REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

PREMIUMLEISURE AND AMUSEMENT, INC. (PLAI),
Respondent.

CTA EB NO. 2226
(CTA Case No. 9572)

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ*

Promulgated:
JUN 14 2021 1:41pm

x---x

DECISION

RINGPIS-LIBAN, J.

Before the Court *En Banc* is a Petition for Review[1] appealing the Decision of the Special First Division of this Court (Court in Division), promulgated on July 16, 2019 in CTA Case No. 9572 entitled, *"PremiumLeisure and Amusement, Inc. (PLAI) vs. Commissioner of Internal Revenue,"* the dispositive portion thereof reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in the amount of **P4,812,080.00** in favor of petitioner, representing its erroneously paid income tax for CY 2014.

[1] Rollo, CTA EB No. 2226, pp. 1-22, with annexes.

SO ORDERED."

and the Resolution dated January 22, 2020, the dispositive portion thereof reads:

> "**WHEREFORE,** premises considered, respondent's Motion for Reconsideration (re: Decision dated July 18, 2019) is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE PARTIES

Petitioner Commissioner of Internal Revenue (CIR) is the head of the Bureau of Internal Revenue (BIR) under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office including, inter alia, the power to decide disputed assessments and to cancel and abate tax liabilities, pursuant to the pertinent provisions of the 1997 NIRC and other tax laws, rules and regulations. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

Respondent PremiumLeisure and Amusement, Inc. (PLAI) is a domestic corporation duly organized and existing under the laws of the Philippines, with principal office at 10/F One E-Com Center, Harbor Drive, Mall of Asia Complex, CBP, 1A, Pasay City.[2] Its principal purpose is to acquire interest in gaming enterprises and franchised technologies.

THE FACTS

The relevant antecedents stated in the assailed Decision[3] are as follows:

> On December 12, 2008, the Philippine Amusement and Gaming Corporation (PAGCOR) granted a Provisional License in favor of the consortium of petitioner with SM Investments Corporation (SMIC), SM Land, Inc., SM Hotels Corporation, SM Commercial Properties, Inc., and SM Development Corporation.

---

[2] Par. 1, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, vol. II, p. 786.
[3] Rollo, CTA EB No. 2226, pp. 23-44, citations omitted.

Section 20 of Article IV of the Provisional License provides that the consortium, a Licensee, shall pay PAGCOR License Fees. In lieu of all taxes, Section 20 provides:

> "SECTION 20. LICENSE FEE. As an essential condition for the License to be issued by PAGCOR to LICENSEE to establish and operate the Casino within the Project, LICENSEE must remit to PAGCOR on monthly basis, starting from the date the Casino commences operations, the following License Fees, in lieu of all taxes with reference to the Income Component of the Gross Gaming Revenues:
>
> (a) 15% of Gross Gaming Revenues generated from High Roller tables;
> (b) 5% of Gross Gaming Revenues generated from non-High Roller tables;
> (c) 25% of Gross Gaming Revenues generated from slot machines and electronic gaming machines;
> (d) 15% of Gross Gaming Revenues generated from Junket Operation;"

Section 21 of Article IV of the Provisional License provides in part that PAGCOR shall pay the franchise tax on the gaming revenues of the Consortium, to wit:

> SECTION 21. FRANCHISE TAX. PAGCOR shall pay the franchise tax on actual GROSS Gaming Revenues generated by the Casino ('Franchise Tax'). The License Fees as stipulated under Section 20 hereof is inclusive of the Franchise Tax. As provided under the PAGCOR charter, the Franchise Tax shall be due and payable quarterly to the national government by PAGCOR."

On January 28, 2013, PAGCOR issued an Amended Certificate of Affiliation and Provisional License certifying that the following companies will be considered as co-licensees and holders of the Provisional License: SMIC, MCE Leisure (Philippines) Corporation ("MCE Leisure" for brevity), MCE Holdings (Philippines) Corporation, MCE Holdings No. 2 (Philippines) Corporation, Belle Corporation, and petitioner.

The Consortium subsequently entered into a Cooperation Agreement, which designated MCE Leisure as the special purpose entity with the exclusive management, operation and control of the casino.

On March 13, 2013, Belle Corporation, for its behalf and that of petitioner and SMIC, entered into an Operating Agreement with MCE Holdings No. 2 (Philippines) Corporation and MCE Leisure for the operation of the casino and hotel. Under the Operating Agreement, in consideration of its appointment as the special purpose entity, MCE Leisure agreed to distribute to petitioner a variable amount as the latter's share in the gaming revenues. MCE Leisure shall likewise be liable for the payment of license fees and other payment to PAGCOR under the Provisional License.

On April 29, 2015, PAGCOR issued a Gaming License to the Consortium as co-licensees and holders of the Regular Casino Gaming License. The Gaming License specifically provides that the Licensee is entitled to the customs duties and tax exemptions specified under Section 13 of Title IV of Presidential Decree (PD) No. 1869 of the PAGCOR Charter.

The BIR issued Revenue Memorandum Circular (RMC) No. 33-2013 to clarify the income tax and franchise tax due from PAGCOR, its contractees and licensees, wherein the BIR opines that following the enactment of Republic Act (RA) No. 9337 amending the Tax Code, PAGCOR and its contractees and licensees should be subjected to the Regular Corporate Income Tax (RCIT).

Petitioner reported in its financial statements gaming revenues in the amount of P38,809,095.00 for CY 2014, computed as follows:

Gaming Revenue Share (Gross)	P 45,674,116.00
Less: PAGCOR License Fee	6,865,021.00
Net Gaming Revenue Share	**P38,809,095.00**

Petitioner filed its Annual Income Tax Return (ITR) for CY 2014 on April 14, 2015 through the Electronic Filing and Payment System (eFPS). It reported a gross income of P26,733,778.00, computed as follows:

Net Sales/Revenues/Receipts/Fees	P 38, 809,095.00

Less: Cost of Sales/Services	12,075,317.00
Gross Income from Operation	**P26,733,788.00**

Based from the foregoing, petitioner reported and paid RCIT for TY 2014 amounting to P4,812,080.00, computed as follows:

Total Gross Income	P26,733, 778.00
Less: Optional Standard Deduction	10, 693,511.00
Net Taxable Income	16,040,267.00
RCIT Due (30%)	4,812,080.00
Less: Tax Credits/Payments	0.00
Tax Overpayment	(P4,812,080.00)

On August 10, 2016, the Supreme Court promulgated its decision in the case of *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue*, represented by Commissioner Kim S. Jacinto-Henares ("*Bloomberry* Decision" for brevity) ruling that the contractees and licensees of PAGCOR are similarly liable for five percent (5%) franchise tax but are exempt from the payment of all other taxes, including the RCIT.

Hence, petitioner filed an administrative claim for refund of erroneously paid income tax for CY 2014 with the BIR on February 27, 2017.

On March 20, 2017, the BIR Large Taxpayers Service (LTS) issued Letter of Authority (LOA) No. eLA201500034666 authorizing Revenue Officers Zenaida Paz, Maria Salud Maddela and Group Supervisor Edison Larin of Revenue District (RDO) No. 126-Regular LT Division III to examine petitioner's books of accounts and accounting records for the period covering January 1, 2014 to December 31, 2014 in relation to its claim for refund of erroneously paid income tax for CY 2014.

Alleging inaction on the part of respondent, petitioner filed its Petition for Review on April 11, 2017."

On June 16, 2017, the CIR filed his Answer.[4]

[4] Docket, CTA Case No. 9572, pp. 361-365.

In the Joint Stipulation of Facts and Issues[5], the parties agreed that the main issue to be resolved by the Court in Division was "Whether or not petitioner is entitled to its claim for refund of or issuance of TCC for the amount of P4,812,080.00 representing petitioner's erroneously paid income tax for CY 2014."

After trial on the merits and upon parties' submission of their respective memoranda, the case was submitted for decision on August 14, 2018.[6]

On July 16, 2019, the Court in Division rendered the questioned Decision. On January 22, 2020, the Court in Division issued the assailed Resolution.

Aggrieved, petitioner CIR filed before the Court *En Banc* the instant Petition for Review.

On March 11, 2020, the Court *En Banc* issued a Resolution[7] ordering respondent PLAI to file its Comment on the Petition for Review, within ten (10) days from notice.

On October 16, 2017, PLAI filed its Comment (Re: Petition for Review dated February 7, 2020).[8]

On September 9, 2020, the Court *En Banc* issued a Resolution submitting this case for decision.[9]

THE ISSUE

The main issue in this case is ***Whether or not the Court in Division erred in finding that PLAI is entitled to a refund or issuance of a tax credit certificate in the amount of Four Million, Eight Hundred Twelve Thousand and Eighty Pesos (₱4,812,080.00), representing PLAI's erroneously paid income tax for CY 2014.***

THE ARGUMENTS

[5] Filed by the parties on September 13. 2017, Docket, CTA Case No. 9572, pp. 786-797.
[6] Ibid., pp. 1727.
[7] Ibid. pp. 50-51.
[8] Ibid. pp. 52-65.
[9] Ibid, pp. 67-68.

The CIR argues that the Court in Division erred in ruling that PLAI is entitled to the claim for refund of alleged erroneously paid income tax for taxable year 2014; that it was never the intention of the framers of the laws to extend the tax exemption to licensees of PAGCOR because the exemption only refers to the Franchise Holder, which is only PAGCOR; that even assuming that PLAI is included in the exemption as a co-licensee or grantee of PAGCOR, PLAI still has not proven entitlement to the refund claimed; that PLAI was not able to prove that PAGCOR paid for the franchise tax, which exempts its co-licensees and grantees from payment of income taxes; and that the Court in Division erred in ruling that the Petition for Review of PLAI was filed on time.

On the other hand, PLAI avers that under the PAGCOR Charter, the privilege granted to PAGCOR inures to the benefit of the following entities: (a) PAGCOR, as the franchise holder; (b) other entities with whom the PAGCOR or an operator has any contractual relationship in connection with the operations of the casino authorized to be conducted under PAGCOR's franchise; and (c) the contractors or suppliers of essential facilities and technical services to PAGCOR or an operator; that the privileges granted under the PAGCOR Charter inure to the benefit of PAGCOR's contractees and licensees; that as a licensee of PAGCOR, PLAI should be extended the same privileges and should be exempted from the payment of income tax on its share as co-licensee in the gaming revenues from casino operations; that PAGCOR issued a Certification (Exhibit "P-16") attesting that (1) PLAI is a co-licensee and holder of a Regular Casino Gaming License to establish and operate casinos in City of Dreams Manila and (2) MCE Leisure (Philippines) Corporation (MCE Leisure) pays monthly license fees, on behalf of the Consortium, to PAGCOR; and that PLAI filed its administrative and judicial claims for refund within the prescriptive period fixed by law.

THE RULING OF THE COURT *EN BANC*

Timeliness of the Petition

Section 229 of the NIRC of 1997 states that the administrative and judicial claims for refund of erroneously paid taxes shall be filed within two years from the date of payment of tax.

> "***Section 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 to 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, 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."

On April 14, 2015, PLAI filed its Annual Income Tax Return (ITR) for Calendar Year 2014.[10] On February 27, 2017, PLAI filed its administrative claim for refund before the BIR.[11] The CIR failed to act on PLAI's administrative claim, hence on April 11, 2017, PLAI filed a Petition for Review before the Court in Division.[12] Thus, the filing of the administrative claim for refund before the BIR and the Petition for Review before the Court in Division both fell within the prescriptive period allowed by law.

On July 19, 2019, the CIR received a copy of the Court in Division's Decision promulgated on July 16, 2019. Then, within the period to file an appeal, the CIR filed a Motion for Reconsideration,[13] which was eventually denied by the Court in Division in its Resolution dated January 22, 2020.[14] The said Resolution was received by the CIR on January 23, 2020.

On February 7, 2020,[15] the CIR filed the instant Petition for Review. Hence, this Petition for Review was timely filed.

The Court *En Banc* shall now proceed to determine the merits of the Petition for Review.

After a careful review of the CIR's arguments and the records of the case, the Court *En Banc* finds no reason to reverse the assailed Decision and Resolution of the Court in Division. The records of the case show that the Court in Division had fully and exhaustively resolved the issues raised in the petition. The Court *En Banc* notes that the arguments presented herein are a mere rehash of the arguments offered by the CIR in his Motion for

---

[10] Exhibit "P-10."
[11] Exhibit "P-14."
[12] Docket, CTA Case No. 9572, pp. 12-23, with annexes.
[13] Ibid., pp. 1756-1768.
[14] Ibid., pp. 1795-1798.
[15] Docket, CTA EB No. 2226, pp. 1-22.

Reconsideration before the Court in Division. Nonetheless, the Court *En Banc* shall pass upon petitioner's arguments.

Whether or not the PLAI is entitled to its claim for refund

The CIR insists that the PLAI is not entitled to refund because the exemption does not inure to the benefit of entities who are mere licensees of PAGCOR's franchise.

The Court *En Banc* does not agree with the CIR.

Section 13(2) of the PAGCOR Charter (Presidential Decree No. 1869) as amended by Republic Act No. 9487 otherwise known as An Act Further Amending Presidential Decree No. 1869, Otherwise Known as PAGCOR CHARTER, provides as follows:

> "SECTION 13. *Exemptions.* –
>
> xxx xxx xxx
>
> (2) *Income and other taxes.* — (a) Franchise Holder: No tax of any kind or form, income or otherwise, as well as fees, charges or levies of whatever nature, whether National or Local, shall be assessed and collected under this Franchise from the Corporation; nor shall any form of tax or charge attach in any way to the earnings of the Corporation, except a Franchise Tax of five (5%) percent of the gross revenue or earnings derived by the Corporation from its operation under this Franchise. Such tax shall be due and payable quarterly to the National Government and shall be in lieu of all kinds of taxes, levies, fees or assessments of any kind, nature or description, levied, established or collected by any municipal, provincial, or national government authority.
>
> (b) *Others:* **The exemptions herein granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the Corporation or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise and to those receiving compensation or other remuneration from the Corporation**

or operator as a result of essential facilities furnished and/or technical services rendered to the Corporation or operator." (Emphasis supplied)

The said provision explicitly granted PAGCOR exemption from the payment of corporate income tax and other taxes, including any form of charges, fees and levies (with the exemption of 5% franchise tax on gross revenues or earnings) with respect to its income from gaming operations and such exemption inure to the benefit of and extend to other entities with whom PAGCOR operator has any contractual relationship in connection with the operations of the casinos authorized to be conducted under the former's Charter.

In other words, it is *not only PAGCOR* that is exempt from paying income taxes, whether local of national, *but also PAGCOR's licensees and franchisees.*

The Supreme Court in the case of Bloomberry Resorts and Hotels, Inc. vs. BIR[16] ordered the BIR to refrain from imposing corporate income tax on Bloomberry's income derived from its gaming operations. The Supreme Court held that since Bloomberry is a licensee of PAGCOR and has already paid 5% of its franchise tax on its gaming revenue, it is exempt from tax on its income generated from its gaming operations. The Supreme Court explained that:

> Section 13 of PD No. 1869 evidently states that payment of the 5% franchise tax by PAGCOR and its *contractees and licensees* exempts them from payment of any other taxes, including corporate income tax, quoted hereunder for ready reference:
>
> xxxx
>
> As previously recognized, the above-quoted provision providing for the said exemption was neither amended nor repealed by any subsequent laws (*i.e.* Section 1 of R.A. No. 9337 which amended Section 27(C) of the NIRC of 1997); thus, it is still in effect. Guided by the doctrinal teachings in resolving the case at bench, it is without a doubt that, like PAGCOR, its *contractees and licensees* remain exempted from the payment of corporate income tax and other taxes since the law is clear that said exemption inures to their benefit.
>
> xxxx
>
> As the PAGCOR Charter states in unequivocal terms that

[16] G.R. No. 212530, August 10, 2016.

exemptions granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, ***shall inure to the benefit of and extend to*** corporation(s), association(s), agency(ies), or individual(s) with whom the PAGCOR or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise, so it must be that all *contractees and licensees* of PAGCOR, upon payment of the 5% franchise tax, shall likewise be exempted from all other taxes, including corporate income tax realized from the operation of casinos.

For the same reasons that made us conclude in the 10 December 2014 Decision of the Court sitting En Banc in G.R. No. 215427 that PAGCOR is subject to corporate income tax for "other related services", we find it logical that its *contractees and licensees* shall likewise pay corporate income tax for income derived from such "related services."

Simply then, in this case, we adhere to the principle that since the statute is clear and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is the plain meaning rule or *verba legis,* as expressed in the maxim *index animi sermo* or speech is the index of intention.

Plainly, too, upon payment of the 5% franchise tax, petitioner's income from its gaming operations of gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools, defined within the purview of the aforesaid section, is not subject to corporate income tax."

The following exhibits, *i.e.* Exhibit "P-4" *(PAGCOR Provisional License granted to the Consortium dated December 12, 2008)* and Exhibit "P-16" *(Certification issued by PAGCOR signed by Ramon Stephen R. Villaflor)* show that PLAI is an entity with which PAGCOR has contractual relations relating to gaming operations. Applying the above-stated provision, there is no doubt that the exemption granted to PAGCOR extends to PLAI.

It is the cardinal rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation.

Accordingly, the CIR's contention that there is nothing in the PAGCOR's Charter which specifically states that a licensee of PAGCOR is exempt from tax has no merit.

The CIR further argues that PLAI failed to prove that the amount claimed for refund relates solely to its income realized from the operation of casinos.

After consideration, the Court *En Banc* resolves that PLAI was able to prove its entitlement to the refund.

As correctly ruled by the Court in Division in the assailed Decision:[17]

> "Moreover, petitioner alleges that it has interest in gaming enterprise as a member of a Consortium that was granted a Provisional License by PAGCOR on December 12, 2008. Under the Provisional License, the Consortium was licensed to establish and operate a casino within Bagong Nayong Pilipino Manila Bay Entertainment City, Parañaque City, and in the Newport City Integrated Resort, Pasay City, wherein petitioner was named as the special purpose entity to engage in the casino business and appoint operators therefor.
>
> Petitioner avers that on January 28, 2013, PAGCOR issued an Amended Certificate of Affiliation & Provisional License certifying that the following companies will be considered as co-licensees and holders of the Provisional License: SMIC, MCE Leisure, MCE Holdings (Philippines) Corporation, MCE Holdings No. 2 (Philippines) Corporation, Belle Corporation, and petitioner (collectively, as the Consortium).
>
> According to petitioner, the Consortium subsequently entered into a Cooperation Agreement, which designated MCE Leisure as the special purpose entity with the exclusive management, operation and control of the casino. Further, on March 13, 2013, Belle Corporation, for its own behalf and that of petitioner and SMIC, entered into an Operating Agreement with MCE Holdings No. 2 (Philippines) Corporation and MCE Leisure for the operation of the casino and hotel. Under the Operating Agreement, in consideration of its appointment as the special purpose entity, MCE Leisure agreed to distribute to petitioner a variable amount as the latter's share in the gaming revenues. MCE leisure shall also be liable for the remittance of license fees and any other payments to PAGCOR under the Provisional License.

---

[17] Decision, pages 17-22, citations omitted.

Petitioner further avers that the license fee is payable to PAGCOR pursuant to Section 20 of Article IV of the Provisional License, to wit:

1. 15% of Gross Gaming Revenue generated from High Roller Tables;
2. 25% of Gross Gaming Revenue generated from non-High Roller Tables;
3. 25% of Gross Gaming Revenues generated from slot machines and electronic gaming machines;
4. 15% of Gross Gaming Revenues generated from Junket Operation.

This amount is allegedly remitted to PAGCOR on a monthly basis, in lieu of all taxes with reference to the income component of the licensee's gross gaming revenues.

Furthermore, Section 21 of Article IV of the Provisional License provides in part that PAGCOR shall pay the franchise tax on gaming revenues of the Consortium:

> "SECTION 21. FRANCHISE TAX. PAGCOR shall pay the franchise tax on actual Gross Gaming Revenues generated by the Casino ('Franchise Tax'). The License Fees as stipulated under Section 20, hereof is inclusive of the Franchise Tax. As provided under the PAGCOR Charter, the Franchise Tax shall be and payable quarterly to the national government by PAGCOR."

As a contractee and licensee of PAGCOR, petitioner allegedly earned gaming revenues in CY 2014 coming from its share in the operation of City of Dreams Manila. Pursuant to MCE Leisure's designation as the exclusive operator of the City of Dreams Manila, MCE Leisure distributes to petitioner a variable amount as the latter's share in the gaming revenues of the casino.

The Court finds petitioner entitled to the present claim for refund or issuance of tax credit certificate.

In its Audited Financial Statements (AFS) and Annual ITR for CY 2014, petitioner declared Gaming Revenue Share/Revenues in the amount of P38,809,095.00; and as stated under Note 9 of the AFS, petitioner started to realize its gaming revenue share following the soft opening of the City of Dreams Manila integrated resort and casino operations on December 14,

2014. The gaming revenue share of P38,809,095 was computed as follows:

Gaming Revenue Share	P 45,674,116.00
Less: PAGCOR License Fee	6,865,021.00
Net Gaming Revenue Share	**P 38,809,095.00**

Petitioner submitted the following documents proving that the amount of gaming revenue in CY 2014 consists entirely of its revenue share from the operations of the casino:

Exhibit	Supporting Document
P-18-a	Official Receipt No. 6703155 dated January 9, 2015 issued by PAGCOR Corporate-FTD for the amount of P46,959,091.57 to MCE Leisure (Philippines) Corporation, representing remittance of license fees for casino operations for the month of December 2014.
P-18-b	Official Receipt No. 6703156 dated January 9, 2015 issued by PAGCOR Corporate-FTD for the amount of P231,727.50 to MCE Leisure (Philippines) Corporation, representing remittance of license fees for poker operations for the month of December 2014.
P-19-b	Journal Voucher No. 022015-01 dated February 17, 2015, showing that petitioner properly recorded its gaming revenue share for the period December 14 to 31, 2014.
P-19-c	BDO Deposit Slip dated 2/17/15 for the amount of P38,032,913.10, proving that petitioner received the same amount representing its share in the gaming revenues for the period December 14 to 31, 2014.
P-20-a	Acknowledgement Receipt No. 001 dated February 17, 2015 for the amount of P38,032,913.10, proving that petitioner received the amount of P38,032,913.10, proving that petitioner received the same amount representing its share in the gaming revenues for the period December 14 to 31, 2014.
P-20-b	Official Receipt No. 000000 dated November 11, 2015 for the amount of P38,032,913.10, proving that petitioner received the same amount representing its share in the gaming revenues for the period December 14 to 31, 2014.

Said gaming revenue share was then subjected to regular income tax rate of thirty percent (30%) of which the corresponding income tax due of P4,812,080.00, as computed below, was paid by petitioner to the BIR on April 14, 2015 through the Electronic Filing and Payment System.

Net Sales/Revenues/Receipts/Fees	P 38,809,095.00
Less: Cost of Sales/Services	12,075,317.00
Gross Income from Operation	**P 26,733,778.00**
Less: Optional Deduction (40%)	10,693,511.00
Net Taxable Income	P 16,040,267.00
Income Tax Rate	30%
Income Tax Due other than MCIT	P 4,812,080.00
Minimum Corporate Income Tax (MCIT) *(2% of Gross Income)*	534,676.00
Total Income Tax Due *(Normal Income Tax or MCIT, whichever is higher)*	**P 4,812,080.00**

Considering that petitioner is exempted from paying income tax realized from its gaming revenues, the amount of P4,812,080.00 represents erroneously paid income tax for CY 2014, which is refundable pursuant to Sections 204(C) and 229 of the NIRC of 1997, as amended."

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[18] In this case, PLAI was able to prove that it is entitled to a refund or issuance of a tax credit certificate for its erroneously paid income tax for CY 2014.

In *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),*[19] the Supreme Court ruled that "it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.

There being no new matters or issues raised in the Petition for Review before the Court *En Banc* and there being no reversible error committed by the Court in Division, hence, the Court *En Banc* finds no cogent reason to reverse the assailed Decision and Resolution.

[18] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue,* G.R. No. 159490, February 18, 2008.
[19] G. R. No. 188016, January 14, 2015, citing Sea-Land Service, Inc. vs. Court of Appeals, G.R. No. 122605, April 30, 2001.

WHEREFORE, premises considered, the Petition for Review is **DENIED for lack of merit.** Accordingly, the Decision dated July 16, 2019 and Resolution dated January 22, 2020 are **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision have been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice