payments related to the claimed CWTs formed part of its reported sales in its 2016 Annual ITR. Thus, petitioner's non-compliance with the *third* requisite is fatal to its claim.

It must be emphasized that it is the taxpayer-claimant that has the burden of proof to establish the factual basis of his or her claim for tax credit or refund.[69] Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.[70] Thus, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[71] Strict adherence to the conditions prescribed by law is required of the taxpayer. Refunds need to be proven and their application raised in the right manner as required by law.[72]

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

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[69] *Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 107434, October 10, 1997.
[70] *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc., et al.*, G.R. No. 127105, June 25, 1999.
[71] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015, *citing J.R.A. Philippines, Inc. vs. CIR*, G.R. No. 171307, August 28, 2013.
[72] *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019.

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice