REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

PRHC PROPERTY MANAGERS, INC., Petitioner,	**CTA EB NO. 904** (CTA Case No. 7914)
	Present :
- versus -	**DEL ROSARIO,** *PJ*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS,** and **RINGPIS-LIBAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** AUG 3 0 2013 Mapalinario 9:07 a.m.

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DECISION

UY, J.:

This Petition for Review[1] filed on June 6, 2012, seeks a reversal of the Decision[2] dated January 13, 2012 and Resolution[3] dated May 7, 2012 issued by the Third Division of this Court[4] in the case entitled, "PRHC Property Managers, Inc. vs. Commissioner of Internal Revenue," docketed as CTA Case No. 7914. The assailed Decision and Resolution denied petitioner's claim for refund for being filed out of time, and denied the motion for reconsideration for lack of merit, respectively.

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[1] Docket, pp. 7 to 38.
[2] Docket, pp. 40 to 51.
[3] Docket, pp. 53 to 56.
[4] Chaired by Associate Justice Lovell R. Bautista, with Associate Justice Amelia R. Cotangco-Manalastas and Associate Justice Olga Palanca-Enriquez as members.

THE FACTS

As found by the Court in Division, these are the facts of this case.

Petitioner PRHC Property Managers, Inc. is a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal offices and business address at E-2003B East Tower, PSE Center, Exchange Road, Ortigas Center, Pasig City. Petitioner is engaged in the business of managing, operating, administering, maintaining, servicing, buying, leasing or selling real and/or personal properties either for itself or for others. It is registered with the Bureau of Internal Revenue (BIR) with Taxpayer Identification No. (TIN) 001-009-400-000 and BIR Certificate of Registration bearing RDO Control No. OCN 3RC0000200797.

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue, vested with the authority to act as such, including, *inter alia,* the power to decide, approve, and grant refunds or tax credits of erroneously paid taxes. She holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

On April 13, 2007, petitioner filed with the BIR its Annual Income Tax Return (BIR Form No. 1702) for the taxable year ending December 31, 2006, showing a taxable income of P1,502,346.00, and a corresponding tax due of P525,821.00. In the said Annual Income Tax Return, petitioner also reported its creditable tax withheld at source in the amount of P1,606,654.00, computed as follows:

Creditable Tax Withheld for the First Three Quarters	P1,178,665.00
Plus: Creditable Tax Withheld for the Fourth Quarter	427,989.00
Total Tax Credits/Payments	P1,606,654.00

On April 13, 2007, petitioner likewise filed its (a) Schedule of Taxes and Licenses Testing as of December 31, 2006, and (b) Audited Financial Statements as of December 31, 2006.

On February 15, 2008, petitioner filed an amended Annual Income Tax Return for the year 2006, showing a taxable income of P1,502,346.00, a corresponding tax due of P525,821.00. It also reported the amounts of P1,178,655.00 and P427,989.00 pertaining to creditable taxes withheld for the first three quarters and for the fourth quarter, respectively; and prior year's excess credits of P5,369,130.00.

The amount of P5,369,130.00 was derived from petitioner's Annual Income Tax Return for the year 2003, computed as follows:

Prior year's excess credits	P5,679,812.00
Less: Aggregate Income Tax Due for 2003	310,682.00
Total Tax Credits/Payments	P5,369,130.00

Petitioner's Annual Income Tax Return for the year 2003 had already been duly considered in this Court's (Court in Division) Decision over its claim for refund of unutilized creditable taxes withheld for 2003 in the case entitled, "PRHC Property Managers, Inc. vs. Commissioner of Internal Revenue," docketed as CTA Case No. 7442, which was promulgated on October 23, 2008, with Entry of Judgment dated November 14, 2008.

Petitioner also marked the box "To be Refunded" in its original Annual Income Tax Return and amended Annual Income Tax Return covering taxable year 2006, indicating its intention to claim a refund of its unutilized creditable withholding tax.

On November 4, 2008, petitioner filed a letter dated October 23, 2008 and an Application for Tax Credits/Refund (BIR Form No. 1914) with the BIR Revenue District Office No. 43, requesting the refund of its purported unutilized creditable taxes withheld for taxable year 2006 in the amount of P1,606,654.00.

Due to respondent's failure to render a decision on petitioner's claim for refund, petitioner filed a Petition for Review on April 15, 2009 before this Court in Division, docketed as CTA Case No. 7914, praying for the refund of the amount of Php1,606,654.00, allegedly representing its unutilized creditable withholding taxes for taxable year 2006.

In her Answer filed on May 15, 2009, respondent interposed the following Special and Affirmative Defenses:

> "8. The claim for refund is still under examination by the respondent's Bureau;
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> 9. The burden of proof is upon the petitioner to prove that it is entitled to the claim for refund or issuance of tax credit certificate;
>
> 10. The grant of claim for refund tantamount to an exemption from taxation which is construed strictly against the claimant and in favor of the taxing authority;

> 11. The taxes sought to be refunded were paid in accordance with law; the burden of proof to the contrary is upon the petitioner-claimant to show with clear and unambiguous provision of law supporting the same."

During trial, petitioner presented its documentary evidence and its lone witness Ms. Ma. Theresa L. Kampitan, its Senior Accountant. Thereafter, petitioner filed its Formal Offer of Evidence submitting Exhibits "A" to "N," and "P" to "R," inclusive of sub-markings; which this Court admitted in the Resolution dated April 30, 2010. On February 23, 2011, petitioner also filed a Supplemental Formal Offer of Evidence, submitting Exhibits "S" to "X-2," inclusive of sub-markings; which were admitted in evidence in the Resolution dated March 14, 2011.

On the other hand, during the July 11, 2011 hearing, counsel for respondent manifested that since there is no terminated investigation on petitioner's administrative claim for refund, he is submitting the case for decision without presenting any evidence. As a result, the Court directed both parties to submit their respective memorandum within thirty (30) days.

On September 15, 2011, the case was submitted for decision, considering petitioner's Memorandum filed on August 10, 2011 and the Report dated September 5, 2011 of the Judicial Records Division stating that no memorandum has been filed by respondent.

On January 13, 2012, the Court in Division rendered its assailed Decision,[5] denying petitioner's claim for refund for being filed out of time, the dispositive portion of which reads:

> " **WHEREFORE,** petitioner's claim for refund is hereby **DENIED** for being filed out of time."

Aggrieved, petitioner filed a Motion for Reconsideration on January 31, 2012, which was denied by this Court in Division in its assailed Resolution[6] dated May 7, 2012, for lack of merit. The dispositive portion thereof reads as follows:

> " **WHEREFORE,** premises considered, petitioner's Motion for Reconsideration is hereby **DENIED** for lack of merit."

Undaunted, petitioner filed the instant Petition for Review

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[5] Ponencia of Associate Justice Amelia R. Cotangco-Manalastas, concurred in by Associate Justice Lovell R. Bautista and Associate Justice Olga Palanca-Enriquez

[6] Division Docket (CTA Case No. 7914), pp. 548 to 551.

before the Court *En Banc* on June 6, 2012, praying that the assailed Decision dated January 13, 2012 and Resolution dated May 7, 2012 be reversed and set aside, and that a new decision be rendered, finding that petitioner is entitled to the refund of P1,606,654.00, the amount allegedly representing its unutilized creditable taxes withheld for the taxable year 2006.[7]

In the Resolution[8] dated June 27, 2012, respondent was directed by this Court to file her Comment to the instant Petition for Review. It appears that respondent failed to file her Comment despite notice. Thereafter, the Court granted the parties a period of thirty (30) days from notice to file their respective memoranda.[9] Thereafter, petitioner filed its Memorandum[10], and this case was submitted for decision on December 13, 2012.[11]

Hence, this Decision.

THE ISSUES

In the instant Petition for Review, petitioner raises the following grounds, to wit:

> "I.
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> THE THIRD DIVISION OF THIS HONORABLE COURT GRAVELY ERRED IN HOLDING THAT THE TWO-YEAR PRESCRIPTIVE PERIOD FOR FILING A CLAIM FOR REFUND IS RECKONED FROM THE DATE OF FILING THE ORIGINAL INCOME TAX RETURN AND NOT FROM THE DATE OF FILING OF THE AMENDED INCOME TAX RETURN.
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> II.
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> THE THIRD DIVISION OF THIS HONORABLE COURT GRAVELY ERRED IN REFUSING TO APPLY SECTION 203 TO THE INSTANT CASE. SECTIONS 203 AND 229 BOTH BEING UNDER TITLE VIII OF THE NIRC AS AMENDED, WITH HEADING "REMEDIES", THE COURT A QUO SHOULD HAVE APPLIED THE FORMER IN RESOLVING THE ISSUE OF WHETHER OR NOT THE PETITION WAS FILED WITHIN THE PERIOD PROVIDED BY THE LATTER.

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[7] Docket, pp. 7 to 38.
[8] Docket, pp. 182 to 183.
[9] Resolution dated August 28, 2012, Docket, pp. 186 to 187.
[10] Docket, pp. 188 to 215.
[11] Resolution dated December 13, 2012, Docket, pp. 218 to 219.

III.

THE THIRD DIVISION OF THIS HONORABLE COURT GRAVELY ERRED IN REFUSING TO CONSIDER THAT THE SUBSTANTIAL AMENDMENT TO THE PETITIONER'S INCOME TAX RETURN WARRANTS THE RECKONING OF THE PRESCRIPTIVE PERIOD TO THE DATE OF FILING OF THE AMENDED RETURN.

IV.

THE CASE OF ACCRA INVESTMENTS CORPORATION V. CA DOES NOT APPLY SQUARELY TO THE INSTANT CASE BECAUSE THE CIRCUMSTANCES OF THE TWO CASES ARE DIFFERENT. BUT ASSUMING ARGUENDO THAT THE SAME APPLIES, THE *RAISON DÉTRE* OF ITS RULING BEHOOVES THIS HONORABLE COURT TO HOLD THAT THE PETITION FOR REVIEW WAS FILED WITHIN THAT PERIOD REQUIRED BY LAW.

V.

WHEN IT IS UNDISPUTED THAT A TAXPAYER IS ENTITLED TO A REFUND, THE STATE SHOULD NOT INVOKE TECHNICALITIES TO KEEP MONEY NOT BELONGING TO IT."[12]

Petitioner's Arguments

Petitioner claims that the date of filing of its original Annual ITR cannot be considered as the reckoning point for the computation of the two-year prescriptive period, as petitioner's overpayment was not yet accurately determinable at the time.

Petitioner explains that an amendment was made in its ITR for taxable year 2006 because the amount of P5,369,130.00, representing petitioner's prior years' excess credits, was not declared in the original ITR. On the basis of its amended ITR, its aggregate income tax due of P525,821.00 should have been deducted from the prior year's excess credits of P5,369,130.00. Thus, petitioner's creditable taxes withheld for 2006 in the amount of P1,606,654.00, should have remained intact and unutilized for the payment of its income tax liability, as correctly reflected in its amended ITR.

[12] Docket, pp. 18 to 19.

Likewise, petitioner emphasizes that prior to the filing of its amended ITR, it was not yet ascertained that its creditable taxes for 2006 in the amount of P1,606,654.00 is unutilized. It was only upon the filing of the amended ITR that it was determined that this entire amount is unutilized, in view of the subsequent declaration of prior year's excess credits.

Thus, petitioner stresses that the refund sought after in the case was based on the figures appearing in the amended ITR, and not the original ITR.

In support of its main argument, petitioner points to Sections 203 and 229, both being under Title VIII of the NIRC, with the same heading "Remedies," insisting that the said provisions should have been applied in resolving the issue of whether or not the Petition for Review was filed within the period provided in Section 229.

Moreover, petitioner also argues that the factual milieu in the instant case differs from that in the case of *Accra Investments Corporation vs. The Honorable Court of Appeals, et al.,*[13] because there was a substantial amendment in petitioner's ITR, which justifies its argument that the prescriptive period should be reckoned from the date of the filing of the amended return.

Finally, petitioner argues that when it is undisputed that a taxpayer is entitled to a refund, the State should not invoke technicalities to keep money not belonging to it.

THE COURT *EN BANC*'S RULING

We agree with the ruling of the Court *a quo* that petitioner's claim for refund was filed out of time.

The two-year prescriptive period should be reckoned from the time of the payment of the tax, or from the filing of the original return and not from the date of the filing of the amended return.

In claiming for the refund of excess creditable withholding tax, petitioner must show compliance with the following basic requirements: (1) the claim for refund was filed within two years as

[13] G.R. No. 96322, December 20, 1991.

prescribed under Section 229 of the NIRC of 1997; (2) the income upon which the taxes were withheld were included in the return of the recipient (Section 10, Revenue Regulations No. 6-85); and (3) the fact of withholding is established by a copy of a statement (BIR Form 1743.1) duly issued by the payor (withholding agent) to the payee showing the amount paid and the amount of tax withheld therefrom (Section 10, Revenue Regulations No. 6-85).[14]

Anent the first requirement, Sections 204 (c) and 229 of the NIRC of 1997, as amended, provides:

> "**SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. –** The Commissioner may –
>
> x x x x
>
> (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.
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> x x x x
>
> **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.

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[14] *United International Pictures AB vs. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012.

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.)*

Section 3 (a) (2) of Rule 4 and Section 3 (a) of Rule 8 of the Revised Rules of the Court of Tax Appeals supplements the foregoing provisions, to wit:

"RULE 4 – Jurisdiction of the Court

x x x x

SEC. 3. Cases within the jurisdiction of the Court in Division. – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

x x x x

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; Provided, further, that should the taxpayer opt to await final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section

3(a), Rule 8 of these Rules; and **Provided, still further, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code**;

x x x x

Rule 8 – Procedure in Civil Cases

x x x x

SEC. 3. Who may appeal; period to file petition. –

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. **In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of taxes**." *(Emphasis supplied.)*

Relative thereto, in *Commissioner of Internal Revenue vs. Court of Appeals, et al.*,[15] the Supreme Court said:

"Petitioner disagrees with the ... decision of the Court of Appeals. He contends that the two-year prescriptive period should be computed from April 2, 1984, when the final adjustment return was actually filed, because that is the time of payment of the tax within the meaning of §230 of the NIRC.

We agree.

[15] G.R. No. 117254, January 21, 1999.

The conclusions reached by the appellate court are contrary to the very rulings cited by it. In *Commissioner of Internal Revenue v. TMX Sales, Inc.*,[16] this Court, in rejecting the contention that the period of prescription should be counted from the date of payment of the quarterly tax, held:

> . . . [T]he filing of a quarterly income tax return required in Section 85 [now Section 68] and implemented per BIR Form 1702-Q and payment of quarterly income tax should only be considered mere installments of the annual tax due. These quarterly tax payments which are computed based on the cumulative figures of gross receipts and deductions in order to arrive at a net taxable income, should be treated as advances or portions of the annual income tax due, to be adjusted at the end of the calendar or fiscal year. This is reinforced by Section 87 [now Section 69] which provides for the filing of adjustment returns and final payment of income tax. Consequently, the two-year prescriptive period provided in Section 292 [now Section 230 of the Tax Code] should be computed from the time of filing the Adjustment Return or Annual Income Tax Return and final payment of income tax.

On the other hand, in *ACCRA Investments Corporation v. Court of Appeals*,[17] where the question was whether the two-year period of prescription should be reckoned from the end of the taxable year (in that case December 31, 1981), we explained why the period should be counted from the filing of the final adjustment return, thus:

> Clearly, there is the need to file a return first before a claim for refund can prosper inasmuch as the respondent Commissioner by his own rules and regulations mandates that the corporate taxpayer opting to ask for a refund must show in its final adjustment return the income it received from all sources and the amount of withholding taxes remitted by its

[16] 205 SCRA 184, 192 (1992).
[17] 204 SCRA 957 (1991).

> withholding agents to the Bureau of Internal Revenue. The petitioner corporation filed its final adjustment return for its 1981 taxable year on April 15, 1982. In our Resolution dated April 10, 1989 in the case of *Commissioner of Internal Revenue v. Asia Australia Express, Ltd.* (G.R. No. 85956), we ruled that the two-year prescriptive period within which to claim a refund commences to run, at the earliest, on the date of the filing of the adjusted final tax return. Hence, the petitioner corporation had until April 15, 1984 within which to file its claim for refund.
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> . . . .
>
> It bears emphasis at this point that the rationale in computing the two-year prescriptive period with respect to the petitioner corporation's claim for refund from the time it filed its final adjustment return is the fact that it was only then that ACCRAIN could ascertain whether it made profits or incurred losses in its business operations. The "date of payment", therefore, in ACCRAIN's case was when its tax liability, if any, fell due upon its filing of its final adjustment return on April 15, 1982.

Finally, in *Commissioner of Internal Revenue v. Philippine American Life Insurance Co.*,[18] we held:

> Clearly, the prescriptive period of two years should commence to run only from the time that the refund is ascertained, which can only be determined after a final adjustment return is accomplished. In the present case, this date is April 16, 1984, and two years from this date would be April 16, 1986. The record shows that the claim for refund was filed on December 10, 1985 and the petition for review was brought before the CTA on January 2, 1986. Both dates are within the two-year reglementary period. Private respondent being a corporation, Section 292 [now Section 230] cannot serve as the sole basis for

[18] 244 SCRA 446, 453 (1995).

> determining the two-year prescriptive period for refunds. As we have earlier stated in the *TMX Sales* case, Sections 68, 69, and 70 on Quarterly Corporate Income Tax Payment and Section 321 should be construed in conjunction with it.
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> Sec. 49(a) of the NIRC provides that —
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> §49. Payment and assessment of income tax for individuals and corporations.
>
> (a) *Payment of tax* — (1) *In general.* —The total amount of tax imposed by this Title shall be paid by the person subject thereto at the time the return is filed. . . .
>
> On the other hand, §70(b) of the same Code provides that—
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> §70 (b) *Time of filing the income return* —The corporate quarterly declaration shall be filed within sixty (60) days following the close of each of the first three quarters of the taxable year. The final adjustment return shall be filed on or before the 15th day of the 4th month following the close of the fiscal year, as the case may be.
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> **Thus, it can be deduced from the foregoing that, in the context of §230[19], which provides for a two-year period of prescription counted 'from the date of payment of the tax' for actions for refund of corporate income tax, the two-year period should be computed from the time of actual filing of the Adjustment Return or Annual Income Tax Return. This is so because at that point, it can already be determined whether there has been an overpayment by the taxpayer. Moreover, under §49(a) of the NIRC, payment is made at the time the return is filed.**
>
> In the case at bar, Paramount filed its corporate annual income tax return on April 2, 1986. However, private respondent BPI, as liquidator of Paramount, filed a written claim for refund only on April 14, 1988 and a petition for refund only on April 15, 1988. Both claim and

[19] Now Section 229 of the NIRC of 1997.

action for refund were thus barred by prescription." *(Emphasis supplied.)*

Applying the foregoing to the undisputed facts in this case, it is clear that the two-year prescriptive period should be reckoned from the time of the payment of the tax, or from the filing of petitioner's *original* Annual Income Tax Return on April 13, 2007,[20] and not from the date of the filing of the *amended* return on February 15, 2008.[21] Thus, petitioner had until April 13, 2009 within which to file both its administrative and judicial claims for a refund, or the issuance of a tax credit certificate, in its favor.

In this case, however, while petitioner was able to file for an application with the BIR for the issuance of a tax credit certificate for its excess creditable withholding taxes within the two-year prescriptive period, or on November 4, 2008,[22] petitioner belatedly filed his judicial claim for a refund on April 15, 2009, or two (2) days beyond the reglementary period.

Moreover, it must be noted that at the time of filing of the petitioner's original ITR on April 13, 2007, it can already be determined that there was an overpayment by petitioner. A comparison of the original ITR filed on April 13, 2007 and the amended ITR filed on February 15, 2008 reveals that the Total Tax Credits/Payments were more than sufficient to cover the Aggregate Income Tax Due in the amount of ₱525,821.00, *viz:*

	Petitioner's "Original" ITR filed on April 13, 2007[23]	Petitioner's Amended ITR filed on February 15, 2008[24]
Aggregate Income Tax Due	525,821	525,821
Less: Tax Credits/Payments		
Prior Year's Excess Credits	-	5,369,130
Creditable Tax Withheld for the First Three Quarters	1,178,665	1,178,665
Creditable Tax Withheld per BIR Form No. 2307 for the Fourth Quarter	427,989	427,989
Tax Paid in Return Previously Filed, if this is an Amended Return	-	-
Total Tax Credits/Payments	1,606,654	6,975,784
Tax Payable/(Overpayment)	(1,080,833)	(6,449,963)

[20] Exhibit "B," Division Docket (CTA Case No. 7914), pp. 252 to 254.
[21] Exhibit "A," Division Docket (CTA Case No. 7914), pp. 247 to 249.
[22] Exhibits "J" and "K," Division Docket (CTA Case No. 7914), pp. 380 to 381.
[23] Exhibit "B," Division Docket (CTA Case No. 7914), pp. 252 to 254.
[24] Exhibit "A," Division Docket (CTA Case No. 7914), pp. 247 to 249.

Relative thereto, since the Total Tax Credits/Payments were more than sufficient, the income tax due in the amount of ₱525,821.00 is already deemed paid, as early as the filing of the original ITR on April 13, 2007, consistent with the afore-quoted jurisprudence that *"under §49(a) of the NIRC,*[25] *payment is made at the time the return is filed".*

Section 203 of the NIRC does not refer to the period within which a taxpayer must file its claim for a refund.

Finally, petitioner's argument that Section 203 should be applied in relation to Section 229 of the NIRC of 1997 has no merit.

Section 203 of the NIRC provides:

> "**SEC. 203. Period of Limitation Upon Assessment and Collection.** – Except as provided in Section 222, **internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return**, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: *Provided,* **That in a case where the return is filed beyond the period prescribed by law, the three-year period shall be counted from the day the return was filed**. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day." *(Emphasis supplied.)*

In the case of *Commissioner of Internal Revenue vs. FMF Development Corporation,*[26] the Supreme Court has had occasion to hold that "(u)nder Section 203 of the NIRC, internal revenue taxes must be assessed within three years counted from the period fixed by law for the filing of the tax return or the actual date of filing, whichever is later. This mandate governs the question of prescription of the government's right to assess internal revenue taxes primarily to safeguard the interests of taxpayers from unreasonable investigation. Accordingly, the government must assess internal revenue taxes on time so as not to extend indefinitely the period of assessment and deprive the taxpayer of the assurance that it will no longer be subjected to further investigation for taxes after the expiration of

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[25] Now Section 56(A)(1) of the NIRC of 1997, which provides in part that *"(t)he total amount of tax imposed by this Title shall be paid by the person subject thereto at the time the return is filed."*
[26] G.R. No. 167765, June 30, 2008.

reasonable period of time."[27]

Thus, contrary to petitioner's contentions, the reglementary period or reckoning point provided for in Section 203 of the NIRC, categorically refers to the *period of assessment* granted to the government, and not to the period within which to file a claim for a tax refund.

Tax refunds are a derogation of the State's taxing power. Hence, like tax exemptions, they are construed strictly against the taxpayer and liberally in favor of the State. Consequently, he who claims a refund or exemption from taxes has the burden of justifying the exemption by words too plain to be mistaken and too categorical to be misinterpreted.[28]

WHEREFORE, premises considered, the Petition for Review is hereby **DENIED** for lack of merit. The Decision dated January 13, 2012 and Resolution dated May 7, 2012 issued by the Third Division of this Court in CTA Case No. 7914 is hereby **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[27] *Ibid.*
[28] *Jaka Investments Corporation vs. Commissioner of Internal Revenue,* G.R. No. 147629, July 28, 2010.

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

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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 *En Banc*.

ROMAN G. DEL ROSARIO
Presiding Justice