CTA Form No. 8

21-000151-0056

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10503

SERVICE RESOURCES, INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. LIEZL G. BOHOL
Bureau of Internal Revenue-Revenue Region No. 7B
25th Floor, Legal Division, The Podium West Tower
12 ADB Avenue, Ortigas Center
Mandaluyong City

D U-BALADAD & ASSOCIATES
20th Floor, Chatham House
Rufino corner Valero Street
Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **July 5, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 9, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

SERVICE RESOURCES, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10503

Members:

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

Promulgated:

JUL 0 5 2024

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DECISION

MANAHAN, *J.:*

This Petition for Review filed on April 12, 2021[1] by petitioner Service Resources, Inc., prays that judgment be rendered ordering respondent Commissioner of Internal Revenue (CIR), to refund or issue a tax credit certificate (TCC) in favor of petitioner the total amount of ₱20,695,542.15 representing its unutilized creditable withholding taxes (CWTs) for taxable year (TY) 2018.[2]

THE PARTIES

Petitioner Service Resources, Inc. is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with office address located at the Ground Floor, First Capitol Place, 1st St. cor. Phil-am Street, Bo. Kapitolyo, Pasig City, Metro Manila Philippines.[3] It is registered with the Securities and Exchange Commission on August 22, 1979 with Company Registration No. 87995 of even date;[4] and

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[1] By electronic mail (email).
[2] Prayer, *Petition for Review*, Docket – Vol. I, p. 27.
[3] Par. 1, Summary of Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 144.
[4] Par. 3, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 145; Exhibit "P-4", Docket – Vol. II, pp. 536 to 545.

with the Bureau of Internal Revenue (BIR) with Certificate of Registration (OCN) No. 3RC0000466898 and Tax Identification No. 000-144-156-000.[5]

Respondent is the Commissioner of the BIR, the government agency vested with the authority to administer and enforce national internal revenue taxes, including, among others, the power to credit or refund internal revenue taxes erroneously or excessively or illegally paid, assessed or collected. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City. He is represented by the lawyers of the Legal Division of BIR Revenue Region No. 7B-East NCR with office address at 25th Floor, The Podium West Tower, ADB Avenue, Mandaluyong City, where he may be served with summons, notices and other court processes.[6]

FACTS

On April 12, 2019, petitioner filed its Annual Income Tax Return (BIR Form No. 1702-RT) [Annual ITR] for TY 2018, which reflected an overpayment of ₱40,739,501.00,[7] computed as follows:

Total Income Tax Due		1,619,380.00
Less: Total Tax Credits/Payments		
Prior Year's Excess Credits Other Than Minimum Corporate Income Tax (MCIT)	21,663,339.00	
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	15,571,862.00	
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	5,123,680.00	42,358,881.00
Total Amount Payable (Overpayment)		**(40,739,501.00)**

Petitioner marked the option "To be refunded" for overpayment in the said Annual ITR for TY 2018.

On August 26, 2020, petitioner filed with the BIR, Revenue District Office No. 43, an Application for Tax Credits/Refunds

[5] Par. 4, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 145; Exhibit "P-7", Docket – Vol. II, p. 575.
[6] Par. 2, Summary of Admitted Facts, JSFI, Docket – Vol. I, pp. 144 to 145.
[7] Exhibit "P-1", Docket – Vol. II, pp. 522 to 530.

(BIR Form No. 1914),[8] and a letter dated August 4, 2020,[9] requesting for the refund of its unutilized CWTs for TY 2018, in the amount of ₱20,695,542.15.

On May 17, 2021, petitioner filed a Submission with Manifestation,[10] stating therein that it filed by electronic mail (e-mail) on April 12, 2021, the present Petition for Review, thereby submitting hard copies thereof.[11]

Respondent filed his Answer on November 8, 2021.[12]

The Pre-Trial Conference was initially set on February 17, 2022,[13] but upon respondent's motion,[14] was reset and held on April 7, 2022,[15] wherein respondent manifested that he will no longer present witnesses. Prior thereto, petitioner's Pre-Trial Brief was filed on February 8, 2022,[16] while Respondent's Pre-Trial Brief was submitted on April 5, 2022.[17]

On April 8, 2022, respondent transmitted the BIR Records for the present case, consisting of 289 pages, in one (1) folder.[18]

On April 27, 2022, the parties submitted their Joint Stipulation of Facts and Issues,[19] which was approved by the Court in the Resolution dated May 17, 2022,[20] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated May 26, 2022 was then issued.[21]

As trial ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following

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[8] Exhibit "P-2", Docket – Vol. II, p. 531.
[9] Exhibit "P-3", Docket – Vol. II, pp. 532 to 535.
[10] Docket – Vol. I, pp. 6 to 8.
[11] Docket – Vol. I, pp. 10 to 35.
[12] Docket – Vol. I, pp. 73 to 77.
[13] *Notice of Pre-Trial Conference* dated November 25, 2021, Docket – Vol. I, pp. 79 to 81.
[14] *Very Urgent Motion for Resetting of Hearing (Scheduled on February 17, 2022)*, electronically filed on February 15, 2022, Docket – Vol. I, pp. 100 to 103. The hard copy thereof was received by the Court on February 17, 2022, Docket – Vol. I, pp. 106 to 108.
[15] Order dated February 15, 2022, Docket – Vol. I, p. 105; Minutes of the hearing held on, and Order dated, April 7, 2022, Docket – Vol. I, pp. 119 to 124.
[16] Docket – Vol. I, pp. 82 to 97.
[17] Docket – Vol. I, pp. 114 to 116.
[18] Respondent's *Compliance with Manifestation and Explan[a]tion* dated April 8, 2022, Docket – Vol. I, pp. 127 to 128.
[19] Docket – Vol. I, pp. 144 to 152.
[20] Docket – Vol. I, p. 218.
[21] Docket – Vol. I, pp. 220 to 237.

individuals, namely: (1) Ms. Ma. Kristina Barza,[22] petitioner's Finance Manager; and (2) Ms. Normita L. Villaruz,[23] the Court-commissioned Independent Certified Public Accountant (ICPA).[24]

The Report and Supplemental Report of the ICPA were submitted on July 26, 2022 and August 16, 2022, respectively.[25]

Petitioner filed its Formal Offer of Evidence on October 7, 2022,[26] to which respondent filed his Comment [Re: Petitioner's Formal Offer of Evidence] on October 20, 2022.[27] In the Resolution dated December 5, 2022,[28] the Court admitted petitioner's offered exhibits, except for (1) Exhibits "P-1-A", "P-1-B", "P-1-C", "P-2-A", "P-3-A", "P-8-A", and "P-11-A", for petitioner's failure to submit the duly marked exhibits; (2) Exhibits "P-7-A to "P-7-F", for petitioner's failure to submit the originals for comparison; (3) Exhibits "P-576", and "P-3856" to "P-3864", for being illegible; and (4) Exhibit "P-4163", for not being found in the records of the case.

Thereafter, upon petitioner's Motion for Reconsideration, which was filed on January 20, 2023,[29] and respondent having failed to file a comment,[30] the Court, in the Resolution dated May 23, 2023,[31] admitted Exhibits "P-1-A", "P-1-B", "P-1-C", "P-2-A", "P-3-A", "P-8-A", "P-11-A", and "P-4163", while Exhibits "P-576", and "P-3856" to "P-3864", were still denied admission.

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[22] Exhibit "P-38", Docket – Vol. I, pp. 40 to 60; Minutes of the hearing held on, and Order dated, June 21, 2022, Docket – Vol. I, pp. 240 to 240-B, and 241 to 243, respectively.
[23] Exhibits "P-39" and "P-44", Docket – Vol. I, pp. 389 to 405, and pp. 417 to 431, respectively; Minutes of the hearing held on, and Order dated, August 16, 2022, Docket – Vol. I, pp. [489] to 491; and Order dated September 20, 2022, Docket – Vol. I, pp. 503 to 503-A.
[24] *Oath of Commission* dated June 21, 2022, Docket – Vol. I, p. 240-C; Minutes of the hearing held on, and Order dated, June 21, 2022, Docket – Vol. I, pp. 240 to 240-B, and 241 to 243, respectively.
[25] Exhibits "P-40" and "P-43", Docket – Vol. I, pp. 272 to 381, and 439 to 487, respectively.
[26] Docket – Vol. II, pp. 505 to 519.
[27] Docket – Vol. II, pp. 899 to 900.
[28] Docket – Vol. II, pp. 904 to 905.
[29] Docket – Vol. II, pp. 906 to 911.
[30] Records Verification dated March 14, 2023, issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 955.
[31] Docket – Vol. II, pp. 960 to 962.

In the meantime, on February 3, 2023, petitioner filed its Memorandum.[32] Respondent, however, failed to file his memorandum.[33]

The case was submitted for decision on May 23, 2023.[34]

THE ISSUE

As stipulated by the parties, the issue for this Court's resolution is as follows:

> "(a) Whether or not Petitioner is entitled to its claim for refund of its unutilized creditable withholding tax for TY 2018 in the amount of [₱]20,695,542.15."[35]

Petitioner's arguments:

Petitioner argues that it has refundable excess creditable tax withheld in 2018 in the amount of ₱20,695,542.15; that it has complied with all the requisites in a claim for refund of CWTs; that the administrative and judicial claim for refund were made within the two-year prescriptive period; that the income upon which the unutilized creditable withholding taxes were withheld were declared as part of petitioner's gross income; and that the fact of withholding of the unutilized creditable withholding taxes for taxable year 2018 is duly established.

Respondent's counter-arguments:

Respondent counters that petitioner failed to sufficiently prove and demonstrate that there was an erroneously or illegally collected tax which could be subject of refund. He asserts that petitioner's claim that it is entitled to the amount of ₱20,695,542.15 is not proven by documentary evidence. He alleges that the Petition for Review filed by petitioner refers to certain documents that are attached therein but no documents were provided to prove its claim for refund.

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[32] Docket – Vol. II, pp. 929 to 950.
[33] Records Verification dated March 14, 2023, issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 955.
[34] Resolution dated May 23, 2023, Docket – Vol. II, pp. 960 to 962.
[35] Statement of the Issues, JSFI, Docket – Vol. I, p. 145.

Further, respondent invokes the oft-repeated doctrine that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund and that tax refunds, like tax exemptions, are construed strictly against the taxpayer. It is therefore incumbent upon the taxpayer to show that it complied with the provisions of Section 204 in relation to Section 229 of the 1997 National Internal Revenue Code (NIRC), as amended, and this petitioner failed to do.

THE RULING OF THE COURT

We find the Petition for Review partly meritorious.

Petitioner complied with Section 76 of the 1997 NIRC, as amended, and has not carried over the excess CWTs being claimed for refund.

Pertinent to the resolution of the present case is Section 76 of the 1997 NIRC, as amended, which is quoted hereunder for ready reference, *viz.*:

> "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
> (B) Carry-over the excess credit; or
> (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 discusses the two (2) options of a taxable corporation whose total quarterly income tax payments in a given taxable year exceed its annual 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.[36] 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.[37]

In exercising its option, the 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 facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other.[38]

A perusal of petitioner's Annual ITR for TY 2018 shows that it had income tax credits in the total amount of ₱42,358,881.00, consisting of the following:

(i) prior year's excess tax credits other than the MCIT in the amount of ₱21,663,339.00, and
(ii) CWTs accumulated during the four (4) quarters of TY 2018 in the aggregate amount of ₱20,695,542.00,[39] detailed as follows:

Prior Year's Excess Credits Other Than MCIT		₱ 21,663,339.00
Add: Creditable Tax Withheld – Taxable year 2018		
for the first three quarters	₱15,571,862.00	
for the 4th Quarter	5,123,680.00	20,695,542.00
Total Tax Credits		**₱ 42,358,881.00**

[36] *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.

[37] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands,* G.R. No. 178490, July 7, 2009.

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

[39] Exhibit "P-1", Schedule 7 – Tax Credits/Payments, Docket – Vol. II, p. 528.

Petitioner's prior year's excess credits other than the MCIT in the amount of ₱21,663,339.00 represent the balance after deducting petitioner's claim for refund of unutilized CWTs for TY 2017 (in the amount of ₱16,779,933.00) from the amount of ₱38,443,272.00 excess tax credits reflected in petitioner's Annual ITR for TY 2017.[40]

Records show that petitioner utilized a portion of its prior year's excess credits for TY 2018 in the amount of ₱21,663,339.00 to pay for its MCIT due for TY 2018 in the amount of ₱1,619,380.00, leaving a balance of its prior year's excess credits of ₱20,043,959.00 and creditable taxes withheld during TY 2018 in the amount of ₱20,695,542.00, totaling ₱40,739,501.00, unutilized as of December 31, 2018, as shown below:[41]

Prior Year's Excess Credits other than MCIT	₱ 21,663,339.00
Less: Income Tax Due (MCIT)	1,619,380.00
Balance of Prior Year's Excess Credits	₱ 20,043,959.00
Add: Creditable Taxes Withheld – Taxable year 2018	20,695,542.00
Excess Creditable Taxes Withheld as of December 31, 2018	**₱40,739,501.00**

Since petitioner marked the box corresponding to the option "To be Refunded" in its Annual ITR for TY 2018,[42] the CWTs for TY 2018 in the amount of ₱20,695,542.00 may be a proper subject of a claim for cash refund pursuant to the afore-quoted Section 76 of the 1997 NIRC, as amended.

This refund option was further affirmed by petitioner when it carried over only the amount of ₱20,043,958.65 or ₱20,043,959.00 as prior year's excess tax credits in its Quarterly[43] and Annual[44] ITRs for TY 2019. Said amount excludes the CWT being claimed for refund in this case amounting to ₱20,695,542.00.

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[40] Exhibit "P-43", p. 439, Docket – Vol. I, p. 444; Exhibit "P-29", Part II – Total Tax Payable, Lines 20 and 21, Schedule 7 – Tax Credits/Payments, Docket – Vol. I, pp. 258 and 263, respectively.
[41] Exhibit "P-1", Part II – Total Tax Payable, Docket – Vol. II, p. 523.
[42] Exhibit "P-1", Line 21, Docket – Vol. II, p. 523.
[43] Exhibits "P-8" to "P-10", Line 31A, Docket – Vol. II, pp. 583, 587 and 590.
[44] Exhibit "P-11", Line 1, Schedule 7, Docket – Vol. II. p. 599.

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

In addition to the requisites provided under Section 76 of the 1997 NIRC, as amended, jurisprudence and pertinent Revenue Regulations (RR) provide that in order for a taxpayer to be entitled to a refund or an issuance of a TCC for unutilized excess CWTs, the following three (3) requisites must be further complied with:

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

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.[45]

Thus, it behooves petitioner to establish the foregoing requisites.

Anent the first requisite, the pertinent provisions are Sections 204(C) and 229 of the 1997 NIRC, as amended, which provide 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

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[45] *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; *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.

> (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." (*Emphasis supplied*)
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> x x x
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> "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, 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." (*Emphasis supplied*)

It is well settled that the two (2) -year prescriptive period for claiming a refund of overpaid income tax/CWTs commences to run on the date of filing of the Final Adjustment Return[46] (or Annual ITR). This is so because it is only when the Final 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.[47] In other words, it is only logical to reckon the two-year prescriptive

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[46] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; *Commissioner of Internal Revenue vs. TMX Sales, Inc. and the Court of Tax Appeals*, G.R. No. 83736, January 15, 1992; *Commissioner of Internal Revenue vs. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, May 29, 1995.

[47] *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, G.R. No. 83736, January 15, 1992.

period from the time the Final Adjustment Return or the Annual ITR was filed, since it is only at that time that it would be possible to determine whether the corporate taxpayer paid an amount exceeding its annual income tax liability.[48]

Here, petitioner filed its Annual ITR[49] for TY 2018 *via* the electronic filing and payment system or eFPS of the BIR on April 12, 2019. Thus, counting from April 12, 2019, petitioner had until April 12, 2021, within which to file both its administrative and judicial claims.

Records show that petitioner seasonably filed its administrative claim for refund on August 26, 2020.[50]

However, although the present judicial claim was electronically filed on April 12, 2021,[51] or within the two-year prescriptive period, the hard copy of the Petition was only filed on May 17, 2021.[52]

Nevertheless, CTA *En Banc* Resolution No. 4-2021 dated February 24, 2021, allows the filing of pleadings, motions, and other court submissions by e-mail during the Period of State of Public Health Emergency due to the COVID-19 Pandemic. However, litigants shall submit, by personal filing or licensed courier, the required number of hard copies of the pleadings, motions, and other court submissions within five (5) calendar days from date of filing by email.[53] Moreover, in cases where there are filing fees or other legal fees that are required to be paid on the pleadings, motions, and other court submissions filed by e-mail, litigants are required to submit proof of payment of the filing fees or other legal fees due thereon within five (5) calendar days from the date of filing through email.[54] Failure to do so shall be a ground for declaring the pleading, motion, and other court submission as deemed not filed which may result in the dismissal of the petition for review, complaint or information, and the imposition of other appropriate sanctions as may be determined by the Court.[55]

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[48] *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.
[49] Exhibit "P-1", Docket – Vol. II, pp. 522 to 530.
[50] Exhibits "P-2" and "P-3", Docket – Vol. II, pp. 531 and 532 to 535, respectively.
[51] Docket – Vol. I, p. 9.
[52] Docket – Vol. I, pp. 10 to 35.
[53] Paragraph 3, CTA *En Banc* Resolution No. 4-2021.
[54] Paragraph 4, CTA *En Banc* Resolution No. 4-2021.
[55] Paragraph 6, CTA *En Banc* Resolution No. 4-2021.

Hence, pursuant to this Court's *En Banc* Resolution No. 4-2021, petitioner must submit, by personal filing or licensed courier, the required number of hard copies of its Petition and proof of payment of the filing fees or other legal fees due within five (5) calendar days from the date of filing of email, or until April 17, 2021.

However, due to the physical closure of the courts brought about by the COVID-19 Pandemic, the Supreme Court issued the following Administrative Circulars (ACs) suspending the filing periods for pleadings/court submissions for Courts in the National Capital Region and nearby provinces until the physical reopening of the relevant court, to wit:

AC No.	***Date Issued***	***Subject***	***Content***
15-2021	April 3, 2021	RE: EXTENSION OF THE PHYSICAL CLOSURE OF COURTS AND THE FILING PERIODS FOR PLEADINGS AND OTHER COURT SUBMISSIONS IN LIGHT OF THE FURTHER EXTENSION OF THE ENHANCED COMMUNITY QUARANTINE FROM APRIL 5 TO APRIL 11, 2021.	"Likewise, the **filing periods** of pleadings and other court submissions that fell due or would fall due <u>during the period beginning from **March 29** to **April 11, 2021**</u> are hereby **EXTENDED** for seven (7) calendar days, counted from April 12, 2021. xxx"
21-2021	April 10, 2021	RE: EXTENSION OF PHYSICAL CLOSURE OF COURT	"Considering the unabated rise of COVID-19 cases, the requests of the judges and court personnel, and upon the concurrence of the members of the Court en banc, ALL the courts and judicial offices in the National Capital Judicial Region and the provinces of Bulacan, Cavite, Laguna, and Rizal (NCJR+) shall remain physically closed until 18 April 2021. They may be reached through their hotlines and email addresses as posted in the Supreme Court website. xxx xxx xxx

			The time for filing and service of pleadings and motions during this period is SUSPENDED and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court."
22-2021	April 14, 2021	RE: PHYSICAL CLOSURE OF COURTS IN ENHANCED COMMUNITY QUARATINE AND MODIFIED ENHANCED COMMUNITY QUARANTINE AREAS	"Considering that the National Capital Region, and the provinces of Abra, Bulacan, Cavite, Laguna, Quirino and Rizal, and Santiago City are under Modified Enhanced Community Quarantine (MECQ) until 30 April 2021, the physical closure of courts in the said areas is likewise extended to 30 April 2021. xxx xxx xxx The time for filing and service of pleadings and motions during this period is SUSPENDED and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court."
29-2021	April 30, 2021	RE: WORK ARRANGEMENTS IN COURTS ON 3 – 14 MAY 2021	"Considering that the National Capital Region, the provinces of Abra, Bulacan, Cavite, Laguna, Quirino, and Rizal, and Santiago City, Isabela, continue to be under Modified Enhanced Community Quarantine (MECQ) until 14 May 2021, ALL first and second level courts, and appellate collegiate courts, and their judicial offices in the said areas shall continue to be physically closed until 14 May 2021. xxx xxx xxx

			The time for filing and service of pleadings and motions during this period in these areas is SUSPENDED and shall resume after seven (7) calendar days counted from the first day of the physical reopening of the relevant court."
33-2021	May 14, 2021	RE: COURT OPERATIONS STARTING 17 MAY 2021	"Considering that the National Capital Region and nearby provinces of Bulacan, Cavite, Laguna, and Rizal, together with some provinces and cities, have been placed under General Community Quarantine (GCQ) starting 15 May until 31 May 2021, all first and second level courts, and appellate collegiate courts (except the Supreme Court), and the judicial offices in these areas under GCQ shall be physically opened with a skeleton force of at least thirty percent (30%) to at most fifty percent (50%), beginning 17 May 2021 until further notice."

Based on the foregoing circulars, the reopening of courts resumed on May 17, 2021, and petitioner had seven (7) days from this date, or until May 24, 2021, within which to file hard copies of its Petition for Review as well as to show proof of payment of its filing fees. Thus, petitioner timely filed both its administrative claim for refund with the BIR on August 26, 2020,[56] and its judicial claim for refund through the present Petition for Review on May 17, 2021,[57] thus, fulfilling the first requisite.

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

[56] Exhibits "P-2" and "P-3", Docket – Vol. II, pp. 531 and 532 to 535, respectively.
[57] Docket – Vol. I, pp. 10 to 35.

"Sec. 2.58.3. *Claim for tax credit or refund.* —

xxx xxx xxx

(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 supplied)*

The second requisite mandates petitioner to prove the fact of withholding of the claimed CWTs through a copy of the statement duly issued by the payor (withholding agent) to the payee showing the names of the payor and payee, the income payment and the amount of tax withheld therefrom.

In *Commissioner of Internal Revenue vs. Philippine National Bank*,[58] the Supreme Court held that the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307), complete in relevant details, is the competent proof to establish the fact that taxes are withheld.

To prove the fact of withholding of the subject claim, petitioner submitted various Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307)[59] duly issued by its clients for taxable year 2018 which were examined by the Court-commissioned ICPA.

A review of the ICPA Report dated July 25, 2022[60] shows that the aforesaid BIR Forms No. 2307 reflected CWTs totaling ₱20,695,542.23 on income payments of ₱1,034,777,106.63, broken down as follows:[61]

CY 2018	**Exhibit "P-40"**	**Total Amount of Income Payments per BIR Forms 2307**	**Amount of CWTs Claim Per *Petition for Review***
1st quarter	Annex F_1	₱ 214,829,263.46	₱ 4,296,585.33
2nd quarter	Annex F_2	281,085,502.97	5,621,710.07
3rd quarter	Annex F_3	282,289,611.22	5,645,792.23

[58] G.R. No. 180290, September 29, 2014.
[59] Exhibits "P-3275" to "P-3510".
[60] Exhibit "P-40", Docket – Vol. I, pp. 272 to 381.
[61] Exhibit "P-40", Annex F, Docket – Vol. I, p. 370.

4th quarter	Annex F_4	256,572,728.98	5,131,454.60
Total		**₱ 1,034,777,106.63**	**₱ 20,695,542.23**

Out of the said amount of ₱20,695,542.23 being claimed, the Court finds that the amount of ₱2,200,626.93 must be disallowed for not being properly supported with BIR Forms No. 2307, detailed as follows:

Exhibit No.	Customer's Name	Income Payments	CWTs
TIN of petitioner was incomplete			
"P-3309"	Pricon Microelectronics Inc.	₱ 5,116,802.95	₱ 102,336.06
"P-3310"	Pricon Microelectronics Inc.	4,367,253.24	87,345.06
"P-3311"	Pricon Microelectronics Inc.	5,933,817.50	118,676.35
"P-3312"	Pricon Microelectronics Inc.	6,929,532.41	138,590.65
"P-3313"	Pricon Microelectronics Inc.	5,983,611.03	119,672.22
"P-3314"	Pricon Microelectronics Inc.	4,563,197.29	91,263.95
"P-3367"	Pricon Microelectronics Inc.	5,369,190.00	107,383.80
"P-3369"	Pricon Microelectronics Inc.	6,977,113.50	139,542.27
"P-3371"	Pricon Microelectronics Inc.	6,954,426.50	139,088.53
"P-3372"	Pricon Microelectronics Inc.	6,388,035.31	127,760.71
"P-3432"	Pricon Microelectronics Inc.	4,914,192.65	98,283.85
"P-3433"	Pricon Microelectronics Inc.	4,706,028.50	94,120.57
"P-3434"	Pricon Microelectronics Inc.	5,049,958.07	100,999.16
"P-3435"	Pricon Microelectronics Inc.	5,351,484.34	107,029.69
"P-3493"	Pricon Microelectronics Inc.	5,534,534.50	110,690.69
"P-3494"	Pricon Microelectronics Inc.	4,295,728.98	85,914.58
"P-3495"	Pricon Microelectronics Inc.	4,672,226.64	93,444.53
"P-3496"	Pricon Microelectronics Inc.	3,539,992.50	70,799.85
"P-3497"	Pricon Microelectronics Inc.	4,011,221.00	80,224.42
Subtotal		**₱ 100,658,346.91**	**₱ 2,013,166.94**
TIN of petitioner was not complete and BIR Form 2307 has no signature of the payor			
"P-3492"	Pricon Microelectronics Inc.	₱ 5,351,484.34	₱ 107,029.69
Subtotal		**₱ 5,351,484.34**	**₱ 107,029.69**
The BIR Form 2307 did not contain signature of the payor			
"P-3279"	Bandai Namco Philippines, Inc.	₱ 2,434,697.60	₱ 48,693.95
"P-3354"	NYK Auto Logistics Philippines Inc	675,619.63	13,512.39
"P-3374"	Sanno Philippines Manufacturing Corporation	741,555.18	14,831.10
Subtotal		**₱ 3,851,872.41**	**₱ 77,037.44**
BIR Form 2307s were dated 2017 and 2016			
"P-3294"	Jobskills Training Center Inc.	₱ 107,142.86	₱ 2,142.86
"P-3348"	Jobskills Training Center Inc.	62,500.00	1,250.00
Subtotal		**₱ 169,642.86**	**₱ 3,392.86**
Total		**₱ 110,031,346.52**	**₱ 2,200,626.93**

It bears stressing that under Section 236 of the 1997 NIRC, as amended, a tax return, statement or other document filed with the BIR should indicate the filer's TIN for proper identification for tax purposes. Hence, without the proper indication of the TIN in the supporting BIR Forms No. 2307, the corresponding CWT claim must be disallowed.

Furthermore, BIR Forms No. 2307 which do not contain the signature of the payor/withholding agent must be disallowed because the same cannot be considered as validly issued pursuant to Section 2.58(B) of RR 2-98.

Likewise, BIR Forms No. 2307 which were dated in the years 2017 and 2016 must be disallowed, since they do not fall within the period covered by the present claim.

Consequently, only the remaining CWT in the amount of ₱18,494,915.07 is found to be supported by valid BIR Forms No. 2307 which are complete in their relevant details. Thus, petitioner has shown compliance with the second requisite, *i.e.*, the establishment of the fact of withholding of the amount of ₱18,494,915.07 with the related income payments of ₱924,745,760.11, computed as follows:

	Income Payments	**CWTs**
Total CWTs Per BIR Forms No. 2307	₱ 1,034,777,106.63	₱ 20,695,542.23
Less: Disallowances	110,031,346.52	2,200,626.93
Difference between CWT per BIR Forms No. 2307 and CWT Claim per petitioner's 2018 Annual ITR		.23
CWTs Properly Supported With BIR Forms No. 2307	₱ **924,745,760.11**	₱ **18,494,915.07**

We then proceed to the third requisite, *i.e.*, that the income upon which the taxes were withheld formed part of the income declared in petitioner's Annual ITR.

In its Annual ITR for TY 2018, petitioner declared "Net Sales/Revenues/Receipts/Fees" in the amount of ₱1,158,300,978.00.[62] The same amount was reported in its

[62] Exhibit "P-1", Part IV – Computation of Tax, Line 30, Docket – Vol. II, p. 524.

Audited Financial Statements (AFS), particularly in the Statements of Comprehensive Income as "Service Revenues".[63]

To ascertain that the gross sales where CWTs (were withheld and deducted), were duly and properly reported in petitioner's Annual ITR and AFS for TY 2018, the ICPA examined original copies of BIR registered Billing Statements and Official Receipts (ORs) issued by petitioner for TY 2018.[64] As validated and confirmed by the ICPA, the total gross sales collected, which were the basis of the claimed CWTs, were duly reported in the petitioner's 2018 and 2017 AFS and Annual ITRs.[65]

However, upon further scrutiny of the related Billing Statements and ORs as summarized in petitioner's Schedules of Sales Per Customer Based on Billing Statements[66] and Schedule of Collections Per Official Receipts (OR) traced to 2018 and 2017 Sales[67] for TY 2018, the Court found that the income payments received by petitioner in the amount of ₱23,280,218.08 do not form part of petitioner's declared service revenues in its 2018 Annual ITR. Hence, the corresponding claim of ₱465,604.36 must be disallowed, detailed as follows:

Brother Industries (Philippines) Inc.			Exhibit No.	Income Payments	Disallowed CWTs (2%)
Per BIR Form No. 2307			"P-3281"	₱ 23,509,161.50	
Less: Traced to Service Revenue Per 2018 Annual ITR[68]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
January 18, 2018	0673	₱3,925,669.43			
February 2, 2018	0685	4,961,941.15			
February 20, 2018	0694	4,847,548.96			
March 2, 2018	7613	2,924,853.69			
March 20, 2018	0706	4,215,106.64		20,875,119.87	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 2,634,041.63	₱ 52,680.83
EMD Technologies Philippines, Inc.					
Per BIR Form No. 2307			"P-3285"	₱ 50,429.25	
Less: Traced to Service Revenue Per 2018 Annual ITR[69]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				

[63] Exhibit "P-14", Docket – Vol. II, p. 615.
[64] Exhibit "P-43", B. VALIDATION OF SALES AND COLLECTIONS WHERE CWTs WERE WITHHELD, Docket – Vol. I, p. 443.
[65] Exhibit "P-43", A. VALIDATION OF SALES AND COLLECTIONS, Docket – Vol. I, p. 449.
[66] Exhibit "P-40", Annexes B, B_1 to B_{21}, Docket – Vol. I, pp. 290 to 356.
[67] Exhibit "P-43", Annexes K, K_1 to K_4, Docket – Vol. I, pp. 475 to 487.
[68] Exhibit "P-40", Annex B_3, Docket – Vol. I, p. 293.
[69] Exhibit "P-40", Annex B_7, Docket – Vol. I, p. 298.

January 18, 2018	6495	₱ 27,003.56		27,003.56	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 23,425.69	468.51
Fuji Industries Manila Corp.,					
Per BIR Form No. 2307			"P-3288"	₱ 1,693,994.00	
Less: Traced to Service Revenue Per 2018 Annual ITR[70]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
January 23, 2018	0676	₱1,691,287.63		1,691,287.63	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 2,706.37	54.13
IM Digital Philippines Inc.					
Per BIR Form No. 2307			"P-3291"	₱ 9,576,431.87	
Less: Traced to Service Revenue Per 2018 Annual ITR[71]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
January 20, 2018	682	₱1,847,280.52			
February 5, 2018	690	350,135.27			
February 5, 2018	689	1,881,122.85			
February 20, 2018	697	1,526,676.56			
February 20, 2018	698	40,188.21			
March 5, 2018	703	259,891.51			
March 20, 2018	709	1,412,176.66			
March 20, 2018	710	16,777.02		7,334,248.60	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 2,242,183.27	44,843.67
Island Quarry and Aggregates Corporation					
Per BIR Form No. 2307			"P-3292"	₱ 1,254,978.00	
Less: Traced to Service Revenue Per 2018 Annual ITR[72]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
January 22, 2018	4184	₱ 9,028.93			
February 19, 2018	4208	120,893.87			
February 19, 2018	4208	112,135.00			
February 19, 2018	4209	25,517.74			
February 19, 2018	4209	24,522.83			
February 19, 2018	4210	45,862.06			
February 19, 2018	4210	43,390.14			
February 19, 2018	4211	9,028.93			
February 19, 2018	4211	9,028.93			
February 19, 2018	4212	380.97		399,789.40	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 855,188.60	17,103.77
Per BIR Form No. 2307			"P-3346"	₱ 1,126,225.50	
Less: Traced to Service Revenue Per 2018 Annual ITR[73]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
March 20, 2018	4223	₱147,023.23			
March 20, 2018	4223	156,155.43			
March 20, 2018	4224	40,182.35			

[70] Exhibit "P-40", Annex B_8, Docket – Vol. I, p. 299.
[71] Exhibit "P-40", Annex B_9, Docket – Vol. I, pp. 300 to 301.
[72] Exhibit "P-40", Annex B_{10}, Docket – Vol. I, p. 302.
[73] Exhibit "P-40", Annex B_{10}, Docket – Vol. I, p. 302.

March 20, 2018	4224	43,827.77			
March 20, 2018	4225	7,148.00			
March 20, 2018	4225	9,028.93			
April 19, 2018	4236	9,380.21			
April 19, 2018	4236	8,060.42			
April 19, 2018	4234	52,998.91			
April 19, 2018	4234	48,161.31			
April 19, 2018	4235	141,225.10			
April 19, 2018	4235	140,121.67			
May 18, 2018	4244	126,031.86			
May 18, 2018	4244	19,683.95			
May 18, 2018	4245	52,211.66			
May 18, 2018	4245	41,592.67			
June 6, 2018	4251	22,470.42		1,065,303.89	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 60,921.61	1,218.43
JAE Philippines Inc.					
Per BIR Form No. 2307			"P-3293"	₱ 101,105,325.86	
Less: Traced to Service Revenue Per 2018 Annual ITR[74]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
January 24, 2018	0398	₱12,629,543.52			
January 23, 2018	0395	564,203.92			
January 30, 2018	0400	41,932.96			
February 8, 2018	0403	17,102,469.57			
February 22, 2018	0410	113,485.32			
February 24, 2018	0408	17,883,527.31			
February 23, 2018	0409	730,920.56			
March 7, 2018	0413	143,318.97			
March 12, 2018	0414	17,989,584.33			
March 13, 2018	0415	26,874.75			
March 14, 2018	0406	10,218.30			
March 20, 2018	0417	879,726.55			
March 23, 2018	0420	21,886,280.19			
March 23, 2018	0421	7,981.85			
March 27, 2018	0426	28,325.19		90,038,393.29	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 11,066,932.57	221,338.65
Nanox Philippines, Inc.					
Per BIR Form No. 2307			"P-3296"	₱ 3,201,777.00	
Less: Traced to Service Revenue Per 2018 Annual ITR[75]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
January 11, 2018	0258	₱ 2,850.00			
January 22, 2018	0259	563,944.50			
February 06, 2018	0260	583,958.50			
February 15, 2018	0261	352,507.00			
Marcb 06, 2018	0263				
February 21, 2018	0262	604,373.50			
March 14, 2018	0264	13,490.00			
March 21, 2018	0265	579,840.00			
April 04, 2018	0266	491,693.50		3,192,657.00	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 9,120.00	182.40

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[74] Exhibit "P-40", Annex B_{11}, Docket – Vol. I, pp. 303 to 306.
[75] Exhibit "P-40", Annex B_{14}, Docket – Vol. I, pp. 309 to 311.

Per BIR Form No. 2307			"P-3350"	₱ 2,720,012.50	
Less: Traced to Service Revenue Per 2018 Annual ITR[76]					
Billing Statement Date	Billing Statement Number	Amount of Service Revenue Per 2018 Annual ITR			
April 23, 2018	0268	₱ 461,670.50			
April 13, 2018	0267				
May 08, 2018	0269	487,724.00			
May 23, 2018	0271	427,834.00			
May 11, 2018	0270	466,450.50			
June 06, 2018	0272				
June 22, 2018	0275	425,318.00		2,268,997.00	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 451,015.50	9,020.31
NYK Auto Logistics Philippines Inc.					
Per BIR Form No. 2307			"P-3297"	₱ 4,620.00	92.40
			"P-3298"	₱ 820,650.46	16,413.01
			"P-3299"	₱ 679,899.50	13,597.99
Solid Cement Corporation					
Per BIR Form No. 2307			"P-3321"	₱ 6,100,294.00	
Less: Traced to Service Revenue Per 2018 Annual ITR[77]					
Billing Statement Date	Billing Statement Number	Amount of Service Revenue Per 2018 Annual ITR			
February 19, 2018	4189	₱ 353,947.31			
February 19, 2018	4190	5,964.79			
February 19, 2018	4191	22,740.74			
February 19, 2018	4192	557.02			
February 19, 2018	4193	31,823.26			
February 19, 2018	4194	652.28			
February 19, 2018	4195	109,394.39			
February 19, 2018	4196	248,332.36			
February 19, 2018	4197	15,030.31			
February 19, 2018	4198	79,484.30			
February 19, 2018	4199	10,793.52			
February 19, 2018	4200	351,398.52			
February 19, 2018	4201	16,438.07			
February 19, 2018	4202	136,730.09			
February 19, 2018	4203	7,744.81			
February 19, 2018	4204	181,618.27			
February 19, 2018	4205	8,153.38			
February 19, 2018	4206	129,445.53			
February 19, 2018	4207	2,659.07		1,712,908.02	
Not Traced to Service Revenue Per 2018 Annual ITR				₱ 4,387,385.98	87,747.72
Southern Asia-Pacific Division of the General Conference of Seventh-day Adventist					
Per BIR Form No. 2307			"P-3322"	₱ 23,383.88	467.68
Victory Christian Fellowship of Los Banos, Inc.					
Per BIR Form No. 2307			"P-3510"	₱ 65,924.00	

[76] Exhibit "P-40", Annex B_{1-1}, Docket – Vol. I, pp. 309 to 311.
[77] Exhibit "P-40", Annex B_4, Docket – Vol. I, p. 294.

Less: *Traced to Service Revenue Per 2018 Annual ITR*[78]					
Billing Statement		Amount of Service Revenue Per 2018 Annual ITR			
Date	Number				
Aug. 17, 2018	8471	₱ 12,135.24			
Sept. 04, 2018	8476	12,928.70			
Oct. 17, 2018	8494	10,167.77			
Dec. 07, 2018	9216	11,949.27		47,180.98	
				₱ 18,743.02	374.86
TOTAL NOT TRACED TO SERVICE REVENUE PER 2018 ANNUAL ITR				**₱ 23,280,218.08**	**₱465,604.36**

Moreover, the Court noted a discrepancy between the CWTs as reflected in the BIR Forms No. 2307 issued by JAE Philippines, Inc. and the CWTs deducted per the ORs issued by petitioner to the said entity in the amount of ₱178,039.31, as shown below:

Client	**CWTs Per BIR Forms No. 2307**	**CWTs Actually Deducted per ORs**	**Discrepancy**
JAE Philippines, Inc.	10,766,951.02[79]	10,588,911.71[80]	178,039.31

Petitioner's claim shall be further reduced by the aforesaid discrepancy of ₱178,039.31, considering that petitioner failed to show that the related income payment of ₱8,901,965.50 (₱178,039.31÷ 2%) was declared in its Annual ITR.

Resultantly, the income payments of ₱892,563,576.53 related to the claimed CWTs of ₱17,851,271.40 formed part of petitioner's taxable income per its 2018 Annual ITR, hence, satisfying the third requisite, as shown in the following computations, to wit:

	Income Payments	**CWTs**
CWTs properly supported with BIR Forms No. 2307	₱ 924,745,760.11	₱ 18,494,915.07
Less: Disallowances		
a.) CWTs, the income payments of which were not traced to the service revenues per petitioner's 2018 Annual ITR	₱ 23,280,218.08	₱ 465,604.36
b.) Discrepancy between the CWTs reflected per BIR Forms No. 2307 and	8,901,965.50	178,039.31

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78 Exhibit "P-40", Annex B_{21}, Docket – Vol. I, p. 356.
79 Exhibits "P-3293", "P-3347", "P-3404" and "P-3469".
80 Exhibit "P-43", Annexes K_1 to K_4, Docket – Vol. I, pp. 476 to 487.

the CWTs deducted per ORs issued by petitioner		
Total Disallowances	₱ 32,182,183.58	₱ 643,643.67
CWT properly supported with BIR Forms No. 2307 and the related income payments were traced and verified as forming part of petitioner's declared service revenues in its 2018 Annual ITR	**₱892,563,576.53**	**₱17,851,271.40**

In sum, petitioner has sufficiently proven its entitlement to a refund in the amount of ₱17,851,271.40, representing its excess and unutilized CWTs for TY 2018.

WHEREFORE, in light of the foregoing considerations, the present Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** in favor of petitioner, the reduced amount of **₱17,851,271.40**, representing the latter's excess and unutilized CWTs for TY 2018.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(With due respect, see Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

SERVICE RESOURCES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10503

Members:

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

Promulgated:

JUL 05 2024 4:00 p.m.

x - x

CONCURRING AND DISSENTING OPINION

***DEL ROSARIO, P.J.*:**

I concur in the partial grant of refund to petitioner.

It is my humble opinion, however, that allowing the refund of creditable withholding taxes (CWTs) pertaining to petitioner's alleged branches without the latter's Bureau of Internal Revenue (BIR) Certificates of Registration is improper. Upon scrutiny, said CWT Certificates specify, among others, the (1) name of the home office, (2) Tax Identification Numbers (TINs) of the alleged branches [consisting of twelve (12) digits, the last three (3) of which refer to the branch code] distinct from that of the home office, and (3) respective addresses of the alleged branches. Except the name of the payees therein, there is no indication in the CWT Certificates that relate to the home office.

In the Resolution dated December 5, 2022,[1] the Court **denied Exhibits "P-7-A" to "P-7-F"** (described in petitioner's Formal Offer of Evidence as **"Petitioner's BIR Certificates of Registration of its branches"**) for petitioner's failure to submit the originals for

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[1] CTA Docket Vol. II, pp. 904-905.

comparison. In its Motion for Reconsideration[2] of the said Resolution, petitioner agreed with the Court's observation and manifested that it would no longer contest the denial of the same. Considering the denial of the alleged branches' Certificates of Registration, it becomes uncertain whether the TINs and the addresses indicated in the CWT Certificates belong to petitioner's branches.

Albeit only impliedly, the *ponencia* acknowledges the indispensability of a BIR Certificate of Registration; otherwise, it would not have been able to determine which of the CWT Certificates bear incomplete TIN, a finding that can only be had upon comparison of the CWT Certificates with the corresponding BIR Certificates of Registration.

In the *ponencia*, the categorization of disallowances under headings: "**TIN of petitioner was incomplete**" and "**TIN of petitioner was not complete** and BIR Form 2307 has no signature of the payor" reveals that the *ponencia* had to examine the completeness and accuracy of the **TIN as reflected in the <u>CWT Certificates</u> *vis-à-vis* petitioner's TIN as stated in its <u>Certificate of Registration</u>**.

This scrutiny, however, was applied only for CWT Certificates pertaining to **petitioner's home office**. In contrast, for CWT Certificates of petitioner's **alleged branches**, the *ponencia* accepted the TIN displayed on such CWT certificates as accurate and attributable to petitioner, provided that the initial nine (9) of the twelve (12)-digit TIN matched the TIN of petitioner's home office. Thus, even without the alleged branches' BIR Certificates of Registration to verify the TINs indicated in the CWT Certificates, the *ponencia* readily attributed the CWT Certificates to petitioner. If the *ponencia* applied stringent scrutiny to the home office's TIN, it is unclear why the same level of scrutiny was not applied to the TIN of the alleged branches.

If the first nine (9) digits of the twelve (12)-digit TIN on the CWT Certificates match the TIN of petitioner's home office, but the last three (3) digits are incorrect or incomplete, I submit that the CWT Certificates should be disallowed and categorized under incomplete TIN or incorrect TIN, as the case may be.

In *Sony Philippines Incorporated vs. Commissioner of Internal Revenue*,[3] I espoused the view that even though the taxpayer's TIN (as indicated in the CWT Certificate) is incomplete, if the CWT Certificates reflect petitioner's name and address and the same can be

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[2] CTA Docket Vol. II, pp. 906-911.
[3] CTA Case No. 10115, December 16, 2021.

cross-referenced to the submitted and duly admitted BIR Certificate of Registration, then the CWT Certificates may be considered complete in relevant details necessary to aid the Court in evaluating the subject refund claim.

The *ponencia*, however, requires less than that. For the *ponencia*, as long as the payee is under petitioner's name, (albeit the **last three (3) digits of the twelve (12)-digit TIN appearing in the CWT Certificate cannot be ascertained, and with an address that cannot likewise be verified**), the refund of CWTs arising therefrom, according to how the *ponencia* computed the refundable amount, may still be granted.

To my mind, with the denial of the BIR Certificates of Registration of petitioner's alleged branches, the TINs stated in the CWT Certificates cannot be linked to specific BIR Certificates of Registration. Without the branches' BIR Certificates of Registration, the Court cannot refund the CWTs supported by CWT Certificates which, although bearing petitioner's name, indicates unverified TINs and addresses.

Actions for tax refund are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.[4]

Undoubtedly, treating the CWT Certificates as pertaining to petitioner's alleged branches without proof of the branches' correct TIN and addresses violates the principle of strict construction of refund claims.

ALL TOLD, I *VOTE* to partially **GRANT** the Petition for Review, subject to adjustment of the refundable amount in view of the disallowance of the CWT Certificates pertaining to petitioner's alleged branches.

ROMAN G. DEL ROSARIO
Presiding Justice

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[4] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.