REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

WELLS FARGO PHILIPPINES SOLUTIONS INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9578

Members:

UY, *Chairperson;*
FABON-VICTORINO[1], *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:
NOV 12 2019
4:38 p.m.

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DECISION

FABON-VICTORINO, J.:

In this Petition for Review[2] filed on April 17, 2017, petitioner Wells Fargo Philippines Solutions, Inc. prays for the refund in the amount of ₱25,490,915.00, allegedly representing its excess payment of creditable withholding taxes (CWT) for the taxable year (TY) 2014.

THE FACTS

Petitioner Wells Fargo Philippines Solutions Inc. is a domestic corporation with principal office address at 8 Campus Place, McKinley Hill Cyberpark, Fort Bonifacio, Taguig City, Philippines.[3] It is a registered with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No.

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[1] Designated as a special member of the Third Division per Memorandum dated November 16, 2018.
[2] Vol. 1 Docket, pp. 10-24.
[3] Par. 1, Stipulated Facts, Joint Stipulation, vol. 2 docket, p. 1025.

44 – Taguig-Pateros, with Tax Identification Number (TIN) 006-804-354-000.[4]

On the other hand, respondent is the Commissioner of Internal Revenue (CIR) with authority to refund any internal revenue tax erroneously and illegally assessed or collected. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

In a Deed of Absolute Sale of Assets[5] dated June 6, 2014 and Supplemental Deed of Absolute Sale of Assets[6] dated July 11, 2014, petitioner sold all its business assets to Wells Fargo Enterprise Global Services, LLC (Wells Fargo) for a net book value of ₱931,323,707.87.

By reason of the said sale, Wells Fargo withheld six percent (6%) as CWT on the purchase price in the equivalent amount of ₱31,642,519.61 and remitted the same to the BIR through a Withholding Tax Return[7] (BIR Form No. 1606) filed on July 10, 2014.

On April 15, 2015, petitioner filed its Annual Income Tax Return[8] (AITR) (BIR Form No. 1702-MX) for TY 2014. In its AITR, petitioner has CWT credits in the total amount of ₱33,066,535.00, to which it claims to have utilized the amount of ₱7,575,620.00 to pay its income tax liability for TY 2014. Petitioner claims that it still has excess CWT credits in the amount of ₱25,490,915.00.

On November 3, 2016 petitioner filed with BIR RDO No. 44 – Taguig-Pateros an Application for Refund of Excess Creditable Withholding Tax[9] dated October 28, 2016 for its alleged excess CWT credits in the amount of ₱25,490,915.00.

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[4] Exhibit "P-3".
[5] Exhibit "P-13".
[6] Exhibit "P-14".
[7] Exhibit "P-15".
[8] Exhibit "P-17".
[9] Exhibit "P-4".

On January 10, 2017, petitioner received a Letter dated December 29, 2016[10] from Revenue Officer (RO) Grace Manuel requiring it to submit additional documents in connection with its Application for Refund to which it complied on January 17, 2017.[11]

On January 27, 2017, petitioner received another Letter from RO Grace Manuel[12] requiring submission of additional documents pertinent to its Application for Refund. Petitioner complied on March 3, 2017.[13]

On April 17, 2017, petitioner filed the instant Petition for Review alleging inaction on the part of respondent on its application for refund.

On June 22, 2017, posted his Answer[14] claiming that petitioner's application for refund was still subject to investigation by the BIR. Further, as a rule, taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence, not refundable. Besides, in an action for tax credit/refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge is fatal to the claim. Thus, petitioner must show compliance with the provisions of Section 76, in relation to Sections 204 and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Revenue Regulations (RR) No. 2-98, as amended.

Moreover, Section 76 of the NIRC of 1997, as amended, provides that once a taxpayer chooses the option of carry-over, it shall be irremovable for that taxable period and no application for a tax refund or tax credit certificate shall then be allowed. Petitioner should therefore prove that it did not carry-over its 2014 alleged unutilized CWT to the succeeding taxable quarters/years, otherwise, it is precluded from claiming a tax refund or credit of its alleged excess tax credit for TY 2014. For respondent, petitioner failed to demonstrate that the questioned tax was erroneously or illegally collected.

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[10] Exhibit "P-5".
[11] Exhibit "P-6".
[12] Exhibit "P-7".
[13] Exhibit "P-8".
[14] Vol. 1 Docket, pp. 273-275.

Lastly, respondent invokes the tenet that claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation and as such, they are looked upon with disfavor.

On July 13, 2017, a Notice of Pre-Trial Conference[15] was issued.

In the interim however, petitioner discovered that the net book value of the business assets it sold to Wells Fargo for ₱931,323,707.87, was overstated due to an accounting error in the treatment of the beginning balance of its construction-in-progress (CIP) assets. Consequently, petitioner claimed that it was advised by its auditors to amend its 2014 Audited Financial Statements (AFS) for the year ended December 31, 2014 to reflect the correct total net book value of its assets disposed in 2014, including those sold to Wells Fargo.

On October 5, 2017, petitioner filed with the BIR its amended AFS[16] for the year ended December 31, 2014.

Petitioner claims that per its manual books of accounts,[17] the net book value of the assets disposed through the sale and retirement as of the end of TY 2014, amounted to ₱917,112,188.00. Of the said amount, the net book value of the assets sold to Wells Fargo was ₱909,787,211.00, whereas the net book value of the assets retired or derecognized from the books of petitioner was ₱7,324,977.00.

Due to the difference between the purchase price in the Deeds of Sale and the net book value of the assets as per the 2014 amended AFS, petitioner received on October 25, 2017, a Preliminary Assessment Notice[18] (PAN) from Regional Director Glen A. Geraldino of BIR Revenue Region No. 8. In the said PAN, petitioner was assessed with deficiency income tax in the amount of ₱9,745,049.47, inclusive of interest, broken down as follows:

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[15] Vol. 1 Docket, pp. 277-278.
[16] Exhibit "P-10".
[17] Exhibit "P-9"
[18] Exhibit "P-11".

Taxable Income per ITR		₱ 25,252,067.00
Add: Adjustments		
Disposal of Property and Equipment per Deed of Sales	₱931,323,707.87	
Book Value of Property and Equipment	909,787,211.00	21,536,496.87
Taxable Income per Investigation		**₱46,788,563.87**
Tax Due Thereon (30%)		₱ 14,036,569.16
Less: Tax Credits/Payments per ITR		7,575,620.00
Basic Tax Due		₱ 6,460,949.06
Add: Interest 04-16-2015 to 10-30-2017		3,284,100.41
Total Amount Still Due		**₱ 9,745,049.47**

On October 26, 2017, petitioner settled the alleged deficiency Income tax of ₱9,745,049.47 as indicated in BIR Payment Form[19] (BIR Form No. 0605).

With the foregoing developments, petitioner filed a Motion for Leave to File and Admit Attached Supplemental Petition for Review[20] on February 15, 2018, which the Court granted in the Order dated February 22, 2018.[21]

On February 27, 2018, respondent filed a Supplemental Answer (To Supplemental Petition for Review),[22] reiterating the same special and affirmative defenses cited in his Answer filed on June 22, 2017.

On March 13, 2018, the parties filed their Joint Stipulation,[23] which was approved [24] on March 26, 2018. A Pre-Trial Order was issued on May 23, 2018,[25] terminating the pre-trial proceeding.

To prove its case, petitioner presented its lone witness, **Mr. Siegfred A. Sorbito**, who testified[26] that he is the current Tax Accountant of petitioner's affiliate Wells Fargo. Priorly or from September 16, 2013 to June 5, 2014, he was

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19 Exhibit "P-12".
20 Vol. 2 Docket, pp. 794-797.
21 *Ibid.*, pp. 909-911.
22 *Ibid.*, pp. 1019-1021.
23 *Ibid.*, pp. 1025-1030.
24 *Ibid.*, p. 1032.
25 *Ibid.* pp. 1048-1055.
26 Exhibits "P-24" to "P-24-a".

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petitioner's accountant in-charge of preparing petitioner's tax returns and administrative requirements with the government agencies such as the BIR, PEZA, *etc.*; assists in the preparation or completion of documents relating to projects assigned to the Tax Team, including audit by the government agencies; and ensures proper housekeeping of all electronic and hard copies of the tax returns and documents pertaining to the projects assigned to the Tax Team.

He is familiar with the present case being petitioner's accountant when the subject sale of assets occurred, thus had access to its record. Moreover, he was requested to assist in the preparation of documents pertinent to petitioner's claim for refund of its excess CWT for TY 2014 and during the audit conducted by the BIR for TY 2014 by virtue of Letter of Authority (LOA) eLA201200036649 dated May 5, 2016.[27]

The present case commenced when petitioner's tax advisor, SGV & Co. submitted a letter dated October 28, 2016[28] together with relevant supporting documents to the BIR-RDO No. 44 in Taguig, for the refund of petitioner's excess CWT for TY 2014 amounting to ₱25,490,915.00. On January 10, 2017, petitioner received from the BIR[29]a Letter dated December 29, 2016, signed by RO Grace Manuel, requiring it to submit additional documents in connection with its refund claim of excess CWT. Petitioner complied on January 17, 2017.[30]

On January 27, 2017, petitioner received another Letter from the BIR[31] requiring it again to submit additional documents to substantiate the same claim for refund. Again, petitioner complied on March 3, 2017.[32]

There being no action from respondent and considering that the 2-year period to file a judicial claim was about to lapse on April 2017, he called the attention of petitioner's

[27] Exhibit "P-1".
[28] Exhibit "P-4".
[29] Exhibit "P-5".
[30] Exhibit "P-6".
[31] Exhibit "P-7".
[32] Exhibit "P-8".

Corporate Secretary, Attorney Enrique Vera about the need to seek judicial intervention. The latter raised the matter to the Board of Directors which during a meeting on March 30, 2017 approved the filing of a refund case for TY 2014 with the Court via a Petition for Review.

On April 17, 2017, the instant claim for refund was filed for petitioner's excess CWT amounting to ₱25,490,915.00.

Sometime in May 2017, in the course of the BIR audit, petitioner discovered that the net book value of the assets sold under the Deed of Absolute Sale dated June 6, 2014 and Supplemental Deed of Absolute Sale of Assets dated July 11, 2014, was overstated due to accounting error in the treatment of the beginning balance of CIP assets. Consequently, petitioner advised its auditors to amend its AFS for the year ended December 31, 2014, to reflect the correct total net book value of the assets disposed in 2014, including the assets sold to Wells Fargo, in the amount of ₱917,112,188.00.[33] Of the said amount, the net book value of assets sold to Wells Fargo was ₱909,787,211.00 while the net book value of assets retired or derecognized from petitioner's books was ₱7,324,977.00.

The witness further testified that on October 5, 2017, petitioner filed with the BIR an amended AFS for the year ended December 31, 2014,[34] reflecting the amended income on the sale of assets amounting to ₱21,536,496.87.

On October 25, 2017, petitioner received an undated PAN[35] from the BIR for deficiency income tax and interest in the total amount of ₱9,745,049.47. Petitioner paid the assessed amount on October 26, 2017, as evidenced by BIR Form No. 0605[36] with Reference No. 291700022131.

Anent the claimed excess CWT, the witness explained the amount being claimed accrued when petitioner sold its assets in 2014 to Wells Fargo,[37] which includes among

[33] Exhibit "P-9".
[34] Exhibit "P-10".
[35] Exhibit "P-11"
[36] Exhibit "P-12".
[37] Exhibits "P-13" and "P-14".

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others, the leasehold improvements it used in its business for the amount of ₱527,375,326.86. For such sale, Wells Fargo withheld 6% on the purchase price, amounting to ₱31,642,519.61,[38] which was remitted to the BIR on July 10, 2014[39]. In petitioner's 2014 AITR[40] filed on April 15, 2015, there was a total income tax liability of ₱7,575,620.00 and total excess tax credits in the amount of ₱33,066,535.00. To pay its 2014 Income Tax liability of ₱7,575,620.00, petitioner applied the ₱1,424,015.00 prior year's excess credits and a portion of the CWT from the sale of leasehold improvements amounting to ₱6,151,605.00. After utilizing a portion of its excess tax credits, petitioner still had excess tax credits amounting to ₱25,490,915.00, which petitioner opted to be refunded by indicating in item 21 of its 2014 AITR its intention "*To Be Refunded.*"

The witness clarified that petitioner's prior year's excess credits other than MCIT refers to the income tax overpayment for TY 2013, which it opted to carry over to the succeeding taxable quarters and/or years, as shown in its AITR for TY 2013.[41] The income tax overpayment of ₱1,424,015.00 resulted from the application of a total of ₱2,234,768.00 income tax over-payments to petitioner's income tax due for TY 2013 amounting to ₱810,753.00. The ₱2,234,768.00 income tax over-payments consist of 1) income tax payments for the first three quarters in 2013; and 2) ₱1,042,952.00 prior years excess credits other than MCIT. Specifically, the ₱1,042,952.00 prior years excess credits represent petitioner's income tax overpayments in 2012 resulting from the amendment of petitioner's AITR for TY 2012. In the said Amended AITR for 2012.[42] petitioner opted to carry over the ₱1,042,952.00 overpayment in 2012 to succeeding taxable quarters and/or years.

By reason of choice to have the excess CWT refunded, the ₱25,490,915.00 excess CWT was no longer carried over in petitioner's ITRs after 2014, as shown in its Annual and Quarterly ITRs for TY 2015,[43] 2016[44] and 2017[45].

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[38] Exhibit "P-16".
[39] Exhibit "P-15".
[40] Exhibit "P-17".
[41] Exhibit "P-18".
[42] Exhibit "P-19".
[43] Exhibits "P-21" to "P-21-c".
[44] Exhibits "P-22" to "P-22-c".
[45] Exhibits "P-23" to "P-23-c".

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Petitioner rested when it filed its Formal Offer of Evidence[46] on June 13, 2018, per Court Resolution[47] dated September 4, 2018.

On September 5, 2018,[48] respondent filed a Manifestation stating that he would not present any evidence since no final report on petitioner's application for refund was submitted by the revenue examiner assigned thereon.

On November 5, 2018,[49] the case was considered submitted for decision considering respondent's Memorandum[50] filed on October 10, 2018 and petitioner's Memorandum[51] filed on October 29, 2018.

THE ISSUE

The lone issue[52] for the resolution of the Court is as follows:

> **Whether petitioner is entitled to a refund of its excess CWT for taxable year 2014 in the amount ₱25,490,915.00.**

THE COURT'S RULING

Section 76 of the NIRC of 1997, as amended, pertinently provides, thus:

> 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

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[46] Vol. 3 Docket, pp. 1061-1071.
[47] Vol. 4 Docket, pp. 1822-1823.
[48] Vol. 4 Docket, pp. 1824-1825.
[49] Order, *ibid.,* p. 1848.
[50] *Ibid.,* pp. 1826-1829.
[51] *Ibid.*, pp. 1834-1847.
[52] Issue, Joint Stipulation, vol. 2 docket, p. 1026.

> the entire taxable income of that year, the corporation shall either:
>
> (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.
>
> 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 tax credit certificate shall be allowed therefor.

Thus, there are two options available to a corporation whenever it overpays its income tax for a given taxable year, to wit: (1) to carry over and apply the overpayment as tax credit against the estimated quarterly income tax liabilities of the succeeding taxable years (also known as automatic tax credit) until fully utilized (meaning, there is no prescriptive period); and (2) to apply for a cash refund or issuance of a tax credit certificate within the prescribed period.[53]

In *Systra Philippines, Inc. v. Commissioner of Internal Revenue*,[54] the Supreme Court held that 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. However, once the carry over option is taken actually or constructively, it becomes irrevocable for

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[53] *University Physicians Services, Inc. – Management, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205955, March 7, 2018.
[54] G.R. No. 176290, September 21, 2007.

that taxable period.[55] The phrase "for that taxable period" merely identifies the excess income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer.[56]

It is therefore clear that a corporate taxpayer is not legally allowed a change of heart once it has chosen an option from the two alternative remedies for the choice of one precludes the other.

In the present case, petitioner's AITR[57] for TY 2014 reveals that it had total income tax due of ₱7,575,620.00. The said amount was paid using its income tax credits in the amount of ₱33,066,535.00, which consisted of prior year's excess tax credits of ₱1,424,015.00 and creditable tax withheld from previous quarters in the amount of ₱31,642,520.00,[58] thereby leaving it with unutilized CWTs in the total amount of ₱25,490,915.00 as of December 31, 2014, as shown in the table below:

Income Tax Due		₱ 7,575,620.00
Less: Tax Credits/Payments		
Prior Year's Excess Credits other than MCIT	₱1,424,015.00	
Creditable Tax Withheld from Previous Quarters	31,642,520.00	33,066,535.00
Total Amount Payable (Overpayment)		**₱ (25,490,915.00)**

Inasmuch as petitioner clearly marked the option *"To be refunded"* in its AITR for TY 2014,[59] and reflected the amount of ₱0.00 as *"Prior Year's Excess Credits"* in its AITR for TY 2015,[60] as well as in the first,[61] second, [62] and third[63] quarterly ITRs of 2015, the Court finds that the unutilized CWTs for TY 2014 in the amount of ₱25,490,915.00 may be

[55] *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 156637 and 162004, December 14, 2005; *Systra Philippines, Inc. v. Commissioner of Internal Revenue, Ibid.*
[56] *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.
[57] Exhibit "P-17".
[58] Schedule 8, *ibid.*
[59] Line 21, *ibid.*
[60] Item 1, Schedule 7 of Exhibit "P-21".
[61] Item 31A of Exhibit "P-21-a".
[62] Item 31A of Exhibit "P-21-b".
[63] Item 31A of Exhibit "P-21-c".

refunded pursuant to Section 76 of the NIRC of 1997, as amended.

In addition to its choice to be refunded under Section 76 of the NIRC of 1997, petitioner must also prove compliance with the following requirements, namely:

1) The claim must be filed with the CIR within the two-year period from the date of payment of the tax;

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

3) It must be shown on the return that the income received was declared as part of the gross income. [64]

Anent the first requisite, Sections 204(C) and 229 of the NIRC of 1997, as amended, relevantly provide:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* - The Commissioner may -
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund**

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[64] *Commissioner of Internal Revenue v. Mirant (Philippines) Operations Corporation*, G.R. No. 171742, June 15, 2011 and *Mirant (Philippines) Operations Corporation (Formerly: Southern Energy Asia-Pacific Operations (Phils.), Inc.) v. Commissioner of Internal Revenue*, G.R. No. 176165.

> **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.
>
> 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 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. (emphases supplied).

Per the above provisions, the two-year prescriptive period for claiming a refund commences to run from the date of filing of the FAR.[65] It is only when the FAR 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.[66]

In the present case, petitioner claims that it still has excess and unutilized CWT for TY 2014. Counting two (2) years from April 15, 2015, the date it filed its AITR, petitioner had until April 17, 2017[67] within which to file both the administrative and judicial claims for refund.

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[65] *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.,* G.R. No. 96322, December 20, 1991.
[66] *Commissioner of Internal Revenue v. TMX Sales, Inc., et al.,* G.R. No. 83736, January 15, 1992.
[67] April 15, 2017 fell on a Saturday.

Undoubtedly, petitioner's administrative claim[68] for refund of excess CWT and its Petition for Review were seasonably filed with the BIR and before this Court on October 18, 2016 and April 17, 2017, respectively, in compliance with Sections 204(C) and 229 of the NIRC of 1997, as amended.

As for the second and third requisites, Section 2.58.3(B) of RR No. 02-98, as amended, states:

> SECTION 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)

To satisfy the second requisite, petitioner presented the Certificate of Taxes Withheld at Source (BIR Form No. 2307)[69] duly issued by Wells Fargo, reflecting CWT in the amount of ₱31,642,519.61 with related income payments of ₱527,375,326.86 to prove the fact of CWT withholding for TY 2014.

As earlier discussed, petitioner's claim pertains to its excess tax credits as of December 31, 2014, which consisted of prior year's excess tax credits of ₱1,424,015.00 and CWTs during TY 2014 in the amount of ₱31,642,520.00, less income tax due of ₱7,575,620.00.

Per record, petitioner's prior year's excess tax credits in the amount of ₱1,424,015.00 originated from the

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[68] Exhibit "P-4".
[69] Exhibit "P-16".

overpayment of income tax due for TYs 2012 and 2013, as illustrated below, to wit:

	TY 2012	**TY 2012**	**TY 2013**
	Exhibit "P-20"	Exhibit "P-19"	Exhibit "P-18"
Prior Year's Excess Credits	₱ -	₱ -	₱1,042,952.00
Income Tax Payment from Previous Quarter/s	508,232.00	404,887.00	1,191,816.00
Tax Paid in Return Previously Filed, if this is an Amended Return		2,749,769.45	
Total Tax Credits/Payments	**₱ 508,232.00**	**₱3,154,656.45**	**₱2,234,768.00**
Less: Income Tax Due	2,669,627.00	2,111,703.00	810,753.00
Excess Tax Credits/(Payments)	**₱(2,161,395.00)**	**₱1,042,953.45**	**₱1,424,015.00**

Petitioner however failed to present any proof of payments of its income tax due for taxable quarters of 2012 and 2013, as well as the payments made in the return previously filed for TY 2012. As such, without submitting proof of its payment, the same cannot be applied against the reported income tax liabilities of petitioner for TYs 2012 and 2013.

Also, worth to note is the bank BTR-BIR Deposit Slip submitted by petitioner to prove that it remitted the amount of ₱2,161,395.00, allegedly representing income tax due for TY 2012. While the same may be applied against petitioner's reported income tax liabilities for TYs 2012 and 2013, the said amount is not sufficient to cover the income tax liabilities for 2012 and 2013. Thus, there is actually no excess tax credits to be carried over to the next TY 2014, as shown in the table below:

Income Tax Payment in TY 2012		₱ 2,161,395.00
Less: Income Taxes Due		
TY 2012	₱2,111,703.00	
TY 2013	810,753.00	2,922,456.00
Income Tax Still Due		**₱(761,061.00)**

As regards the third requisite, based on petitioner's Withholding Tax Remittance Return (BIR Form 1606), the amount of ₱31,642,519.61 represents the 6% CWT of the gross selling price of the asset sold by petitioner.

As earlier mentioned, per the Deeds of Sale dated June 6, 2014 and July 11, 2014, petitioner, sold, among other things, leasehold improvements to Wells Fargo for the amount of ₱527,375,326.86 which was equivalent to its net book value. The particular provision reads as follows:

> NOW, THEREFORE, for and in consideration of the foregoing premises, SELLER and BUYER have agreed by way of this Supplemental Deed to the Deed of Absolute Sale on payment of the NET BOOK VALUE for the sale, transfer and conveyance of the ASSETS:
>
> 1. **PURCHASE PRICE** – Purchase Price for the ASSETS shall be ₱931,323,707.87, computed as follows:

Computer Equipments	₱ 80,464,828.69
Furniture and Fixtures	107,726,009.30
Leasehold Improvements	**527,375,326.86**
Office Equipment and Machines	215,757,543.02
Net Book Value	**₱931,323,707.87**

Considering that there was no excess amount realized from the sale over the net book value of the leasehold improvements, no gain was declared by petitioner in its AITR for TY 2014. However, notwithstanding the amendment of its AFS for 2014, petitioner was still not able to file an amended ITR for 2014 due to the pending BIR tax audit for the said TY 2014. Accordingly, the gain from the sale was not reported in petitioner's AITR for TY 2014, yet, the income tax on the gain of ₱21,536,496.87 had been duly paid.

In any event, by virtue of its payment of the deficiency income tax which arose from the difference between the purchase price in the Deeds of Sale and the net book value of the assets per the Amended AFS[70] for 2014, the income payment upon which the CWT was withheld was effectively included as part of petitioner's gross income, thereby, complying with the third requisite.

Accordingly, considering that petitioner was able to substantiate its claimed excess CWT for TY 2014, the said

[70] Exhibit "P-10".

amount can be validly applied against its reported income tax liability for the same TY in the amount of ₱7,575,620.00.

In fine, petitioner was able to prove its entitlement for refund/tax credit, albeit in the reduced amount of ₱24,116,899.61, computed as follows:

Substantiated CWT for TY 2014	₱ 31,642,519.61
Less: Income Tax Due	7,525,620.00
Refundable Excess CWT	**₱24,116,899.61**

WHEREFORE, the instant Petition for Review filed by petitioner Wells Fargo Philippines Solutions, Inc. on April 17, 2017, is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **DIRECTED TO REFUND** in favor of petitioner the amount of ₱24,116,899.61, representing petitioner's excess payment of creditable withholding taxes for the taxable year 2014.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

ERLINDA P. UY
Associate Justice

(Inhibited)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

I attest 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.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

JUANITO C. CASTAÑEDA, JR.
Acting Presiding Justice