REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

JP MORGAN CHASE BANK, N.A. – PHILIPPINE CUSTOMER CARE CENTER
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE AND THE REVENUE DISTRICT OFFICER OF THE REVENUE DISTRICT OFFICE NO. 50, MAKATI CITY,
Respondents.

CTA Case No. 7962

Members:

CASTAÑEDA JR.,
CASANOVA,
MINDARO-GRULLA, *JJ.*

Promulgated:

SEP 2 3 2011

3:25 p.m

X- X

DECISION

Casanova, J.:

This is a Petition for Review[1] filed by petitioner JP Morgan Chase Bank, N.A.-Philippine Customer Care Center (JP Morgan), praying for a refund in the amount of Php2,845,654.02 representing withholding tax it allegedly erroneously withheld and remitted relative to its payments to People Support

[1] Petition for Review, Docket, pp. 4-12.

(Philippines), Inc. (PPI) for the lease of the latter's transmission facilities covering the period of May to July 2007.

The facts of the case, as jointly stipulated by the parties, are briefly narrated as follows:

> "1. Petitioner is the duly registered Philippine branch of JP Morgan Chase Bank, N.A., a corporation duly organized and existing under the laws of the United States of America. Its offices are located at the 12th, 14th, 27th, and 31st floors, Philamlife Tower, 8767 Paseo de Roxas St., Makati City, Metro Manila. For purposes of this proceeding, however, it may be served with pleadings, notices, and processes through the undersigned law firm at its address indicated below.
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> 2. Respondent Commissioner of Internal Revenue is a public officer duly appointed by the President of the Philippines and is the head of the Bureau of Internal Revenue ('BIR') – the government agency officially responsible for the assessment and collection of all national and internal revenue taxes. Respondent is vested with the power and authority to refund any internal revenue tax erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessively or in any manner wrongfully collected. Respondent Commissioner may be served with summons and other court processes at the BIR National Office Building, Diliman, Quezon City.
>
> 3. Petitioner is a duly registered taxpayer for purposes of the National Internal Revenue Code ("NIRC"), having been issued BIR Certificate of Registration No. 9RC0000158857, dated August 10, 2005 with Tax Identification No. 239-952-660-000.
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> 4. Petitioner is registered with the Securities and Exchange Commission ('SEC') to engage in call center and business process services, information technology, information technology enabled services, call-center services, customer care and other customer care services.
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> 5. In the pursuit of its business, petitioner entered into a Master Service Provider Agreement, Task Order #2 ('Agreement'), with People Support (Philippines), Inc. ('PPI'). PPI's head office is located at Asiatown I.T. Park, PeopleSupport Center, 6780 Ayala, Makati City.

During the period May to July 2007, PPI was a Philippine Economic Zone Authority ('PEZA') registered Ecozone IT (Export) Enterprise enjoying Income Tax Holiday ('ITH').

6. Under the agreement, PPI agreed to provide and lease transmission facilities to Petitioner while Petitioner agreed to pay fees for the same.

7. For the lease of the transmission facilities for the period May to July 2007, Petitioner paid PPI the amount of Php56,913,080.40 or US$1,255,251.00[2] as follows: US$1,192,488.45 on July 26, 2007 and US$62,762.55 on August 16, 2007, and withheld tax therefrom in the amount of Php2,845,654.02.

8. Petitioner filed its Monthly Remittance Return of Creditable Income Taxes withheld for the month of July 2007 on August 10, 2007, and paid on the same date the amount of Php3,705,125.61, including the amount of Php2,845,654.02 withheld from PPI.

9. Having realized that it had erroneously withheld on its payments to PPI because PPI was a PEZA Registered Ecozone IT (Export) Enterprise enjoying ITH, Petitioner reimbursed and paid the said amount of Php2,845,654.02 to PPI on August 16, 2007 in US dollars in the amount of US$62,762.55. PPI duly acknowledged receipt of this payment through its Official Receipt No. 1660 dated August 16, 2007 and its letter dated July 23, 2008.

10. Petitioner filed with the BIR's Revenue District Office No. 50 (South Makati) on August 7, 2008, an application for refund of the aforementioned amount of Php2,845,654.02 which was erroneously withheld and paid to Commissioner on August 10, 2007.

11. As Petitioner's claim for refund with the above-mentioned BIR Revenue District Office remains unresolved, Petitioner filed a petition for review within the 2-year statutory period within which to file a claim for refund of the above-specified withholding tax."[3]

On September 9, 2009, respondent filed her Answer[4], averring the following Special and Affirmative Defenses:

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[2] Conversion rate as of July 26, 2007 US$1.00 to Php45.34.
[3] Jointly Stipulated Facts, Joint Stipulation of Facts and Issues, Docket, pp. 54-56.
[4] Docket, pp. 36-38.

5) Assuming without admitting that Petitioner filed a claim for refund, the same is subject to investigation by the Bureau of Internal Revenue;

6) Petitioner failed to demonstrate that the tax, which is subject of this case, was 7) erroneously or illegally collected and that assuming without admitting that a claim (sic) 8) for refund is proper the same should not be allowed because the petitioner is ***not the proper party*** to file a claim for refund because the former is merely a ***withholding agent*** hence the petition should be dismissed;

9) Even assuming that the petitioner is allowed to file a claim for refund it should still be in the name of the payee which is PPI;

10) It also (sic) incumbent upon the Petitioner to show that it has been authorized by People's Support (Philippines) Inc., (PPI) to file a claim on its behalf;

11) Taxes paid and collected are presumed to have been made in accordance with the laws and regulations, hence, not refundable;

12) It is incumbent upon the Petitioner to show that it has complied with the provisions of Section 204(C) in relation to Section 229 of the Tax Code, as amended upon which its claimed (sic) for refund is premised.

13) In an action for tax refund the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge said burden is fatal to the claim *(Emmanuel & Zenaida Aguilar v. Commissioner, CA-GR No. Sp. 16432, March 30, 1990 cited in Aban, Law of Basic Taxation in the Philippines, 1st Edition, P. 206);*

14) Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and as such, these are looked upon with disfavour *(Western Minolco Corp. v. Commissioner of Internal Revenue, 124 SCRA 121).*

As jointly stipulated by the parties, the issues[5] to be resolved in the case at bench are as follows:

"I.

WHETHER PETITIONER, BASED ON THE FACTS AND APPLICABLE LAWS, IS ENTITLED TO A REFUND OF ITS ERRONEOUSLY PAID WITHHOLDING TAX ON AUGUST 10, 2007 ON ITS INCOME TAX PAYMENT TO PPI, A PEZA-REGISTERED ENTERPRISE ENJOYING ITH

II.

WHETHER OR NOT THE CLAIM FOR REFUND IS FULLY SUBSTANTIATED BY PROPER DOCUMENTARY EVIDENCE, SUCH AS INVOICES, OFFICIAL RECEIPTS, CERTIFICATES OF WITHOLDING TAX AT SOURCE AND REMITTANCES"

During the trial, petitioner presented its documentary and testimonial evidence. For the failure of respondent's counsel to appear in the scheduled hearings for the initial presentation of his evidence, this Court, in a Resolution[6] dated December 6, 2010, granted petitioner's motion to declare respondent's right to present evidence deemed waived.

On January 4, 2011, petitioner filed its Memorandum[7] while respondent failed to submit her Memorandum as verified from this Court's Records Division. Hence, in a Resolution[8] dated January 10, 2011, the present case was submitted for decision.

After a careful and thorough evaluation of the arguments of both parties, as well as the evidence they presented to support their respective positions, this Court finds no merit in the present petition.

Petitioner, as the withholding agent may file the case for the refund of allegedly erroneously paid withholding tax

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[5] Joint Stipulation of Facts and Issues, Docket, p. 56.
[6] Docket, p. 265.
[7] *Id.*, pp. 267-281.
[8] *Id.*

Petitioner contends that it has the right to file the present judicial claim for refund pursuant to the rule that a withholding agent is a proper party to file a claim for refund, as held by the Supreme Court in numerous jurisprudence.

In her Answer, respondent argues that the petitioner, being a mere withholding agent, is not the proper party to file the claim for refund, thus the present Petition should be dismissed. Respondent further argues that even assuming that petitioner is allowed to file a claim for refund, the same should be in the name of PPI and with its express authority.

This Court finds that petitioner, as the withholding agent, is a proper party to file the present claim for refund. The Supreme Court, in the case of *Commissioner of Internal Revenue v. Smart Communications, Inc.*[9] categorically held that the taxpayer is the person entitled to file the claim for refund, and in case the taxpayer does not file the claim for refund, the withholding agent may file the claim. Citing the case of *Commissioner of Internal Revenue v. Procter & Gamble Philippine Manufacturing Corporation*[10], the Supreme Court further states:

> "In Commissioner of Internal Revenue v. Procter & Gamble Philippine Manufacturing Corporation, a withholding agent was considered a proper party to file a claim for refund of the withheld taxes of its foreign parent company. Pertinent portions of the Decision read:
>
> The term 'taxpayer' is defined in our NIRC as referring to 'any person subject to tax imposed by the Title [on Tax on Income].' It thus becomes important to note that under Section 53(c) of the NIRC, the withholding agent who is 'required to deduct and withhold any tax' is made 'personally liable for such tax' and indeed is indemnified against any claims and demands which the stockholder might wish to make in questioning the amount of payments effected by the withholding agent in accordance with the provisions of the NIRC. The withholding agent, P&G-Phil., is directly and independently liable for the correct amount of the tax that should be withheld from the dividend remittances. The withholding agent is, moreover, subject to

[9] G.R. Nos. 179045-46, August 25, 2010.
[10] G.R. No. 66838, December 2, 1991.

and liable for deficiency assessments, surcharges and penalties should the amount of the tax withheld be finally found to be less than the amount that should have been withheld under law.

A 'person liable for tax' has been held to be a 'person subject to tax' and properly considered a 'taxpayer.' The terms 'liable for tax' and 'subject to tax' both connote legal obligation or duty to pay a tax. It is very difficult, indeed conceptually impossible, to consider a person who is statutorily made 'liable for tax' as not 'subject to tax.' By any reasonable standard, such a person should be regarded as a party in interest, or as a person having sufficient legal interest, to bring a suit for refund of taxes he believes were illegally collected from him.

In Philippine Guaranty Company, Inc. v. Commissioner of Internal Revenue, this Court pointed out that a withholding agent is in fact the agent both of the government and of the taxpayer, and that the withholding agent is not an ordinary government agent:

'The law sets no condition for the personal liability of the withholding agent to attach. The reason is to compel the withholding agent to withhold the tax under all circumstances. In effect, the responsibility for the collection of the tax as well as the payment thereof is concentrated upon the person over whom the Government has jurisdiction. Thus, the withholding agent is constituted the agent of both the Government and the taxpayer. With respect to the collection and/or withholding of the tax, he is the Government's agent. In regard to the filing of the necessary income tax return and the payment of the tax to the Government, he is the agent of the taxpayer. The withholding agent, therefore, is no ordinary government agent especially because under Section 53 (c) he is held personally liable for the tax he is duty bound to withhold; whereas the Commissioner and his deputies are not made liable by law.'

If, as pointed out in Philippine Guaranty, the withholding agent is also an agent of the beneficial owner of the dividends with respect to the filing of the necessary income tax return and with respect to actual payment of the tax to the government, such authority may reasonably be held to include the authority to file a claim for refund and to bring an action for recovery of such claim. This implied authority is especially warranted where, as in the instant case, the withholding agent is the wholly owned subsidiary of the parent-stockholder and therefore, at all times, under the effective control of such parent-stockholder. In the circumstances of this case, it seems particularly unreal to deny the implied authority of P&G-Phil. to claim a refund and to commence an action for such refund.

xxx xxx xxx

We believe and so hold that, under the circumstances of this case, P&G-Phil. is properly regarded as a 'taxpayer' within the

> meaning of Section 309, NIRC, and as impliedly authorized to file the claim for refund and the suit to recover such claim. (Emphasis supplied.)"

The Supreme Court further held that the withholding agent has the duty to return to the principal taxpayer the amount recovered from the claim for refund:

> "In this connection, it is however significant to add that while the withholding agent has the right to recover the taxes erroneously or illegally collected, he nevertheless has the obligation to remit the same to the principal taxpayer. As an agent of the taxpayer, it is his duty to return what he has recovered; otherwise, he would be unjustly enriching himself at the expense of the principal taxpayer from whom the taxes were withheld, and from whom he derives his legal right to file a claim for refund."[11]

The abovequoted Supreme Court rulings find application in the case at Bench. Petitioner, as the withholding agent, has the right to file the claim for refund of the withholding tax allegedly erroneously paid. Coupled with this right is the obligation to return to PPI, the principal taxpayer, the amount recovered from the said claim.

Records show that petitioner reimbursed and paid the amount of Php2,845,654.02 to PPI on August 16, 2007 in US dollars in the amount of US$62,762.55[12], equivalent to the amount subject of the present claim for refund. PPI acknowledged the receipt of this payment through its Official Receipt No. 1660[13] dated August 16, 2007 and its letter dated July 23, 2008.[14] Hence, petitioner already satisfied its obligation to return to PPI the amount sought to be recovered from the present claim.

Based on the foregoing, this Court finds that petitioner is the proper party to file the instant claim for refund.

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[11] *Id.*, Note 11.
[12] *Id.*, Note 3.
[13] Exhibit "E".
[14] Exhibit "L".

Having settled the preliminary issue on petitioner's right to file the present Petition, We now proceed to rule on the issue whether petitioner is entitled to a refund of the withholding tax it allegedly erroneously paid.

The 1997 National Internal Revenue Code (NIRC), in Sections 204 (C) and 229, provides that a taxpayer may file for a claim for the recovery of tax erroneously or illegally collected, to wit:

> **SEC. 204.** ***Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** **-** The Commissioner may –
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> 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 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.
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> xxx xxx xxx
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> **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."[15]

Pursuant to the aforequoted provisions, to be entitled to a refund of erroneously or illegally collected tax, the following requisites must be present:

1) There must be an erroneous or illegal collection of tax, or a penalty collected without authority, or sum excessively or wrongfully collected;
2) A claim for refund has been duly filed with the Commissioner, within two years after the payment of tax or penalty; and
3) The suit or proceeding is instituted with the Court within two years from the date of payment of the tax or penalty.

We shall first address the second and third requisites which pertain to the timeliness of the filing of petitioner's claim in the administrative and judicial levels. The law mandates that both the administrative and judicial claims for the refund of erroneously paid tax must be done within two years from the date of payment of the tax. The instant case involves a claim for refund of creditable withholding tax (CWT) which should be remitted and the corresponding return filed on or before the tenth (10th) day of the month following the month the withholding was made, except for the month of December which should be remitted and the return filed on or before January 15 of the succeeding year.

Petitioner filed its Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) (BIR Form No. 1601-E) for the month of July 2007 and paid the taxes reflected thereon on August 10, 2007.[16] It filed its administrative claim for refund on August 7, 2008[17] and its subsequent appeal via Petition for Review before this Court on August 10, 2009. Thus, both its administrative and judicial claims for refund were filed within the two-year prescriptive period provided under the law.

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[15] 1997 National Internal Revenue Code
[16] Exhibits "F", "F-1", "G" and "G-1".
[17] Exhibit "J-1".

Having settled the issue on prescription, We shall now proceed to determine whether the creditable withholding tax of Php2,845,654.02, which is the subject of the present claim for refund, was erroneously withheld and remitted.

It is undisputed that pursuant to an agreement[18], petitioner paid PPI the amount of Php56,913,080.40 or US$1,255,251.00 for the lease of the latter's transmission facilities for the period of May to July 2007 and withheld taxes therefrom in the amount of Php2,845,654.02.[19] It was likewise jointly stipulated by the parties that petitioner filed its Monthly Remittance Return of Creditable Income Taxes Withheld for the month of July 2007 and paid the amount of Php3,705,125.61, including the amount of Php2,845,654.02 withheld from PPI on August 10, 2007.[20]

However, petitioner alleges that the amount of Php2,845,654.02 was erroneously withheld and remitted on the ground that during the period of the subject claim, PPI was a Philippine Economic Zone Authority (PEZA) registered Ecozone IT (Export) Enterprise enjoying income tax holiday (ITH). Petitioner hinges its claim on Section 2.57.5 of Revenue Regulations (RR) No. 2-98, as amended by RR14-02, which provides:

> "Sec. 2.57.5. *Exemption from Withholding.* – The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following:
>
> (A) National government agencies and its instrumentalities including provincial, city, municipal governments and barangays except government-owned and controlled corporations.
>
> (B) Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, such as but not limited to the following:
>
> (1) xxx xxx xxx
>
> (2) Corporations duly registered with the Board of Investments, Philippine Export Processing Zones and Subic

[18] Exhibit "L".
[19] *Id.*, Note 2.
[20] *Id.*

> Bay Metropolitan Authority enjoying exemption from income tax pursuant to E.O. 226, as amended, R.A. 7916, the Omnibus Investment Code of 1997 and R.A. 7227, as amended, respectively.
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> xxx xxx xxx"[21]

This Court does not agree with the contention of petitioner.

Section 23[22] of Republic Act No. 7916, otherwise known as The Special Economic Zone Act of 1995 (PEZA Law) provides that business establishments operating within the ECOZONES shall be entitled to the fiscal incentives as provided under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226, otherwise known as Omnibus Investments Code of 1987.

PPI, as a PEZA registered enterprise, is entitled to fiscal incentives. Certification No. 2007-067[23] dated June 27, 2007 issued by PEZA enumerates the fiscal incentives granted to PPI as provided in its PEZA Registration Agreement dated August 12, 2003 and Supplemental Agreements dated February 20, 2004, July 14, 2005, May 15, 2007 and June 6, 2007, to wit:

1. Incentives under Book VI of EO 226 which include the following:

    a. Corporate income tax holiday (ITH) for six (6) years for pioneer project and four (4) years for non-pioneer project effective on the committed date of start of commercial operations or the actual date of start of commercial operations, whichever is earlier; ITH entitlement can also be extended but in no case to exceed a total period of eight (8) years for pioneer project and seven (7) years for non-pioneer project provided specific criteria are met for each additional year and prior PEZA approval is obtained. Duly approved and

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[21] Section 4, Revenue Regulations No. 14-02 dated September 9, 2002.

[22] **SEC. 23.** ***Fiscal Incentives.*** - Business establishments operating within the ECOZONES shall be entitled to the fiscal incentives as provided for under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987.

Furthermore, tax credits for exporters using local materials as Inputs shall enjoy the same benefits provided for in the Export Development Act of 1994.

[23] Exhibit "I".

registered 'Expansion' and 'New' projects are entitled to a three-year, and four-year ITH, respectively;

b. Tax and duty free importation of merchandise which include raw materials, capital equipment, machineries and spare parts;
c. Exemption from wharfage dues and export tax, impost or fees;
d. VAT zero-rating of local purchases subject to compliance with BIR and PEZA requirements; and
e. Exemption from payment of any and all local government imposts, fees, licenses or taxes except real estate tax; however, machineries installed and operated in the ecozone for manufacturing, processing or for industrial purposes shall not be subject to payment of real estate taxes for the first three (3) years of operation of such machineries; production equipment not attached to real estate shall be exempt from real property taxes.

The ITH incentive grants an exemption to PPI from payment of all taxes which may be levied by the National Government for a period of four (4) years for non-pioneer projects or six (6) years, in case of pioneer projects, effective on the committed date of start of commercial operations or the actual date of the start of commercial operations, whichever is earlier.

ITH and the other incentives granted under R.A. 7916, however, apply only to income from the registered activities of the PEZA registered entity. The Implementing Rules and Regulations of RA 7916 provide:

"PART VII - INCENTIVES TO ECOZONE ENTERPRISES

Rule XIII - Application and Entitlement

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SECTION 5. ***Limitation of Entitlement to Incentives*** - Incentives granted by the PEZA shall apply only to registered operations of the ECOZONE Enterprise and only during the period of its registration with PEZA."[24]

The limitation on the entitlement to the incentives granted to PEZA registered entities has been clarified by the Bureau of Internal Revenue in its Revenue Regulations No. 20-02 dated October 14, 2002, to wit:

[24] Implementing Rules and Regulations, R.A. 7916, May 17, 1995.

> "**SECTION 1.** ***Tax Treatment.*** — Income derived by an enterprise registered with the Subic Bay Metropolitan Authority (SBMA), the Clark Development Authority (CDA), or the Philippine Economic Zone Authority (PEZA) from its registered activity/ies shall be subject to such tax treatment as may be specified in its terms of registration (i.e., the 5% preferential tax rate, the income tax holiday, or the regular income tax rate, as the case may be). Nonetheless, whatever the tax treatment of said enterprise with respect to its registered activity/ies, income realized by such registered enterprise that is not related to its registered activity/ies shall be subject to the regular internal revenue taxes, such as the 20% final income tax on interest from Philippine Currency bank deposits and yield or any other monetary benefit from deposit substitutes, and from trust funds and similar arrangements, the 7.5% tax on foreign currency deposits and the 5%/10% capital gains tax or ½ % stock transaction tax, as the case may be, on the sale of shares of stock.
>
> Income payments made by a registered enterprise to an entity in the Customs Territory shall not be subject to the preferential tax rates or tax exemption enjoyed by the registered enterprise. Thus, dividends paid to the shareholders of a registered enterprise, interest payments to creditors of such registered enterprise (regardless of any tax provision for grossing up of taxes), and other such payments shall be subject to the appropriate rate of tax imposable on the recipient of such income."[25]

PPI was registered with PEZA as an Ecozone IT (Export) Enterprise to engage in the establishment of a contact center which will provide outsourced customer care services and business process outsourcing (BPO) services. Hence, all income earned from its business operations involving outsourced customer care services and BPO services during the period of its registration with PEZA are exempt from the payment of taxes pursuant to the ITH granted to it under the PEZA law.

On the other hand, income derived from activities not related to its registered activities as a PEZA registered entity shall be subject to regular internal revenue taxes pursuant to RR No. 20-02.

The present petition involves the lease of transmission facilities of PPI to petitioner for the period of May to July 2007. This activity is clearly outside of PPI's registered activity as a PEZA enterprise. Thus, PPI's rental income

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[25] Revenue Regulations No. 20-02 dated October 14, 2002.

from the subject lease is not included in the income covered by ITH. Consequently, said rental income shall be taxed at the regular corporate income tax rate of 32% and subjected to withholding tax rate of 5% pursuant to the provisions of 1997 NIRC, as amended and RR No. 2-98, as amended.

In view of the foregoing, this Court finds that the rental income received by PPI in the amount of Php56,913,080.40, for the lease of its transmission facilities, is subject to regular income tax. Accordingly, the amount of Php2,845,654.02 was correctly withheld on the said rental payments.

WHEREFORE, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

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

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

ATTESTATION

I attest 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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

CERTIFICATION

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.

ERNESTO D. ACOSTA
Presiding Justice