REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

GHD PTY LTD. (FORMERLY GUTTERIDGE HASKINS & DAVEY PTY LTD.),
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10187

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:
DEC 19 2023 11:20 am

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DECISION

MANAHAN, *J.:*

Before this Court is a *Petition for Review* praying that this Court render judgment ordering respondent to refund or issue in favor of petitioner a tax credit certificate in the amount of ₱46,771,638.00, representing petitioner's excess and unutilized creditable withholding taxes (CWT) for the fiscal year (FY) 2017.[1]

THE PARTIES

Petitioner is the Philippine branch office of GHD PTY LTD., a foreign corporation organized and existing under the laws of Australia, with registered address at 11/F Alphaland Southgate Tower, 2258 Chino Roces Avenue corner EDSA, Makati City.[2] It was granted by the Securities and Exchange Commission (SEC) a License to Transact Business, authorizing petitioner to engage in technical management consultancy in mining, defense and water industry and public works, urban

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[1] Docket, CTA Case No. 10187, Vol. I, pp. 6 to 15.
[2] *Id.*, Vol. I, Par. 1, Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), p. 266.

planning and developments, geotechnical and dams and power and energy.[3]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR), empowered to perform the duties of the said office including, among others, the power to decide, approve, and grant claims for refund or tax credit of erroneously paid or overpaid taxes, as provided by law. He may be served summons, notices, and court processes at the Legal Division of Revenue Region 8A-Makati City, pursuant to Executive Order No. 175 dated November 3, 1999, as implemented by Revenue Administrative Order No. 10-2000 dated August 7, 2000. The said Division is located at the 2nd Floor, Bureau of Internal Revenue (BIR) Building, 313 Gil Puyat Avenue, Makati City.[4]

THE FACTS

On October 9, 2019, petitioner filed with the BIR an administrative claim for refund *via* an *Application for Tax Credits/Refunds* (BIR Form No. 1914), and letter dated October 9, 2019, requesting for the refund of its alleged unutilized CWT for the FY ended June 30, 2017 amounting to ₱46,771,638.00.[5]

On October 15, 2019, petitioner filed the present *Petition for Review*.[6]

Respondent posted his *Answer (with Special and Affirmative Defenses)* on February 3, 2020,[7] interposing the following special and affirmative defenses, to wit:

1. The Petition for Review asserting the claim states no cause of action. Taxes paid and collected are presumed to have been made in accordance with the laws and regulations. Therefore, not creditable or refundable;

[3] Docket, Vol. I, Par. 2, Admitted Facts, JSFI, p. 266; Docket, Vol. II, Exhibits "P-1" and "P-1-A", Docket – Vol. II, pp. 462 to 471, and 472 to 551, respectively.
[4] *Id.*, Vol. I, Par. 3, Admitted Facts, JSFI, p. 267.
[5] Exhibit "P-9", pp. 626 to 631.
[6] *Id.*, Vol. I, pp. 6 to 15.
[7] *Id.*, Vol. I, pp. 87 to 91. cm

2. Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected; and

3. Petitioner's claim for refund in the amount of Php46,771,638.00 representing alleged unutilized and/or excess CWT for the FY ending 30 June 2017 were not fully substantiated by proper documents. A mere allegation by the taxpayer that it has prior quarters' excess credits in its Annual Income Tax Return will not suffice.

On February 12, 2020, respondent transmitted the *BIR Records* for this case.[8]

The Pre-Trial Conference was set on March 26, 2020;[9] but was reset to, and held on, September 10, 2020.[10] Prior thereto, *Respondent's Pre-Trial Brief* was posted on July 14, 2020;[11] while *Petitioner's Pre-Trial Brief* was submitted on September 4, 2020.[12]

On September 25, 2020, the parties submitted their *Joint Stipulation of Facts and Issues,*[13] which was approved by the Court in its Resolution dated October 14, 2020,[14] deeming the termination of the Pre-Trial. The Pre-Trial Order was then issued on March 2, 2021.[15]

As trial ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following individuals, namely: (1) Ms. Katrina S. Maninang,[16] petitioner's Tax Manager; and (2) Mr. Emmanuel Y. Mendoza,[17]

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[8] Docket, Vol. I, Respondent's *Compliance* dated February 12, 2020, p. 95.
[9] *Id.*, Vol. I, Notice of Pre-trial Conference dated February 11, 2020, pp. 93 to 94.
[10] *Id.*, Vol. I, Notice of Resetting dated June 30, 2020, p. 98; Docket, Vol. I, Minutes of the hearing held on, and Order dated, September 10, 2020, pp. 255 to 258, and 263 to 264, respectively.
[11] *Id.*, Vol. I, pp. 99 to 103.
[12] *Id.*, Vol. I, pp. 123 to 136.
[13] *Id.*, Vol. I, pp. 266 to 272.
[14] *Id.*, Vol. I, p. 276.
[15] *Id.*, Vol. I, pp. 387 to 398.
[16] *Id.*, Vol. I, Exhibit "P-11", pp. 137 to149; Docket, Vol. I, Order dated December 1, 2020, pp. 312 to 314.
[17] *Id.*, Vol. I, Exhibit "P-33", pp. 367 to 379; Docket, Vol. I, Minutes of the hearing held on, and Order dated, March 2, 2021, pp. 380 to 384.

the Court-commissioned Independent Certified Public Accountant (ICPA).[18]

The *Report* of the said ICPA was submitted to the Court on January 12, 2021.[19] Subsequently, on March 5, 2021, petitioner submitted the ICPA's revised *Report*.[20]

Petitioner filed its *Formal Offer of Evidence* on March 18, 2021.[21] Respondent posted his *Comment/Objection (to Petitioner's Formal Offer of Evidence)* on May 24, 2021.[22] In the Resolution dated December 3, 2021,[23] the Court admitted petitioner's exhibits, *except* for the following:

1. Exhibit "P-5", for failure to submit the original for comparison;

2. Exhibits "P-15", "P-16-1" to "P-16-10", "P-17-1" and "P-17-2", "P-18", "P-19-1 to P-19-3", "P-20-1" to "P-20-10", "P-21-1" to "P-21-223", "P-25-34-A", "P-26-1-A" to "P-26-6-A", "P-27-1-A" to "P-27-2-A", "P-28-1-A" to "P-28-5-A", "P-29-1-A" to "P-29-8-A", "P-31-1-A" to "P-31-11-A", "P-32-1-A" to "P-32-8-A", "P-34-1-A" to "P-34-4-A", "P-35-1-A", "P-22-135-A" to "P-22-136-A", "P-29-1-B" to "P-29-28-B", "P-30-1-B" to "P-30-63-B", "P-31-1-B" to "P-31-11-B", "P-34-1-B" to "P-34-4-B", "P-22-119-B" to "P-22-145-B", "P-26-7-B" to "P-26-27-B", "P-29-9-B" to "P-29-30-B", "P-33-1-B", "P-22-1-C" to "P-22-118-C", "P-25-1-C" to "P-24-69-C", "P-27-1-C" to "P-27-2-C", "P-28-1-C" to "P-28-5-C", "P-29-1-C", "P-29-2-C", "P-29-4-C" to "P-29-28-C", "P-30-1-C" to "P-30-5-C" and "P-30-7-C" to "P-30-66-C", and "P-33", for not being found in the records; and

3. Exhibits "P-34", "P-34-A", "P-35", and "P-35-A", pursuant to this Court's Order dated March 2, 2021 and Resolution dated September 17, 2021.

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[18] Docket, Vol. I, Order dated December 1, 2020, pp. 312 to 314.
[19] *Id.*, Vol. I, Exhibit "P-35", pp. 316 to 360.
[20] *Id.*, Vol. II, pp. 399 to 417.
[21] *Id.*, Vol. II, pp. 446 to 460.
[22] *Id.*, Vol. II, pp. 656 to 666.
[23] *Id.*, Vol. II, pp. 714 to 717.

On January 5, 2022, petitioner submitted *via* electronic mail its *Motion for Partial Reconsideration (Re: Resolution dated December 3, 2021)*,[24] praying for the Court to reverse its Resolution dated December 3, 2021 by: (1) admitting Exhibit "P-5" as part of petitioner's evidence, or in the alternative, setting a commissioner's hearing for the presentation of the original document for the comparison with the photocopy marked as Exhibit "P-5"; (2) admitting the attached USB containing scanned copies of the missing exhibits and, thereafter, admitting the missing exhibits as part of petitioner's evidence; and (3) admitting Exhibits "P-34", "P-34-A", "P-35", and "P-35-A", as part of petitioner's evidence, considering that they were filed pursuant to the Court's order given in open court on March 2, 2021. Respondent posted his *Comment/Opposition (Re: Petitioner's Motion for Partial Reconsideration dated 05 January 2022)* on March 21, 2022.[25]

In the Resolution dated May 11, 2022,[26] the Court admitted Exhibits "P-15", "P-17-1" to "P-17-2", "P-18", "P-19-1" to "P-19-3", "P-21-1" to "P-21-3", "P-21-15" to "P-21-26", "P-21-100" to "P-21-200", "P-35", and "P-35-A"; but *still denied* the admission of the following exhibits, to wit:

1. Exhibit "P-5", for failure to submit the original for comparison;

2. Exhibits "P-16-1" to "P-16-10", "P-20-1" to "P-20-10", "P-21-4" to "P-21-14", "P-21-27" to "P-21-99", "P-21-201" to "P-21-223", "P-25-34-A", "P-26-1-A" to "P-26-6-A", "P-27-1-A" to "P-27-2-A", "P-28-1-A" to "P-28-5-A", "P-29-1-A" to "P-29-8-A", "P-31-1-A" to "P-31-11-A", "P-32-1-A" to "P-32-8-A", "P-34-1-A" to "P-34-4-A", "P-35-1-A", "P-22-135-A" to "P-22-136-A", "P-29-1-B" to "P-29-28-B", "P-30-1-B" to "P-30-63-B", "P-31-1-B" to "P-31-11-B", "P-34-1-B" to "P-34-4-B", "P-22-119-B" to "P-22-145-B", "P-26-7-B" to "P-26-27-B", "P-29-9-B" to "P-29-30-B", "P-33-1-B", "P-22-1-C" to "P-22-118-C", "P-25-1-C" to "P-24-69-C", "P-27-1-C" to "P-27-2-C", "P-28-1-C" to "P-28-5-C", "P-29-1-C", "P-29-2-C", "P-29-4-C" to "P-29-28-C", "P-30-1-C" to "P-30-5-C" and "P-30-7-C" to

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[24] Docket, Vol. II, pp. 718 to 726.
[25] *Id.*, Vol. II, pp. 746 to 756.
[26] *Id.*, Vol. II, pp. 760 to 766. om

"P-30-66-C", and "P-33", for not being found in the records; and

3. Exhibits "P-34" and "P-34-A", for not being identified.

On June 9, 2022, petitioner filed *a Motion for Reconsideration with Motion for Leave to Substitute Exhibit "P-5"*,[27] praying for the Court to reverse its Resolution dated May 1[1], 2022 by substituting the previously-marked copy of Exhibit "P-5" that was submitted to the Court on March 18, 2021 with the attached certified true copy of petitioner's Audited Financial Statements (AFS) for FY 2017; and, admitting Exhibit "P-5" as part of petitioner's evidence. Respondent posted his *Comment/Opposition (Re: Petitioner's Motion for Reconsideration with Motion for Leave to Substitute Exhibit "P-5")* on July 5, 2022.[28] In the Resolution dated August 26, 2022,[29] the Court granted petitioner's *Motion for Reconsideration with Motion for Leave to Substitute Exhibit "P-5"*, and admitted the certified true copy of petitioner's AFS for FY 2017 as part of petitioner's evidence in lieu of the provisionally marked copy of Exhibit "P-5".

During the supposed hearing for the initial presentation of respondent's evidence on October 18, 2022, respondent's counsel, Atty. Dyrene Mara Rosario, manifested that she will no longer present her supposed witness, Revenue Officer Aliamen B. Abdillah, as there was no report submitted on the administrative claim for refund filed by petitioner. Thus, the Court gave both parties a period of thirty (30) days to submit their respective memorandum.[30]

On November 17, 2022, petitioner filed its *Memorandum*,[31] while respondent submitted his *Memorandum* on November 18, 2022.[32]

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[27] Docket, Vol. II, pp. 767 to 772.
[28] *Id.*, Vol. II, pp. 823 to 826.
[29] *Id.*, Vol. II, pp. 832 to 835.
[30] *Id.*, Vol. II, Minutes of the hearing held on, and Order dated, October 18, 2022, pp. 836 to 837, and 883 to 884, respectively.
[31] *Id.*, Vol. II, pp. 839 to 862.
[32] *Id.*, Vol. II, pp. 863 to 880.

This case was submitted for decision on December 19, 2022.[33]

ISSUES

As stipulated by the parties, the sole issue for the Court's determination is as follows:

> "WHETHER OR NOT PETITIONER IS ENTITLED TO ITS CLAIM FOR REFUND OR OF ISSUANCE OF TCC FOR THE AMOUNT OF PHP46,771,638.00 REPRESENTING PETITIONER'S EXCESS AND UNUTILIZED CWT FOR FY ENDED JUNE 30, 2017."[34]

Petitioner's Arguments

Petitioner argues that it filed its administrative and judicial claims for refund of excess and unutilized CWT for FY 2017 within the two (2)-year prescriptive period provided in Sections 204(C) and 229 of the Tax Code; that its excess and unutilized CWT for FY 2017 in the amount of ₱46,771,368.00 are duly substantiated by documentary evidence; that the income upon which the CWT being claimed for refund were withheld was reported as part of revenues declared in petitioner's Income Tax Return (ITR); that petitioner did not exercise the option to carry over its excess and unutilized CWT for FY 2017 to the succeeding taxable periods; and that petitioner applied its "prior year's excess credits" from FY 2016 as payment for its Regular Corporate Income Tax (RCIT) for FY 2017.

Respondent's Counter-arguments

Respondent contends that in a claim for refund or issuance of tax credit certificate, petitioner-claimant must establish all the statutory requirements to be entitled to its claim, and failure to discharge this burden of proof is fatal to its claim; that the instant petition for refund of CWT for FY 2017 was filed out of time; that petitioner failed to establish that the income subject of the CWT was declared as part of gross income reported in its Annual ITRs for FYs 2015, 2016

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[33] Docket, Vol. II, Minute Resolution dated December 19, 2022, p. 882.
[34] *Id.*, Vol. I, Issue, JSFI, p. 267.

and 2017; that the fact of withholding must likewise be proven by petitioner; that prior's year excess credits being utilized to offset petitioner's Annual RCIT was not substantiated by the petitioner; and that claims for refund are strictly construed against the taxpayer as the same partake the nature of tax exemption.

RULING OF THE COURT

The present *Petition for Review* lacks merit.

Petitioner's compliance with the requisites to claim a refund or credit for unutilized excess CWTs.

Pertinent to the resolution of the present case is Section 76 of the 1997 National Internal Revenue Code (NIRC), as amended, which is quoted hereunder for easy reference, to wit:

> "SEC. 76. *Final Adjustment Return.* — Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:
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> (A) Pay the balance of tax still due; or
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> (B) Carry-over the excess credit; or
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> (C) Be credited or refunded with the excess amount paid, as the case may be.
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> In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor."

The above provision states the two (2) options of a taxable corporation whose total quarterly income tax payments in a given taxable year exceed its total income tax due. The taxpayer may either: (1) carry-over the excess amount to the succeeding taxable quarters/years until it is fully utilized; or (2) file a claim for refund in the form of cash or tax credit certificate. However, once the carry-over option is taken actually or constructively it becomes irrevocable for that taxable period.[35] The phrase *"for that taxable period"* refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[36]

In exercising its option, the concerned corporation must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention either to carry over the excess credit or to claim a refund. To ease the administration of tax collection, these remedies are in the alternative and the choice of one precludes the other.[37]

A perusal of petitioner's Annual ITR for FY 2017 shows that petitioner had income tax credits in the total amount of ₱130,707,676.00, consisting of the: (i) prior year's excess tax credits in the amount of ₱82,382,801.00, and (ii) CWT accumulated during the four (4) quarters of FY 2017 in the aggregate amount of ₱48,324,875.00, as follows:[38]

Prior Year's Excess Credits Other Than Minimum Corporate Income Tax (MCIT)		₱ 82,382,801.00
Add: Creditable Taxes Withheld – FY 2017		
for the first three quarters	₱ 33,133,378.00	
for the 4th quarter	15,191,497.00	48,324,875.00
Total Tax Credits		**₱130,707,676.00**

Petitioner claims that its RCIT due for the FY 2017 in the amount of ₱16,882,142.00[39] was paid using a portion of its prior year's excess credits of ₱82,382,801.00.[40] This leaves the

[35] *Rhombus Energy, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 206362, August 1, 2018, citing the case of *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation,* G.R. No. 188016, January 14, 2015; *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue,* G.R. Nos. 156637 & 162004, December 14, 2005; *Systra Philippines, Inc vs. Commissioner of Internal Revenue* G.R. No. 176290, September 21, 2007.

[36] *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation, Supra; Commissioner of Internal Revenue vs. Bank of the Philippine Islands,* G.R. No. 178490, July 7, 2009.

[37] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.,* G.R. No. 112024, January 28, 1999.

[38] Docket, Vol. II, Schedule 7, Exhibit "P-4", p. 568.

[39] *Id.*, Vol. II, Lines 16 and 44, Exhibit "P-4", pp. 563 and 564, respectively.

[40] *Id.*, Vol. II, Line 1, Schedule 7, Exhibit "P-4", p. 568.

prior year's excess tax credits in the amount of ₱65,500,659.00 and CWT during the FY 2017 in the amount of ₱48,324,875.00, totaling ₱113,825,534.00, as unutilized as of June 30, 2017, as shown below:

Prior Year's Excess Credits Other Than MCIT	₱ 82,382,801.00
Less: Income Tax Due (RCIT)	16,882,142.00
Balance of Prior Year's Excess Credits	*₱ 65,500,659.00*
Add: Creditable Taxes Withheld – FY 2017	48,324,875.00
Excess CWT as of June 30, 2017	**₱113,825,534.00**

Petitioner alleges that its CWT in the total amount of ₱48,324,875.00 incurred during the current period were not utilized to cover its current income tax liability. Petitioner's own verification likewise revealed that the CWT in the amount of ₱1,553,237.00 were covered by duplicate CWT Certificates.[41] Thus, there remained CWT in the total amount of ₱46,771,638.00 which petitioner claims for refund, as follows:

Creditable Taxes Withheld – FY 2017	₱ 48,324,875.00
Less: Adjustment on duplicate CWT Certificates	1,553,237.00
CWT claimed for refund	**₱46,771,638.00**

Considering that petitioner opted for a refund by marking the box corresponding to the option *"To be refunded"* [42] in its Annual ITR for the FY 2017, and carried over only the amount of ₱65,500,659.00 (which is the prior year's excess credits) in its original[43] and amended[44] Annual and Quarterly[45] ITRs for FY 2018, the claimed CWT for FY 2017 in the amount of ₱46,771,638.00 may be a proper subject of a claim for credit or refund, pursuant to the afore-quoted Section 76 of the NIRC of 1997.

Requisites to claim a tax credit or refund of excess and unutilized CWT.

In addition to the requisite provided under Section 76 of the 1997 NIRC, as amended, jurisprudence and pertinent BIR

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[41] Docket, Vol. I, Par. 13, *Petition for Review*, p. 9; Docket, Vol. II, Par. 13, Petitioner's *Memorandum*, p. 84; Docket, Vol. I, ₱1,553,237.0**7**, Table 2, Exhibit "P-35", *Amended ICPA Report*, p. 322.
[42] *Id.*, Vol. II, Line 21, Exhibits "P-3" and "P-4", pp. 554 and 563, respectively.
[43] *Id.*, Vol. II, Line 1, Schedule 7, Exhibit "P-10-A", p. 649.
[44] *Id.*, Vol. II, Line 1, Schedule 7, Exhibit "P-10", p. 639.
[45] Line 31A, Exhibits "P-19-1" to "P-19-3", USB.

Revenue Regulations (RR) provide that the following requisites must be further complied with in order that the subject claim may be granted:

1. The claim for refund must be filed within the two-year prescriptive period as provided under Sections 204(C) and 229 of NIRC of 1997;

2. The fact of withholding must be established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. The income upon which the taxes were withheld must be included in the return of the recipient.[46]

Thus, it behooves petitioner to establish the foregoing requisites.

With regard to the *first* requisite, the pertinent provisions are Sections 204(C) and 229 of the 1997 NIRC, as amended, which read as follows:

> "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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[46] *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation), supra*; *United International Pictures AB vs. Commissioner of Internal Revenue,* G.R. No. 168331, October 11, 2012; *Citibank N.A. vs. Court of Appeals, et al.,* G.R. No. 107434, October 10, 1997; *ACCRA Investments Corporation vs. The Honorable Court of Appeals,* et al., G.R. No. 96322, December 20, 1991; Section 2.58, Revenue Regulations No. 2-98, as amended.

> "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, 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."

The above-stated provisions mandate that the administrative and judicial remedy of filing a claim for refund of erroneously or excessively paid tax must be done within two (2) years from the date of payment of the tax.

While the law provides that the two-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that the two-year prescriptive period to claim a refund actually commences to run, at the earliest, on the date of the filing of the adjusted final return[47] because this is where the figures of the gross receipts and deductions have been audited and adjusted, reflective of the results of the operations of a business enterprise.[48] Thus, it is only when the adjustment return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures. Thus, the Court cannot subscribe to respondent's insistence that petitioner should have filed its application for refund within two (2) years from the date of monthly remittance of the claimed CWT for July 2016, the first month covered by the subject claim, or on before August 10, 2018 (or August 15, 2018 if the withholding agent/s of the petitioner

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[47] *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.,* G.R. No. 231581, April 10, 2019, citing *ACCRA Investments Corp. vs. Court of Appeals (formerly Nissan Motor Philippines, Inc.), Supra.*

[48] *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.,* supra; *Commissioner of Internal Revenue v. TMX Sales, Inc.,* 282 Phil. 199, 207 (1992).

is/are EFPS users) for July 2016, following the provisions of Sections 204 (C) and 229 of the NIRC, in conjunction with RR No. 2-98, as amended by RR No. 11-2018.[49]

The present claim pertains to FY 2017 for which petitioner filed its original Annual ITR on October 16, 2017.[50] Counting from this date, petitioner had until October 16, 2019 within which to file a claim for refund of its excess CWT both in the administrative and judicial levels. Thus, petitioner timely filed with the BIR its administrative claim for refund on October 9, 2019,[51] and its judicial claim for refund through the present *Petition for Review* on October 15, 2019. [52] Thus, petitioner fulfills the *first* requisite.

With regard to the *second* and *third* requisites, Section 2.58.3(B) of RR No. 2-98, as amended, states:

> "Sec. 2.58.3. *Claim for tax credit or refund.* —
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> xxx xxx xxx
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> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom**." *(Emphasis added)*

To prove the fact of withholding of the subject claim, petitioner submitted its Schedule of CWT for FY 2017[53] and various *Certificates of Creditable Tax Withheld at Source* (BIR Forms No. 2307) for both revenues reported in FY 2017[54] and for FY 2016 but collected in FY 2017[55]. Upon verification of these documents, the Court-commissioned ICPA provided a summary of petitioner's CWT for FY 2017 in the amount of

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[49] Docket, Vol. II, Respondent's *Memorandum*, pp. 869 to 871.
[50] *Id.*, Vol. II, Exhibit "P-3", pp. 553 to 561.
[51] *Id.*, Vol. II, Exhibit "P-9, pp. 626 to 631.
[52] *Id.*, Vol. I, pp. 6 to 14.
[53] Exhibit "P-15", USB.
[54] Exhibits "P-22-1-A" to "P-22-118-A", "P-23-1-A" to "P-23-10-A", "P-24-1-A" to "P-24-2-A", "P-25-1-A" to "P-25-69-A".
[55] Exhibits "P-22-119-A" to "P-22-145-A", "P-24-3-A", "P-26-7-A" to "P-26-27-A", "P-29-9-A" to "P-29-30-A", "P-32-9-A" to "P-32-10-A" and "P-33-1-A".

₱46,771,638.10[56], with related income payments amounting to ₱295,017,455.68, as follows:[57]

Findings	Reference[58]	Revenue per schedule of Creditable Withholding Tax	Creditable Withholding Tax
Revenue recorded, reported and collected in 2017 subjected by Petitioner's customer to creditable withholding tax.			
Transactions in Philippine Peso			
CWT claimed were properly supported by BIR Form 2307 issued by the Petitioner's Customers while the revenues were properly supported by official receipts and billing statements	Annex A-1 *(Exhibits "P-22-1-A" to "P-22-118-A", "P-22-1-B" to "P-22-118-B" and "P-22-1-C" to "P-22-118-C")*	₱79,625,859.38	₱9,669,959.79
CWT claimed were properly supported by BIR Form 2307 issued by the Petitioner's Customers while the revenues were supported by official receipts but without billing statements	Annex A-2 *(Exhibits "P-23-1-A" to "P-23-10-A" and "P-23-1-B" to "P-23-10-B")*	8,382,316.76	741,033.43
CWT claimed were properly supported by BIR Form 2307 but without supporting official receipts and billing statements. The revenues were reported in the FY 2017 Income Tax Return	Annex A-3 *(Exhibits "P-24-1-A" and "P-24-2-A")*	784,090.00	82,550.50
CWT claimed were supported by BIR Form 2307 with electronic signature and the revenues were supported by official receipts and billing statements	Annex A-4 *(Exhibits "P-25-1-A" to "P-25-69-A", "P-25-1-B" to "P-25-69-B", "P-25-1-C" to "P-25-69-C")*	74,618,879.12	12,723,367.75
CWT claimed were supported by BIR Form 2307 with electronic signature while the revenues were supported only by official receipts but without billing statements	Annex A-5 *(Exhibits "P-26-1-A" to "P-26-6-A" and "P-26-1-B" to "P-26-6-B")*	2,834,703.19	240,141.49
CWT claimed were supported by BIR Form 2307 with electronic signature and the revenues were supported by billing statements but without official receipts	Annex A-6 *(Exhibits "P-27-1-A", "P-27-2-A", "P-27-1-C" and "P-27-2-C")*	612,160.11	18,131.20
CWT were supported by BIR Form 2307 but the Payor's TIN is not indicated	Annex A-7 *(Exhibits "P-28-1-A" to "P-28-5-A", "P-28-1-B" to "P-28-5-B" and "P-28-1-C" to "P-28-5-C")*	1,525,630.00	228,844.50
CWT were supported by BIR Form 2307 but the Petitioner's TIN is either not indicated or incorrect	Annex A-8 *(Exhibits "P-29-1-A" to "P-29-8-A", "P-29-1-B" to "P-29-8-B", "P-29-1-C", "P-29-2-C", "P-29-4-C" to "P-29-8-C")*	4,612,871.66	692,607.89
CWT claimed were not supported by BIR Form 2307	Annex A-9 *(Exhibits "P-30-1-B" to "P-30-63-B", "P-30-1-C" to "P-30-5-C" and*	39,282,169.76	5,251,149.39

[56] With ₱0.10 minor difference against amount of claim.
[57] Docket, Vol. I, Table 18, Exhibit "P-35", ICPA *Report*, pp. 331 to 333.
[58] *Id.*, Vol. I, Exhibit "P-35", ICPA *Report*, pp. 335 to 360.

	"P-30-7-C" to "P-30-66-C")		
Subtotal		**212,278,679.97[59]**	**29,647,785.94**
Transactions in foreign currency			
CWT claimed were properly supported by BIR Form 2307 issued by the Petitioner's Customers while the revenues were supported by official receipts but without billing statements	Annex A-10 *(Exhibits "P-31-1-A" to "P-31-11-A" and "P-31-1-B" to "P-31-11-B")*	9,125,424.18	2,123,686.68
CWT claimed were properly supported by BIR Form 2307 but without supporting official receipts and billing statements. The revenues were reported in the FY 2017 Income Tax Return	Annex A-11 *(Exhibits "P-32-1-A" to "P-32-8-A")*	11,525,204.07	2,585,415.79
CWT claimed were supported by BIR Form 2307 with electronic signature while the revenues were supported only by official receipts but without billing statements	Annex A-12 *(Exhibits "P-34-1-A" to "P-34-4-A" and "P-34-1-B" to "P-34-4-B")*	7,535,927.16	1,267,635.57
CWT claimed were supported by BIR Form 2307 with electronic signature but the revenues were not supported by official receipt and billing statement	Annex A-13 *(Exhibit "P-35-1-A")*	2,772,052.73	477,152.38
CWT claimed were not supported by BIR Form 2307	Annex A-14	4,360,583.23	939,488.78
Subtotal		**35,319,191.36[60]**	**7,393,379.20**
Total income recorded, reported and collected in 2017 subjected by Petitioner's customer to creditable withholding tax.[61]		**247,597,871.34[62]**	**37,041,165.14**
Revenue recorded and reported in FY 2016 Income Tax Return and collected in FY 2017 subject to creditable withholding tax			
Transactions in Philippine peso			
CWT were properly supported by BIR Form 2307 issued by the Petitioner's Customers while the revenues were properly supported by Official Receipts but without Billing Statements	Annex B-1 *(Exhibits "P-22-119-A" to "P-22-145-A" and "P-22-119-B" to "P-22-145-B")*	₱12,326,948.80	₱1,644,443.88
CWT claimed were properly supported by BIR Form 2307 but without supporting official receipt and billing statement. The revenues were reported in the FY 2017 Income Tax Return	Annex B-2 *(Exhibits "P-24-3-A")*	822,000.00	123,300.00
CWT claimed were supported by BIR Form 2307 with electronic signature and the revenues were supported by Official Receipts but without Billing Statements	Annex B-3 *(Exhibits "P-26-7-A" to "P-26-27-A" and "P-26-7-B" to "P-26-27-B")*	15,851,344.09	2,836,237.35
CWT claimed were supported by BIR Form 2307 but the Petitioner's TIN is either not indicated or incorrect	Annex B-4 *(Exhibits "P-29-9-A" to "P-29-30-A", "P-29-9-B" to "P-29-30-B")*	5,727,286.48	859,737.37
CWT claimed were not supported by BIR Form 2307	Annex B-5	8,911,093.12	1,578,884.80

[59] Actual footing is ₱212,278,679.98 (with ₱0.01 minor difference).
[60] Actual footing is ₱35,319,191.37 (with ₱0.01 minor difference).
[61] Docket, Vol. I, Table 7, Exhibit "P-35", ICPA *Report*, pp. 325 to 326.
[62] Actual footing is ₱247,597,871.35 (with ₱0.01 minor difference). *an*

Subtotal		**43,638,672.49**	**7,042,603.40**
Transactions in foreign currency			
CWT were properly supported by BIR Form 2307 issued by the Petitioner's Customers but the revenues were not supported by Billing Statements and without Official Receipts	Annex B-6 (*Exhibits "P-32-9-A" and "P-32-10-A"*)	1,267,661.12	1,730,893.15
CWT claimed were supported by BIR Form 2307 with electronic signature and the revenues were supported by Official Receipt and Billing Statement	Annex B-7 (*Exhibits "P-33-1-A" and "P-33-1-B"*)	1,438,210.40	215,731.56
CWT claimed were not supported by BIR Form 2307	Annex B-8	1,075,040.34	741,245.81
Subtotal		**3,780,911.86**	**2,687,870.52**
Total income recorded and reported in FY 2016 but collected in 2017 subjected by Petitioner's customer to creditable withholding tax.[63]		**47,419,584.34**[64]	**9,730,473.92**
Rounding difference			**-0.96**
GRAND TOTAL		**₱295,017,455.68**[65]	**₱46,771,638.10**

However, the ICPA noted that the following items in the above-mentioned breakdown in the amount of ₱10,291,958.54 were not properly substantiated, thus, should be disallowed from petitioner's claim:[66]

Findings	**Reference**	**Revenue per schedule of Creditable Withholding Tax**	**CWT** ***Not Properly Substantiated***
Revenue recorded, reported and collected in 2017 subjected by Petitioner's customer to creditable withholding tax.			
Transactions in Philippine Peso			
CWT were supported by BIR Form 2307 but the Payor's TIN is not indicated	Annex A-7 *(Exhibits "P-28-1-A" to "P-28-5-A", "P-28-1-B" to "P-28-5-B" and "P-28-1-C" to "P-28-5-C")*	₱1,525,630.00	₱228,844.50
CWT were supported by BIR Form 2307 but the Petitioner's TIN is either not indicated or incorrect	Annex A-8 *(Exhibits "P-29-1-A" to "P-29-8-A", "P-29-1-B" to "P-29-8-B", "P-29-1-C", "P-29-2-C", "P-29-4-C" to "P-29-8-C")*	4,612,871.66	692,607.89
CWT claimed were not supported by BIR Form 2307	Annex A-9 *(Exhibits "P-30-1-B" to "P-30-63-B", "P-30-1-C" to "P-30-5-C" and "P-30-7-C" to "P-30-66-C")*	39,282,169.76	5,251,149.39
Subtotal		**45,420,671.42**	**6,172,601.78**
Transactions in foreign currency			
CWT claimed were not supported by BIR Form 2307	Annex A-14	4,360,583.23	939,488.78

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63 Docket, Vol. I, Table 6, Exhibit "P-35", ICPA *Report*, p. 324.
64 Actual footing is ₱47,419,584.35 (with ₱0.01 minor difference).
65 Actual footing is ₱295,017,455.70 (with ₱0.01 minor difference).
66 Docket, Vol. I, Table 18, Exhibit "P-35", ICPA *Report*, pp. 331 to 333.

Subtotal		**4,360,583.23**	**939,488.78**
Total income recorded, reported and collected in 2017 subjected by Petitioner's customer to creditable withholding tax.		**49,781,254.65**	**7,112,090.56**
Revenue recorded and reported in FY 2016 Income Tax Return and collected in FY 2017 subject to creditable withholding tax			
Transactions in Philippine peso			
CWT claimed were supported by BIR Form 2307 but the Petitioner's TIN is either not indicated or incorrect	Annex B-4 (*Exhibits "P-29-9-A" to "P-29-30-A", "P-29-9-B" to "P-29-30-B"*)	5,727,286.48	859,737.37
CWT claimed were not supported by BIR Form 2307	Annex B-5	8,911,093.12	1,578,884.80
Subtotal		**14,638,379.60**	**2,438,622.17**
Transactions in foreign currency			
CWT claimed were not supported by BIR Form 2307	Annex B-8	1,075,040.34	741,245.81
Subtotal		**1,075,040.34**	**741,245.81**
Total income recorded and reported in FY 2016 but collected in 2017 subjected by Petitioner's customer to creditable withholding tax.		**15,713,419.94**	**3,179,867.98**
GRAND TOTAL		**₱65,494,674.59**	**₱10,291,958.54**

Petitioner argues that the Court-commissioned ICPA erred in disallowing the CWT certificates with no payor's TIN indicated (*i.e.*, covering CWT in the amount of ₱228,844.50) or those where the petitioner's TIN was either not indicated or incorrect (*i.e.*, covering CWT in the amounts of ₱692,607.89[67] and ₱859,737.37). Petitioner further argues that there is nothing in Sections 2.58(B) and 2.58.3, RR No. 2-98, as amended, which states that the income payor's and/or income payee's TIN is an essential requisite for the validity of a CWT certificate.[68] For petitioner, the absence of or errors in the TIN alone should not invalidate an otherwise valid CWT certificate, especially where the identity of the income payor and/or payee may be verified on the basis of the taxpayer's name and registered address indicated in the BIR Form No. 2307.[69]

This Court, however, disagrees with respondent.

It bears reiterating that a claim for tax refund or credit, like a claim for tax exemption, is construed strictly against the taxpayer. TIN serves as identification of taxpayers in relation to their payment with the BIR. Thus, the lack thereof or failure to indicate the correct TIN, even with the taxpayer's name,

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[67] With transposition error in the amount per petitioner's *Memorandum.*

Per Petitioner's *Memorandum* (Par. 46, Docket, Vol. II, p. 851).	₱629,607.89
Per Table 18, Exhibit "P- 35" (ICPA *Report*, Docket, Vol. I, p. 332).	₱692,607.89

[68] Docket, Vol. II, Par. 46, petitioner's *Memorandum*, p. 851.
[69] *Id.*, Vol. II, Pars. 47 and 48, petitioner's *Memorandum,* p. 852. *on*

would make it difficult to verify if, indeed, the taxpayer paid the correct amount to the government. Well entrenched in our jurisprudence is that tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the exemption. Accordingly, the claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund.[70]

Thus, it was proper for the ICPA to disallow petitioner's CWT for being supported by CWT certificates either with no payor's TIN or with incorrect or without petitioner's TIN.

Upon further verification, the following CWT in the total amount of ₱6,941,173.52, shall likewise be denied based on the following grounds:

Exhibit No.	**Client Name**	**Income Payment**	**CWT**
"**Annex A**"	***Revenue recorded, reported and collected in 2017 subjected by Petitioner's customer to creditable withholding tax.***		
The amounts indicated in the Certificates of CWT at Source (BIR Form No. 2307) do not pertain to those amounts indicated in the Schedule of CWT			
"P-25-2-A"	ANGAT HYDROPOWER CORPORATION	₱ 1,035,714.29	₱ 20,714.29
"P-25-3-A"	ANGAT HYDROPOWER CORPORATION	563,028.18	11,260.56
		1,598,742.47	***31,974.85***
Denied admission by the Court for not being found in the records[71]			
"P-25-34-A"	MAYNILAD WATER SERVICES INC	1,181,570.40	177,235.56
"P-26-1-A"	ANGAT HYDROPOWER CORPORATION	365,791.07	7,315.82
"P-26-2-A"	AREA PRES CJCLDS PHILS INC	73,600.00	10,296.00
"P-26-3-A"	AYALA LAND INC	400,000.00	60,000.00
"P-26-4-A"	GREENCORE GEOTHERMAL INC	1,052,055.00	21,041.10
"P-26-5-A"	MAYNILAD WATER SERVICES INC	628,838.08	94,325.71
"P-26-6-A"	MAYNILAD WATER SERVICES INC	314,419.04	47,162.86
"P-27-1-A"	AREA PRES CJCLDS PHILS INC	220,800.00	10,304.00
"P-27-2-A"	HIJO INTERNATIONAL PORT SERVICES INC	391,360.11	7,827.20
"P-31-1-A"	MAYNILAD WATER SERVICES INC	67,192.89	11,083.84
"P-31-2-A"	MAYNILAD WATER SERVICES INC	2,984,607.78	448,315.94
"P-31-3-A"	MAYNILAD WATER SERVICES INC	151,029.73	22,168.26
"P-31-4-A"	MAYNILAD WATER SERVICES INC	48,333.01	7,389.42
"P-31-5-A"	MAYNILAD WATER SERVICES INC	3,850,358.24	570,209.52
"P-31-6-A"	MAYNILAD WATER SERVICES INC	203,086.53	31,049.00
"P-31-7-A"	OCEANAGOLD PHILIPPINES INC	451,790.63	282,770.32
"P-31-8-A"	OCEANAGOLD PHILIPPINES INC	625,897.25	664,389.33
"P-31-9-A"	PHIL GOLD PROCESSING REFINING CORP	153,321.52	10,754.24
"P-31-10-A"	PHIL GOLD PROCESSING REFINING CORP	387,868.60	67,121.25

[70] *Commissioner of Internal Revenue vs. Interpublic Group of Companies, Inc.*, G.R. No. 207039, August 14, 2019, citing the case of *Commissioner of Internal Revenue vs. S.C. Johnson and Son, Inc.*, 368 Phil. 388, 404. (1999).
[71] Docket, Vol. II, Resolution dated May 11, 2022, p. 765.

"P-31-11-A"	FILMINERA RESOURCES CORPORATION	201,938.00	8,435.56
"P-32-1-A"	DEVELOPMENT BANK OF THE PHILIPPINES	86,595.41	22,034.60
"P-32-2-A"	DEVELOPMENT BANK OF THE PHILIPPINES	2,525,350.31	1,403,796.12
"P-32-3-A"	DEVELOPMENT BANK OF THE PHILIPPINES	5,790,639.36	880,129.85
"P-32-4-A"	DEVELOPMENT BANK OF THE PHILIPPINES	407,636.43	61,706.32
"P-32-5-A"	MAYNILAD WATER SERVICES INC	62,530.33	10,349.49
"P-32-6-A"	MAYNILAD WATER SERVICES INC	1,186,804.91	178,173.74
"P-32-7-A"	PHIL GOLD PROCESSING REFINING CORP	702,524.29	13,898.55
"P-32-8-A"	PHIL GOLD PROCESSING REFINING CORP	763,123.02	15,327.12
"P-34-1-A"	HIJO INTERNATIONAL PORT SERVICES INC	1,413,261.43	29,394.20
"P-34-2-A"	PHILEX MINING CORPORATION	1,942,669.59	597,130.14
"P-34-3-A"	PHILEX MINING CORPORATION	1,454,791.24	217,178.15
"P-34-4-A"	PHILEX MINING CORPORATION	2,725,204.90	423,933.08
"P-35-1-A"	PHILEX MINING CORPORATION	2,772,052.73	477,152.38
		35,587,041.83	***6,889,398.67***
	Subtotal	**37,185,784.30**	**6,921,373.52**
"Annex B"	***Revenue recorded and reported in FY 2016 Income Tax Return and collected in FY 2017 subject to creditable withholding tax***		
The amounts indicated in the Certificate of CWT at Source (BIR Form No. 2307) do not pertain to those amounts indicated in the Schedule of CWT			
"P-26-9-A"	ANGAT HYDROPOWER CORPORATION	990,000.00	19,800.00
	Subtotal	**990,000.00**	**19,800.00**
Total		**₱38,175,784.30**	**₱6,941,173.52**

Accordingly, petitioner was able to satisfy the *second* requisite, but only to the extent of the duly substantiated CWT of ₱29,538,505.94, as computed below:

Petitioner's claim		₱ 46,771,638.00
Less: Total Disallowances		
Per the Amended ICPA Report	₱10,291,958.54	
Per this Court's further verification	6,941,173.52	17,233,132.06
Total Valid Claim		**₱29,538,505.94**

This brings us to the *third* requisite, which is whether or not the income upon which the subject taxes were withheld was included and reported by petitioner in its Annual ITR.

To prove that the income payments related to the claimed CWT formed part of petitioner's declared income per Annual ITR, petitioner offered in evidence the following documents: Annual[72] and Quarterly[73] ITRs for FY 2017, AFS for FY 2017,[74]

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[72] Docket, Vol. II, Exhibits "P-3" and "P-4", pp. 553 to 570.
[73] *Id.*, Vol. II, Exhibits "P-6" to "P-8", pp. 620 to 625.
[74] *Id.*, Vol. II, Exhibit "P-5", pp. 773 to 819.

General Ledger (GL) of Revenue for FY 2017,[75] GL of CWT for FY 2017,[76] and official receipts (ORs) supporting CWT claims for revenue reported in Annual ITR for FY 2017.[77]

Records show that the Court-commissioned ICPA was able to trace the total revenue in the amount of ₱295,017,455.68, which was subjected by petitioner's customer to CWT in the amount of ₱46,771,638.10, as follows:[78]

Findings	Revenue per schedule of Creditable Withholding Tax	Creditable Withholding Tax
Revenue recorded and reported in FY **2016** ITR and collected in 2017[79]	₱ 47,419,584.34	₱ 9,730,473.92
Revenue recorded, reported and collected in **2017**[80]	247,597,871.34	37,041,165.14
Rounding difference		-0.96
GRAND TOTAL	**₱295,017,455.68**	**₱46,771,638.10**

Revenue recorded and reported in FY 2016 ITR and collected in 2017.

The Court notes the ICPA's finding that there are revenues recorded and reported in the FY 2016 ITR in the total amount of ₱47,419,584.34, but the corresponding ₱9,730,473.92 CWT Certificates were dated and received by petitioner in FY 2017. Notwithstanding the timing difference, the ICPA found that the income was still recorded and reported by petitioner as part of its gross income, albeit during a different taxable period.

While it is true that the delay in the receipt of CWT Certificates is not fatal as what is important is that the income per CWT Certificates were reported in the ITRs, albeit for prior years,[81] this Court nonetheless notes that petitioner failed to present its Annual ITR, AFS, GL, journal entries, reconciliation

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75 Exhibits "P-17-1" and "P-17-2", USB.
76 Exhibit "P-18", USB.
77 Exhibits "P-22-1-B" to "P-23-118-B", "P-23-1-B" to "P-23-10-B", "P-25-1-B" to "P-25-69-B"; "P-26-1-B" to "P-26-6-B" and "P-28-1-B" to "P-28-5-B".
78 Docket, Vol. I, Table 18, Exhibit "P-35", ICPA *Report*, pp. 331 to 333.
79 *Id.*, Vol. I, Table 6, Exhibit "P-35", ICPA *Report*, p. 324.
80 *Id.*, Vol. I, Table 7, Exhibit "P-35", ICPA *Report*, pp. 325 to 326.
81 *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc.*, G.R. No. 231581, April 10, 2019.

schedules, and other related documents for FY 2016 that would aid us in verifying whether the income of ₱47,419,584.34, as declared in the CWT Certificates received by petitioner in FY 2017, was actually reported and declared as part of gross income in the Annual ITR for FY 2016. Without such pieces of evidence, this Court cannot trace if the said amount was included in petitioner's Annual ITR for FY 2016. As such, it is appropriate for this Court to disallow the related CWT Certificates.

Revenue recorded, reported and collected in FY 2017.

In the Report submitted by the Court-commissioned ICPA, the latter traced the income payments appearing in each of the *Certificates of Creditable Tax Withheld at Source* (BIR Form No. 2307) to the Schedule of CWT for FY 2017 prepared by petitioner. The Schedule of CWT was then compared with the sales per GL, which showed a total variance of ₱212,454,212.17, as follows:[82]

Period Covered	Gross Sales Subject to Withholding Tax per Schedule[83]	Sales per General Ledger[84]	Difference
1st Quarter	₱ 78,323,190.32	₱ 123,392,992.93	₱ (45,069,802.61)
2nd Quarter	83,236,350.77	124,779,254.58	(41,542,903.81)
3rd Quarter	60,167,111.92	104,064,066.14	(43,896,954.22)
4th Quarter	25,834,236.03	107,778,787.56	(81,944,551.53)
Total	**₱247,560,889.04**	**₱ 460,015,101.21**	**₱(212,454,212.17)**

Notwithstanding the foregoing, the Court notes that the ICPA did not only fail to reconcile the sales difference between the withholding taxes per schedule and per GL amounting to ₱212,454,212.17, he also failed to present evidence that could have supported the aforementioned discrepancy.

For FY 2017, petitioner reported in its Annual ITR the amount of ₱536,581,845.00 as Net Sales/Revenues/Receipts/Fees.[85] Comparing the same to the total revenues per GL in the amount of ₱460,015,101.21, there

[82] Docket, Vol. I, Par. C.6., Exhibit "P-35", ICPA *Report*, p. 323.
[83] Exhibit "P-15", USB.
[84] Exhibits "P-17-1" and "P-17-2", USB.
[85] Docket, Vol. II, Line 30, Exhibit "P-4", p. 564.

is a variance of ₱76,566,743.79, reconciled by the Court-commissioned ICPA, as detailed below:[86]

		Amount
Revenue per Annual Income Tax Return for FY 2017		₱536,581,845.00
Revenue subjected to CWTs per General Ledger		
Fees (528-71-0-114001) (Exhibit "P-17-1")	₱451,175,868.07	
Fees (528-55-0-114001) (Exhibit "P-17-2")	8,839,233.14	460,015,101.21
Difference		**76,566,743.79**
Sales not subjected to CWTs		
1. International Sales	(60,482,891.56)	
2. Unbilled work	(17,212,325.75)	
3. International Sales subjected to Foreign Taxes	1,128,473.52	**(76,566,743.79)**
Unaccounted difference		**₱ -**

However, there is no evidence on record that could have justified the difference of ₱76,566,743.79 between the amount of revenues shown in the Annual ITR for FY 2017 (₱536,581,845.00) and the GL (₱460,015,101.21). Likewise, no supporting document was presented as to the supposed "International Sales," "Unbilled work," and "International Sales subjected to Foreign Taxes" that could have corroborated the reconciliation made by the Court-commissioned ICPA. Thus, this Court cannot verify if the amounts recorded in the GL would tally with the amounts reported in the Annual ITR for FY 2017. *Sans* any supporting evidence, the veracity of the amounts reflected in the GL *vis-a-vis* those declared and reported in the Annual ITR for FY 2017 becomes doubtful. Such doubt is compounded by the fact that the amount of revenue reported in petitioner's AFS did not also tally with the amount of revenue declared in the Annual ITR for FY 2017, and for which petitioner likewise failed to explain, as follows:

Service Fees per AFS for FY 2017	₱552,914,118.00[87]
Sales of Services per Annual ITR for FY 2017	536,581,845.00[88]
Unaccounted difference	**₱16,332,273.00**

Considering that the amount of revenue reported in the GL of petitioner does not tally with those reported in the AFS and Annual ITR for FY 2017, the Court finds that petitioner failed to comply with the *third* requisite. Thus, this Court is constrained to deny petitioner's claim for refund or issuance of

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[86] *Id.*, Vol. I, Table 4, Exhibit "P-35", ICPA *Report*, p. 323.
[87] Exhibit "P-5", Docket – Vol. II, p. 781.
[88] Line 2, Schedule 1, Exhibit "P-4", Docket – Vol. II, p. 565.

a tax credit certificate in the amount of ₱46,771,638.00, representing its alleged excess and unutilized CWT for the FY 2017.

As a final note, the Court reiterates that actions for tax refund, as in the present case, are in the nature of a claim for exemption. As such, the law is not only construed in *strictissimi juris* against the taxpayer, the pieces of evidence presented entitling a taxpayer to an exemption must also be strictly scrutinized and must be duly proven.[89] 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.[90] The taxpayer has the burden to show that it has strictly complied with the conditions for the grant of the tax refund.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(on leave)
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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[89] *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011.
[90] *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 221694, February 19, 2018.

ATTESTATION

I attest that the conclusion in the above Decision was reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CATHERINE T. MANAHAN
Associate Justice

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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice