REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

WELLS FARGO PHILIPPINES SOLUTIONS, INC., Petitioner,	CTA Case No. 9578
	Members:
-versus-	UY, Chairperson, FABON-VICTORINO, and RINGPIS LIBAN, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 23 2020 1:02 p.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

Challenged in respondent's Motion for Reconsideration[1] dated December 13, 2019 is the Decision[2] dated November 12, 2019 promulgated by the Court, decreeing its ruling as follows:

> **WHEREFORE**, the instant Petition for Review filed by petitioner Wells Fargo Philippines Solutions, Inc. on April 17, 2017, is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **DIRECTED TO REFUND** in favor of petitioner the amount of ₱24,116,899.61, representing petitioner's excess payment of creditable withholding taxes for the taxable year 2014.
>
> **SO ORDERED**.

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1 Docket, pp. 1893-1895.
2 Ibid. at pp. 1866-1884.

Respondent maintains that proof of actual remittance to the Bureau of Internal Revenue (BIR) of the taxes withheld is a precondition for the grant of claim for refund of creditable withholding tax (CWT). Allegedly under the law, petitioner is required to present a Certification from the BIR Revenue Accounting Division (RAD) indicating that the taxes withheld by its withholding agent were indeed remitted to the BIR. For failure of petitioner to satisfy this requirement, its CWT refund claim must be denied in its entirety.

In refuting the above argument[3], petitioner counters that the *onus* of establishing remittance of CWTs lies with the income payor-withholding agent and not with the income payee-taxpayer such as itself, citing jurisprudence[4] as well as the Decision[5] of this Court as authorities. Besides, it presented to the Court the pertinent Certificate of Income Tax Withheld[6] indicating that the corresponding income taxes were indeed withheld by its withholding agent. Even, assuming that the law requires proof of actual remittance, the same was complied with when it presented documents[7] showing actual remittance of the CWTs to the BIR.

Respondent's arguments are obviously flawed and must be rejected.

In *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motors Philippines, Inc.),*[8] the Supreme Court enumerated the three essential conditions for the grant of a claim for refund of creditable withholding income tax, to wit: (1) the claim is filed with the CIR within the two-year period from the date of payment of the tax; (2) it is shown on the return of the recipient that the income payment received was declared as part of the gross income; and (3) the fact of withholding is established by a copy of a statement duly issued by the payor to the payee

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3 Petitioner's Comment/Opposition (To Respondent's Motion for Reconsideration dated December 13, 2019).
4 *Republic of the Philippines vs. Team (Philippines) Energy Corporation,* G.R. No. 188016, January 14, 2015.
5 *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.),* CTA EB No. 1789, July 5, 2019.
6 Exhibit P-16.
7 Exhibit P-15.
8 G.R. No. 231581, July 12, 2019.

showing the amount paid and the amount of the tax withheld therefrom.

Contrary to respondent's protestation, the Tax Code, as amended, as well as the numerous jurisprudence on the matter do *not* require the taxpayer-claimant to adduce proof of *actual remittance* of the tax withheld for a claim for refund to prosper. The reason is simple. The burden is on the income payor-withholding agent and not on the income payee-taxpayer, such as petitioner, who must establish the fact of withholding, which it did by presenting the pertinent Certificate of Taxes Withheld at Source (BIR Form No. 2307)[9] issued by its withholding agent. Given that the two other requisites[10] for the grant of CWT refund were likewise satisfactorily complied with by petitioner, the grant of CWT refund for TY 2014 to the extent of ₱24,116,899.61 in its favor was in order.

WHEREFORE, respondent's Motion for Reconsideration dated December 13, 2019 is **DENIED**. The challenged Decision dated November 12, 2019 is **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ERLINDA P. UY
Associate Justice

(Inhibited)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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9 See Note 6.
10 See pages 9-17, challenged Decision.