Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

TRUMP MARKS PHILIPPINES LLC,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8969
For: Refund

Members:

DEL ROSARIO, P.J., *Chairperson,*
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
NOV 03 2017 : 11:18 am

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DECISION

MINDARO-GRULLA, J.:

This case is a Petition for Review filed by Trump Marks Philippines LLC on January 14, 2015, pursuant to Section 7(a)(2)[1] of Republic Act (RA) No. 1125, otherwise known as "An Act Creating the Court of Tax Appeals", as amended, as well as Section 3(a)(2)[2] of Rule 4 and Section 4(a)[3] of Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended.

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[1] SEC. 7. *Jurisdiction.* - The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
xxx
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

[2] SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
xxx
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: xxx;

[3] SEC. 4. *Where to appeal; mode of appeal.* –

Petitioner seeks the refund of the amount of Nineteen Million Seven Hundred Seventy-Eight Thousand Nine Hundred Ninety-Five Pesos and Twenty-Four Centavos (₱19,778,995.24), allegedly representing excess final taxes withheld on royalty payments made by Century City to petitioner for the months of December 2011 to July 2014.

Petitioner Trump Marks Philippines LLC is a non-resident foreign corporation duly organized and existing under the laws of Delaware, United States of America (U.S.A.)[4], with principal office address at 725 Fifth Avenue, New York, New York, U.S.A.[5]

On the other hand, respondent is the Commissioner of the Bureau of Internal Revenue (BIR), the government official charged with the administration and enforcement of national internal revenue laws, including the granting of refunds and tax credits of taxes erroneously or illegally collected. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

On May 8, 2008, Mr. Donald J. Trump and petitioner entered into an Assignment Agreement where Mr. Trump assigned to petitioner his right, title and interest to the use of the Trump Mark in the Philippines.

The Trump Mark consists of names and marks "TRUMP" and "TRUMP TOWER" as used on or in connection with a variety of goods and services such as real estate services, construction and development and listing, leasing, and managing commercial and residential properties.[6]

(a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.

[4] Exhibit "P-1", Docket, vol. II, pp. 802-805.

[5] Par. 1, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, vol. I, p. 372.

[6] Pars. 1 and 2, Recitals, Exhibit "P-4", Docket, vol. 1. p. 184, in relation to the Deed of Assignment attached as Exhibit "H", Docket, vol. I, pp. 289-291.

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Petitioner and Century Luxury Properties, Inc. ("Century Luxury" for brevity) entered into a License Agreement[7], where petitioner granted Century Luxury a non-exclusive, non-assignable and non-transferrable right to use the Trump Mark in connection with the construction and marketing of first-class, high-rise, luxury residential condominium building on a certain land owned by Century City Development Corporation ("Century City" for brevity) located at Kalayaan Avenue and Salamanca Street, Makati City, Philippines.

Petitioner is not engaged in business in the Philippines as evidenced by a Certification of Non-Registration of the Company[8] issued by the Securities and Exchange Commission (SEC); while Century Luxury and Century City are domestic corporations duly organized and existing in the Philippines, with office address at 21st Floor, Pacific Star Building, Senator Gil J. Puyat Avenue corner Makati Avenue, Makati City, Philippines.[9]

On May 29, 2009, petitioner and Century Luxury amended the License Agreement and entered into the First Amendment.[10]

On July 25, 2011, Century Luxury and Century City entered into a Deed of Assignment and Assumption of Obligations[11], where Century Luxury transferred to Century City its rights and obligations under the License Agreement, as amended.

In consideration for the use of the Trump Mark, Century City agreed to pay petitioner license fees, which consist of the up-front fee, extension fees, gross sales fees, and commercial component rent fee.[12]

The License Agreement and its Amendment have been duly registered with the Philippine Intellectual Property Office (IPO) under Certificate of Registration No. 5-2008-00058[13].

On November 22, 2011, petitioner filed an Application for Tax Treaty Relief (TTRA) with the BIR's International Tax Affairs Division

[7] Exhibit "P-4", Docket, vol. I, pp. 178-322.
[8] Exhibit "P-3", Docket, vol. II, p. 809.
[9] Par. 1, Stipulation of Facts, JSFI, Docket, vol. I, p. 373.
[10] Exhibit "P-5", Docket, vol. I, pp. 323-337.
[11] Exhibit "P-6", Docket, vol. I, pp. 338-339.
[12] Exhibit "P-5", Schedule I, License Fees, Docket, vol. I, pp. 330-335.
[13] Exhibit "P-7", Docket, vol. I, p. 340.

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(ITAD) to request confirmation that the royalties paid by Century City to petitioner are subject to preferential income tax treaty rate of ten percent (10%) pursuant to Article 13(2)(b)(iii) of the Convention between the Government of the Republic of the Philippines and the Government of the United States of America with Respect to Taxes on Income (hereinafter referred to as "RP-US Tax Treaty").[14]

The BIR issued BIR Ruling No. ITAD 026-14 on April 4, 2014, confirming the applicability of the preferential income tax treaty rate of 10% on royalties paid by Century City to petitioner from November 23, 2011 and thereafter, pursuant to Article 13(2)(b)(iii) of the RP-US Tax Treaty.[15]

For the months of December 2011 to July 2014, while the TTRA was being processed, Century City allegedly remitted to petitioner royalty payments in the aggregate amount of ₱98,894,977.00 and withheld from said payments thirty percent (30%) final withholding tax (FWT) in the aggregate amount of ₱29,668,492.94 instead of the 10% preferential tax rate in the aggregate amount of ₱9,889,497.70.[16]

Thus, on December 1, 2014, petitioner filed with the BIR Revenue District Office No. 39 an administrative claim[17] for cash refund in the total amount of ₱19,778,995.24, corresponding to the alleged excess final withholding tax (FWT) on royalty payments withheld and remitted by Century City for the period covering December 2011 to July 2014, with the following details:[18]

Date of Remittance of Royalties	Royalties Paid	30% Withholding Tax Paid	Date of Payment	10% Withholding Tax Due	Excess Withholding Tax
7-Dec-11	₱ 509,564.00	₱ 152,869.20	10-Jan-12	₱ 50,956.40	₱ 101,912.80
9-Jan-12	1,710,796.00	513,238.80	10-Apr-12	171,079.60	342,159.20
10-Feb-12	4,870,641.00	1,461,192.20	10-Apr-12	487,064.10	974,128.10
7-Mar-12	2,252,675.00	675,802.50	10-Apr-12	225,267.50	450,535.00
10-Apr-12	2,727,685.00	818,305.49	10-May-12	272,768.50	545,536.99
16-May-12	3,536,790.00	1,061,037.13	11-Jun-12	353,679.00	707,358.13
4-Jun-12	1,344,490.00	403,346.86	10-Jul-12	134,449.00	268,897.86
3-Jul-12	1,913,188.00	573,956.32	10-Sep-12	191,318.80	382,637.52

[14] Exhibit "P-8", Docket, vol. I, pp. 341-345.
[15] Exhibit "P-9", Docket, vol. II, pp. 810-818.
[16] Par. 14, Petition for Review, Docket, vol. I, pp. 8-9.
[17] Exhibit "P-10", Docket, vol. I, pp. 355-361.
[18] Exhibit "P-10", Docket, vol. I, pp. 356-357.

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31-Jul-12	2,265,559.00	679,667.62	10-Sep-12	226,555.90	453,111.72
4-Sep-12	1,812,681.00	543,804.18	12-Nov-12	181,268.10	362,536.08
9-Oct-12	2,122,028.00	636,608.28	12-Nov-12	212,202.80	424,405.48
12-Nov-12	2,573,140.00	771,942.00	15-Jan-13	257,314.00	514,628.00
11-Dec-12	3,298,285.00	989,485.40	15-Jan-13	329,828.50	659,656.90
2-Jan-13	6,935,729.00	2,080,718.58	11-Mar-13	693,572.90	1,387,145.68
7-Feb-13	4,816,768.00	1,445,030.28	11-Mar-13	481,676.80	963,353.48
1-Apr-13	1,666,378.00	499,913.26	11-Apr-13	166,637.80	333,275.46
5-Apr-13	1,021,016.00	306,304.80	9-May-13	102,101.60	204,203.20
10-May-13	1,499,745.00	449,923.56	10-Jun-13	149,974.50	299,949.06
6-Jun-13	7,071,359.00	2,121,407.70	10-Jul-13	707,135.90	1,414,271.80
18-Jul-13	3,896,996.00	1,169,098.75	8-Aug-13	389,699.60	779,399.15
1-Aug-13	1,485,548.00	445,664.40	11-Sep-13	148,554.80	297,109.60
28-Aug-13	6,251,897.00	1,875,569.11	11-Sep-13	625,189.70	1,250,379.41
25-Sep-13	4,702,377.00	1,410,713.10	14-Oct-13	470,237.70	940,475.40
9-Nov-13	1,767,583.00	530,274.92	10-Dec-13	176,758.30	353,516.62
13-Dec-13	2,239,154.00	671,746.20	20-Jan-14	223,915.40	447,830.80
9-Jan-14	1,526,754.00	458,026.20	20-Jan-14	152,675.40	305,350.80
3-Feb-14	3,545,319.00	1,063,595.76	10-Mar-14	354,531.90	709,063.86
4-Mar-14	2,998,603.00	899,580.90	13-May-14	299,860.30	599,720.60
15-Apr-14	3,037,512.00	911,253.57	9-Jun-14	303,751.20	607,502.37
21-May-14	7,936,867.00	2,381,060.10	9-Jun-14	793,686.70	1,587,373.40
5-Jun-14	3,341,968.00	1,002,590.55	11-Jul-14	334,196.80	668,393.75
9-Jul-14	2,215,882.00	664,764.63	14-Aug-14	221,588.20	443,176.43
	₱98,894,977.00	**₱29,668,492.94**		**₱9,889,497.70**	**₱19,778,995.24**

Due to the inaction of respondent on petitioner's administrative claim, the instant Petition for Review was filed before this Court on January 14, 2015.

On March 25, 2015, respondent filed his Answer[19] interposing the defense of prescription.

Respondent contends that the claim for refund has prescribed. Quoting the case of *Vda. De Aguinaldo vs. Commissioner of Internal Revenue*[20], he argues that petitioner should have filed its claim for refund or tax credit with the BIR within two (2) years from the date of payment of the tax or penalty. Such requirement is a condition precedent and non-compliance therewith precludes the Commissioner of Internal Revenue from exercising his given authority.

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[19] Docket, vol. I, pp. 134-135.
[20] 13 SCRA 269.

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Respondent further contends, citing *Commissioner of Internal Revenue vs. Rosemarie Acosta*[21], that if the claim was denied or not acted upon within said period, the petition for refund should be filed with the CTA within 30 days from receipt of the denial and within said two (2)-year period from the date of payment of the tax or penalty regardless of any supervening cause, otherwise the claim for refund shall prescribe.

Lastly, respondent maintains that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer. The taxpayer must present convincing evidence to substantiate a claim for refund.

On May 15, 2015, both petitioner[22] and respondent[23] filed their respective Pre-Trial Briefs.

On May 21, 2015, the Pre-Trial Conference was set and on the same date, a Resolution[24] was issued by this Court giving petitioner's counsel a period of twenty (20) days or until June 10, 2015 within which to file the parties' Joint Stipulation of Facts and Issues, including the list of the parties' respective documents and witnesses for presentation during trial as well as the agreed trial dates.

The parties filed their Joint Stipulation of Facts and Issue[25] on June 10, 2015, and a Pre-Trial Order[26] was issued by this Court on July 9, 2015.

On November 13, 2015, petitioner filed its Formal Offer of Evidence[27]. All the exhibits offered by petitioner were admitted by the Court in a Resolution[28] dated March 30, 2016.

The documentary exhibits filed by the petitioner are as follows:

[21] G.R. No. 154068, August 3, 2007.
[22] Docket, vol. I, pp. 139-149.
[23] Docket, vol. I, pp. 150-152.
[24] Docket, vol. I, pp. 369-371.
[25] Docket, vol. I, pp. 372-381.
[26] Docket, vol. II, pp. 708-716.
[27] Docket, vol. II, pp. 769-801.
[28] Docket, vol. II, pp. 930-931.

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Exhibit:	Description:
P-1	Certificate of Formation of Trump Marks Philippines LLC dated 29 February 2008
P-2	Certificate issued by the Department of Treasury – Internal Revenue Service (Philadelphia, PA dated 21 January 2009
P-3	Certification issued by the Philippine Securities and Exchange Commission dated 21 January 2015
P-4	License Agreement between Petitioner and Century Luxury Properties ("Century Luxury") dated 15 May 2008 ("License Agreement")
P-5	First Amendment to License Agreement between Petitioner and Century Luxury dated 29 May 2009 ("First Amendment")
P-6	Deed of Assignment and Assumption of Obligations between Century Luxury and Century City dated 25 July 2011 ("Deed of Assignment")
P-7	Certificate of Compliance No. 5-2008-00058 issued by the Philippine Intellectual Property Office ("IPO") dated 28 September 2011
P-8	Tax Treaty Relief Application dated 17 November 2011 ("TRRA")
P-8-A	BIR Stamp Receipt dated 22 November 2011
P-8-B	Signature of Jason L. Fernandez
P-8-C	Signature of Carrie Bee C. Hao
P-9	BIR Ruling No. ITAD 026-14 dated 4 April 2014 ("ITAD Ruling 26-14")
P-10	Administrative Claim for Refund dated 28 November 2014 ("Administrative Claim")
P-10-A	Signature of Jason L. Fernandez
P-10-B	Signature of Carrie Bee C. Hao
P-10-C	Signature of Michael P. Garcia
P-10-D	BIR Stamp Receipt dated 1 December 2014
P-11	Amended Articles of Incorporation of Century City
P-12	BIR Certificate of Registration (BIR Form No. 2306)
P-13	BDO Unibank, Inc. Certificate of Bank Deposit and/or Placement dated 13 May 2015
P-14	Deutsche Bank AG Manila Certification dated 7 April 2015
P-15	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for December 2011
P-15-A	Amount of Final Income Tax Withheld for December 2011 – P152,869.12
P-15-1	BTR/BIR Deposit Slip/Payment Slip for December 2011
P-15-1-A	Amount of P152,869.12 paid for December 2011
P-16	Annual Information on Income Taxes Withheld on Compensation and Final Withholding Taxes for 2011
P-16-A	Amount of Final Income Tax Withheld for 2011 – P152,869.12
P-17	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for March 2012
P-17-A	Amount of Final Income Tax Withheld for March 2012 – P2,650,233.50
P-17-1	BTR/BIR Deposit Slip/Payment Slip for March 2012
P-17-1-A	Amount of P2,650,233.50 paid for March 2012
P-18	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for April 2012
P-18-A	Amount of Final Income Tax Withheld for April 2012 – P818,305.49
P-18-1	BTR/BIR Deposit Slip/Payment Slip for April 2012
P-18-1-A	Amount of P818,305.49 paid for April 2012
P-19	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for May 2012
P-19-A	Amount of Final Income Tax Withheld for May 2012 – P1,061,037.13
P-19-1	BTR/BIR Deposit Slip/Payment Slip for May 2012

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P-19-1-A	Amount of P1,061,037.13 paid for May 2012
P-20	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for June 2012
P-20-A	Amount of Final Income Tax Withheld for June 2012 – P403,346.86
P-20-1	BTR/BIR Deposit Slip/Payment Slip for June 2012
P-20-1-A	Amount of P403,346.86 paid for June 2012
P-21	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for August 2012
P-21-A	Amount of Final Income Tax Withheld for August 2012 – P1,253,623.94
P-21-1	BRT/BIR Deposit Slip/Payment Slip for August 2012
P-21-1-A	Amount of P1,253,623.94 paid for August 2012
P-22	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for October 2012
P-22-A	Amount of Final Income Tax Withheld for October 2012-P1,180,412.94
P-22-1	BTR/BIR Deposit Slip/Payment Slip for October 2012
P-22-1-A	Amount of P1,180,412.94 paid for October 2012
P-23	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for December 2012
P-23-A	Amount of Final Income Tax Withheld for December 2012 – P1,761,427.40
P-23-1	BTR/BIR Deposit Slip/Payment Slip for December 2012
P-23-1-A	Amount of P1,761,427.40 paid for December 2012
P-14	Annual Information on Income Taxes Withheld on Compensation and Final Withholding Taxes for 2012
P-24-A	Amount of Final Income Taxes Withheld for 2012 – P9,128,387.26
P-25	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for February 2013
P-25-A	Amount of Final Income Tax Withheld for February 2013 – P3,525,748.86
P-25-1	BTR/BIR Deposit Slip/Payment Slip for February 2013
P-25-1-A	Amount of P3,525,748.86 paid for February 2013
P-26	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for March 2013
P-26-A	Amount of Final Income Tax Withheld for March 2013 – P449,913.26
P-26-1	BTR/BIR Deposit Slip/Payment Slip for March 2013
P-26-1-A	Amount of P449,913.26 paid for March 2013
P-27	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for April 2013
P-27-A	Amount of Final Income Tax Withheld for April 2013 – P356,305.01
P-27-1	BTR/BIR Deposit Slip/Payment Slip for April 2013
P-27-1-A	Amount of P356,305.01 paid for April 2013
P-28	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for May 2013
P-28-A	Amount of Final Income Tax Withheld for May 2013 – P449,923.56
P-28-1	BTR/BIR Deposit Slip/Payment Slip for May 2013
P-28-1-A	Amount of P449,923.56 paid for May 2013
P-29	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for June 2013
P-29-A	Amount of Final Income Tax Withheld for June 2013 – P19,182,621.87
P-29-1	BIR eFPS payment confirmation from UNIONBANK for June 2013
P-29-1-A	Amount of P19,182,621.87 paid for June 2013
P-30	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for July 2013

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P-30-A	Amount of Final Income Tax Withheld for July 2013 – P1,169,098.75
P-30-1	BIR eFPS payment confirmation from UNIONBANK for July 2013
P-30-1-A	Amount of P1,169,098.75
P-31	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for August 2013
P-31-A	Amount of Final Income Tax Withheld for August 2013 – P2,321,233.51
P-31-1	BIR eFPS payment confirmation from UNIONBANK for August 2013
P-31-1-A	Amount of P2,321.233.51 paid for August 2013
P-32	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for September 2013
P-32-A	Amount of Final Income Tax Withheld for September 2013 – P987,499.22
P-32-1	BIR eFPS payment confirmation from UNIONBANK for September 2013
P-32-1-A	Amount of P987,499.22 paid for September 2013
P-33	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for November 2013
P-33-A	Amount of Final Income Tax Withheld for November 2013 – P530,274.92
P-34	Monthly Remittance of Final Income Taxes Withheld (BIR Form 1601F) for December 2013
P-34-A	Amount of Final Income Tax Withheld for December 2013 – P14,039,869.56
P-34-1	BIR eFPS payment confirmation from UNIONBANK for December 2013
P-34-1-A	Amount of P14,039,869.56 paid for December 2013
P-35	Annual Information on Income Taxes Withheld on Compensation and Final Withholding Taxes for 2013
P-35-A	Amount of Final Income Taxes Withheld for 2013 – P42,482,213.79
P-36	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for February 2014
P-36-A	Amount of Final Income Tax Withheld for February 2014 – P1,063,595.76
P-36-1	BIR eFPS payment confirmation from UNIONBANK for February 2014
P-36-1-A	Amount of P1,063,595.76 paid for February 2014
P-37	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for April 2014
P-37-A	Amount of Final Income Tax Withheld for April 2014 – P899,580.80
P-37-1	BIR eFPS payment confirmation from UNIONBANK for April 2014
P-37-1-A0	Amount of P899,580.80 paid for April 2014
P-38	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for May 2014
P-38-A	Amount of Final Income Tax Withheld for May 2014 – P3,292,313.67
P-38-1	BIR eFPS payment confirmation from UNIONBANK for May 2014
P-38-1-A	Amount of P3,292,313.67 paid for May 2014
P-39	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for June 2014
P-39-A	Amount of Final Income Tax Withheld for June 2014 – P1,002,590.55
P-39-1	BIR eFPS payment confirmation from UNIONBANK for June 2014
P-39-1-A	Amount of P1,002,590.55 paid for June 2014
P-40	Monthly Remittance Return of Final Income Taxes Withheld (BIR Form 1601F) for July 2014
P-40-A	Amount of Final Income Tax Withheld for July 2014 – P664,764.63

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P-40-1	BIR eFPS payment confirmation from UNIONBANK for July 2014
P-40-1-A	Amount of P664,764.63 paid for July 2014
P-41	Letter Request dated 4 June 2015
P-41-A	BIR Stamp Receipt dated 4 June 2015
P-42	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (1604-CF/BIR Validation) – 2011
P-42-A	Amount of P152,869.12 Withheld (30%) for 2011
P-43	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Original Withholding Taxes (1604-CF/BIR Validation) – 2012
P-43-A	Amount of P9,128,387.26 Withheld (30%) for 2012
P-44	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (1604-CF/BIR Validation) – 2013
P-44-A	Amount of P13,041,177.17 Withheld (30%) for 2013
P-45	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (1604-CF/BIR Validation) – February 2014
P-45-A	Amount of P1,063,595.76 Withheld (30%) for February 2014
P-46	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (1604-CF/BIR Validation) – April 2014
P-46-A	Amount of P899,580.80 Withheld (30%) for April 2014
P-47	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (1604-CF/BIR Validation) – May 2014
P-47-A	Amount of P3,292,313.67 Withheld (30%) for May 2014
P-48	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (1604-CF/BIR Validation) – June 2014
P-48-A	Amount of P1,002,590.55 Withheld (30%) for June 2014
P-49	Alpha-list Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (1604-CF/BIR Validation) – July 2014
P-49-A	Amount of P664,764.63 Withheld (30%) for July 2014
P-50	BIR RAD Certification (RAD 15-07-053-Cert) dated 6 July 2015
P-50-A	Signature of Rosa Bella B. Javerina
P-51	Affidavit of Carrie Bee Hao
P-51-A	Signature of Carrie Bee Hao
P-52	Affidavit of Ms. Mary Ann C. Cangas
P-52-A	Signature of Mary Ann C. Cangas
P-53	Memorandum dated 30 September 2015
P-53-A	Signature of Rosa Bella B. Javerina
P-54	BIR RAD Certification (RAD 15-09-253 Cert) dated 17 September 2015
P-54-A	Signature of Rosa Bella B. Javerina
P-55	Affidavit of Alfredo S. Ramos
P-55-A	Signature of Alfredo S. Ramos

On the scheduled presentation of respondent's evidence, respondent's counsel manifested that he will not be presenting evidence. Thus, in the Order[29] dated May 10, 2016, the parties were given a period of thirty (30) days to file their memoranda.

[29] Docket, vol. II, pp. 934-935.

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The case was declared submitted for decision on November 24, 2016, considering petitioner's Memorandum[30] filed on June 20, 2016 and respondent's Memorandum admitted by this Court on November 24, 2016.

The parties agreed that the sole issue to be resolved by this Court is as follows:

> Whether or not petitioner is entitled to a refund or issuance of a tax credit certificate for the total amount of ₱19,778,995.24, corresponding to the excess withholding tax remittances on royalty payments made by Century City to petitioner for the months of December 2011 to July 2014 based on Article 13(2)(b)(iii) of the RP-US Tax Treaty, in relation to Article 12(2) of the RP-UAE Tax Treaty.[31]

The Court shall discuss first whether petitioner's claim was timely filed.

Sections 204(C) and 229 of the NIRC of 1997, as amended, require the filing of an administrative claim for refund before the filing of a judicial claim, both of which claims should be filed within two (2) years from payment of the tax. Sections 204(C) and 229 are quoted as follows:

> "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**

[30] Docket, vol. II, pp. 948-967.
[31] Docket, vol. I, p. 374.

> **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 supplied)*
>
> "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 clear that the afore-quoted Sections 204(C) and 229 of the NIRC of 1997, as amended, govern all kinds of refund or credit of internal revenue taxes collected erroneously or illegally.[32] Section 204(C) applies to administrative claims filed with the BIR; while Section 229 refers to judicial actions for the recovery of the tax. However, the settled rule is that both the claim for refund with the BIR and the subsequent appeal to the Court of Tax Appeals must be filed within the two-year period from the date of payment of the tax.[33]

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[32] *Commissioner of Internal Revenue vs. Central Azucarera Don Pedro*, G.R. No. L-28467, February 28, 1973, citing *Commissioner of Internal Revenue vs. Insular Lumber Co., et al.*, G.R. No. L-24221, December 11, 1967.

[33] *Manila North Tollways Corporation vs. Commissioner of Internal Revenue*, CTA EB No. 812 (CTA Case No. 7864), October 11, 2012.

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Hence, to be entitled to a refund of erroneously or illegally collected tax, the following requisites must be satisfied: (1) that the tax must be erroneously or illegally collected, or the penalty must be collected without authority, and/or any sum must be excessively or in any manner wrongfully collected; and (2) that the claim for refund or credit must be filed within two (2) years from the date of payment of tax, or penalty, regardless of any supervening cause that may arise after payment.

In the present case, the final withholding tax (FWT) remittances made by Century City for the subject period of claim (December 2011 to July 2014) show the following pertinent dates:

Reference Exhibits	**Period Covered**	**Date of Payment of FWT**	**Last Day to File Administrative and Judicial Claims**
P-15, P-15-1	Dec. 2011	10-Jan-12	10-Jan-14
P-17, P-17-1	March 2012	10-Apr-12	10-Apr-14
P-18, P-18-1	April 2012	10-May-12	10-May-14
P-19, P-19-1	May 2012	11-Jun-12	11-Jun-14
P-20, P-20-1	June 2012	10-Jul-12	10-Jul-14
P-21, P-21-1	Aug. 2012	10-Sep-12	10-Sep-14
P-22, P-22-1	Oct. 2012	12-Nov-12	12-Nov-14
P-23, P-23-1	Dec. 2012	15-Jan-13	15-Jan-15
P-25, P-25-1	Feb. 2013	11-Mar-13	11-Mar-15
P-26, P-26-1	March 2013	11-Apr-13	11-Apr-15
P-27, P-27-1	April 2013	9-May-13	9-May-15
P-28, P-28-1	May 2013	10-Jun-13	10-Jun-15
P-29, P-29-1	June 2013	11-Jul-13	11-Jul-15
P-30, P-30-1	July 2013	12-Aug-13	12-Aug-15
P-31, P-31-1	Aug. 2013	11-Sep-13	11-Sep-15
P-32, P-32-1	Sept. 2013	14-Oct-13	14-Oct-15
P-33, P-33-1	Nov. 2013	10-Dec-13	10-Dec-15
P-34, P-34-1	Dec. 2013	20-Jan-14	20-Jan-16
P-36, P-36-1	Feb. 2014	15-Mar-14	15-Mar-16
P-37, P-37-1	April 2014	15-May-14	15-May-16
P-38, P-38-1	May 2014	16-Jun-14	16-Jun-16
P-39, P-39-1	June 2014	15-Jul-14	15-Jul-16
P-40, P-40-1	July 2014	14-Aug-14	14-Aug-16

Based on the above table, portion of the refund claim has already prescribed.

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Petitioner's administrative claim for refund was filed on December 1, 2014[34] and the Petition for Review was filed on January 14, 2015[35]. Hence, the FWT remitted from January 10, 2012 (for taxable month of December 2011) to November 12, 2012 (for the taxable month of October 2012) should not be considered in the instant claim for having been filed out of time. The total amount of which are broken down as follows:

Exhibit	**Period Covered**	**Date of Payment of FWT**	**Last Day to File Administrative and Judicial Claims**	**Excess FWT Paid**
P-15 ,P-15-1	Dec. 2011	10-Jan-12	10-Jan-14	₱ 101,912.75
P-17, P-17-1	March 2012	10-Apr-12	10-Apr-14	1,766,822.33
P-18, P-18-1	April 2012	10-May-12	10-May-14	545,536.99
P-19, P-19-1	May 2012	11-Jun-12	11-Jun-14	707,358.09
P-20, P-20-1	June 2012	10-Jul-12	10-Jul-14	268,897.91
P-21, P-21-1	Aug. 2012	10-Sep-12	10-Sep-14	835,749.29
P-22, P-22-1	Oct. 2012	12-Nov-12	12-Nov-14	786,941.96
			Prescribed Claim	**₱5,013,219.32**

The Court shall now discuss the second requisite.

Generally, non-resident foreign corporations are subject to thirty percent (30%) income tax on royalties received from Philippine sources effective January 1, 2009, pursuant to Section 28(B)(1) of the NIRC of 1997, as amended, which states:

"SEC. 28. *Rates of Income Tax on Foreign Corporations.* –

xxx xxx xxx

(B) *Tax on Nonresident Foreign Corporation.* –

(1) *In General.* – Except as otherwise provided in this Code, a foreign corporation not engaged in trade or business in the Philippines shall pay a tax equal to thirty-five percent (35%) of the gross income received during

[34] Exhibit "P-10", Docket, vol. I, pp. 355-360.
[35] Petition for Review, Docket, vol. I, p. 6.

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> each taxable year from all sources within the Philippines, such as interests, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains subject to tax under subparagraphs 5(c): *Provided*, That effective January 1, 2009, the rate of income tax shall be thirty percent (30%)."

The income tax rate of 30% can be further reduced by an international agreement between the Philippines and another state. In the present case, the relevant treaty, as properly invoked by petitioner, is the RP-US Tax Treaty and its "Most Favored Nation" clause.

The RP-US Tax Treaty is just one of a number of bilateral treaties which the Philippines has entered into for the avoidance of double taxation. The purpose of these international agreements is to reconcile the national fiscal legislations of the contracting parties in order to help the taxpayer avoid simultaneous taxation in two different jurisdictions. The rationale for doing away with double taxation is to encourage the free flow of goods and services and the movement of capital, technology and persons between countries, conditions deemed vital in creating robust and dynamic economies.[36]

The purpose of a "Most Favored Nation" clause is to grant to the contracting party treatment not less favorable than that which has been or may be granted to the "most favored" among other countries. The "Most Favored Nation" clause is intended to establish the principle of equality of international treatment by providing that the citizens or subjects of the contracting nations may enjoy the privileges accorded by either party to those of the "Most Favored Nation".[37]

The "Most Favored Nation" clause in the RP-US Tax Treaty can be found in Article 13 thereof, quoted hereunder for ready reference:

"ARTICLE 13
Royalties

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[36] *Commissioner of Internal Revenue vs. S.C. Johnson and Son, Inc. and Court of Appeals*, G.R. No. 127105, June 25, 1999.
[37] *Id.*

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(1) Royalties derived by a resident of one of the Contracting States from sources within the other Contracting State may be taxed by both Contracting States.

(2) However, the tax imposed by that other Contracting State shall not exceed —

(a) In the case of the United States, 15 percent of the gross amount of the royalties, and

(b) In the case of the Philippines, the least of:

(i) 25 percent of the gross amount of the royalties,

(ii) 15 percent of the gross amount of the royalties, where the royalties are paid by a corporation registered with the Philippine Board of Investments and engaged in preferred areas of activities, and

(iii) **the lowest rate of Philippine tax that may be imposed on royalties of the same kind paid under similar circumstances to a resident of a third State.**

(3) The term 'royalties' as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or other like right of property, or for information concerning industrial, commercial or scientific experience. [T]he term 'royalties' also includes gains derived from the sale, exchange or other disposition

of any such right or property which are contingent on the productivity, use, or disposition thereof.

(4) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 8 (Business Profits) or Article 15 (Independent Personal Services), as the case may be, shall apply.

(5) Where an amount is paid to a related person and would be treated as a royalty but for the fact that it exceeds an amount which would have been paid to an unrelated person, the provisions of this Article shall apply only to so much of the amount as would have been paid to an unrelated person. In such a case, the excess amount may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable." *(Emphasis supplied)*

In order to take advantage of the "Most Favored Nation" clause under Article 13(2)(b)(iii) of the RP-US Tax Treaty, the following conditions should be met: (1) the payor must be a resident of the Philippines; (2) the payee must be a resident of the US; (3) royalties are paid by the payor to the payee; (4) the tax rate imposed on royalties paid to a third state is lower than 15%; and (5) the royalties are of the same kind and under the same circumstances as the ones paid to a resident of such third state.

As to the first and second conditions, Article 3 (Fiscal Residence) of the RP-US Tax Treaty provides that a resident of the Philippines includes a Philippine corporation and a US resident includes a US corporation.

In the instant case, payor Century City is a domestic corporation duly organized and existing in the Philippines.[38]

As to the second condition, petitioner presented the following documentary evidence to show that petitioner-payee is a resident corporation of the United States of America:

1. Certificate of Formation of petitioner dated February 29, 2008;[39]

2. Certificate issued by the Department of Treasury-Internal Revenue Services (Philadelphia, PA) dated January 21, 2009;[40] and

3. Certification of Non-Registration of Company issued by the Philippine SEC[41] to petitioner.

As to the third condition, the royalties are paid by the payor to the payee, based on the following:

1. Amended License Agreement[42] between petitioner and Century Luxury;

2. Deed of Assignment and Assumption of Obligations[43] between Century Luxury and Century City. This is to grant the license to use the Trump Mark in connection with the construction and marketing of a first-class, high-rise, luxury residential condominium building located at Kalayaan Avenue and Salamanca Street, Makati City, Philippines; and

3. Certifications issued by Banco De Oro[44] and Deutsche Bank AG Manila[45], showing that Century City made US

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[38] Par. 1, Stipulation of Facts, JSFI, Docket, vol. I, p. 373.
[39] Exhibit "P-1", Docket, vol. II, pp. 802-805.
[40] Exhibit "P-2", Docket, vol. II, pp. 806-808.
[41] Exhibit "P-3", Docket, vol. II, p. 809.
[42] Exhibit "P-5", Docket, vol. I, pp. 323-337.
[43] Exhibit "P-6", Docket, vol. I, pp. 338-339.
[44] Exhibit "P-13", Docket, vol. I, pp. 586-587.
[45] Exhibit "P-14", Docket, vol. I, p. 588.

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Dollar remittances in favor of petitioner covering the months of December 2011 to July 2014.

In the Joint Stipulation of Facts and Issue submitted by the parties, it was admitted that "Petitioner sought a cash refund since it would have no use for tax credits as it does not have any business activity or other source of income or revenue subject to Philippine internal revenue taxes".[46] Thus, the afore-mentioned US Dollar remittances by Century City in favor of petitioner pertain to the subject license fees or royalties.

The remuneration thereof or the license fees constitute royalties, as defined in paragraph 3 of Article 13 of the RP-US Tax Treaty. Petitioner, being the licensor, is the beneficial owner of the royalties, and necessarily has the full right to use, enjoy, and benefit from the said income.

Finally, as to the fourth and fifth conditions, petitioner refers to the Agreement between the Government of the Republic of the Philippines and the Government of the United Arab Emirates for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital ("RP-UAE Tax Treaty" for brevity), where Article 12(2) and (3) thereof provides that royalties paid to a resident of UAE from sources within the Philippines for the use of, or the right to use, trademarks or other intellectual properties shall be subjected to ten percent (10%) preferential tax rate, *viz*:

"**ARTICLE 12**
Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, the royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross

[46] Par. 4, Stipulation of Facts, JSFI, Docket, vol. I, p. 374.

amount of the royalties. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

3. The term 'royalties' as used in this Article means payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic films and films or tapes for television or radio broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience."

The BIR confirmed in its ITAD Ruling No. 026-14 that the royalties under the RP-US Tax Treaty and RP-UAE Tax Treaty are of the same kind and paid under the same circumstances, to wit:

"Under Article 13, royalties arising in the Philippines and paid to a resident of the United States are subject to the lowest rate of Philippine income tax that may be imposed on royalties of the same kind and paid to a resident of a third State under similar circumstances (also known as *most-favored-nation treatment* or *MFN treatment*).

With respect to MFN treatment, the Supreme Court, in *Commissioner of Internal Revenue vs. S.C. Johnson and Son, Inc. and Court of Appeals (G.R. No. 127105 dated June 25, 1999) ('SC Johnson case')*, had required two conditions for such treatment to apply. *First*, royalties arising in the Philippines and paid to a resident of the United States must be of the *same kind* as those derived in the Philippines by a resident of a third State and where such are subject to an MFN treatment under the applicable tax treaty between the Philippines and the third State. A survey of existing tax treaties to date discloses an MFN rate of *10 percent*. *Second,* royalties paid to the United States resident must be *paid under similar circumstances* vis-à-vis royalties paid to the third State resident. xxx

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For this purpose, *The Agreement between the Government of the Republic of the Philippines and the Government of the United Arab Emirates for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital ('Philippines-United Arab Emirates or UAE tax treaty') effective January 1, 2009* is applicable herein.

With respect to the *first condition*, under paragraphs 1, 2 and 3, Article 12 of the Philippines-UAE tax treaty, royalties for the use of, or the right to use, *trademark* and other intangible properties are subject to income tax at a single rate of *10 percent*, xxx

xxx xxx xxx

With respect to the *second condition*, under paragraph 1, Article 23 of the Philippines-United States tax treaty and paragraph 2, Article 23 of the Philippines-UAE tax treaty, the foreign tax credit or deduction which the United States and UAE allow their residents with respect to income arising in the Philippines (except dividends paid to a United States resident) and subjected to income tax therein is limited to the actual amount of Philippine income tax levied on such income, xxx

xxx xxx xxx

Considering an MFN rate of 10 percent under Article 12 of the Philippines-UAE tax treaty, this is the amount of foreign tax credit that UAE will allow its residents who derive royalties in the Philippines. Since the same amount of foreign tax credit will be allowed by the United States on royalties subjected to MFN treatment in the Philippines which is the actual amount of Philippine income tax levied on the income, it follows that royalties paid to a UAE resident and those paid to a United States resident are *paid under similar circumstances*."

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Thus, pursuant to the RP-US Tax Treaty in relation to the RP-UAE Tax Treaty, petitioner is entitled to the preferential final tax rate of 10% on royalty payments received from Century City.

Moreover, to prove the fact of withholding and remittance of 30% FWT on royalties received from Century City for the subject period of claim, petitioner submitted the following:

1. Monthly Remittance Returns of Final Income Taxes Withheld (BIR Form No. 1601-F) with attached BTR-BIR Deposit/Payment Slips and EFPS Payment Confirmations for the months of December 2011[47], March to June 2012[48], August 2012[49], October 2012[50], December 2012[51], February to September 2013[52], November to December 2013[53], February 2014[54], April 2014 to July 2014[55];

2. Annual Information Returns of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF) and the corresponding Alphalists for the years 2011[56], 2012[57] and 2013[58];

3. Alphalists for the months of February and April to July 2014[59] filed by Century City; and

4. Certification issued by the BIR's Revenue Accounting Division (RAD)[60].

A perusal of the above documents shows that Century City withheld and remitted to the BIR 30% FWT in the amount of

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[47] Exhibits "P-15" and "P-15-1", Docket, vol. I, pp. 589-590.
[48] Exhibits "P-17" to "P-20-1", Docket, vol. I, pp. 592-599.
[49] Exhibits "P-21" and "P-21-1", Docket, vol. I, pp. 600-601.
[50] Exhibits "P-22" and "P-22-1", Docket, vol. I, pp. 602-603.
[51] Exhibits "P-23" and "P-23-1", Docket, vol. I, pp. 604-605.
[52] Exhibits "P-25" to "P-32-1", Docket, vol. I, pp. 607-614 and Docket, vol. II, pp. 820-839.
[53] Exhibits "P-33" to "P-34-1", Docket, vol. II, pp. 840-848.
[54] Exhibits "P-36" and "P-36-1", Docket, vol. II, pp. 852-856.
[55] Exhibits "P-37" to "P-40-1", Docket, vol. II, pp. 857-880.
[56] Exhibits "P-16" and "P-42", Docket, vol. I, pp. 591 and 670.
[57] Exhibits "P-24" and "P-43", Docket, vol. I, pp. 606 and 671.
[58] Exhibits "P-35" and "P-44", Docket, vol. II, pp. 849-851 and 881.
[59] Exhibits "P-45" to "P-49", Docket, vol. II, pp. 882-893.
[60] Exhibit "P-50", Docket, vol. II, pp. 894-895.

₱29,245,278.98 from the royalties it paid to petitioner in the amount of ₱97,484,263.41 for the period covering December 2011 to July 2014. Since petitioner is entitled to the 10% preferential tax rate on the said royalties, there was an over-remittance of the 20% difference in tax rates, equivalent to ₱19,496,852.62, detailed as follows:

Reference Exhibit	Period Covered	Date of Payment of FWT	Amount of Royalties (In PHP)	30% FWT Paid (In PHP)	Exh.	10% FWT Due (In PHP)	Excess FWT Paid (In PHP)
P-15, P-15-1	Dec. 2011	10-Jan-12	509,563.72	152,869.12		50,956.37	101,912.75
		Subtotal	**509,563.72**	**152,869.12**	P-16, P-42	**50,956.37**	**101,912.75**
P-17, P-17-1	March 2012	10-Apr-12	8,834,111.65	2,650,233.50		883,411.17	1,766,822.33
P-18, P-18-1	April 2012	10-May-12	2,727,684.95	818,305.49		272,768.50	545,536.99
P-19, P-19-1	May 2012	11-Jun-12	3,536,790.43	1,061,037.13		353,679.04	707,358.09
P-20, P-20-1	June 2012	10-Jul-12	1,344,489.52	403,346.86		134,448.95	268,897.91
P-21, P-21-1	Aug. 2012	10-Sep-12	4,178,746.46	1,253,623.94		417,874.65	835,749.29
P-22, P-22-1	Oct. 2012	12-Nov-12	3,934,709.80	1,180,412.94		393,470.98	786,941.96
P-23, P-23-1	Dec. 2012	15-Jan-13	5,871,424.67	1,761,427.40		587,142.47	1,174,284.93
		Subtotal	**30,427,957.48**	**9,128,387.26**	P-24, P-43	**3,042,795.76**	**6,085,591.50**
P-25, P-25-1	Feb. 2013	11-Mar-13	11,752,496.20	3,525,748.86		1,175,249.62	2,350,499.24
P-26, P-26-1	March 2013	11-Apr-13	1,499,710.87	449,913.26		149,971.09	299,942.17
P-27, P-27-1	April 2013	9-May-13	1,187,683.37	356,305.01		118,768.34	237,536.67
P-28, P-28-1	May 2013	10-Jun-13	1,499,745.20	449,923.56		149,974.52	299,949.04
P-29, P-29-1	June 2013	11-Jul-13	7,071,359.00[61]	2,121,407.70[62]		707,135.90	1,414,271.80
P-30, P-30-1	July 2013	12-Aug-13	3,896,995.83	1,169,098.75		389,699.58	779,399.17
P-31, P-31-1	Aug. 2013	11-Sep-13	7,737,445.03	2,321,233.51		773,744.50	1,547,489.01
P-32, P-32-1	Sept. 2013	14-Oct-13	3,291,664.07	987,499.22		329,166.41	658,332.81
P-33, P-33-1	Nov. 2013	10-Dec-13	1,767,583.07	530,274.92		176,758.31	353,516.61
P-34, P-34-1	Dec. 2013	20-Jan-14	3,765,908.00	1,129,772.40		376,590.80	753,181.60
		Subtotal	**43,470,590.64**	**13,041,177.19**	P-35, P-44	**4,347,059.07**	**8,694,118.12**
P-36, P-36-1	Feb. 2014	15-Mar-14	3,545,319.20	1,063,595.76	P-45	354,531.92	709,063.84
P-37, P-37-1	April 2014	15-May-14	2,998,602.87	899,580.80	P-46	299,860.29	599,720.51
P-38, P-38-1	May 2014	16-Jun-14	10,974,378.90	3,292,313.67	P-47	1,097,437.89	2,194,875.78
P-39, P-39-1	June 2014	15-Jul-14	3,341,968.50	1,002,590.55	P-48	334,196.85	668,393.70
P-40, P-40-1	July 2014	14-Aug-14	2,215,882.10	664,764.63	P-49	221,588.21	443,176.42
		Subtotal	**23,076,151.57**	**6,922,845.41**		**2,307,615.16**	**4,615,230.25**
		Total	**97,484,263.41**	**29,245,278.98**		**9,748,426.36**	**19,496,852.62**

In sum, the Court finds that petitioner has sufficiently proven its entitlement to a refund of erroneously paid FWT on royalties only for

[61] Amount per claim (Amount per return of ₱63,942,072.90 includes payments other than those made to petitioner).
[62] Amount per claim.

the months covering December 2012 to July 2014 in the amount of ₱14,483,633.30, computed as follows:

Total Substantiated FWT Claim	₱ 19,496,852.62
Less: Prescribed Portion	5,013,219.32
Total Refundable Amount	**₱14,483,633.30**

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** to petitioner the amount of **₱14,483,633.30** representing excess FWT remittances on royalty payments made by Century City to petitioner for the months of December 2012 to July 2014.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

C E R T I F I C A T I O N

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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, 1st Division