REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

UNIVATION MOTOR PHILIPPINES, INC. (formerly NISSAN MOTOR PHILIPPINES, INC.),
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9575

Members:

CASTAÑEDA, JR., *Chairperson and*
MANAHAN, *JJ.*

Promulgated:

JUN 2 1 2019 10:30 a.m.

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DECISION

MANAHAN, *J.*:

The case involves the *Petition for Review*[1] filed by Univation Motor Philippines, Inc. (formerly, Nissan Motor Philippines, Inc.) to seek the refund or issuance of tax credit certificate (TCC) in the amount of ₱6,795,629.00, allegedly representing its excess and unutilized creditable withholding taxes (CWT) for calendar year (CY) 2014.

THE PARTIES

Petitioner Univation Motor Philippines, Inc. (formerly, Nissan Motor Philippines, Inc.) is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal place of business at Nissan Technopark, Barangay Pulong Sta. Cruz, Sta. Rosa, Laguna.[2] It is also registered with the Large Taxpayers Service of the Bureau of Internal Revenue (BIR), with Taxpayer Identification No. 000-389-353-000.[3]

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[1] Docket, CTA Case No. 9575, pp. 12-20.
[2] *Id.*, Vol. II, Exhibit "P-1", pp. 490-512.
[3] *Id.*, Vol. II, Exhibit "P-2", p. 513.

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue who has the power to decide on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the 1997 National Internal Revenue Code (NIRC), as amended, or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

THE FACTS

As stated in its Amended Articles of Incorporation, petitioner's primary purpose is:

> To carry on business of buying, acquiring, manufacturing, assembling, producing, importing, holding, selling, disposing, distributing, dealing in motor trucks, cars, engines and other kinds of automobiles and mechanically propelled vehicles, means of transportation and industrial machinery, their bodies, spare parts, accessories; and to repair, maintain, service, condition and/or recondition said products.[4]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue who has the power to decide on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner filed its Annual Income Tax Return (ITR) for CY 2014 via Electronic Filing and Payment System (eFPS) on April 15, 2015.[5] Subsequently, petitioner manually filed it on April 30, 2015.[6]

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[4] Docket, Vol. II, Exhibit "P-1", p. 493.
[5] *Id.*, Vol. II, Exhibit "P-3", pp. 514-523.
[6] *Id.*, Vol. II, Exhibit "P-4", pp. 524-540.

Petitioner filed an Amended Annual ITR for CY 2014 through eFPS on July 7, 2016.[7] Afterwards, petitioner manually filed it on July 11, 2016.[8]

Petitioner indicated on the face of the Original and the Amended Annual ITR for CY 2014 its option to be issued a TCC for its alleged excess and unutilized CWT.[9]

On July 28, 2016, petitioner filed with the BIR Excise Large Taxpayers Audit Division II (ELTAD II) an administrative claim for issuance of TCC for its alleged excess and unutilized CWT for CY 2014 in the amount of ₱6,795,629.00.[10]

In view of respondent's inaction on petitioner's administrative claim for issuance of TCC, petitioner filed the instant Petition for Review before this Court on April 11, 2017.

Within the extended period granted by the Court,[11] respondent filed his Answer[12] on June 9, 2017, interposing the following arguments and defenses:

> 3. He **DENIES** the allegation contained in paragraphs 15 to 20 and 23 for being false, the truth of the matter being that Petitioner is not entitled to the claimed refund on the ground that the petition failed to show that petitioner complied with the requirements of Revenue Memorandum Order No. 53-98 and Revenue Regulations No. 2-2006.
>
> 3.1 Petitioner herein failed to submit the following documentary requirements as provided for in the RMO 53-98:
>
> 1) Certified Financial Statements, including comparative Profit and Loss Statement with Statement of Cost of Goods Manufactured and Sold, if applicable
> 2) Proof of claimed tax credit/s, if applicable
> 3) Proof of the claimed "Interest Expense", if applicable
> 4) Proof of claimed Bad Debts/worthlessness of credit, if applicable
> 5) Reconciliation of "Book Income" and "Taxable Income"

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[7] Docket, Vol. II, Exhibit "P-5", pp. 541-555.
[8] *Id.*, Vol. II, Exhibit "P-6", pp. 556-567.
[9] *Id.*, Vol. II, Exhibits "P-3" to "P-5", pp. 515 and 542, respectively.
[10] *Id.*, Vol. II, Exhibits "P-13" and "P-13-a", pp. 622-624.
[11] *Id.*, Vol. I, Order dated May 12, 2017, p. 173.
[12] *Id.*, Vol. I, pp. 175-179.

6) Certificate of Registration issued by the appropriate regulatory agency, together with the conditions attached to such registration, if applicable
7) Proof of Exemption under special laws, if applicable
8) Certification of the appropriate regulatory agency as to taxpayer's entitlement to tax incentives, if applicable
9) Xerox copy of used Tax Credit Certificate with annotation of issued TDM at the back, if applicable
10) Proof of payment of deficiency tax, if any/applicable
    (a) current year/period
    (b) previous year/period
11) Reports submitted to applicable regulatory agency that reflects the financial condition and result of operation of the taxpayer e.g., Annual Statement prepared by insurance companies submitted to the Insurance Commission etc., if applicable

3.2 Moreover, Revenue Regulations No. 2-2006 (Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT) to Tax Returns With Claimed Tax Credits due to Creditable Tax Withheld at Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments) provides:

> SECTION 2. Mandatory Submission of Summary Alphalist of Withholding Agents of Income Payments Subjected to Creditable Withholding Taxes (SAWT) by the Payee/Income Recipient and Monthly Alphalist of Payees (MAP) Subjected to Withholding Tax by the Withholding Agent/Income Payor as Attachment to their Filed Returns. –
>
> A. xxx xxx xxx
>
> B. Persons required to submit Summary Alphalist of Withholding Agents of Income Payments subjected to Withholding Taxes (SAWT)
>
> 1. All persons claiming refund or applying their creditable tax withheld at source against the tax due with not more than ten (10) withholding agents-payor of income

payment per return period are strictly required to submit SAWT in hard copy as attachment to the required tax return;

2. All persons claiming for refund or applying their creditable tax withheld at source against the tax due with more than ten (10) withholding agents-payor of income payment per return period are strictly required to submit SAWT electronically in a 3.5-inch floppy diskette following the format to be prescribed by the BIR;

3.3 As these rules and regulations partake the nature of a statute that have the force and effect of the law, and enjoy the presumption of constitutionality and legality until they are set with finality in an appropriate case by a competent court, Petitioner must faithfully comply thereto.

3.4 Although Petitioner submitted documents to support its claim, Petitioner failed to fully substantiate its claim when it failed to comply with the abovementioned issuances. This failure to comply is fatal to its judicial claim.

A Notice of Pre-Trial Conference[13] was issued by the Court on June 14, 2017, setting the case for pre-trial conference on July 6, 2017. Accordingly, respondent's Pre-Trial Brief[14] and petitioner's Pre-Trial Brief[15] were both filed on June 30, 2017.

The parties filed their Joint Stipulation of Facts and Issues[16] on August 3, 2017. Thereafter, the Court issued a Pre-Trial Order[17] on August 4, 2017 and terminated the pre-trial.

Trial ensued, giving both parties the opportunity to present their respective evidence.

After presentation, marking, identification, and formal offer, the Court admitted Exhibits "P-1" to "P-32-220" and "P-

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[13] Docket, Vol. I, pp. 366-367.
[14] *Id.*, Vol. I, pp. 185-189.
[15] *Id.*, Vol. I, pp. 190-204.
[16] *Id.*, Vol. I, pp. 401-406.
[17] *Id.*, Vol. I, pp. 408-412.

34" to "P-36-a", inclusive of submarkings, as petitioner's evidence.[18] On the other hand, respondent manifested, through counsel, that there is no report of investigation and that he will no longer present evidence.[19]

The Court declared the case deemed submitted for decision as of July 4, 2018,[20] after respondent filed his Memorandum[21] on June 20, 2018 and petitioner submitted its Memorandum[22] on June 29, 2018.

ISSUE

The parties submitted the following issue for this Court's resolution:[23]

> Whether or not petitioner is entitled to the refund of or issuance of TCC for its excess and unutilized CWT for CY 2014 in the amount of ₱6,795,629.00.

Petitioner's Arguments[24]

Petitioner argues that its administrative and judicial claims for refund were filed within the two-year prescriptive period and that the CWT being claimed for refund were withheld and reported as part of its gross revenues as declared in its annual ITR. It also insists that the alleged excess and unutilized CWT for CY 2014 are duly substantiated by documentary evidence.

Respondent's Counter-Arguments[25]

Respondent, on the other hand, argues that petitioner failed to exhaust administrative remedies before elevating the case to this Court. He also avers that petitioner should not be entitled to such refund for the latter's failure to provide supporting documents that would show that the income from CWT being claimed was declared in the annual ITR.

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[18] Docket, Vol II, Resolution dated April 5, 2018, pp. 648-649.
[19] *Id.*, Vol. II, Minutes of the hearing dated May 21, 2018, p. 650.
[20] *Id.*, Vol. II, Resolution dated July 4, 2018, p. 689.
[21] *Id.*, Vol. II, pp. 652-662.
[22] *Id.*, Vol. II, pp. 668-687.
[23] *Id.*, Vol. I, JSFI, Issues, p. 402.
[24] *Supra.*, Note 22.
[25] *Supra.*, Note 21.

RULING OF THE COURT

Based on relevant jurisprudence and BIR Revenue Regulations, in order for a taxpayer to be entitled to a refund of or an issuance of TCC for unutilized and excess CWT, the following three (3) basic requisites must be sufficiently established:

1. The claim for refund must be filed within the two-year prescriptive period as provided under Sections 204(C) and 229 of the Tax Code, 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.[26]

Anent the first requisite, the pertinent provisions are Sections 204(C) and 229 of the NIRC of 1997, as amended, which 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 within two (2) years after the payment of the tax or penalty**: *Provided,*

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[26] *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.

> *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 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." (*Emphases supplied*)

Sections 204 and 229 of the NIRC of 1997, as amended, pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty.[27]

It is well-settled that the reckoning of the two-year prescriptive period for the filing of a claim for refund/tax credit of excess income tax paid/withheld, both in the administrative and judicial levels, commences from the date of filing of the Final Adjustment Return.[28] 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.[29]

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27 *CBK Power Company Limited vs. Commissioner of Internal Revenue and Commissioner of Internal Revenue vs. CBK Power Company Limited*, G.R. Nos. 193383-84 and 193407-08, January 14, 2015.

28 *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.

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

Here, petitioner filed its Original Annual ITR[30] for CY 2014 through the BIR's eFPS on April 15, 2015, while the Amended ITR[31] was later filed through the BIR's eFPS on July 7, 2016. Considering that petitioner filed its administrative and judicial claims on July 28, 2016[32] and on April 11, 2017[33], respectively, it is clear that both were filed within the two-year prescriptive period provided by law. Thus, the Court finds that petitioner complied with the first requisite.

Moving on to the second and third requisites, the same are imposed by Section 2.58.3(B) of Revenue Regulations (RR) No. 02-98, as amended, which 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 prove the fact of withholding of the subject CWT, petitioner presented the Schedule of Creditable Taxes Withheld[34] and the related Certificates of Taxes Withheld at Source (BIR Form No. 2307)[35] duly issued by its various withholding agents for CY 2014, reflecting CWTs in the total amount of ₱6,795,628.12 with related income payments of ₱569,983,765.14.

Upon verification of the record, the claimed CWTs in the amount of ₱268,956.65, as detailed below, were not supported by certificates.

Period Covered	Payor	Tax Identification Number	Amount	
			Income Payments	Tax Withheld
4th Quarter of 2013	Broadway Motor Sales Corp.	000-343-464-000	₱ 1,273,599.11	₱ 12,735.99
3rd Quarter of 2013	Nissan Cebu Distributors, Inc.	002-329-844-000	14,352,857.14	143,528.57

[30] Docket, Vol. II, Exhibit "P-3", pp. 514-523.
[31] *Id.*, Vol. II, Exhibit "P-5", pp. 541-555.
[32] *Id.*, Vol. II, Exhibits "P-13" and "P-13-a", pp. 622-624.
[33] *Id.*, Vol. I, pp. 12-22.
[34] Exhibit "P-17".
[35] Exhibits "P-18-1" to "P-17-173".

2nd Quarter of 2013	Nissan Cebu Distributors, Inc.	002-329-844-000	331,218.38	3,312.17
2nd Quarter of 2013	Nissan Cebu Distributors, Inc.	002-329-844-000	2,302,857.14	23,028.57
2nd Quarter of 2013	Nissan Cebu Distributors, Inc.	002-329-844-000	4,605,714.29	46,057.14
2nd Quarter of 2013	Nissan Cebu Distributors, Inc.	002-329-844-000	1,842,285.71	18,422.86
2nd Quarter of 2013	Nissan Cebu Distributors, Inc.	002-329-844-000	1,842,285.71	18,422.85
4th Quarter of 2013	Smart Communications, Inc.	001-901-673-000	68,970.00	3,448.50
TOTAL			**₱26,619,787.48**	**₱268,956.65**

Moreover, as indicated in the Schedule of Creditable Taxes Withheld, the amount pertains to CY 2013, thus, should be disallowed.

Accordingly, out of the total claimed CWTs amounting to ₱6,795,629.00, petitioner was able to satisfy the second requisite only up to the extent of ₱6,526,671.47, as computed below:

Claimed CWT		₱ 6,795,629.00
Less: Disallowances		
Without supporting Certificates/Pertains to CY 2013	₱268,956.65	
Discrepancy between per claim and per schedule (₱6,795,629.00-₱6,795,628.12)	0.88	268,957.53
Substantiated CWT		**₱6,526,671.47**

As regards the third requisite, to prove that the income payments related to the claimed CWTs formed part of petitioner's declared income per ITR, petitioner presented its general ledgers (GL) for CYs 2013 and 2014.[36]

As ascertained by the Court-commissioned Independent Certified Public Accountant (CPA), out of the income payments of ₱543,363,977.66 (₱569,983,765.14 less ₱26,619,787.48) per Summary of Creditable Withholding Taxes supported by certificates, only the amount of ₱542,554,716.56 with corresponding CWTs of ₱6,517,847.94 was traced to the GLs and to the corresponding invoices for CYs 2013 and 2014[37], while the remaining income payments of ₱809,261.10 with corresponding CWTs of ₱8,823.53 were not traced to the GLs.[38]

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[36] Exhibits "P-19-1", "P-19-2", "P-21-1", and "P-21-2".
[37] Exhibit "P-36" (ICPA Report), p. 11.
[38] See Exhibits "P-22" and "P-24" of the ICPA Report for details.

In ascertaining that the sales and other income per general ledger tally with those declared per tax returns, the Independent CPA prepared the following reconciliation:[39]

	Per Petitioner-prepared Schedule of Computation of Taxable Income			Per GL	
Particulars	**Exhibit No.**	**Amounts**	**Reconciling Items**	**Exhibit No.**	**Amounts**
2014					
Sales of goods and services		₱ 726,997,538.00	₱ (0.60)*	P-19-1	₱ 726,997,537.40
Assembly fee		31,628,533.00	0.40	P-21-1	31,628,533.40
Other income		89,092,927.00	(25,519,134.00)	P-21-1	63,573,793.00
	P-28	**₱847,718,998.00**	**₱(25,519,134.20)**		**₱822,199,863.80**
2013					
Sales of goods and services		₱1,410,311,315.00	₱ (0.36)*	P-19-2	₱1,410,311,314.64
Other income		52,410,105.00	(19,386,259.58)	P-21-2	33,023,845.42
			(0.06)*		
	P-29	**₱1,462,721,420.00**	**₱(19,386,260.00)**		**₱1,443,335,160.06**

**Due to rounding-off*

The differences in "Other Income" were accounted for as follows:

Particulars	**Amount**
2014 (Exhibit No. P-28)	
Taxable rent income collected in 2014	₱ 14,578,747.00
Taxable realized foreign exchange gain	7,913,954.00
Taxable interest income classified under a separate account in the GL	8,765,375.00
Nontaxable miscellaneous income	(4,738,942.00)
Nontaxable reversal of long-outstanding liabilities	(1,000,000.00)
	₱25,519,134.00
2013 (Exhibit No. P-29)	
Taxable realized foreign exchange gain	₱ 19,121,415.00
Taxable miscellaneous income	139,685.00
Taxable interest income classified under a separate account in the GL	125,160.00
	₱19,386,260.00

Based on the foregoing, petitioner was able to prove that the income payments of ₱542,554,716.56, with corresponding

[39] Exhibit "P-36", p. 14.

CWTs of ₱6,517,847.94, formed part of the gross income declared in its Annual ITRs for CYs 2013 and 2014.

Notwithstanding compliance with the aforesaid conditions, there is a need to determine whether petitioner made an option to carry over its excess CWTs to the succeeding quarters pursuant to Section 76 of the NIRC of 1997, as amended, which reads:

> "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:
>
> (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."

Based on the cited law, there are two options available to the corporation whenever it overpays its income tax for the taxable year: (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.[40]

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[40] *University Physicians Services, Inc. – Management, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 205955, March 7, 2018.

However, once the carry-over option is taken actually or constructively, it becomes irrevocable for that taxable period.[41] 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.[42]

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, whether to request for a refund or claim for an automatic tax credit for the succeeding taxable year. To ease the administration of tax collection, these remedies are in the alternative, and the choice of one precludes the other.[43]

A perusal of its Amended Annual ITR for CY 2014[44] shows that petitioner had a Minimum Corporate Income Tax (MCIT) due of ₱1,114,170.00. The said amount was applied against its total tax credits of ₱14,898,376.00[45], which consisted of prior year's excess credits other than MCIT and CWTs for the four quarters of CY 2014 in the respective amounts of ₱8,102,747.00 and ₱6,795,629.00[46], thus, leaving the CWTs in the aggregate amount of ₱13,784,206.00 unutilized as of December 31, 2014, as shown below:

Income Tax Due	₱ 1,114,170.00
Less: Tax Credits/Payments	
Prior Year's Excess Credits	8,102,747.00
CWT from Previous Quarter/s per BIR Form No. 2307	2,813,190.00
CWT per BIR Form No. 2307 for the 4th Quarter	3,982,439.00
Total Tax Credits	*₱ 14,898,376.00*
Unutilized Excess Tax Credits as of December 31, 2014	**₱ (13,784,206.00)**

Further, petitioner opted for the issuance of a tax credit certificate for its CWTs for CY 2014 by marking the box corresponding to the option "To be issued a Tax Credit Certificate (TCC)"[47] and as evidenced by petitioner's Annual

[41] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 and 162004, December 14, 2005; *Systra Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.
[42] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.
[43] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.
[44] Docket, Vol. II, Exhibits "P-5" and "P-6", pp. 541-566.
[45] *Id.*, Vol. II, Schedule 7 of Exhibits "P-5" and "P-6", pp. 548 and 561, respectively.
[46] Sum of ₱2,813,190.00 and ₱3,982,439.00.
[47] Docket, Vol. II, Line 21 of Exhibits "P-5" and "P-6", pp. 542 and 556, respectively.

ITR for CY 2015[48], only the prior year's excess credits of ₱6,988,577.00[49] were carried over. Clearly the claimed CWTs for CY 2014 amounting to ₱6,795,629.00 were not carried over to the succeeding quarters or taxable year. Thus, the substantiated CWTs for CY 2014 in the amount of ₱6,517,847.94 may be refunded pursuant to Section 76 of the NIRC of 1997, as amended.

Records, however, reveal that petitioner failed to prove that it has sufficient prior year's excess tax credits upon which the income tax due for CY 2014 may be applied.

As illustrated below, the prior year's excess credits of ₱8,102,747.00 originated from the CWTs for CYs 2005 to 2008:

Exhibit	Taxable Year	Income Tax Due	Prior Year's Excess Credits	(Income Tax Still Due)/Balance of Prior Year's Excess Credits	CWT for	EWT at the End of the Year
		(a)	(b)	(c) = (b) less (a)	the Year	
					(d)	
P-15-1	2005	₱13,120,451.40	₱ -	₱(13,120,451.40)	₱32,752,987.00	₱19,632,535.60
P-15-2	2006		19,632,536.00	19,632,536.00	25,287,007.00	44,919,543.00
P-15-3	2007	56,165,995.35	44,919,543.00	(11,246,452.35)	19,514,513.00	8,268,060.65
P-15-4	2008	6,188,219.90	8,268,061.00	2,079,841.10	₱16,024,714.00	18,104,555.10
P-15-5	2009	2,527,717.78	18,104,555.00	15,576,837.22		15,576,837.22
P-15-6	2010	2,341,683.48	15,576,837.00	13,235,153.52		13,235,153.52
P-15-7	2011	1,344,538.02	13,235,154.00	11,890,615.98		11,890,615.98
P-15-8	2012	1,698,158.90	11,890,616.00	10,192,457.10		10,192,457.10
P-15-9	2013	₱ 2,089,710.00	₱10,192,457.10	₱ 8,102,747.10		₱ 8,102,747.10

To substantiate the CWTs from prior years, petitioner submitted in evidence various Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307)[50] but pertaining to CY 2008 only. While petitioner was able to substantiate the entire CWTs for CY 2008 in the amount of ₱16,024,713.13, the same is not sufficient to cover the total taxes due for the years 2008 to 2013, as shown below:

CWTs for CY 2008		₱ 16,024,714.00
Less: Income Taxes Due		
CY 2008	₱6,188,219.90	
CY 2009	2,527,717.78	

[48] Exhibits "P-7", "P-8", and "P-9".
[49] ₱8,102,747.00 less ₱1,114,170.00.
[50] Exhibits "P-32-1" to "P-32-220".

CY 2010	2,341,683.48	
CY 2011	1,344,538.02	
CY 2012	1,698,158.90	
CY 2013	₱2,089,710.00	16,190,028.08
Tax Still Due		**₱(165,314.08)**

Hence, a portion of the substantiated CWT in the amount ₱6,517,847.94 shall be applied against the income tax liability of ₱1,114,170.00 for CY 2014. Consequently, petitioner's refundable excess CWTs for CY 2014 amount only to ₱5,403,677.94, computed as follows:

Substantiated CWTs	₱ 6,517,847.94
Less: Income Tax Due CY 2014	1,114,170.00
Refundable excess CWTs	**₱5,403,677.94**

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱5,403,677.94** representing petitioner's excess and unutilized CWT for CY 2014.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Acting Presiding Justice