REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION[1]

PRIME INVESTMENT KOREA, INC., Petitioner,	**CTA CASE NO. 9573**
	Members:
-versus-	**Castañeda, Jr.,** *Chairperson,* and, **Manahan,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 3 1 2019 10:30 a.m.

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DECISION

CASTAÑEDA, JR., *J.*:

Before this Court is a Petition for Review filed by Prime Investment Korea, Inc. to claim the refund or the issuance of tax credit certificate (TCC) in the aggregate amount of ₱24,365,980.30, allegedly representing erroneously, wrongfully and/or excessively paid corporate income tax on junket gaming revenues for taxable year 2014.

THE FACTS

Petitioner Prime Investment Korea, Inc. is a corporation organized and existing under the laws of the Philippines, with office address at 2702 Roxas Boulevard, Barangay 076, Pasay City,

[1] Section 1, Rule VIII of the Internal Rules of the Court of Tax Appeals: "Section 1. *Case assigned to a justice for study and report.* --- Every Division Case, whether appealed or original, assigned to a Justice for study and report shall be retained by him even if he is transferred to another Division. The Justice, though transferred, shall write the report with the other members of the Division to which the case was originally submitted for decision. Their Division shall be called Special (No.) Division."

Philippines.[2] It is authorized to conduct, maintain and operate the business of recreation, games, and amusement.[3] Petitioner is registered with the Bureau of Internal Revenue (BIR) with Taxpayer Identification No. 008-410-374-000.[4]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue who has the power to decide on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner and the Philippine Amusement and Gaming Corporation (PAGCOR) entered into a Junket Agreement on July 3, 2013, providing petitioner a Grant of Authority pursuant to Presidential Decree (P.D.) No. 1869[5] to conduct junket gaming operations at PAGCOR's Casino Filipino – Midas (Junket Agreement).[6]

Subsequently, PAGCOR and petitioner entered into a Supplement to Junket Agreement on September 13, 2013, providing petitioner a Grant of Authority to introduce and offer supplementary services for its junket gaming operations at PAGCOR's Casino Filipino – Midas (Supplement to Junket Agreement).[7]

The above Grants of Authority were extended and renewed by virtue of the execution of the Junket Agreement and Supplement to Junket Agreement on June 10, 2016.[8]

On April 15, 2015, petitioner filed its Annual Income Tax Return (BIR Form No. 1702-RT) for taxable year 2014 and paid the total income tax payable of ₱25,904,788.00.[9]

[2] Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI) docket (Vol. I), p. 323.
[3] Par. 5, Stipulation of Facts, JSFI, docket (Vol. I), p. 324.
[4] Par. 6, Stipulation of Facts, JSFI, docket (Vol. I), p. 324.
[5] Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 1632, Relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR).
[6] Par. 7, Stipulation of Facts, JSFI, docket (Vol. I), p. 324.
[7] Par. 8, Stipulation of Facts, JSFI, docket (Vol. I), p. 324.
[8] Par. 9, Stipulation of Facts, JSFI, docket (Vol. I), p. 324.
[9] Par. 10, Stipulation of Facts, JSFI, docket (Vol. I), p. 324.

Petitioner's share in revenues from junket gaming operations for taxable year 2014 amounted to ₱394,791,325, net of PAGCOR charges/fees.[10]

On April 5, 2017, petitioner filed with the BIR Revenue District Office (RDO) No. 51 – Pasay City an administrative claim for refund or issuance of TCC relative to its alleged erroneously, wrongfully or excessively paid corporate income tax on junket gaming revenues for taxable year 2014 in the aggregate amount of ₱24,365,980.30.[11]

Respondent failed to act on the refund claim,[12] prompting petitioner to file the instant Petition for Review[13] before this Court on April 11, 2017.

Within the extended time granted by the Court,[14] respondent filed his Answer[15] through registered mail on June 28, 2017, interposing the following special and affirmative defenses:

"**SPECIAL AND AFFIRMATIVE DEFENSES**

9) Respondent reiterates and repleads the preceding paragraphs of the Answer as part of the Special and Affirmative Defenses.

10) The Supreme Court's Third Division declared in the case Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue (BIR):

> 'that all contractees and licensees of PAGCOR, ***upon payment of the 5% franchise tax,*** shall likewise be exempted from all other taxes, including corporate income tax realized from the operation of casinos.' (Emphasis provided)
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> 'Plainly, too, ***upon payment of the 5% franchise tax,*** petitioner's income from its gaming operations of gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools, defined within the purview of the aforesaid section, is not subject to corporate income tax.' (Emphasis provided)

[10] Par. 11, Stipulation of Facts, JSFI, docket (Vol. I), p. 324.
[11] Par. 13, Stipulation of Facts, JSFI, docket (Vol. I), p. 325.
[12] Par. 14, Stipulation of Facts, JSFI, docket (Vol. I), p. 325.
[13] Petition for Review, docket (Vol. I), pp. 10-22.
[14] Order dated June 16, 2017, docket (Vol. I), p. 170.
[15] Docket (Vol. I), pp. 171-177.

11) In the aforementioned case, it was pointed out by the Supreme Court that only upon payment of the 5% franchise tax, the contractees and licensees shall be exempted from all other taxes.

12) In this present case, the petitioner failed to submit any documentary evidence within the prescribed two (2)-year prescriptive period for filing tax refund with BIR that proves or shows that the 5% Franchise Tax of the Petitioner was remitted or paid. The failure of the petitioner to prove with BIR that it paid its 5% franchise tax before the BIR means that the application for tax refund must also fail.

13) In a claim for tax refund or tax credit, the taxpayer must prove not only entitlement to the grant of the claim under substantive law, it must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit (Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue, 518 SCRA 425).

14. Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation (Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95) and as such, they are looked upon with disfavor (Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 121).

15. The decision of Bloomberry Resorts and Hotels, Inc. vs. BIR was promulgated on August 10, 2016, on the other hand, the petitioner is citing the aforementioned case relative to its application for tax refund for prior Taxable Year 2014.

16. The rule is that jurisprudence should be applied prospectively unless otherwise provided.

17. In the case Land Bank of the Phil vs. De Leon, the Supreme Court en Banc declared that:

> 'XXX pursuant to Article 8 of the Civil Code 'judicial decisions applying or interpreting the laws of the Constitution shall form part of the legal system of the Philippines.' But while our decisions form part of the law of the land, they are also subject to Article 4 of the Civil Code which provides that 'laws shall have no retroactive effect unless the contrary is provided.' This is expressed in the familiar legal maxim lex prospicit, non respicit, the law looks forward not backward.' *gr*

18. Thus, the petitioner cannot apply retroactively the decision of Bloomberry Resorts and Hotels, Inc. vs. BIR in this present case.

19. Prior to the promulgation of Bloomberry Resorts and Hotels, Inc. vs. BIR, the Revenue Memorandum Circular (RMC) No. 33-2013, being administrative in nature have the force and effect of law, presumed valid and constitutional until or unless otherwise ruled by court. Thus, the BIR cannot be said to have illegally or erroneously collected taxes prior to the promulgation of Bloomberry Resorts and Hotels, Inc. vs. BIR.

20. Moreover, although the Revenue Memorandum Circular (RMC) No. 33-2013 was declared invalid in the case of Bloomberry Resorts and Hotels, Inc. vs. BIR, under the Operative Fact Doctrine, cited by the Supreme Court in numerous cases, the law is recognized as unconstitutional but the effects of the unconstitutional law, prior to its declaration of nullity, may be left undisturbed as a matter of equity and fair play.

21. Petitioner cannot benefit from the case Bloomberry Resorts and Hotel, Inc. vs. BIR because the petitioner is not party to the said case. A perusal of the dispositive portion shows that it benefits Bloomberry Resorts and Hotels, Inc. only. The dispositive portion of the said case reads as follows:

> '**WHEREFORE**, the petition is **GRANTED**. Accordingly, respondent Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares is hereby **ORDERED** to **CEASE AND DESIST** from implementing Revenue Memorandum Circular No. 33-2013 insofar as it imposes corporate income tax on petitioner Bloomberry Resorts and Hotels, Inc.'s income derived from its gaming operations
>
> **SO ORDERED.**'"

On July 7, 2017, the Court scheduled the pre-trial conference of the instant case on July 20, 2017 and ordered both parties to submit their respective pre-trial briefs.[16] Respondent submitted his Pre-Trial Brief[17] through courier which the Court received on July 17, 2017, while petitioner filed its Pre-Trial Brief[18] on July 17, 2017.

[16] Notice of Pre-Trial Conference, docket (Vol. I), pp. 179-180.
[17] Docket (Vol. I), pp. 184-187.
[18] Docket (Vol. I), pp. 272-283.

The parties submitted their Joint Stipulation of Facts and Issues[19] on August 3, 2017. Thereafter, the Court issued the Pre-Trial Order[20] on August 15, 2017.

To prove its case, petitioner presented Atty. Rufino A. Alicante, Jr.[21], petitioner's Legal Counsel and Corporate Secretary, and Ms. Celina H. Lim[22], petitioner's Corporate Treasurer, as its witnesses.

On April 30, 2018, petitioner filed its Formal Offer of Evidence[23], consisting of Exhibits "P-1" to "P-8" and "P-11" to "P-30-a", inclusive of submarkings. In the Resolution dated June 6, 2018, the Court admitted all of petitioner's formally offered evidence.[24]

On the other hand, respondent, through counsel, manifested that he has no witness to present in this case.[25]

The Court declared the case deemed submitted for decision on July 26, 2018,[26] after petitioner filed its Memorandum[27] on July 11, 2018 and respondent filed his Memorandum[28] through registered mail on July 11, 2018 and received by the Court on July 19, 2018.

Petitioner's Arguments[29]

Petitioner argues that there should be no other recourse in the instant case but to allow petitioner, a PAGCOR contractee, to enjoy the tax exemptions clearly granted to it by Section 13(2)(b) of Presidential Decree No. 1869 by granting its claim for refund or issuance of TCC for erroneously paid corporate income taxes for taxable year 2014. Petitioner contends that it should only be held liable for payment of franchise taxes, which petitioner claims it sufficient paid. Petitioner maintains that by having paid corporate income taxes for taxable year 2014 in the amount of ₱24,365,980.30 when it should have been only liable for paying franchise taxes on its gaming revenues for the same

[19] Docket (Vol. I), pp. 323-330.
[20] Docket (Vol. I), pp. 341-344.
[21] Order dated August 30, 2017, docket (Vol. I), p. 347.
[22] Order dated September 25, 2017, docket (Vol. I), p. 445.
[23] Docket (Vol. II), pp. 552-570.
[24] Docket (Vol. II), pp. 709-710.
[25] Order dated June 11, 2018, docket (Vol. II), p. 712.
[26] Resolution dated July 26, 2018, docket (Vol. II), p. 759.
[27] Docket (Vol. II), pp. 715-746.
[28] Docket (Vol. II), pp. 747-757.
[29] Docket (Vol. II), pp. 722-743.

year, petitioner's payment of such corporate income tax was apparently erroneous.

Petitioner further avers that the Supreme Court's ruling in *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares*[30] (*Bloomberry* case) must be rendered applicable to the instant case as the requisites of *stare decisis et non quieta movere* are clearly present.

Petitioner also asserts that it timely filed a claim for refund or issuance of TCC in accordance with Section 229, in relation to Section 204(C), of the Tax Code. According to petitioner, it complied with both substantive and procedural requirements for a claim for refund or issuance of TCC.

Respondent's Counter-Arguments[31]

Respondent, on the other hand, argues that petitioner cannot benefit from the *Bloomberry* case because petitioner is not a party to the said case. Respondent also contends that petitioner cannot apply retroactively the decision in the *Bloomberry* case to the present case. According to respondent, prior to the promulgation of the *Bloomberry* case, Revenue Memorandum Circular (RMC) No. 33-2013, being administrative in nature, has the force and effect of law, presumed valid and constitutional until or unless otherwise ruled by the Supreme Court. Respondent insists that the BIR cannot be said to have illegally or erroneously collected taxes prior to the promulgation of the *Bloomberry* case.

Respondent avers that petitioner failed to prove payment of the five percent (5%) franchise tax to exempt it from corporate income tax. According to respondent, petitioner failed to present as evidence the SAWT or Alphalist attached to the BIR Form No. 2553 (Percentage Tax Return under Special Laws) under Revenue Regulations No. 02-06; which will prove that PAGCOR remitted petitioner's 5% franchise tax to the BIR, or in the alternative, petitioner failed to withhold the 5% franchise tax or percentage tax under special laws for the Government, or pay the 5% franchise tax or percentage tax under special laws directly to the Government.

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[30] G.R. No. 212530, August 10, 2016.
[31] Docket (Vol. II), pp. 752-755.

THE ISSUES

The parties submitted the following issues for this Court's resolution:[32]

A. Whether petitioner has complied with the requirements under Section 229, in relation to Section 204(C), of the 1997 NIRC for the recovery of corporate income taxes that have been erroneously, wrongfully, illegally or excessively assessed or collected for taxable year 2014.

B. Whether petitioner is exempt from corporate income tax pursuant to Section 13 of Presidential Decree No. 1869.

C. Whether *Bloomberry Resorts and Hotels, Inc. v. Bureau of Internal Revenue,* (G.R. No. 212530, August 10, 2016) is applicable to the instant case.

D. Whether petitioner is entitled to the refund of, or issuance of TCC for, the aggregate amount of ₱24,365,980.30, representing erroneously, wrongfully, illegally and excessively paid corporate income tax on junket gaming revenues for taxable year 2014.

THE COURT'S RULING

The Court deems it appropriate to determine first the timeliness of the filing of petitioner's administrative and judicial claims for refund in order to ascertain whether it properly acquired jurisdiction over the instant petition.

Sections 204(C) and 229 of the National Internal Revenue Code of 1997, as amended, provide:

> "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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[32] Stipulation of the Issues, JSFI, docket (Vol. I), pp. 325-326.

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

It is settled that Sections 204 and 229 of the Tax Code pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 applies to judicial claims for refund. In both instances, the claim must be filed within two (2) years from the date of payment of the tax or penalty.

Note that Section 229 further requires that an administrative claim for refund must first be lodged with the Commissioner of Internal Revenue before the taxpayer may seek judicial intervention for the claim for refund or tax credit. The same provision states that the two-year prescriptive period is mandatory regardless of any supervening cause that may arise after payment. In other words, the filing of the claim for refund with respondent is a pre-requisite to the filing of the

Petition for Review with the Court. Both actions must be filed within two years from the payment of the tax subject of the claim for refund.

As regards petitioner's claim for refund for taxable year 2014, the two-year prescriptive period began upon the filing of its Annual Income Tax Return for the said year on April 15, 2015 and ended on April 15, 2017.[33]

Correspondingly, since the administrative claim was filed on April 5, 2017[34] and the judicial claim was filed on April 11, 2017[35], the administrative and the judicial claims were both timely filed.

Be that as it may, the finding of the timely filing of the administrative and judicial claims is one thing, while the question as to whether or not petitioner was able to prove its subject claim is another.

As earlier ruled by the Supreme Court in the *Bloomberry* case, the determination of the submissions of petitioner will have to follow the case of *PAGCOR vs. The Bureau of Internal Revenue, et al.*[36], where the Supreme Court clarified its earlier ruling in G.R. No. 172087[37] involving the same parties, and expressed that: (i) Section 1 of Republic Act No. 9337,[38] amending Section 27(C) of the Tax Code, which excluded PAGCOR from the enumeration of government-owned and controlled corporations exempted from corporate income tax, is valid and constitutional; (ii) PAGCOR's tax privilege of paying 5% franchise tax *in lieu* of all other taxes with respect to its income from gaming operations is not repealed or amended by Section 1(c) of R.A. No. 9337; (iii) PAGCOR's income from gaming operations is subject to

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[33] Par. 10, Stipulation of Facts, JSFI, docket, (Vol. I), p. 324.
[34] Exhibits "P-13" and "P-14", docket (Vol. II), pp. 641-650 and 651.
[35] Petition for Review, docket (Vol. I), pp. 10-22.
[36] *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, et al.*, G.R. No. 215427, December 10, 2014.
[37] *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, et al.*, G.R. No. 172087, March 15, 2011.
[38] SECTION 1. Section 27 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:
SEC. 27. *Rates of Income Tax on Domestic Corporations.* –
xxx
(C) *Government-owned or -Controlled Corporations, Agencies or Instrumentalities.* – The provisions of existing special or general laws to the contrary notwithstanding, all corporations, agencies, or instrumentalities owned or controlled by the Government, except the Government Service and Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), and the Philippine Charity Sweepstakes Office (PCSO), shall pay such rate of tax upon their taxable income as are imposed by this Section upon corporations or associations engaged in a similar business, industry, or activity.

the 5% franchise tax only; and, (iv) PAGCOR's income from other related services is subject to corporate income tax only.

Under P.D. No. 1869, as amended, the income of PAGCOR is classified into two: (1) income from its operations conducted under its franchise, pursuant to Section 13(2)(b) thereof (*income from gaming operations*); and, (2) income from its operation of necessary and related services under Section 14(5) thereof (*income from other related services*).[39] In RMC No. 33-2013,[40] cited by the Supreme Court in G.R. No. 215427[41], respondent further classified the aforesaid income as follows:

1. PAGCOR's income from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools, includes, among others:

   (a) Income from its casino operations;
   (b) Income from dollar pit operations;
   (c) Income from regular bingo operations; and,
   (d) Income from mobile bingo operations operated by it, with agents on commission basis. Provided, however, that the agents' commission income shall be subject to regular income tax, and consequently, to withholding tax under existing regulations.

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

   (a) Income from licensed private casinos covered by authorities to operate issued to private operators;
   (b) Income from traditional bingo, electronic bingo and other bingo variations covered by authorities to operate issued to private operators;
   (c) Income from private internet casino gaming, internet sports betting and private mobile gaming operations;
   (d) Income from private poker operations;
   (e) **Income from junket operations**;
   (f) Income from SM demo units; and, gr

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[39] *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, et al.*, G.R. No. 215427, December 10, 2014.
[40] Income Tax and Franchise Tax Due from the Philippine Amusement and Gaming Corporation (PAGCOR), Its Contractees and Licensees.
[41] *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, et al.*, G.R. No. 215427, December 10, 2014.

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

The nature of taxes imposable is well defined for each kind of activity or operation.[42] For proper guidance, the first classification of PAGCOR's income under RMC No. 33-2013 (*i.e.*, income from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools) should be interpreted in relation to Section 13(2) of P.D. No. 1869, which pertains to the income derived from issuing and/or granting the license to operate casinos to PAGCOR's contractees and licensees, as well as earnings derived by PAGCOR from its own operations under the franchise. On the other hand, the second classification of PAGCOR's income under RMC No. 33-2013 (*i.e.*, income from other related operations) should be interpreted in relation to Section 14(5) of P.D. No. 1869, which pertains to income received by PAGCOR from its contractees and licensees in the latter's operation of casinos, as well as PAGCOR's own income from operating necessary and related services, shows and entertainment.[43]

As can be gleaned from the foregoing, PAGCOR's income from operation of other related services, including income from junket operations, is subject to corporate income tax only pursuant to P.D. No. 1869, as amended, as well as Republic Act No. 9337.[44] The 5% franchise tax finds no application with respect to its income from other related services, in view of the express provision of Section 14(5) of P.D. No. 1869, as amended, to wit:[45]

"SECTION 14. *Other Conditions.* –

xxx xxx xxx

(5) *Operation of related services.* – The Corporation is authorized to operate such necessary and related services, shows and entertainment. **Any income that may be realized from these related services shall not be included as part of the income of the Corporation for the purpose of applying the franchise tax**, but the same shall be considered as a separate

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[42] *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares,* G.R. No. 212530, August 10, 2016.
[43] *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, et al.*, G.R. No. 215427, December 10, 2014.
[44] *Id.*
[45] *Id.*

income of the Corporation and shall be subject to income tax." (*Emphasis supplied*)

On the other hand, the enactment of Republic Act No. 9337, which withdrew the income tax exemption of PAGCOR under Republic Act No. 8424, merely reinstated PAGCOR's tax liability on income from other related services.[46]

In the *Bloomberry* case, the Supreme Court explicitly stated:

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

This Court adheres to the cardinal rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. As has been this Court's consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.[47]

Accordingly, petitioner's argument that it is exempt from corporate income tax pursuant to Section 13 of P.D. No. 1869, insofar as its income from its junket gaming operations under the Junket Agreement and the Supplement to Junket Agreement both entered into with PAGCOR is concerned, is without legal basis. It is without a doubt that, like PAGCOR, its contractees and licensees shall likewise pay corporate income tax for income derived from such "other related services", including income from junket operations, considering that Section 14(5) of P.D. No. 1869 is clear that any income that may be realized from these related services shall not be included as part of the income for the purpose of applying the franchise tax, but the same shall be considered as a separate income and shall be subject to income tax.

Time and again, the Court has consistently held that a claim of refund or exemption from tax payments must be clearly shown and be

[46] *Id.*
[47] *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares,* G.R. No. 212530, August 10, 2016.

based on language in the law too plain to be mistaken.[48] Since taxes are the lifeblood of the government, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority and are strictly construed against the person or entity claiming the exemption.[49]

In the case at bar, petitioner failed to discharge this burden, thus, this Court has no other recourse but to deny the claim for refund of or issuance of TCC in the aggregate amount of ₱24,365,980.30, allegedly representing erroneously, wrongfully and/or excessively paid corporate income tax on petitioner's junket gaming revenues for taxable year 2014.

WHEREFORE, premises considered, petitioner's claim for refund or issuance of tax credit certificate is **DENIED** for lack of merit.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

[48] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue,* G.R. No. 159471, January 26, 2011.
[49] *Commissioner of Internal Revenue vs. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, July 7, 2010.

ATTESTATION

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

JUANITO C. CASTAÑEDA, JR.
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