REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 958 (CTA CASE NO. 8030)**
	Present:
-versus-	**Del Rosario**, *P.J.*, **Castañeda**, **Bautista**, **Uy**, **Casanova**, **Fabon-Victorino**, **Mindaro-Grulla**, **Cotangco-Manalastas**, and **Ringpis-Liban** *JJ.*
GOVERNMENT OF SINGAPORE INVESTMENT CORPORATION PTE., LTD. *Respondent.*	Promulgated: MAR 31 2014 CNApolinario 9:05 a.m.

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DECISION

RINGPIS-LIBAN, J.:

This is a Petition for Review filed by the Commissioner of Internal Revenue ("CIR") seeking to set aside the Decision[1] and the Resolution[2] rendered by the Court of Tax Appeals ("CTA") Third Division ("Court in Division") in CTA Case No. 8030 entitled *"Government of Singapore Investment Corporation Pte., Ltd. vs. Commissioner of Internal Revenue."* The assailed Decision granted the Petition for Review filed by the Government of Singapore Investment Corporation Pte., Ltd. ("GSIC") and ordered the CIR to refund or issue a tax credit certificate in favor of GSIC in the amount

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[1] Third Division, Docketed as CTA EB Case No. 958. Penned by Associate Justice Olga Palanca-Enriquez and concurred in by Associate Justice Lovell R. Bautista (Chair) and Associate Justice Amelia Contangco-Manalastas (Member); *Rollo,* pp. 22 to 38, *Annex "A."*

[2] *Rollo*, pp. 39 to 40, *Annex "B."*

of P12,968,416.70 representing erroneously withheld final tax. The assailed Resolution denied CIR's Motion for Reconsideration for lack of merit.

THE FACTS

On October 12, 1990, the GSIC entered into a Custody Agreement with the Philippine Branch of Hongkong Shanghai Banking Corporation ("HSBC"), whereby GSIC appointed HSBC as custodian of GSIC's securities and other properties in the Philippines.

On May 20, 1999, GSIC also entered into a Direct Custodial Services Agreement ("DSCA") with Citibank, N.A. ("Citibank"), whereby GSIC appointed the designated subsidiaries and affiliates of Citibank as its custodian, entitling them to hold certain assets of petitioner.

GSIC, through its custodians in the Philippines, invested in various Treasury Bonds ("T-Bonds") with maturities of more than one (1) year. As custodians, HSBC and Citibank were responsible for facilitating GSIC's investments in T-Bonds and for safekeeping the T-Bonds that GSIC acquired. HSBC and Citibank were also responsible for collecting the coupons/interest due on petitioner's T-Bonds holdings when they fell due on coupon date, and for crediting the same into GSIC's custody accounts.

During the period from February 2008 to November 2009, GSIC derived interest income from its investments in T-Bonds amounting to P64,842,083.53, which was subjected to a Final Withholding Tax ("FWT") at the rate of twenty percent (20%), or a total amount of P12,968,416.71[3].

The FWT on GSIC's interest income from T-Bonds were withheld and remitted to the Bureau of Internal Revenue ("BIR") by the Bureau of Treasury ("Btr").

On December 29, 2009, GSIC filed with the BIR a written claim for refund or issuance of Tax Credit Certificate ("TCC") in the amount of P12,968,416.71, representing the FWT erroneously withheld on interest income derived by GSIC during the period from February 2008 to November 2009 from its investments in T-Bonds.

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[3] *Rollo*, pp. 24 to 25, *Annex "A"*.

In order to preserve its right and toll the running of the prescriptive period for filing judicial claim, GSIC filed a Petition for Review on February 12, 2010 before the Court in Division.

In her Answer, the CIR alleged by way of special and affirmative defenses that GSIC's alleged claim for refund is subject to administrative investigation by the BIR; that GSIC must prove that the administrative and judicial claims were filed within the period prescribed by law; that in claims for refund, a claimant must first file a written claim for refund to recover overpaid taxes with the CIR before resorting to court action in order to afford the CIR an opportunity to correct the action of subordinate officers and to notify the government that such taxes have been questioned; that GSIC is mandated to present evidence to support its administrative claim and such evidence will be used as basis for the decision of the quasi-judicial body; and that in an action for refund, the burden of proof is on the taxpayer to establish its right to refund failing which the claim for refund must fail.

As previously stated, after trial on the merits, the Court in Division rendered the assailed Decision on September 5, 2012. The Motion for Reconsideration filed by the CIR was denied for lack of merit.

Hence, the CIR filed this Petition for Review before the Court *En Banc* on the following grounds:

1. That GSIC miserably failed to establish that it is wholly-owned and controlled by the Government of Singapore;

2. That pieces of evidence proffered by GSIC are insufficient to prove that it actually paid FWT; and

3. That claims for refund are construed strictly against the taxpayer and in favor of the government.

GSIC filed its Comment[4] on March 8, 2013.

In a Resolution[5] dated April 3, 2013, this Court resolved to give due course to the Petition for Review and required the parties to

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[4] *Rollo*, pp. 52 to 69.
[5] *Rollo*, pp. 72 to 73

submit their respective Memoranda within thirty (30) days from notice. GSIC filed its Memorandum on May 27, 2013. On May 17, 2013, the CIR filed a Manifestation[6] stating that she is adopting the arguments raised in her Petition for Review. Thereafter, this case was submitted for decision.

THE COURT EN BANC'S RULING

We deny the Petition for Review.

The CIR argues that the Court in Division erred in ruling that GSIC is entitled to a claim for refund because GSIC failed to establish that it is a financial institution wholly owned and controlled by the Government of Singapore. As basis, the CIR cited the fact that some of the signatories to the Certification[7] were not presented in Court.

This argument is without merit.

Sections 19, 23, 24 and 30 of Rule 132 of the Rules of Court provides:

> "SEC. 19. *Classes of documents.* – For the purpose of their presentation in evidence, documents are either public or private.
>
> Public documents are:
>
> (a) The **written official acts, or records of the official acts of the sovereign authority**, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
>
> (b) **Documents acknowledged before a notary public** except last wills and testaments;
>
> (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.
>
> All other writings are private."
>
> "SEC. 23. *Public documents as evidence.* – Documents consisting of entries in public records **made in the performance of a duty by a public officer** are *prima facie* evidence of the facts stated therein. All other public documents are evidence, even

[6] *Rollo*, pp. 74 to 75.
[7] CTA Docket, pp. 221 to 223

> against a third person, of the fact which gave rise to their execution and of the date of the latter.
>
> SEC 24. *Proof of official record.* – The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an **official publication thereof** or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice-consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office."
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> "SEC. 30. *Proof of notarial document.* – Every instrument duly acknowledged or proved and certified as provided by law, **may be presented in evidence without further proof**, the certificate of acknowledgement being prima facie evidence of the execution of the instrument or documents involved."*(Underscoring and emphasis ours)*

A perusal of the questioned document shows that it is a Certification issued by Li Chang Jin, Deputy Director (Investment & Reserves) for Permanent Secretary (Finance), the Ministry of Finance of the Republic of Singapore attesting that GSIC is a financial institution wholly owned and controlled by the Government of Singapore. This was further attested to and acknowledged before Tan Jin Hwee, a Notary Public in Singapore, and Nathaniel G. Imperial, Consul General of the Republic of the Philippines in Singapore who issued a Certificate of Authentication acknowledging the due execution of the documents in question.

Under the above quoted rules, the document is a public document and may be presented in evidence without further proof, the certificate of acknowledgement being prima facie evidence of the execution of the same document.

That GSIC is a financing institution wholly-owned and controlled by the Government of Singapore is an issue that had been settled in CTA Case No. 6745 promulgated on June 6, 2008, and CTA Case No. 7726 promulgated on April 29, 2010, involving the same parties. This Court had ruled in those cases that GSIC is financing institution wholly-owned and controlled by the Government of Singapore and is exempt from FWT on interest income from its T-Bonds pursuant to Section 32(B)(7)(a) of the NIRC of 1997, as amended, which provides:

"Section 32(B)(7)(a) of the NIRC of 1997, as amended, provides:

> 'SEC. 32. *Gross Income.* –
>
> xxx xxx xxx
>
> (B) Exclusions from Gross income. — The following items shall not be included in gross income and shall be exempt from taxation under this Title:
>
> xxx xxx xxx
>
> (7) Miscellaneous Items. —
>
> (a) Income Derived by Foreign Government. — Income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by (i) foreign government, (ii) **financing institutions owned, controlled, or enjoying refinancing from foreign governments**, and (iii) international or regional financial institutions established by foreign governments.'

In relation to Section 2.57.5 of Revenue Regulations No. 2-98, *as amended*, which provides:

> "Section 2.57.5. Exemption from Withholding. — The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following:
>
> xxx xxx xxx
>
> (B) **Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, such as but not limited to the following**:
>
> xxx xxx xxx."

Pursuant to the above provisions, for the interest income received by GSIC from its investments in T-Bonds to be exempt from income tax, and consequently from FWT, GSIC must either be a *(1)* foreign government, or *(2)* a financing institution owned or controlled by, or enjoying refinancing from, foreign governments, or *(3)* an international or regional financial institution established by foreign governments.

In this Petition for Review, the CIR also avers that the pieces of evidence proffered by GSIC are insufficient to prove that it had actually paid FWT.

Section 229 of the Tax Code of 1997, as amended, provides the requirements that a taxpayer must comply with in order to be entitled to a refund. The Court in Division correctly ruled that GSIC has sufficiently proven that it had complied with the said requirements entitling it to a refund of erroneously paid internal revenue taxes. We quote below the relevant portion of the Decision:

> "However, in order for petitioner to be entitled for a refund of erroneously paid taxes, petitioner must comply with the requisites provided by law.
>
> In this regard, Section 229 of the NIRC of 1997, as amended, provides:
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>> "**SEC. 229. Recovery of Tax Erroneously or Illegally Collected.** — <u>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, of any sum alleged to have been excessively or in any manner wrongfully collected without authority,</u> <u>**until a claim for refund or credit has been duly filed with the Commissioner**</u>; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>>
>> <u>*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*</u>: Provided, however, That the Commissioner may, even without a written claim therefore, 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."*(Underscoring and emphasis supplied)*

The above provision allows the taxpayer recovery of any:

1) National internal revenue tax that has been erroneously collected;

2) National internal revenue tax that has been illegally collected;

3) Penalty claimed to have been collected without authority; or

4) Any sum that has been excessively or in any manner wrongfully collected,

within a period of two (2) years from the date of payment of the tax, regardless of any supervening cause that may arise after payment.

Hence, pursuant to Section 229, a taxpayer to be entitled for a refund, the following requisites must be proven: (1) that the tax has been erroneously or illegally collected, or the penalty has been collected without authority, and/or any sum has been excessively or in any manner wrongfully collected; and (2) the claim for refund or credit must have been filed within two (2) years from the date of payment of the tax, or penalty, regardless of any supervening cause that may arise after payment."

First Requisite: Tax has been erroneously or illegally collected

Pursuant to Section 32(B)(7)(a) of the NIRC of 1997, as amended, the interest income earned by petitioner from its investments in Philippine T-Bonds is exempt from income tax. Therefore, the 20% final tax withheld from the interest income earned was erroneously or illegally collected.

xxx xxx xxx

Second Requisite: Claim for refund filed within two (2) years from the date of payment of the tax

Records show that the Bureau of Treasury remitted and paid to the BIR the FWT on the first coupon payment on February 22, 2008 *(Exhibit "E-1")*. Counting two (2) years from February 22, 2008, petitioner had until February 22, 2010, within which to file its claim for refund/tax credit certificate both administratively and judicially. Therefore, both petitioner's administrative claim for refund filed on December 29, 2009 and judicial claim filed on February 12, 2010 were filed within the two-year prescriptive period. Clearly, the second requirement has been complied with."

The CIR contends that GSIC's failure to present *BIR Form 1602*[8] during the administrative proceedings before the BIR to establish that tax had been erroneously collected is fatal to its claim for refund. The CIR posits that GSIC's administrative claim for refund is merely *pro forma* and the failure of the latter to submit the document in question, both in the administrative and the judicial level has deprived the Commissioner an opportunity to fully consider the merits of the claim for refund.

We disagree.

The Court *En Banc* recognizes the necessity for GSIC to set out the factual bases for its claim for refund. Not only is it necessary for GSIC to satisfy this Court that it is entitled under substantive law to the grant of its claim but that it has also provided all the evidence required, documentary or otherwise, to prove its compliance with all the requirements for entitlement under the law.

In this case, respondent has sufficiently established the propriety of its claim for a tax refund through other material and relevant pieces of documentary evidence despite not having submitted *BIR Form 1602* in the administrative proceedings.

The following were submitted by respondent GSIC during trial in the Court in Division:

1.) Bureau of Treasury (BT) Certification[9] dated December 10, 2009 confirming the amount of interest income derived by the T-Bonds recorded under HSBC's Registry of Securities (ROSS) Custodian Account during the period from February 1, 2008 to February 28, 2008 and the amounts of final tax withheld therefrom*(Exhibit "D")*;

2.) Bureau of Treasury's Letter[10] dated December 22, 2009 covering the Journal Entry Vouchers and other documents evidencing the remittance to the BIR of the FWT's on coupon payments to HSBC's ROSS Custodian Account *(Exhibit "E")*;

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[8]Monthly Remittance of Final Income Taxes Withheld (All Interest Paid on Deposits and Yield on Deposit Substitutes / Trust / etc.).
[9] CTA Docket, p. 232.
[10] CTA Docket, p. 233.

3.) Bureau of Treasury's Statement of Final Withholding Taxes and Remittances[11] to BIR for the coupon payments to HSBC's Custodians Account for the period from February 2008 to November 2009 *(Exhibit "E-1")*;

4.) BIR Revenue Accounting Division (RAD) Certification No. RAD-10-08-168-Cert.[12] dated August 27, 2010 confirming the receipt of the FWT's due on the Bureau of Treasury's coupon payments to HSBC's ROSS Custodian Account for the period from February 2008 to December 2008 *(Exhibit "V")*;

5.) Bureau of Treasury Certification[13] dated May 12, 2010 confirming the amount of interest income derived by the T-Bonds recorded under Citibank's ROSS Custodian Account on September 3, 2009 and the amounts of final tax withheld therefrom *(Exhibit "I")*;

6.) Bureau of Treasury's Letter[14] dated February 3, 2011 covering the Statement of FWT and remittances for Citibank's ROSS Custodian Account for the period from September 1, 2009 to September 30, 2009 *(Exhibit "AA")*;

7.) Bureau of Treasury's Letter[15] dated September 29, 2010 covering the Journal Entry Vouchers evidencing withholding and remittance to the BIR of the FWT on the coupon payments on September 3, 2009, inclusive of the T-Bonds holdings of Citibank as custodian *(Exhibit "BB")*;

8.) Bureau of Treasury's Statement of Final Withholding Taxes and Remittances for Citibank's ROSS Custodian Account[16] for the period from September 1, 2009 to September 30, 2009 *(Exhibit "AA-1")*; and

9.) BIR Revenue Accounting Division Certification No. RAD-11-03-011-Cert.[17] dated March 7, 2011 confirming the receipt of the FWTs due on the Bureau of Treasury's coupon payments

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[11] CTA Docket, p. 234.
[12] CTA Docket, p. 359.
[13] CTA Docket, p. 272.
[14] CTA Docket, p. 392.
[15] CTA Docket, p. 395.
[16] CTA Docket, p. 393.
[17] CTA Docket, p. 398.

to Citibank's ROSS Custodian Account in September 2009 *(Exhibit "CC")*.

As correctly found by the Court in Division:

> "A perusal of the Certification dated December 10, 2009 (*Exhibit "D"*) shows that the Bureau of Treasury certified that the FWT in the total amount of P110,795,872.02 was withheld from the coupons due to the T-Bonds holdings under HSBC-Custodian Account for the period of February 1 to 28, 2008. In addition, the BIR Revenue Accounting Division Certification No. RAD-10-08-168-Cert., dated August 27, 2010 (*Exhibit "V"*) confirmed the receipt of the FWT due on Bureau of Treasury's coupon payments to HSBC's ROSS Custodian Account for the period of February 2008 to December 2008.
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> "In the sworn statement of Reinard Alexander Cuvin (*Exhibit "W"*) he attested to the fact that the amount of P7,398,416.71, which was part of the P110,795,872.02 withheld by the Bureau of Treasury from HSBC's ROSS Custodian Account, was petitioner's FWT on its gross coupon entitlement on its investments in T-Bonds for the period of February 2008 to December 2008.
>
> As regards petitioner's investments in T-Bonds under the custody of Citibank, perusal of the Certification, dated May 12, 2010 *(Exhibit "I")* shows that the Bureau of Treasury withheld the amount of P14,049,663.81 from the coupons due to the T-Bonds holdings under Citibank-Custodian Account for the period of September 1 to 30, 2009. This was confirmed by the BIR Revenue Accounting Division Certification No. RAD-11-03-011-Cert., dated March 7, 2011. Out of the P14,049,663.81 withheld from Citibank, P5,570,000.00 pertains to petitioner's FWT on gross coupon entitlement, as attested to by Celeste F. Guevarra-Tanseco in her Supplemental Sworn Statement *(Exhibit "EE")*.
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> In sum, petitioner's FWT on its investment in T-Bonds under HSBC and Citibank's ROSS Custodian Accounts amounts to P12,968,416.70."

In addition to the above quoted findings, noteworthy is the fact that the Bureau of Treasury indiscriminately withheld final taxes on interest at the rate of twenty percent (20%) on all of its coupon payments regardless of identity, nationality and tax status of the T-Bond owners, which proves that it has no knowledge as to the identity of the owners of the T-Bonds held under the custody of HSBC and Citibank.

On the basis of the Statement of FWT and Remittances to BIR[18] and supporting Journal Entry Vouchers, respondent GSIC had satisfactorily proven that the Bureau of Treasury withheld twenty percent (20%) FWT and remitted the same to the BIR, as confirmed by the RAD.

Moreover, the BIR Revenue Officers in charge of GSIC's administrative claim for refund submitted a Memorandum Report[19] recommending the grant of GSIC's claim based on the aforecited evidence. The Memorandum Report states:

> "Based on the above-quoted provision and ruling, it is clear that the income received from investments/domestic securities in the Philippines by financing institutions owned and controlled by foreign governments are exempt from income tax.
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> Determination of the amount claimed for refund is shown in Annex A of this report. Please note that the investments in Bonds were placed several dates with different annual interest rates and maturity dates. Attached to this docket are documents evidencing placements of bonds (Confirmation of Sale of T-Bonds to taxpayer) HSBC and Citibank's custody and clearing report for taxpayer's custody accounts, journal entry vouchers to support remittances to the BIR of final withholding taxes, certifications from the Bureau of Treasury on interest income derived and the final taxes withheld therefrom and certification from Revenue Accounting Division confirming receipt of the final taxes withheld.
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> **RECOMMENDATION**
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> In view of the foregoing, the undersigned Revenue Officers respectfully recommend that the claim for refund of the Government of Singapore Investment Corp. with the amount of Php12,968,416.71 be approved and respectfully submits this docket for review of higher authorities."

It is established that Certifications issued by the BIR constitute sufficient proof of the remittance and payment of FWT on T-Bonds to the BIR. In *International Exchange Bank vs. Commissioner of Internal Revenue*[20], this Court granted therein petitioner's claim for refund of the FWT on interest income from investment in T-Bonds on the basis of the Certification issued by the Bureau of Treasury. The Certification proved that the details of T-Bonds indicated therein

[18]Hongkong and Shanghai Banking Corportion – Custody Account for the period of February 1 – 28, 2008, signed and certified correct by Marites B. Masarap, Chief, NGDAD, *Rollo*, p.234.
[19]*Exhibit "GG-1"*, CTA Docket, pp. 500 to 501.
[20]CTA Case No. 7113, September 12, 2008.

were received by therein petitioner, net of the 20% FWT which was already remitted to the BIR.

On the basis of the foregoing, this Court resolves that the Court in Division was correct in finding that GSIC has sufficiently proven that it actually paid the twenty percent (20%) FWT contrary to the contention of the Commissioner.

It is a principle of law that tax refunds are in the nature of tax exemptions and are to be construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. The Supreme Court held that one who claims an exemption must be able to justify the same by the clearest grant of organic or statute law. An exemption from the common burden cannot be permitted to exist upon vague implications. (*Commissioner of Internal Revenue vs. Isabela Cultural Corporation* [21]) However, the rule on strict interpretation of tax exemption does not justify a denial of a claim for refund where the taxpayer has sufficiently proven the factual and legal basis for its exemption and the fact of payment of the same to the taxing authorities.

Accordingly, this Court rules that the documents admitted in evidence unequivocally show that the FWTs arising from GSIC's investment in T-Bonds were erroneously withheld and remitted to the BIR. Conversely, the Commissioner must refund GSIC the taxes it had paid for the period from February 2008 to November 2009.

In *Commissioner of Internal Revenue vs. Tokyo Shipping Co. Ltd. Et al*[22], the Supreme Court stated:

> "This is not, however, the kind of success the government, especially the BIR, needs to increase its collection of taxes. Fair deal is expected by our taxpayers from the BIR and the duty demands that the BIR should refund without unreasonable delay what it has erroneously collected. Our ruling in *Roxas vs. Court of Tax Appeals* is apropos to recall:
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>> "The power of taxation is sometimes called also the power to destroy. Therefore it should be exercised with caution to minimize injury to the proprietary rights of a taxpayer. It must be exercised fairly, equally and uniformly, lest the tax collector kill the 'hen that lays the golden egg.' And in order to maintain the general public's trust and confidence in

[21] G.R. No. 172231, February 12, 2007.
[22] G.R. No. 68252, May 26, 1995.

> the Government this power must be used justly and not treacherously."

In the interest of good faith and fairness, the government should not unjustly enrich itself at the expense of the taxpayer. The principle of *solutio indebiti* is applicable in this case since the BIR received payment that it is not entitled to. Under such principle, the government is obligated to return to the taxpayer the taxes collected through error or mistake. As the Supreme Court held in *BPI Family Savings Bank vs. Court of Appeals*[23]:

> "Technicalities and legalism, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich himself *(sic)* at the expense of the law abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standards against itself in refunding taxes."

Verily, we hold that GSIC has sufficiently established that it is a financial institution wholly owned and controlled by the Government of Singapore; that it paid income tax on interest despite its exemption; and that as a tax-exempt entity, it is entitled to a refund from its payment of erroneously withheld FWT.

In fine, the Court *En Banc* finds no valid justification to compel a modification or reversal of the assailed decision and resolution.

WHEREFORE, premises considered, finding no error in the appealed Decision, the Petition for Review is hereby **DENIED**. The appealed Decision dated September 5, 2012 is hereby **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[23] G.R. No. 122480, April 12, 2000.

WE CONCUR:

Roman G. del Rosario
ROMAN G. DEL ROSARIO
Presiding Justice

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

(On Leave)
LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of this Court.

ROMAN G. DEL ROSARIO
Presiding Justice