REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

GLOBAL BUSINESS POWER CORPORATION,
Respondent.

CTA EB NO. 3107
(CTA Case No. 10869)

Present:
RINGPIS-LIBAN, *P.J.,*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
APR 27 2026 1:20 pm

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DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court is a Petition for Review which prays for the:

a. reversal and setting aside of the Decision[1] ("Assailed Decision") dated November 18, 2024 and Resolution[2] ("Assailed Resolution) dated February 25, 2025 of the Court of Tax Appeals First Division ("First Division"), partially granting Petitioner's claim for refund or issuance of a tax credit certificate amounting to Php11,248,774.96, representing its

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1 Penned by Associate Justice Lanee S. Cui-David with Presiding Justice Roman G. Del Rosario and Associate Justice Jean Marie A. Bacorro-Villena concurring. Docket, pp. 542-561.

2 Penned by Associate Justice Lanee S. Cui-David with Presiding Justice Roman G. Del Rosario and Associate Justice Jean Marie A. Bacorro-Villena concurring. Docket, pp. 590-594.

excess and unutilized Creditable Withholding Taxes ("CWT") for taxable year 2019; and

b. the issuance of a new decision dismissing the petition filed by Respondent before the Court in Division for lack of merit.

The Parties

Petitioner is the duly appointed Commissioner of Internal Revenue with office address at the Bureau of Internal Revenue (BIR) Building, Diliman, Quezon City.[3]

Respondent is a domestic corporation duly organized and existing under the laws of the Philippines, with principal office at Tower 1, Rockwell Business Center, Ortigas Avenue, Pasig City. It is a holding company with a primary purpose of investing in, holding, purchasing, importing, acquiring (except land), or leasing any and all real and personal properties of every kind and description. It is registered as a taxpayer of Revenue District Office No. 125-Regular LT Division II having been issued a Certificate of Registration OCN: 8RC0001197758E dated September 18, 2017.[4]

The Facts

The facts as found by the First Division are as follows:

> "On June 1, 2020, within the extended period for filing as allowed under Revenue Regulations (RR) No. 11-2020 due to the COVID-19 lockdown, petitioner filed its Annual Income Tax Return (ITR) for the TY ending December 31, 2019, through the BIR's Electronic Filing and Payment System (eFPS). The ITR reflected an overpayment of income tax amounting to [P]31,249,900.00.
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> On February 15, 2022, petitioner submitted a letter to respondent, applying for a refund of excess and unused CWT credits withheld by its customers during TY 2019 in the amount of [Php]11,254,080.00. The letter was accompanied by an Application for Tax Credits/Refunds (BIR Form No. 1914), citing Section 204 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, as the legal basis for the claim for refund, along with other supporting documents.
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> To date, respondent has not acted on the claim for refund.

[3] *Id.*, Decision, The Parties, p. 543.
[4] *Id.*, Decision, The Parties, pp. 542-543.

On May 30, 2022, petitioner filed the present *Petition for Review*."[5]

The Ruling of the First Division

On November 18, 2024, the First Division promulgated the Assailed Decision partially granting the Petition for Review, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.
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> Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, the amount of **[Php]11,248,774.96**, representing the latter's excess and unutilized CWTs for taxable year 2019.
>
> **SO ORDERED.**"[6]

Aggrieved, Petitioner filed a "Motion for Partial Reconsideration *(Re: Decision promulgated on 18 November 2024)*"[7] on November 29, 2024, which the First Division denied in the Assailed Resolution, to wit:

> "**WHEREFORE**, premises considered, the instant *Motion for Partial Reconsideration (Re: Decision promulgated on 18 November 2024)* is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[8]

The Proceedings in the Court of Tax Appeals En Banc

On March 17, 2025, a "Motion for Extension to File Petition for Review"[9] was filed in the present case, which the court granted in a Minute Resolution[10] dated March 18, 2025.

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5 *Id.*, Decision, The Facts, p. 543.
6 *Id.*, p. 560.
7 *Id.*, pp. 985-994.
8 *Id.*, p. 594.
9 Rollo, pp. 1-6. Record shows that the Commissioner of Internal received the Assailed Resolution on March 04, 2025; Docket, p. 589.
10 *Id.*, p. 8.

On March 28, 2025, the instant "Petition for Review"[11] was filed.

On May 08, 2025, the Court issued a Minute Resolution[12] directing Respondent to file its comment on the Petition for Review within ten (10) days from notice.

On May 26, 2025, Respondent filed *via* registered mail his "Comment (on Petitioner's *Petition for Review* dated 28 March 2025)"[13]. Thus, on July 02, 2025, a Minute Resolution[14] was issued submitting the instant case for decision.

Assignment of Error

Petitioner raises a single ground in support of its petition – the First Division erred in ruling that Respondent is entitled to refund of excess and unutilized creditable withholding tax for taxable year 2019.[15]

The Arguments of the Parties

Petitioner avers that Respondent did not provide supporting documents to show that income from which CWT being claimed was declared in the Annual Income Tax Return ("AITR"), and thus there is no direct linkage between the CWT and the income as reflected in the AITR.

Moreover, Petitioner maintains that proof of actual remittance of the taxes withheld to the Bureau of Internal Revenue ("BIR") is indispensable in a claim for refund of excess CWT.

Additionally, Petitioner suggests that failure on the part of the taxpayer to submit relevant documents at the administrative level makes the administrative claim for tax refund or credit pro-forma and shall be construed as if no administrative claim was filed at all. In the case at bar, Respondent failed to submit the complete requirements under Revenue Memorandum Order ("RMO") No. 53-98.

Furthermore, Petitioner alleges that Respondent's non-presentation of the withholding agents to verify the Certificates of Creditable Tax Withheld at Source and to prove the propriety of its claim for refund, and failure to establish the fact of remittance of the alleged withheld taxes by various payors to the BIR, are all fatal to its claim. According to Petitioner, under the Rules on evidence, the said certificates must be identified and authenticated. And yet, Respondent

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11 *Id.*, pp. 9-26.
12 *Id.*, p. 59.
13 *Id.*, pp. 61-72.
14 *Id.*, p. 78.
15 *Id.*, Petition for Review, Assignment of Error, p. 13.

merely presented its Independent Certified Public Accountant ("ICPA") which opined and testified that the said certificates were faithful reproductions of the original.

Lastly, Petitioner points out that a claim for refund is strictly construed against the taxpayer.

On the other hand, Respondent manifests that the instant petition is frivolous and the arguments raised by Petitioner are essentially reiterations of the allegations in the Answer the latter filed before the court *a quo*.

Respondent emphasizes that Petitioner's contention that it failed to submit supporting documents for its claim was already refuted during trial. In fact, the ICPA ascertained through the examination of voluminous documents that the income payments subjected by Respondent's customers to CWT were reported by Respondent as part of its gross income in its AITR for taxable year 2019.

Respondent asserts that its failure to submit the documents required under RMO No. 53-98 does not render its refund claim dismissible.

Respondent also declares that there is no basis in law, regulations or jurisprudence that proof of actual remittance is required to claim a refund of unutilized tax credits.

Finally, Respondent contends that there is no need to present evidence of the testimony of the person who made entries in the CWT certificate because the same already covers essential matters to prove the fact of withholding.

The Ruling of the Court

Timeliness of Petition

The Court in Division issued a Resolution denying Petitioner's "Motion for Partial Reconsideration (*Re: Decision promulgated on 18 November 2024*)" on February 25, 2025. Petitioner received said Resolution on March 06, 2025.[16]

[16] Docket, p. 589.

Pursuant to Rule 4, Section 2(a)(1)[17] in relation to Rule 8, Section 3(b)[18] of the Revised Rules of the Court of Tax Appeals[19] (RRCTA), Petitioner had fifteen (15) days from date of receipt of the resolution or until March 21, 2025 within which to file its petition for review.

On March 17, 2025, Petitioner filed its "Motion for Extension to File Petition for Review" praying for fifteen (15) days or until April 03, 2025 to submit its petition. The Court granted this request in a Minute Resolution dated March 18, 2025.

On March 28, 2025, Petitioner timely filed the present "Petition for Review". Hence, the Court *En Banc* validly acquired jurisdiction.

We now proceed to the merits of the case.

At the outset, Petitioner presents no new argument to persuade Us that it has a meritorious case. In fact, the instant Petition for Review is a replica of Petitioner's "Answer (*Re: Petition for review dated 30 May 2022*)"[20] and "Motion for Partial Reconsideration (*Re: Decision promulgated on 18 November 2024*)"[21] filed with the court *a quo* on July 15, 2022 and November 29, 2024, respectively. Petitioner's arguments had been fully and exhaustively resolved by the Court in Division in the Assailed Decision and Assailed Resolution.

At the risk of being repetitive, the following are the requirements[22] for the refund or issuance of a tax credit certificate for excess or unutilized CWT:

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17 **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

xxx xxx xxx

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

18 **Sec. 3.** *Who may appeal; period to file petition.* — x x x

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

19 A.M. No. 05-11-07-CTA, November 22, 2005.

20 Docket, pp. 162-173.

21 *Id.*, pp. 562-570.

22 Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation), G.R. No. 188016, January 14, 2015.

1) That the claim for refund was filed within the two-year prescriptive period as provided under Section 204(C) in relation to Section 229 of the National Internal Revenue Code ("NIRC") of 1997, as amended;

2) That the fact of withholding is 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;[23] and

3) That the income upon which the taxes were withheld was included in the return of the recipient, (*i.e.*, declared as part of the gross income).[24]

For the ***first requisite***, it has been consistently held by the Supreme Court that the two-year prescriptive period under Sections 204(C) and 229 of the NIRC of 1997, as amended, in the refund of CWT, should commence from the time of the filing of the taxpayer's Final Adjustment Return or the AITR.[25]

Records show that Respondent's administrative and judicial claim for refund were filed within the two-year prescriptive period, as summarized in the table below:

	2-year prescriptive period		**Administrative Claim**	**Judicial Claim**
	Date filed - AITR	**END**		
2019	June 01, 2020[26]	June 01, 2022	February 15, 2022[27]	May 30, 2022[28]

Moreover, contrary to Petitioner's claim, Respondent's alleged failure to submit the complete documentary requirements under RMO No. 53-98 and Revenue Regulations (RR) No. 2-2006 does not render the petition dismissible for lack of jurisdiction. Stated differently, the judicial claim filed before the Court of Tax Appeals ("CTA") was not prematurely instituted simply because the CTA is not limited by the evidence presented in the administrative claim.

23 Revenue Regulations No. 02-98, Section 2.58.3(B).
24 Calamba Steel Center, Inc. v. Commissioner of Internal Revenue, G.R. No. 151857, April 28, 2005.
25 Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.), G.R. No. 231581, April 10, 2019; Commissioner of Internal Revenue v. TMX Sales, Inc., G.R. No. 83736, January 15, 1992.
26 Docket, JSFI, Stipulated Facts, par. 4, p. 361; Exhibit "P-5", pp. 484-491.
27 *Id.*, JSFI, Stipulated Facts, par. 8, p. 361.
28 *Id.*, Petition for Review, pp. 6-14.

The failure to submit documents at the administrative level is not fatal to the case at the judicial level, as the matter is litigated *de novo* and resolved on the basis of the evidence presented and formally offered by the parties during trial. The court is authorized to receive evidence, summon witnesses, and give both parties, the government and the taxpayer, opportunity to present and argue their sides, so that the true and correct amount of the tax to be collected may be determined and decided.[29]

The Supreme Court, in the case of *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*[30], held that "cases filed in the CTA are litigated *de novo*" and that "the CTA may give credence to all evidence presented by [the taxpayer], including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance."

As for the ***second requisite***, We affirm the First Division's finding that Respondent was able to substantiate its CWT for calendar year 2019 amounting to Php 11,254,080.00 by submitting the duly accomplished Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307).

In contrast to Petitioner's assertion, proof of actual remittance of taxes withheld is not a pre-requisite in claiming refund of unutilized CWT.

In *Commissioner of Internal Revenue v. Philippine National Bank*[31] (*CIR v. PNB*), the Supreme Court held as follows:

> "Petitioner's posture that respondent is required to establish actual remittance to the Bureau of Internal Revenue deserves scant consideration. **<u>Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits</u>. Under Sections 57 and 58 of the 1997 National Internal Revenue Code, as amended, it is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with responsibility of withholding and remitting income taxes.**
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> This court's ruling in Commissioner of Internal Revenue v. Asian Transmission Corporation, citing the Court of Tax Appeals' explanation, is instructive:
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> > '... proof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner. Section 2.58.3(B) of Revenue Regulations No. 2-98

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[29] *See* Collector of Internal Revenue v. Batangas Transportation Company and Laguna-Tayabas Bus Company, G.R. No. L-9692, January 06, 1958.

[30] G.R. No. 231581, April 10, 2019.

[31] G.R. No. 180290, September 29, 2014.

> clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Section 57 and 58 of the NIRC of 1997, as amended, the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent . . . has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are prima facie proof of actual payment by herein respondent-payee to the government itself through said agents.'"[32]

It must be emphasized that proof of actual remittance of withholding taxes, or fact of withholding, is the responsibility of the payor-withholding agent and not of the payee.[33] A withholding agent's bound duty, under Section 58(A)[34] of the NIRC of 1997, as amended, is to guarantee that the pertinent income taxes they withheld on taxpayers are paid in favor of the government.

Further, the payee-refund claimant, such as Respondent in this case, need only prove the fact of withholding of taxes, which is established by a copy of the withholding tax statement; and not its actual remittance to the BIR. Section 58(B)[35] of the NIRC of 1997, as amended, mandates payors/withholding agents

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[32] *Emphasis and underscoring supplied.*

[33] Revenue Regulations No. 02-98, Section 2.58.3 (B).

[34] **SEC. 58. Returns and Payment of Taxes Withheld at Source. —**

(A) Quarterly Returns and Payments of Taxes Withheld. — Taxes deducted and withheld under Section 57 by withholding agents shall be covered by a return and paid to, except in cases where the Commissioner otherwise permits, an authorized agent bank, Revenue District Officer, Collection Agent, or duly authorized Treasurer of the city or municipality where the withholding agent has his legal residence or principal place of business, or where the withholding agent is a corporation, where the principal office is located.

The taxes deducted and withheld by the withholding agent shall be held as a special fund in trust for the government until paid to the collecting officers.

The return for final and creditable withholding taxes shall be filed and the payment made not later than the last day of the month following the close of the quarter during which withholding was made.

[35] **SEC. 58. Returns and Payment of Taxes Withheld at Source. —**

to provide income payees a written statement containing the amount of income or yield paid along with the amount of tax deducted and withheld therefrom. Such documents are embodied in the various Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) duly issued by income payors/withholding agents.

With Respondent's presentation of several Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307) issued in its favor by its payors/withholding agents, it has adequately established the existence and validity of CWTs subject of the refund.

Additionally, Petitioner's argument that Certificates of Creditable Withheld at Source were not valid for not being verified by the withholding agents is baseless.

In *CIR v. PNB*, the Supreme Court explained that it is not required that the individual who executed and prepared the Certificates of Creditable Withheld at Source be presented to personally testify in order to establish the authenticity of the certificates. Once a withholding tax certificate, complete in its material particulars and containing a written declaration that it was executed under penalties of perjury, is presented as in the instant case, the burden of evidence shifts to the CIR to demonstrate that (1) the certificate is incomplete, (2) it is false, or it was not regularly issued.

In the present case however, Petitioner failed to establish any of the foregoing grounds and merely advanced a general claim that the certificates were invalid.

With respect to the ***last requisite***, a review of evidence on record shows that Respondent sufficiently proved that the income payments from which taxes were withheld were duly reported and included in the gross income declared for calendar year 2019. The Court *En Banc* echoes the First Division's declaration on the matter, to wit:

> "To ascertain that the income payments of [Php]562,704,039.05 were declared as part of gross income in the Annual ITR, the ICPA examined related official receipts (OR), sales

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xxx xxx xxx

(B) Statement of Income Payments Made and Taxes Withheld. - Every withholding agent required to deduct and withhold taxes under Section 57 shall furnish each recipient, in respect to his or its receipts during the calendar quarter or year, a written statement showing the income or other payments made by the withholding agent during such quarter or year, and the amount of the tax deducted and withheld therefrom, simultaneously upon payment at the request of the payee, but not later than the twentieth (20th) day following the close of the quarter in the case of corporate payee, or not later than March 1 of the following year in the case of individual payee for creditable withholding taxes. For final withholding taxes, the statement should be given to the payee on or before January 31 of the succeeding year.

invoices (SI), billing statements (BS), journal vouchers (JV) and credit memos (CM) linked to the submitted BIR Forms No. 2307. The amounts were then traced back to the Breakdown of Service Agreement Fees and Other Taxable Income for CY 2019 from the [general ledger (GL)].

The ICPA's examination shows that the income payments corresponding to the substantiated CWTs were properly traced and reported in the 2019 Annual ITR, except for the amount of [Php]265,252.28 (as detailed below), with corresponding CWTs of [Php]5,305.05, which could not be traced to revenue entries in the GL...

xxx xxx xxx

The Court concurs with the foregoing findings of the ICPA, noting a minimal adjustment ([Php]0.50 reduction) of [Php]0.50 to account for a discrepancy between the actual income payment amount of [Php]12,336,350.00 for Global Trade Energy Resources, Corp. per BIR Form No. 2307 and the income payment amount of [Php]12,336,350.50 used by the ICPA. As such, the income payments not traced as part of the income declared in the ITR for CY 2019 actually amount to [Php]265,251.78 ([Php]265,252.28 less [Php]0.50), with corresponding CWTs of [Php]5,305.04 (2% of [Php]265,251.78).

Accordingly, out of the substantiated CWTs of [Php]11,254,080.00, only [Php]11,248,774.96 satisfies the *third* requirement..."[36]

Having met all the conditions for the CWT refund, Respondent was able to overturn the principle of regularity and the doctrine that tax refunds are strictly construed against the taxpayer. There is no other conclusion but to grant Respondent's claim.

Considering all these pronouncements, We find no cogent reason to reverse or modify the Assailed Decision and Assailed Resolution of the Court *a quo*.

ACCORDINGLY, premises considered, the instant Petition for Review is **DENIED** for lack of merit. The Decision dated November 18, 2024 and Resolution dated February 25, 2025 of the First Division in CTA Case No. 10869 are **AFFIRMED**.

[36] *Id.*, Decision, pp. 981-982.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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
Presiding Justice