REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

FORD GROUP PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10067

Members:

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

Promulgated:

AUG 02 2024 4:01 pm

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RESOLUTION

RINGPIS-LIBAN, J.:

Before this Court is petitioner's **Motion for Reconsideration** filed on May 22, 2024, with respondent's **Comment/Opposition (On Petitioner's Motion for Reconsideration dated May 22, 2024)** filed on June 3, 2024.

On May 8, 2024, the Court promulgated a Decision denying petitioner's claim for refund of excess and unutilized creditable withholding taxes (CWTs) in the amount of ₱365,591,056.00, for failing to prove that the income payments subjected to CWTs were reported as part of its gross income in its annual income tax return (AITR) for taxable year 2016, the dispositive portion of which states as follows:

> "**WHEREFORE,** premises considered, the present *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

In its Motion, petitioner implores the Court to review and re-evaluate its findings by arguing that it erred in ruling that petitioner failed to prove that the income payments subjected to CWTs were reported as part of petitioner's gross income in its AITR. Petitioner reiterates the testimony of its Tax Manager, Ms.

Jo-Anne T. Matas, that petitioner's AITR for taxable year 2016 clearly shows the nature of the income that was subjected to CWT and that the same were withheld from petitioner's gross income payments in the total amount of ₱36,609,777,581.00, which also coincides with the amounts reflected in the General Ledger (GL).

Furthermore, petitioner also insists that the court-commissioned independent certified public accountant (ICPA), Atty. Conrado M. Briones, clearly stated in his ICPA Report the procedures he performed to verify and prove that the income subjected to CWTs during the year in question was duly reported as part of its gross income in petitioner's 2016 AITR, as follows:

> "Performed tie up procedures on amount of revenues/income payments for taxable year 2016 as follows:
>
> 3.1 Compared the total revenues presented in the AFS and the revenue amount declared in the Annual ITR (Please see Part IV, Line Item No. 6 of this report for the comparison).
>
> 3.2 Relevant revenue accounts recorded in the General Ledger were considered and compared to the total revenue amount presented in the AFS (Please see Part IV, Line Item No. 6 of this report for the comparison).
>
> 3.3 Compared the total revenues as declared in the Annual ITR against the income payments presented in the actual Certificates of Creditable Tax Withheld at Source issued by the customers to the Petitioner (Please see Part IV, Line Item No. 5 of this report for the comparison and Exhibit No. P-24 for the details of income payments reflected in the CWT certificates)."

As such, petitioner submits that the ICPA discussed in his report, the comparison of the revenues declared in the AITR for taxable year 2016 to the total income in the original copies of the Bureau of Internal Revenue (BIR) Form No. 2307 (*i.e.*, Part IV Item No. 5 of the ICPA Report). Petitioner equally avers that the ICPA reports indicates that the revenue shown in the AITR for taxable year 2016 and income per CWT certificates can be further traced in Exhibits "P-29-b" and "P-24", respectively, and that the ICPA likewise compared the revenues declared in the AITR to the revenues in the Audited Financial Statements (AFS) and GL of the same year.

Moreover, petitioner asserts that it also offered in evidence the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT), its AITR for taxable year 2016, AFS for 2016, Schedule of 2016 Creditable Withholding Tax Certificates, and the GL to support its claim for refund.

Petitioner likewise assails the Court's finding that petitioner was not able to verify whether the revenue/net sales account balances totaling ₱40,517,011,631.43, as shown in its GL for taxable year 2016, formed part of its reported sales in its 2016 AITR. Petitioner contends that the amount shown as the sales/revenues/receipts/fees in the AITR is ₱40,517,011,631.00; and the difference of ₱0.43 between the revenues declared in the AITR and GL for taxable year 2016 is due solely to rounding to the nearest peso in the AITR. Simply put, the revenues shown in the GL and AITR match on a whole peso basis. The said revenues per GL and AITR also tie up with the revenues/income payments declared in its SAWT. As a result, petitioner claims that it declared the equivalent value of income related to the claimed CWTs as part of the total revenue in the filed AITR for taxable year 2016.

Lastly, petitioner insists that the details of the transactions comprising the income reflected in the Certificates of Creditable Withholding Taxes can be found in Exhibit "P-24". Petitioner claims that considering that the amount of income declared per CWT Certificates (₱36,609,777,581) is less than the amount of revenues reported in the AITR (₱40,517,011,631), it can be concluded that the income of ₱36,609,777,581 related to the claimed CWTs formed part of petitioner's sales of ₱40,517,011,631 in the 2016 AITR.

On the other hand, in his Comment, respondent avers that the Court correctly ruled that petitioner is not entitled to the tax refund in the amount of ₱365,591,056.00 representing petitioner's alleged excess and unutilized creditable withholding taxes. Respondent agrees with the Court that that the detailed transactions comprising the revenue/net sales account balances declared by petitioner were not established, hence, it cannot be traced whether the income payments related to the claimed CWTs formed part of its reported sales in its 2016 AITR.

Respondent further points out that petitioner mainly invokes the findings and recommendation of the ICPA, to which he submits that ICPA reports are mere recommendatory and not conclusive. Hence, the Court is not bound to adopt the same.

After due consideration, the Court finds petitioner's Motion for Reconsideration bereft of merit.

As correctly pointed out by respondent, petitioner heavily relied on the ICPA Report to support its claim that it complied with the *third* requisite in claiming refund or an issuance of tax credit certificate for unutilized excess CWTs, *i.e.*, petitioner must prove that its income payments subjected to creditable withholding tax were reported as part of its gross income in its AITR.

Verily, it bears stressing that the Court is not bound by the findings of the ICPA. The ICPA Report is but a tool or guide to aid the Court in the resolution of the case, it is only persuasive in nature and not conclusive upon the Court. The determination of the merits or probative value of such report belongs to the Court, as provided in Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals, to wit:

> "SEC. 3. *Findings of independent CPA.* – The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA. **The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification.**" *(Emphasis added)*

While, the ICPA is commissioned to assist the Court in the determination of the merit of a taxpayer's case, the findings and conclusions of the ICPA shall not be conclusive upon the Court which is free to either completely or partially adopt or disregard the findings of the ICPA, after making its own verification and evaluation of the evidence on record. In other words, the Court will still examine and verify the documents audited or examined by the ICPA – and the Court, in its sound discretion, may render judgment without considering the ICPA report. Clearly then, petitioner cannot merely rely on the ICPA's findings to validate its claim, since the ultimate determination rests upon the Court based on the evidence submitted by the parties.

However, this is not to say that the Court disregarded the ICPA Report, certainly, the ICPA findings on petitioner's compliance with the *third* requisite *vis-à-vis* the pertinent pieces of evidence presented to support that petitioner's income payments subjected to CWT were reported as part of its gross income in its AITR were duly taken into consideration and were thoroughly examined by the Court in arriving at the conclusions made in the assailed Decision.

To recall, the Court found that per examination of petitioner's AITR and AFS for taxable year 2016, petitioner's reported total sales amounted to ₱40,517,011,631.00 in its AITR[1] and ₱40,517,011,000.00 (amount rounded off) in its AFS[2] for taxable year 2016. These amounts tally with the following revenue/net sales account balances appearing in the GL for taxable year 2016 totaling ₱40,517,011,631.43,[3] to wit:

Account Description	Account Balance
DELIVERY & TRUCKING (23A01A00_IFDT)	₱ (125,764,790.70)

[1] Exhibit "P-6-D" (Line 30, Part IV – Computation of Tax), Docket – Vol. II, p. 820.
[2] Exhibit "P-30" (Page 7).
[3] Exhibit "P-31" (Pages 2 and 3).

Rev Veh-Dealer Gross.	(40,425,466,458.99)
ADM-MKTG-OTHERS (23A01A21_VROT)	8,237,265.31
ADM-RETAIL VAR.MKTG EXP (23A01A1_VRRE)	522,808,418.55
Rev Veh-Var Mktg Retail.	17,845,539.03
ADM-FLEET VAR.MKTG EXP (23A01A23_VRFL)	26,012,982.11
Rev Veh-Var Mktg Fleet.	93,035.71
Var Marketing wholesale (23A01B21_VRWS)	321,363,414.67
Rev P&A-Dealers Gross.	(1,006,361,294.69)
Harmonised Remuneration Scheme (23A55GOO_ERA)	(160,231.27)
Rev P&A interco	(9,677,835.67)
O/Ded-Sundry-Other	86,783,932.19
COS-Customer Appreciation	67,274,392.32
Total	**₱(40,517,011,631.43)**

Nonetheless, as pointed out in the assailed Decision, without the detailed transactions comprising the aforesaid revenue/net sales account balances, the Court cannot trace or verify whether the income payments related to the claimed CWTs indeed formed part of its reported sales in its 2016 AITR.

Moreover, as to petitioner's claimed Exhibit "P-24" or the Details of Income Payments Reflected in the Certificates of Creditable Withholding Taxes for the Calendar Year Ended December 31, 2016, examination of which only shows the following details, *viz.*:

Return Period per BIR Form 2307		Payor Name per BIR Form No. 2307	ATC per BIR Form No. 2307	Amount of Income Payment per BIR Form No. 2307
From	To			

From the foregoing schedule, the Court is at a quandary on how it could trace the income payments enumerated therein to the revenue/net sales account balances in the GL since, as earlier stated, no detailed listing or breakdown were provided to clearly show that the income payments were recorded into or forms part of the revenue/net sales account balances in the GL. Again, without a detailed tracing of the income payments to the GL, the Court cannot ascertain whether the income payments corresponding to the substantiated CWTs claimed were indeed included in the declared revenue per petitioner's AITR for 2016.

With emphasis, the Court cannot simply assume that since the total amount of income payments declared per CWT Certificates (₱36,609,777,581) is smaller than the total amount of revenues reported in the AITR (₱40,517,011,631), then, the income of ₱36,609,777,581 related to the claimed CWTs already, or necessarily, formed part of the total sales of ₱40,517,011,631 declared in the 2016 AITR.

Correspondingly, the Court cannot allow the refund of the unutilized excess CWTs without petitioner specifically proving to the Court how the income payments can be traced to the revenue/net sales account balances in the GL for taxable year 2016. And, considering that the Court cannot trace and determine with certainty whether the income payments related to the claimed CWTs formed part of petitioner's declared income, the Court therefore maintains that petitioner failed to satisfy the *third* requisite in claiming refund of unutilized excess CWTs. Consequently, petitioner's claim for refund must necessarily fail.

Time and again, it has been emphasized that actions for tax refund or credit, as in the present case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also **the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven**. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[4]

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on May 8, 2024.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice

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[4] *Coca-Cola Bottlers, Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 222428, February 19, 2018.