CTA Form No. 8 (For DCC)

19-000154-0080

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10056

AYALA CORPORATION,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
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Makati City

GREETINGS:

You are hereby notified by these presents that on **March 8, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 11, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

AYALA CORPORATION, Petitioner,	**CTA CASE NO. 10056**
	Members:
- versus -	DEL ROSARIO, *P.J.*, Chairperson, MANAHAN, and, REYES-FAJARDO , *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 08 2024 3:00PM

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RESOLUTION

DEL ROSARIO, P.J.:

For resolution is respondent's **Motion for Partial Reconsideration (Re: Decision promulgated on 11 December 2023)**[1] filed on December 21, 2023, with petitioner's **Opposition**[2] filed on February 1, 2024, which prays for the reversal and setting aside of the Court's Decision dated December 11, 2023 and, ultimately, the denial of the entire claim for refund.

The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **PARTIALLY GRANTED**. Respondent is ordered to issue a TCC in favor of petitioner in the reduced amount of **₱209,295,557.96**, representing the latter's total excess and unutilized CWTs for CYs 2016 and 2017.
>
> **SO ORDERED.**"[3]

[1] Docket, Vol. IV, pp. 1635-1643.
[2] Id. at 1645-1649.
[3] Id. at 1633.

Respondent claims that the Court erred in ruling that petitioner is entitled to refund of excess and unutilized creditable withholding tax (CWT) for calendar years (CYs) 2016 and 2017. Respondent submits that:

1. petitioner's documentary evidence failed to sufficiently establish direct linkage between the CWTs and the income as reflected in the Annual Income Tax Return;

2. it is incumbent upon petitioner to prove actual remittance of the alleged withheld taxes to the Bureau of Internal Revenue (BIR);

3. petitioner failed to comply with the requirements set forth under Revenue Memorandum Order (RMO) No. 53-98[4] and Revenue Regulations (RR) No. 2-2006;[5]

4. petitioner failed to present the withholding agents to verify the Certificates of Creditable Tax Withheld at Source; and,

5. tax refunds, being in the nature of tax exemptions, are construed *strictissimi juris* against the claimant and liberally in favor of the taxing authority.

On the other hand, petitioner, in its Opposition, avers that the motion for partial reconsideration must be denied and the assailed Decision must be affirmed because:

1. petitioner sufficiently established the link between its CWTs and reported income for CYs 2016 and 2017;

2. it complied with the requirements of RMO No. 53-98 and RR No. 2-2006, with some of the documents already being part of the quarterly and annual reports submitted to the BIR, all of which were made available to respondent; and,

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[4] Subject: Checklist of Documents to be Submitted by a Taxpayer upon Audit of [his/her] Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which comprise a Complete Tax Docket, dated June 1, 1998.

[5] Subject: Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld At Source (SAWT) to Tax Returns With Claimed Tax Credits due to Creditable Tax Withheld at Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments, dated December 1, 2005.

3. the presentation of the withholding agents and proof of actual remittance of taxes withheld are not required based on previous cases decided by the Supreme Court.

After due deliberation, the Court finds respondent's Motion for Partial Reconsideration patently frivolous.

Respondent merely repeats the very same arguments raised in his Answer[6] and Memorandum,[7] which have been considered and found unmeritorious in the assailed Decision.

As to the alleged lack of direct linkage between petitioner's CWT and income, the Court has made a thorough examination of the latter's tax returns and general ledgers, which provided substantiation for the specific income items from which the creditable withholding taxes may be traced, as detailed in pages 20 to 32 of the assailed Decision.[8]

On the proof of actual remittance of CWT, the Court reiterates that it is not a condition to claim refund of unutilized tax credits. Moreover, it is not necessary for the withholding agent/payor to authenticate the Certificate of Creditable Tax Withheld at Source. As discussed on pages 16 to 20 of the assailed Decision,[9] these issues have been settled in *Commissioner of Internal Revenue vs. Philippine National Bank.*[10] Respondent cannot feign ignorance nor insist on a contrary stance from the categorical pronouncement therein as Supreme Court decisions applying or interpreting the laws form part of the legal system of the Philippines.[11]

Anent petitioner's alleged failure to comply with the requirements set forth in RMO No. 53-98 and RR No. 2-2006, perusal of both issuances discloses that nothing therein states that non-compliance with its provisions shall result in the denial of a claim for refund. Further, it is settled that RMO No. 53-98 itself does not require the submission of all the documents listed therein before a taxpayer may be entitled to a refund. *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*,[12] instructs:

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[6] Docket, Vol. I, pp. 110-119.
[7] Docket, Vol. IV, pp. 1287-1301.
[8] Id. at 1621-1633.
[9] Id, at 1617-1621.
[10] G.R. No. 180290, September 29, 2014.
[11] Civil Code, Article 8. Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines.
[12] G.R. No. 207112, December 8, 2015.

> "As can be gleaned from the above, RMO No. 53-98 is addressed to internal revenue officers and employees, for purposes of equity and uniformity, to guide them as to what documents they may require taxpayers to present upon audit of their tax liabilities. **Nothing stated in the issuance would show that it was intended to be a benchmark in determining whether the documents submitted by a taxpayer are *actually* complete to support a claim for tax credit or refund of excess unutilized excess VAT.** Xxx" (Boldfacing added)

While *Pilipinas Total Gas, Inc.* involves a claim for tax refund or credit of unutilized VAT, the Court finds the discussion on RMO No. 53-98 therein applicable to a claim for tax refund or issuance of a tax credit certificate of unutilized CWT.

All told, non-compliance with RMO No. 53-98 and RR No. 2-2006 is not fatal to a refund claim. Once the claim for refund reaches the judicial level or when the case is elevated to the court, the Rules of Court governs. Simply put, the question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court.[13] Pages 7 to 33[14] of the assailed Decision detail the basis of the partial grant of petitioner's refund claim.

Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the assailed Decision, it behooves respondent to convince the Court that certain findings or conclusions in the assailed Decision are contrary to law. As it is, however, the present motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.[15] Thus, there is no compelling reason for the Court to modify much more reverse its assailed Decision.

WHEREFORE, premises considered, the present Motion for Partial Reconsideration (Re: Decision promulgated on 11 December 2023) filed on December 21, 2023 is hereby **DENIED** for lack of merit.

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[13] Id.
[14] Docket, Vol. IV, pp. 1608-1633.
[15] *Shangri-La International Hotel Management, Ltd., et. al, vs. Developers Group of Companies, Inc.*, G.R. No. 159938, January 22, 2007.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice