REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL SECOND DIVISION

SONIC SALES & DISTRIBUTION, INC.,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10888

Present:

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

Promulgated:

3:48 pm

x - x

RESOLUTION

FERRER-FLORES, J.:

Submitted before this Court is respondent's **Motion for Partial Reconsideration (Re: Decision promulgated on February 18, 2026)** filed on March 19, 2025, with petitioner's **Comment (Re: Motion for Partial Reconsideration dated March 19, 2026)** filed on May 4, 2025.

On February 18, 2026, the Court promulgated a Decision (assailed Decision) partially granting petitioner's claim for refund of its excess and unutilized creditable withholding tax (CWT) for calendar year (CY) 2019, the dispositive portion of which reads as follows:

> **ACCORDINGLY**, the present **Petition for Review** is **PARTIALLY GRANTED**.
>
> In view thereof, respondent is **ORDERED TO ISSUE** a tax credit certificate in favor of petitioner in the reduced amount of **₱17,392,011.17**, representing petitioner's unutilized excess CWTs for CY 2019.
>
> **SO ORDERED.**

In his *Motion for Partial Reconsideration*, respondent mainly argues that the present *Petition for Review* must be dismissed for petitioner's failure to exhaust administrative remedies. Respondent asserts that, since a decision was rendered in the administrative level, this Court's jurisdiction becomes appellate in nature and the Court should confine itself to whether the findings of respondent are consistent with law. Citing the case of *Pilipinas Total Gas, Inc. vs Commissioner of Internal Revenue*,[1] respondent posits that a taxpayer cannot cure its failure to submit a document requested by the Bureau of Internal Revenue (BIR) at the administrative level by presenting the said document before this Court. According to respondent, this Court is confined to the issue of whether the denial was proper, given the evidence submitted at the administrative level.

Respondent further argues that petitioner failed to fully substantiate its administrative claim for refund. Respondent contends that, in order to be entitled to refund of creditable withholding tax, it is incumbent upon petitioner to prove its entitlement thereto, such that: (1) the income from which withholding tax was withheld formed part of his gross income; (2) that the taxes withheld are actually remitted to the BIR; and, (3) that it complied with the prescribed checklist of requirements to be submitted involving claims for unutilized creditable withholding tax pursuant to Revenue Memorandum Order (RMO) No. 53-98.[2]

Lastly, respondent states that the right of taxation cannot easily be surrendered, as statutes granting tax exemptions are considered as a derogation of the sovereign authority. Statutes that grant tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. Petitioner should have, at all instances, proven it is entitled to refund.

On the other hand, in its *Comment*, petitioner asserts that its appeal to this Court did not violate the doctrine of administrative remedies. Notwithstanding the 22-working day gap between the filing of the administrative claim and the judicial claim, petitioner explains that respondent's argument cannot stand the test of judicial scrutiny considering that the Supreme Court had occasion to rule that the filing of the judicial claim mere hours after the filing of the administrative claim is valid so long as both claims are filed within the two-year prescriptive period.

Petitioner further avers that records show that respondent never acted on its claim for refund. Petitioner expounds that respondent has never

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[1] G.R. No. 207112, December 8, 2016.

[2] 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; June 1, 1998.

contradicted the fact that petitioner filed the present *Petition for Review* based on respondent's inaction on its claim for refund since there was no "decision" that has been rendered in the administrative level. For the said reason, petitioner finds respondent's averments conflicting in the sense that if respondent never got to review petitioner's claim, then logically respondent would also have no foundation to conclude that petitioner failed to substantiate its claim for refund.

Lastly, as to respondent's assertion that it is incumbent upon the claimant to prove actual remittance of the same alleged withheld taxes to the BIR, petitioner posits that, under the withholding tax system, the obligation to withhold and remit taxes rests upon the withholding agent, who acts as an agent of the government. Petitioner contends that respondent's assertion that proof of actual remittance is essential in proving a refund claim is unsupported by law and jurisprudence.

After due consideration, the Court finds respondent's *Motion for Partial Reconsideration* devoid of merit.

As held in the assailed Decision, petitioner need not wait for the resolution on the administrative claim for refund before filing the judicial claim, if waiting for the resolution on the administrative claim will go beyond the two-year prescriptive period.

In the case of *Commissioner of Internal Revenue v. Estate of Mr. Charles Marvin Romig, Represented by its Sole Heir Mrs. Maricel Narciso Romig,*[3] the Supreme Court ruled that <u>it is of no moment that there is only a short interval between the filing of the two claims. The law merely requires that both claims are filed within the two-year period</u>. The Supreme Court further explains that, while it recognizes that the Commissioner of Internal Revenue (CIR) may not have had the proper chance to act on the matter within their jurisdiction because of the short period of time between the filing of the two claims, the silence or insufficiency in the law on what is to be considered a reasonable period for the CIR to resolve a claim for refund of taxes, is one that can be addressed not by judicial pronouncement, but by appropriate legislation.

Here, petitioner filed its administrative claim for refund with the BIR on May 13, 2022,[4] while the present judicial claim was filed on June 13, 2022.[5] Albeit only being one month apart, both claims for refund were deemed seasonably filed within the two-year prescriptive period, since the

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[3] G.R. No. 262092, October 9, 2024.
[4] Exhibit "P- 12", Docket- Vol. II, pp. 710 to 711.
[5] Docket- Vol. I, pp. 6 to 38.

two-year period is about to expire and petitioner would no longer be able to validly seek judicial recourse after the expiration thereof. Thus, so long as both administrative and judicial claims are lodged within the two-year reglementary period with the former preceding the latter, the taxpayer-claimant cannot be considered to have failed to exhaust administrative remedies.

With regard to respondent's argument that failure to submit the documents required under RMO No. 53-98 is fatal to the refund claim, the Court does not agree.

In *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*,[6] the Supreme Court held as follows:

> Petitioner CIR argued that failure of the respondent to submit the required complete documents as required by Revenue Memorandum Order No. 53-98 and Revenue Regulations No. 2-2006 rendered the petition with the CTA dismissible on the ground of lack of jurisdiction. It reasoned out that when a taxpayer prematurely filed a judicial claim with the CTA, the latter has no jurisdiction over the appeal.
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> **In the instant case, respondent's failure to submit the complete documents at the administrative level did not render its petition for review with the CTA dismissible for lack of jurisdiction.** At this point, it is necessary to determine the grounds relied upon by a taxpayer in filing its judicial claim with the CTA. The case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue* is instructive, thus:
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>> A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first

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6 G.R. No. 231581, April 10, 2019.

> place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.

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.

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:

> 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 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, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.** *(Emphasis supplied)*

Based on the foregoing, failure to submit the "complete documents" as required by RMO No. 53-98, does not render the *Petition* filed before this Court dismissible on the ground of lack of jurisdiction. In the same vein, respondent's **inaction** in a claim for refund does not preclude this Court from considering evidence that was not presented in the administrative claim.

Lastly, as to respondent's argument that it is incumbent upon petitioner to prove actual remittance of the withheld taxes to the BIR, the Court finds the same untenable.

In *Commissioner of Internal Revenue vs. Philippine National Bank*,[7] the Supreme Court affirmed that a certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld and that proof of actual remittance is not a condition to claim for a refund of unutilized tax credits. The certificates of creditable taxes withheld accomplished by petitioner's withholding agents showing the amount deducted and withheld from its income in support of the claim for tax refund, constitute competent and conclusive evidence of payment and remittance to the BIR of the withheld taxes on petitioner's income. Herein, as found in the assailed Decision, petitioner was able to present various creditable withholding tax certificates duly issued by its withholding agents for the subject period of claim.

In view of the foregoing, there being no new matter or substantial issue raised by respondent in its *Motion for Partial Reconsideration*, the Court finds no compelling reason to reverse or modify the conclusions reached in the assailed Decision.

ACCORDINGLY, respondent's *Motion for Partial Reconsideration (Re: Decision promulgated on February 18, 2026)* is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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