Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1753** (CTA Case No. 8965)
-versus-	Present: DEL ROSARIO, *P.J.*, CASTAÑEDA, JR. UY FABON-VICTORINO MINDARO-GRULLA RINGPIS-LIBAN, and MANAHAN,*JJ.*
GIC PRIVATE LIMITED (FORMERLY, GOVERNMENT OF SINGAPORE INVESTMENT CORPORATION PRIVATE LIMITED), Respondent.	Promulgated: APR 22 2019 3:48 p.m.

x---x

RESOLUTION

MINDARO-GRULLA, J.:

This resolves the Commissioner of Internal Revenue's (CIR) "Motion for Reconsideration (Re: Decision dated 18 January 2019)" assailing the Court *En Banc's* January 18, 2019 Decision, the dispositive portion of which states:

> *"**WHEREFORE**, the Petition for Review is **DENIED,** for lack of merit. Accordingly, the Decision dated June 22, 2017, rendered by the Third Division of this Court in CTA Case No. 8965, and its Resolution dated November 27, 2017 are **AFFIRMED**. No pronouncement as to costs.*
>
> ***SO ORDERED.**"*

In assailing this Court's Decision, CIR asserts that the Court erred in ruling that respondent was able to prove actual payment and remittance of the alleged final tax and that it is not incumbent for respondent to prove actual payment and remittance. CIR argued that proof of actual withholding and remittance is indispensable in the claim for refund of final withholding taxes. Citing the case of BPI

L

Unibank vs. Commissioner of Internal Revenue[1] and NEC Logistics Philippines, Inc vs. Commissioner of Internal Revenue[2], CIR argued that Collection Execution Reports were not sufficient to prove actual interest earned and taxes withheld and that there is no documentary evidence to prove that the amount being claimed was interest income earned from investment.

On February 21, 2019, the Court directed respondent to file Comment on the "Motion for Reconsideration (Re: Decision dated 18 January 2019)" within ten (10) days from receipt otherwise the motion shall be deemed submitted for resolution.

On March 8, 2019 respondent filed a Motion for Extension of Time to File Comment (Re: CIR's Motion for Reconsideration dated February 8, 2019) praying for an extension of fifteen (15) days or until March 24, 2019 within which to file its Comment. March 24, 2019 is a Sunday. On March 25, 2019, respondent filed its Comment within the period prayed for in the Motion for Extension of Time to File Comment. Thus, the Motion for Extension of Time to File Comment is deemed granted.

Pursuant to the Court's February 21, 2019 Resolution, the "Motion for Reconsideration (Re: Decision dated 18 January 2019)" is deemed submitted for resolution upon submission of the Comment. Hence this resolution.

We resolve to deny CIR's Motion for Reconsideration (Re: Decision dated 18 January 2019)".

After a careful examination of petitioner's motion for reconsideration, the Court finds that the issues and arguments raised in said motion had already been sufficiently passed upon and fully discussed not only by the Third Division's Decision dated June 22, 2017 and Resolution dated November 27, 2017 but also by this Court *En Banc's* Decision dated January 18, 2019.

To reiterate, the Court finds that the Division of this Court did not err when it ruled as follows:

---

[1] CTA Case No. 5979, 19 January 2004.
[2] CTA case No. 8533, 18 December 2014.

L

"Petitioner submitted the Confirmations of Sale/Trade Confirmations and relevant Bond Exchange Offer issued by various banks as proof of its Philippine T-Bond Holdings.

For the period covering January 2013 to July 2014, petitioner derived interest income from its investments in Philippine T-Bonds in the aggregate amount of P638,368,932.68, which was subjected to 20% FWT in the amount of P127,673,786.53, as evidenced by the Entitlement Report and Swift MT566 Confirmation Advices issued by its custodian, Citibank-Philippines. Below is the detailed breakdown of the amount of ₱510,695,146.15 interest payments received by petitioner, net of the 20% FWT of ₱127,673,786.53:

ISIN	***Local ISIN***	***Coupon Date***	***Exhibit No.***	***Interest***		
				Gross Amount	***20% FWT***	***Net Amount***
PHY6972FKN96	*PIBD0313A199*	*7-Jan-13*	*P-15*	*P84,000,000.00*	*P 16,800,000.00*	*P67,200,000.00*
PHY6972FJC50	*PIBD0514A673*	*28-Jan-13*	*P-16*	*352,187,500.00*	*70,437,500.00*	*281,750,000.00*
PHY6972FFF28	*PIBD1018A451*	*31-Jan-13*	*P-17*	*2,482,187.50*	*496,437.50*	*1,985,750.00*
PHY6972FHTO4	*PIBD1019B485*	*19-Feb-13*	*P-18*	*37,406,250.00*	*7,481,250.00*	*29,295,000.00*
PHY6972FMZ09	*PIBD1020L525*	*17-Jun-13*	*P-19*	*45,802,977.56*	*9,160,595.51*	*36,642,382.05*
PHY6972FFF28	*PIBD1018A451*	*31-Jul-13*	*P-20*	*2,482,187.50*	*496,437.50*	*1,985,750.00*
PHY6972FHT04	*PIBD1019B485*	*22-Aug-13*	*P-21*	*37,406,250.00*	*7,481,250.00*	*29,925,000.00*
PHY6972FMZ09	*PIBD1020L525*	*16-Dec-13*	*P-22*	*36,990,477.56*	*7,398,095.51*	*29,592,382.05*
PHY6972FFF28	*PIBD1018A451*	*3-Feb-14*	*P-23*	*2,482,187.50*	*496,437.50*	*1,985,750.00*
PHY6972FHT04	*PIBD1019B485*	*19-Feb-14*	*P-24*	*19,687,500.00*	*3,937,500.00*	*15,750,000.00*
PHY6972FMZ09	*PIBD1020L525*	*16-Jun-14*	*P-25*	*14,959,227.56*	*2,991,845.51*	*11,967,382.05*
PHY6972FFF28	*PIBD1018A451*	*31-Jul-14*	*P-26*	*2,482,187.50*	*496,437.50*	*1,985,750.00*
				P638,368,932.68	***P127,673,786.53***	***P510,695,146.15***

In his Judicial Affidavit, Mr. Norman M. Lapid, Head of Securities Services Operations of Citibank-Philippines, explained that the T-Bonds are scripless securities represented by units of participation in the electronic records of the Bureau of Treasury, otherwise known as the Registry of Scripless Securities (ROSS). As a custodian, Citibank-Philippines maintains an omnibus account with ROSS, under which all of the T-Bills and T-Bond holdings of its clients, including petitioner, are recorded.

On coupon payment date, the Bureau of Treasury automatically withholds a 20% final tax on all of its coupon payments, regardless of the status of the T-Bond holder. The Bureau of Treasury remits the FWT to the Bureau of Internal Revenue and remits the balance or the net interest payments due on the government securities to Citibank's Demand Deposit Account, which are later on distributed by Citibank to the accounts of its clients.

Hence, the Bureau of Treasury, which is the withholding agent for the FWT due on interest income

h

derived by petitioner from the T-Bonds, considers Citibank as payee of the interest due on such securities.

To prove the fact of withholding and remittance of the P127,673,786.53 FWT, petitioner presented the following documents:

1. *Bureau of Treasury's Statements of Taxes Withheld on the Coupon Due on the T-Bond Holdings of Citibank as Custodian for the period January 1, 2013 to July 31, 2014.*

2. *Bureau of Treasury Journal Entry Vouchers (JEVs) covering the remittance of the FWTs to the BIR.*

3. *Certificates of Final Tax Withheld (BIR Forms No. 2306) issued by the Bureau of Treasury in favor of Citibank covering FWT for the period January 1, 2013 to July 31, 2014.*

4. *BIR Revenue Accounting Division (RAD) Certification No. RAD-15-06-139-Cert. dated June 16, 2015 confirming receipt of the FWTs on the Bureau of Treasury's coupon payments to Citibank's ROSS Custodian Account for the period January 2013 to July 2014.*

The Statements of Taxes Withheld and BIR Forms No. 2306 issued by the Bureau of Treasury show the amounts of FWT on the interest due on the government securities recorded under the banks' custody accounts, to wit:

Period	***Final Taxes Withheld***
January 1, 2013 to December 31, 2013	*₱ 643,360,620.66*
January 1, 2014 to March 31, 2014	*210,340,452.49*
April 1, 2014 to July 31, 2014	*166,118,539.47*
Total	***₱1,019,819,612.62***

The amount of ₱1,019,819,612.62 represents the entire taxes withheld by the Bureau of Treasury on coupon interest payments of various clients under the Citibank's custody account, including petitioner's holdings. Verily, the International Security Identification Numbers (ISINs) of petitioner's investments in T-Bonds under the custody account of Citibank were included in the list of securities from which the Bureau of Treasury withheld the said FWTs. Xxx.

Hence, the P127,673,786.53 FWT on petitioner's income derived from such securities formed part of the amount withheld by the Bureau of Treasury and subsequently remitted to the BIR.

xxx xxx xxx.

b

In sum, the amount of P127,673,786.53 representing 20% FWT on the interest income earned by petitioner from January 2013 to July 2014 on its investments in Philippine T-Bonds was erroneously collected, petitioner being exempt from paying income tax and consequently from FWT thereon pursuant to Section 32 (B) (7) (a) of the NIRC of 1997, as amended."

In sum, We found that no substantial argument was raised to merit reconsideration of our Decision promulgated on January 18, 2019.

WHEREFORE, premises considered, the "Motion for Reconsideration (Re: Decision dated 18 January 2019)" is hereby **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice