REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL THIRD DIVISION

GLOBAL BUSINESS POWER CORPORATION, Petitioner,	**CTA CASE NO. 10500**
	Present:
vs.	**RINGPIS-LIBAN**, *Chairperson*, **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 29 2024 3:54 p.m.

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DECISION

***FERRER-FLORES, J.*:**

The *Petition for Review* prays that judgment be rendered:

1. Declaring petitioner entitled to a refund or issuance of tax credit certificate in the amount of ₱10,521,601.61, representing excess and unutilized creditable withholding taxes (CWTs) for taxable year (TY) 2018; and,

2. Ordering respondent to grant petitioner a refund or issuance of tax credit certificate in the said amount of ₱10,521,601.61.[1]

THE PARTIES

Petitioner Global Business Power Corporation (**GBPC/petitioner**) is a corporation, duly organized and existing under the laws of the Republic of the Philippines, with principal address at 22F G.T. Tower International, 6813

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1 Statement of the Case, Pre-Trial Order dated May 11, 2022, Docket, p. 363.

Ayala Avenue corner H.V. Dela Costa Sts., Bel Air, Makati City.[2] It is registered with the BIR Large Taxpayers Service, Revenue District Office No. 125 – Regular LT Division II with Tax Identification No. 216-792-884-00000.[3]

Respondent is the Commissioner of Internal Revenue (**CIR/respondent**), vested by law to enforce and implement the provisions of the National Internal Revenue Code (NIRC), as amended, as well as related statutes and their implementing rules and regulations. He holds office at Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On August 28, 2020, petitioner filed with the BIR, an *Application for Tax Credits / Refunds* (BIR Form No. 1914), and the letter evenly dated,[5] applying for refund or issuance of tax credit certificate for the excess and unutilized CWTs for TY 2018, in the amount of ₱10,521,601.00.

PROCEEDINGS BEFORE THIS COURT

On May 17, 2021, petitioner filed the present *Petition for Review.*[6] As of such filing, respondent has not issued any decision on petitioner's claim for refund or issuance of tax credit certificate.[7]

Respondent filed his *Answer* on October 25, 2021,[8] interposing his special and affirmative defenses.

On February 7, 2022, respondent transmitted to this Court the *BIR Records* for this case, consisting of one (1) folder containing Two Hundred Ten (210) pages.[9]

The Pre-Trial Conference was set and held on March 10, 2022.[10] Prior to the said Conference, *Respondent's Pre-Trial Brief* was filed on March 2,

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[2] Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket, p. 338.
[3] Par. 4, Stipulation of Facts, JSFI, Docket, p. 339.
[4] Par. 2, Stipulation of Facts, JSFI, Docket, p. 338.
[5] Exhibits "8-1" and "8", BIR Records, pp. 208 and 207, respectively.
[6] Docket, pp. 7 to 24.
[7] Par. 5, Stipulation of Facts, JSFI, Docket, p. 339.
[8] Docket, pp. 274 to 288.
[9] Respondent's *Compliance* dated January 20, 2022, Docket, pp. 301 to 303.
[10] Notice of Pre-Trial Conference dated November 12, 2021, Docket, pp. 296 to 297.

2022;[11] while the *Pre-Trial Brief for Petitioner* was submitted on March 4, 2022.[12]

On April 8, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[13] which was admitted and approved by the Court in the Resolution dated April 18, 2022,[14] deeming the Pre-Trial terminated. The Pre-Trial Order dated May 11, 2022 was then issued.[15]

As trial ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following individuals, namely: (1) Ms. Reymonda Aida B. Obrero,[16] petitioner's Vice President/Controller; and (2) Atty. Walter L. Abela, Jr.,[17] the Court-commissioned Independent Certified Public Accountant (ICPA).[18]

The *Report* of the said ICPA was filed on July 15, 2022.[19]

Petitioner filed its *Formal Offer of Evidence* on August 16, 2022,[20] while respondent's *Comment Re: Petitioner's Formal Offer of Evidence* was submitted on August 26, 2022.[21] On this latter date, respondent filed his *Manifestation*,[22] stating that he will no longer be presenting any witness in the instant case. In the Resolution dated September 28, 2022,[23] the Court admitted petitioner's offered exhibits.

On February 17, 2023, respondent posted his *Memorandum*;[24] and on February 22, 2023, the *Memorandum for Petitioner* was filed.[25]

This case was submitted for decision on March 3, 2023.[26]

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[11] Docket, pp. 307 to 310.
[12] Docket, pp. 312 to 322.
[13] Docket, pp. 338 to 345.
[14] Docket, p. 347.
[15] Docket, pp. 363 to 369.
[16] Exhibit "P-9", Docket, pp. 69 to 76; Minutes of the hearing held on, and Order dated, July 28, 2022, Docket, pp. 404 to 406.
[17] Exhibit "P-36", Docket, pp. 396 to 402; Minutes of the hearing held on, and Order dated, July 28, 2022, Docket, pp. 404 to 406.
[18] *Oath of Commission* dated May 31, 2022, Docket, p. 387; Minutes of the hearing held on, and Order dated, May 31, 2022, Docket, pp. 386, and 388 to 389, respectively.
[19] Transmittal letter dated July 15, 2022, Docket, p. 391; Exhibit "P-10".
[20] Docket, pp. 409 to 423.
[21] Docket, pp. 429 to 431.
[22] Docket, pp. 425 to 427.
[23] Docket, p. 435.
[24] Docket, pp. 438 to 458.
[25] Docket, pp. 461 to 482.
[26] Resolution dated March 3, 2023, Docket, p. 484.

THE ISSUE

As stipulated by the parties, the issue for this Court's resolution is as follows:

> "WHETHER OR NOT PETITIONER IS ENTITLED TO THE REFUND OR ISSUANCE OF TCC OF THE ALLEGED EXCESS AND UNUTILIZED CWT FOR TAXABLE YEAR 2018 AMO[U]NTING TO P10,521,601.61, AS PROVIDED UNDER SECTION 76 OF THE 1997 NIRC."[27]

Petitioner's arguments:

Petitioner argues that the excess and unutilized creditable withholding tax (CWT) earned in TY 2018 in the amount of ₱10,521,601.61 is the proper subject of the instant claim for refund or issuance of tax credit certificate pursuant to Section 76 of the 1997 National Internal Revenue Code (NIRC); that it timely filed its claim for refund or issuance of tax credit certificate of its excess and unutilized CWT arising from TY 2018, pursuant to Sections 204 and 229 of the 1997 NIRC; and, that the excess and unutilized CWT earned in TY 2018 in the amount of ₱10,521,601.61 is duly supported by BIR Forms No. 2307, and the income upon which the taxes were withheld was duly reported by petitioner.

Respondent's counter-arguments:

Respondent contends that petitioner miserably failed to exhaust administrative remedies before elevating the case to the Court; that petitioner is not entitled to the claim for refund of CWTs; and, that failure of petitioner to submit relevant documents on the administrative level makes the administrative claim for tax credit or refund *pro forma*.

THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

[27] Stipulation of Issues, JSFI, Docket, pp. 339 to 340.

Petitioner complied with Section 76 of the NIRC of 1997, as amended.

Pertinent to the resolution of the present case is Section 76 of the NIRC of 1997, as amended, which provides:

> 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:
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> (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 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. Note, however, that, once the carry-over option is taken actually or constructively, it becomes irrevocable for that taxable period.[28] 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.[29]

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.

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[28] *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.

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

To facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other.[30]

A perusal of petitioner's Annual ITR for the TY 2018 shows the following:[31]

Net Sales/Revenues/Receipts/Fees	₱	525,703,740.00
Less: Cost of Sales/Services		386,886,768.00
Gross Income from Operation	₱	138,816,972.00
Add: Other Taxable Income Not Subjected to Final Tax		1,378,464.00
Total Gross Income	₱	140,195,436.00
Less: Ordinary Allowable Itemized Deductions		357,193,095.00
Net Taxable Income	₱	(216,997,659.00)
Income Tax Rate		30%
Income Tax Due other than MCIT		-
MCIT (2% of Gross Income)	₱	2,803,909.00
Total Income Tax Due		2,803,909.00
Less: Total Tax Credits/Payments		36,742,964.00
Net Tax Payable (Overpayment)		**₱ (33,939,055.00)**

On the same return, petitioner marked the option "To be refunded" for its overpayment.[32]

Petitioner's total tax credits/payments of ₱36,742,964.00 consists of its prior year's excess credits and CWTs for the TY 2018, as shown below:[33]

Prior Year's Excess Credits Other Than MCIT	₱ 26,221,363.00
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	5,656,955.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	4,864,646.00
Total Tax Credits/Payments	**₱36,742,964.00**

The income tax due for TY 2018 of ₱2,803,909.00 was offset against petitioner's prior year's excess credits,[34] while the present claim for refund in the amount of ₱10,521,601.61 came from the CWTs for TY 2018 only, to wit:

[30] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.
[31] Part IV – Computation of Tax, Exhibit "P-4", BIR Records, p. 201.
[32] Line 21, Exhibit "P-4", BIR Records, p. 202.
[33] Schedule 7, Exhibit "P-4", BIR Records, p. 197.
[34] Exhibits "P-14", "P-32" to "P-32-4", "P-34", and "P-31" to "P-31-4". See also Results of the Procedures Performed, Item 8, Exhibit "P-10", p. 9.

Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	₱	5,656,955.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter		4,864,646.00
Claim for refund		**₱10,521,601.00**[35]

An examination of petitioner's Quarterly ITR for the 1st quarter of TY 2019 and the Annual ITR for TY 2019 shows that petitioner carried over the amount ₱23,417,455.00 as "Prior Year's Excess Credits – Taxes Withheld".[36] The amount is computed as follows:

Prior Year's Excess Credits Other Than MCIT - 2018	₱ 26,221,363.00
Total Income Tax Due - 2018	2,803,909.00
Excess credits carried over to 1st quarter of 2019	**₱23,417,454.00***

** Discrepancy of ₱1.00 is noted.*

Thus, the amount claimed for refund by petitioner was indeed not carried over to the succeeding taxable period, in accordance with Section 76 of the NIRC of 1997, as amended.

With the above findings, we shall now proceed to determine petitioner's compliance with the requisites for claiming a tax credit or refund of excess and unutilized CWTs.

Requisites to claim a tax credit or refund of excess and unutilized CWT

In addition to the requisites provided under Section 76 of the NIRC of 1997, as amended, jurisprudence and pertinent Revenue Regulations (RR) 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 also be 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;

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,

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35 Difference of ₱0.61 due to rounding off, and taxpayers do not report centavos in the Income Tax Return.

36 Line 31A, Exhibit "P-6", Docket, p. 183, and Line 1, Schedule 7, Exhibit "P-7".

3. The income upon which the taxes were withheld must be included in the return of the recipient.[37]

Thus, it behooves petitioner to establish the foregoing requisites.

First requisite: Petitioner's administrative and judicial claims for refund were timely filed.

As to the *first* requisite, that the claim for refund was filed within the two (2)-year prescriptive period, the pertinent legal bases are Sections 204(C) and 229 of the NIRC of 1997, which read as follows:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
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> 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."
>
> xxx xxx xxx
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
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> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or**

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[37] *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.

> **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)*

The above-stated provisions mandate that 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 from the date of filing of the FAR[38] (or Annual ITR). This is so because it is only when the FAR 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.[39] In other words, it is only logical to reckon the two (2)-year prescriptive period from the time the FAR 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.[40]

Here, petitioner filed its *Annual ITR via* the electronic filing and payment system or eFPS of the BIR on **April 11, 2019**.[41] Counting from April 11, 2019, petitioner, thus, had until **April 11, 2021**, within which to file both its administrative and judicial claims.

Note, however, that, in view of the implementation of the Enhanced Community Quarantine (ECQ) and Modified Enhanced Community Quarantine (MECQ) in affected areas, the Supreme Court issued various administrative circulars[42] ordering the physical closure of courts in certain areas, including the National Capital Region. As such, the filing and service of motions, pleadings, and other court submissions were suspended beginning **March 29, 2021**. The circulars provided that the resumption thereof shall be seven (7) calendar days counted from the first day of the physical reopening of the relevant court.

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[38] *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.
[39] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, G.R. No. 83736, January 15, 1992.
[40] *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.
[41] Exhibit "P-4", BIR Records, pp. 202 to 195.
[42] Administrative Circular (AC) No. 14-2021 dated March 28, 2021, AC No. 15-2021 dated April 3, 2021, AC No. 21-2021 dated April 10, 2021, AC No. 22-2021 dated April 14, 2021, and AC No. 29-2021 dated April 30, 2021

Pursuant to Supreme Court Administrative Circular (AC) No. 33-2021 dated May 14, 2021, the Court of Tax Appeals (CTA) physically reopened on **May 17, 2021**. Counting seven (7) calendar days from the reopening of the CTA on May 17, 2021, the period for filing and service of motions, pleadings, and other court submissions resumed on **May 24, 2021**.

Considering that petitioner had until April 11, 2021 within which to file its Petition for Review before this Court and that the period for filing and service of motions, pleadings, and other court submissions was suspended beginning **March 29, 2021** and resumed on **May 24, 2021**, the instant petition was timely filed on **May 17, 2021**. As such, both claims for refund of unutilized/excess CWTs were seasonably filed within the two-year prescriptive period.

Respondent, nonetheless, argues that assuming *arguendo* that petitioner has a right to claim for a tax refund, its claim for the same has yet to be subjected to administrative investigation and/or examination. He points out that petitioner filed the judicial claim for refund before he can render a decision on the petitioner's administrative claim.

Respondent's reasoning is specious.

Petitioner need not wait for the resolution on the administrative claim for refund before filing the judicial claim. In *Commissioner of Internal Revenue vs. Goodyear Philippines, Inc.,*[43] the Supreme Court ruled as follows:

> Verily, the primary purpose of filing an administrative claim was to serve as a notice of warning to the CIR that court action would follow unless the tax or penalty alleged to have been collected erroneously or illegally is refunded. To clarify, **Section 229 of the Tax Code** – [then Section 306 of the old Tax Code] – **however does not mean that the taxpayer must await the final resolution of its administrative claim for refund, since doing so would be tantamount to the taxpayer's forfeiture of its right to seek judicial recourse should the two (2)-year prescriptive period expire without the appropriate judicial claim being filed.** In *CBK Power Company, Ltd. v. CIR,*[44] the Court enunciated:
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> > In the foregoing instances, attention must be drawn to the Court's ruling in *P.J. Kiener Co., Ltd. v. David (Kiener),* wherein it was held that in **<u>no wise does the law,</u>** *i.e.,* Section 306 of the old Tax Code (now, Section 229 of the NIRC), **<u>imply that the Collector of Internal Revenue first act upon the taxpayer's claim, and that the taxpayer shall not go to court before he is notified of the</u>**

[43] G.R. No. 216130, August 3, 2016.
[44] G.R. Nos. 193383-84 & 193407-08, January 14, 2015.

> **Collector's action.** In *Kiener*, the Court went on to say that **the claim with the Collector of Internal Revenue was intended primarily as a notice of warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow** xxx. (Emphases and underscoring)

> In the case at bar, records show that both the administrative and judicial claims for refund of respondent for its erroneous withholding and remittance of FWT were indubitably filed within the two-year prescriptive period. Notably, **Section 229 of the Tax Code, as worded, only required that an administrative claim should first be filed. It bears stressing that respondent could not be faulted for resorting to court action, considering that the prescriptive period stated therein was about to expire. Had respondent awaited the action of petitioner knowing fully well that the prescriptive period was about to lapse, it would have resultantly forfeited its right to seek a judicial review of its claim, thereby suffering irreparable damage.** *(Emphasis supplied)*

If petitioner still waited for the resolution of its administrative claim even beyond the two-year prescriptive period, it could no longer validly seek judicial recourse after the expiration thereof. Hence, the filing of the judicial claim on May 17, 2021 by petitioner is proper.

Clearly, the *first* requisite was fulfilled.

Second requisite: The excess CWTs claimed were duly substantiated with BIR Forms No. 2307.

With regard to the *second* requisite, the basis thereof is Section 2.58.3(B) of RR No. 2-98, as amended, which 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)*

In *Commissioner of Internal Revenue vs. Philippine National Bank*,[45] the Supreme Court held that the *Certificate of Creditable Tax Withheld at Source* (BIR Form No. 2307) 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*,[46] 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:
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> 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, xxx
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> 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 supplied*)

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

The Court-commissioned ICPA, Atty. Walter L. Abela, Jr. of Navarro Amper & Co., reported that he examined *Certificates of Creditable Tax Withheld at Source* (BIR Forms No. 2307) duly issued by the concerned payor to petitioner for TY 2018 and did not note any exceptions.[47] A summary of the said documents is shown hereafter:

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[45] G.R. No. 180290, September 29, 2014.
[46] 548 Phil. 32 (2007) [Per *J.* Austria-Martinez, Third Division].
[47] Results of the Procedures Performed, Item 6, Exhibit "P-10", pp. 8 to 9.

Exhibit	Customer's Name	Income Payment	Tax Withheld
"P-11"	Panay Power Holdings Corporation	₱ 6,138.50	₱ 122.77
"P-11-1"	Cebu Energy Development Corporation	12,122,655.00	242,453.10
"P-11-2"	GBH Power Resources, Inc.	2,304,495.00	46,089.90
"P-11-3"	Panay Energy Development Corporation	115,643,930.00	2,312,878.60
"P-11-4"	Panay Power Corporation	23,631,600.00	472,632.00
"P-11-5"	Toledo Power Company	35,195,975.00	703,919.50
"P-11-6"	GBH Power Resources, Inc.	1,382,697.00	27,653.94
"P-11-7"	Panay Energy Development Corporation	69,386,358.00	1,387,727.16
"P-11-8"	Panay Power Corporation	14,178,960.00	283,579.20
"P-11-9"	Toledo Power Company	21,117,585.00	422,351.70
"P-11-10"	Cebu Energy Development Corporation	51,923,487.00	1,038,469.74
"P-11-11"	GBH Power Resources, Inc.	2,331,106.30	46,622.13
"P-11-12"	Global Trade Energy Resources Corp.	370,188.67	7,403.77
"P-11-13"	Panay Energy Development Corporation	116,978,464.00	2,339,569.28
"P-11-14"	Panay Power Corporation	23,904,280.00	478,085.60
"P-11-15"	Toledo Power Company	35,602,150.00	712,043.00
TOTAL		**₱ 526,080,069.47**	**₱ 10,521,601.39**

The Court finds the foregoing in order. From the above, it is noted that, out of petitioner's excess CWTs subject of the refund amounting to ₱10,521,601.61, only **₱10,521,601.39** is found to be substantiated by BIR Forms No. 2307 with complete relevant details.

Petitioner, thus, has satisfactorily complied with the *second* requisite.

Third requisite: The income payments upon which the excess CWTs were withheld were included in petitioner's Annual ITR.

As regards the *third* requisite, as provided under the previously quoted Section 2.58.3(B) of RR No. 2-98, petitioner must prove that the income payments from which the substantiated excess CWTs of ₱10,521,601.61 were withheld, were declared as part of its gross income in its Annual ITR.

Based on the *Certificates of Creditable Tax Withheld at Source* (BIR Forms No. 2307) for TY 2018, the corresponding income payments of the claimed CWTs amount to ₱526,080,069.47. In its 2018 Audited Financial Statements and Annual ITR, however, petitioner declared sales/revenues in the amount of ₱525,703,740.00.[48]

[48] Line 30, Part IV – Computation of Tax, Exhibit "P-4", BIR Records, pp. 56 and 201.

The ICPA examined the 2018 sales invoices and official receipts related to the CWTs being claimed for refund in the total amount of ₱525,703,740.02[49] and found that income payments from Panay Power Holdings Corporation (PPHC)[50] and Global Trade Energy Resources Corp. (GTERC)[51] were not supported by sales invoices. These are interest income that arose from loan agreements between petitioner and PPHC and GTERC.[52]

The difference of ₱376,329.47 (₱526,080,069.47 less ₱525,703,740.00) is accounted for as interest income on intercompany loans and rounding-off differences, *viz*:

Customer's Name	**Income Payment per BIR Form No. 2307**[53]	**Sales/Revenue per Invoices**[54]	**Difference**
Panay Power Holdings Corporation	₱ 6,138.50	₱ -	₱ 6,138.50
Cebu Energy Development Corporation	12,122,655.00	12,122,654.25	0.75
GBH Power Resources, Inc.	2,304,495.00	2,304,495.85	(0.85)
Panay Energy Development Corporation	115,643,930.00	115,643,929.15	0.85
Panay Power Corporation	23,631,600.00	23,631,600.00	-
Toledo Power Company	35,195,975.00	35,195,975.00	-
GBH Power Resources, Inc.	1,382,697.00	1,382,697.51	(0.51)
Panay Energy Development Corporation	69,386,358.00	69,386,357.49	0.51
Panay Power Corporation	14,178,960.00	14,178,960.00	-
Toledo Power Company	21,117,585.00	21,117,585.00	-
Cebu Energy Development Corporation	51,923,487.00	51,923,485.77	1.23
GBH Power Resources, Inc.	2,331,106.30	2,331,106.68	(0.38)
Global Trade Energy Resources Corp.	370,188.67	-	370,188.67
Panay Energy Development Corporation	116,978,464.00	116,978,463.32	0.68
Panay Power Corporation	23,904,280.00	23,904,280.00	-
Toledo Power Company	35,602,150.00	35,602,150.00	-
TOTAL	**₱526,080,069.47**	**₱525,703,740.02**	**₱376,329.45**
***Less*: Interest Income**			
Panay Power Holdings Corporation	₱ 6,138.50		₱ 6,138.50
Global Trade Energy Resources Corp.	370,188.67		370,188.67
Subtotal	**₱ 376,327.17**		**₱ 376,327.17**
Total Income Payments reported as Sales/Revenue in the 2018 ITR	**₱ 525,703,742.30**	**₱525,703,740.02**	**₱2.28**

Anent the interest income from PPHC and GTERC, the ICPA found that the same was reported in petitioner's ITR under *Other Taxable Income Not Subjected to Final Tax* which is included in the amount ₱1,378,464.00,[55] particularly in *Interest Income Other* amounting to ₱1,166,418.00.[56]

49 Annex D, Exhibit "P-10".
50 Exhibit "P-11".
51 Exhibit "P-11-12".
52 Results of the Procedures Performed, Item 5, Exhibit "P-10", p. 8.
53 Exhibits "P-11" to "P-11-15".
54 Exhibits "P-12" to "P-12-90"; See also Annex D, Exhibit "P-10".
55 Line 33, Part IV – Computation of Tax, Exhibit "P-4", BIR Records, p. 201.
56 Line 1, Schedule 3 – Other Taxable Income Not Subjected to Final Tax, Exhibit "P-4", BIR Records, p. 199.

An examination of Annex I of the ICPA *Report* (i.e., Schedule of the Total Intercompany Interest Per General Ledger) shows the following amounts, among others, *viz.*:[57]

JE #	Date	Description	Debit	Credit
xxx	xxx	xxx	xxx	xxx
2202	28 February 2018	OR# 1803[58] Payment from PPHC for the loan interest from January 15, 2018 to February 06, 2018 for PN-2018-23	₱ 0.00	₱ 6,138.39
xxx	xxx	xxx	xxx	xxx
14844	31 October 2018	Accrual of interest on short-term loan to GTERC | PN-2018-26 | 28M @ 5% fixed rate *20/360 days (October 11 to 31, 2018)	0.00	69,444.45
xxx	xxx	xxx	xxx	xxx
16364	30 November 2018	Accrual of interest on short-term loan to GTERC | PN-2018-26 | 28M @ 5% fixed rate *30/360 days (November 1 to 30, 2018)		104,166.67
xxx	xxx	xxx	xxx	xxx
17644	30 December 2018	Accrual of interest on short-term loan to GTERC | PN-2018-26 | 28M @ 5% fixed rate *31/360 days (December 1 to 31, 2018)	0.00	107,638.89
17648	30 December 2018	Accrual of interest on short-term loan to GTERC | PN-2018-27 | 4M @ 5.5% fixed rate *25/360 days (December 6 to 31, 2018)	0.00	13,640.88
17652	30 December 2018	Accrual of interest on short-term loan to GTERC | PN-2018-28 | 23M @ 5.5% fixed rate *24/360 days (December 7 to 31, 2018)	0.00	75,297.62
xxx	xxx	xxx	xxx	xxx
Subtotal			***₱ 0.00***	***₱ 376,326.90***
TOTAL DEBITS/CREDITS			**₱608,060.53**	**₱1,774,479.00**
NET CREDIT BALANCE				**₱1,166,418.47**

The total of the above entries amounted to ₱376,326.90, which substantially matches the income payments from interest on loans previously mentioned in the amount of ₱376,327.17 (except for the rounding difference of ₱0.27).

The Court finds the foregoing in order. In sum, petitioner was able to prove that the income payments from which the substantiated excess CWTs of ₱10,521,601.61 were withheld, were declared as part of its gross income in its Annual ITR. Thus, petitioner has likewise sufficiently complied with the *third* requisite.

Considering that petitioner complied with all the requisites in order for a taxpayer to be entitled to a refund for unutilized excess CWT, petitioner's

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[57] Exhibit "P-10".

[58] Exhibit "P-13".

claim in the aggregate of ₱10,521,601.39 (extent of CWT duly substantiated by BIR Forms No. 2307) should be granted.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to refund to petitioner, or to issue a tax credit certificate in its favor in, the amount of **₱10,521,601.39**, representing petitioner's excess and unutilized CWTs for taxable year 2018.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice