REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

PHILAM PROPERTIES CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8469

Members:

DEL ROSARIO, *Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

SEP 29 2014 4:21 AM

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DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review filed by Philam Properties Corporation on April 13, 2012 pursuant to Section 229 of the National Internal Revenue Code of 1997, as amended, praying for the refund of the amount of **ELEVEN MILLION SIX HUNDRED SEVENTY EIGHT THOUSAND TWO HUNDRED TWENTY SEVEN AND 64/100 PESOS (₱11,678,227.64)** representing its excess/unutilized creditable withholding tax for the calendar year ended December 31, 2009.

THE FACTS

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines with principal office located at 5th Floor, Philamlife Salcedo Building, 126 P. Leviste Street, Salcedo Village, Makati City.[1]

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[1] Par. 1, Facts, Joint Stipulation of Facts and Issues (JSFI), *CTA Docket*, p. 65.

Respondent is the Commissioner of Internal Revenue who is empowered to perform the duties of her office, including among others, the duty to act and approve claims for refund or tax credit as provided by law.[2]

On April 15, 2010, petitioner filed its corporate Annual Income Tax Return (ITR) for Calendar Year (CY) ended December 31, 2009 which reflected taxable income of ₱2,305,330.00 [3] and tax overpayment of ₱54,901,861.76, computed as follows:

Sales/Revenues/Receipts/Fees	₱ 109,384,695.00
Less: Cost of Sales/Services	64,022,027.00
Gross Income from Operation	₱ 45,362,668.00
Add: Non-Operating and Other Income	4,816,944.00
Total Gross Income	₱ 50,179,612.00
Less: Deductions	47,874,282.00
Taxable Income	₱ 2,305,330.00
Income Tax	₱ 691,599.00
Minimum Corporate Income Tax (MCIT)	₱ 1,003,592.24
Less: Tax Credits/Payments	
Prior Year's Excess Credits	₱ 44,227,226.00
Creditable Tax Withheld for the First 3Q	7,446,135.00
Creditable Tax Withheld for the Fourth Q	4,232,093.00
Total Tax Credits/Payments	₱ 55,905,454.00
Tax Payable/(Overpayment)	₱ (54,901,861.76)

On January 25, 2012, petitioner filed an administrative claim for refund with the Bureau of Internal Revenue (BIR), Revenue District Office No. 50 of its excess/unutilized creditable withholding taxes for CY 2009 in the amount of ₱11,678,227.64.

As of the filing of the subject Petition for Review[4] on April 13, 2012, petitioner's administrative claim for refund is still pending with the BIR.[5]

In her Answer[6] posted on June 4, 2012, respondent raised by way of special and affirmative defense that petitioner failed to demonstrate that the tax was erroneously or illegally collected.[7] Respondent cited the case of *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue,*[8]

[2] Par. 2, *Id.*
[3] Par. 3, *Id*, pp. 65-66.
[4] *CTA Docket*, pp. 6-10.
[5] Par. 4, Facts, JSFI, *CTA Docket*, p. 66.
[6] *CTA Docket*, pp. 49-50.
[7] Par. 3, Answer, *CTA Docket*, p. 49.
[8] G.R. Nos. 156637/162004, December 14, 2005.

which states that once a taxpayer chooses the option to carry-over, it shall be irrevocable for that taxable period and no application for a tax refund or tax credit certificate shall be allowed pursuant to Section 76 of the National Internal Revenue Code of 1997, as amended (1997 NIRC, as amended).[9] According to respondent, petitioner must prove that it did not carry-over its 2009 alleged unutilized creditable withholding taxes to the succeeding taxable quarters and/or years; otherwise, petitioner is precluded from claiming a cash refund or a tax credit certificate of its excess withholding tax credit for taxable year 2009.[10] Respondent also argues that taxes paid and collected are presumed to have been made in accordance with law and regulation;[11] thus, it is the taxpayer who has the burden of proof to establish its right to refund,[12] and to show that it complied with the provisions of Section 76 of the 1997 NIRC, as amended, in relation to Sections 204 and 229 of the same Code and Revenue Regulations (RR) 2-98.[13]

On July 11, 2012, petitioner filed its Pre-Trial Brief[14] while respondent filed her Pre-Trial Brief[15] on August 2, 2012.

On August 28, 2012, the parties filed their Joint Stipulation of Facts and Issues.[16]

On August 31, 2012, the Court issued a Resolution[17] approving the parties' Joint Stipulation of Facts and Issues. In the same Resolution, the Court terminated the pre-trial and ordered petitioner to proceed with its presentation of evidence. The Court issued the Pre-Trial Order[18] on October 2, 2012.

On October 19, 2012, petitioner moved to commission Navarro Amper & Co., through its partner, Atty. Fredieric B. Landicho, as an Independent Certified Public Accountant (Independent CPA).[19]

During trial, petitioner submitted documentary and testimonial evidence. Petitioner presented as witnesses its Assistant Vice-President and

[9] Par. 4, Answer, *CTA Docket*, p. 49.
[10] *Id.*
[11] Par. 5, *Id.*
[12] Par. 6, *Id.*
[13] Par. 7, *Id.*, p. 50.
[14] *CTA Docket*, pp. 54-59.
[15] *CTA Docket*, pp. 60-62.
[16] *CTA Docket*, pp. 65-69.
[17] *CTA Docket*, p. 73.
[18] *CTA Docket*, pp. 90-97.
[19] *CTA Docket*, pp. 98-100.

Head of Finance, Ms. Jane C. Baysic,[20] its Finance Manager, Ms. Almabelle Solis,[21] and the Independent CPA, Atty. Fredieric Landicho.[22]

On June 20, 2013, petitioner filed its Formal Offer of Exhibits.[23] On August 23, 2013, the Court in a Resolution[24] resolved to admit Exhibits "A" to "B-1", "B-3" to "C-1", "C-3" to "K", "K-2" to "HH", "B-1" and denied Exhibits "B-2", "C-2", "K-1", "II", "JJ", and "D-1". In the same Resolution, the Court deemed petitioner to have rested its case.

On September 17, 2013, petitioner moved for the reconsideration[25] of the Court's Resolution dated August 23, 2013.[26] On January 7, 2014, the Court, in a Resolution,[27] granted petitioner's Motion for Reconsideration, and admitted Exhibits "B-2", "C-2", "K-1", "II", and "JJ".

On March 4, 2014, respondent's counsel manifested that he is waiving respondent's right to present evidence due to the unavailability of a report of investigation from the BIR. In view thereof, respondent's counsel moved to submit this case for decision.[28] The Court, in a Resolution[29] dated July 18, 2013, granted the parties a period of thirty (30) days within which to file their respective memoranda.

The case was submitted for decision on May 12, 2014[30] after noting the filing of petitioner's Memorandum[31] on April 2, 2014 and respondent's failure to file her memorandum.[32]

ISSUES

The parties jointly submitted the following stipulated issues[33] for the Court's consideration:

[20] Exhibit "P", Judicial Affidavit dated September 21, 2012, *CTA Docket*, pp. 370-378.
[21] Exhibit "R", Judicial Affidavit dated November 7, 2012, *CTA Docket*, pp. 384-387.
[22] Exhibit "Q", Judicial Affidavit dated November 5, 2012, *CTA Docket*, pp. 380-382.
[23] *CTA Docket*, pp. 198-209.
[24] *CTA Docket*, pp. 448-449.
[25] *CTA Docket*, pp. 450-452.
[26] Records Verification dated November 13, 2013, *CTA Docket*, p. 460.
[27] *CTA Docket*, pp. 464-465.
[28] Minutes of the Hearing dated March 4, 2014, *CTA Docket*, p. 471.
[29] *CTA Docket*, p. 473.
[30] *CTA Docket*, p. 488.
[31] *CTA Docket*, pp. 474-486.
[32] Records Verification dated May 2, 2014, *CTA Docket*, p. 487.
[33] Par. 1, Issues, JSFI, *CTA Docket*, p. 66.

I. Whether or not petitioner has an unutilized/excess creditable withholding tax in the amount of ₱11,678,227.64 for taxable year 2009;

II. Whether or not the said unutilized creditable withholding tax for taxable year 2009 was carried over and applied as tax credit to the succeeding taxable quarters/year(s);

III. Whether or not the income from which the taxes were withheld was included as part of gross income in petitioner's 2009 ITR; and,

IV. Whether or not petitioner's claim for refund/tax credit allegedly representing unutilized/excess creditable withholding tax for taxable year 2009 in the amount of ₱11,678,227.64 is substantiated by documentary evidence.

THE COURT'S RULING

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

> "SEC. 76. *Final Adjustment Return.* – Every corporation liable to pay tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:
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> A. Pay the balance of the 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 quarter 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 above-cited provision, if a corporate taxpayer has excess tax credits or overpaid income tax in a given taxable year, the same may

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either be: 1) refunded in the form of cash or tax credit certificate, or 2) carried over/applied to the succeeding taxable years until fully utilized. Once the carry-over option is taken actually or constructively, it becomes irrevocable for that taxable period.[34]

As indicated above, petitioner electronically filed its Annual ITR for taxable year 2009 on April 15, 2010 showing that petitioner had total tax credits in the amount of ₱55,905,454.00 which consisted of the prior year's excess credits in the amount of ₱44,227,226.00, and creditable taxes withheld during the year 2009 in the amount of ₱11,678,228.00.[35] Petitioner's Minimum Corporate Income Tax (MCIT) in the amount of ₱1,003,592.24 was paid using a portion of its prior year's excess credits of ₱44,227,226.00, leaving the prior year's excess credits in the amount of ₱43,223,633.76, and creditable taxes withheld during the year 2009 in the amount of ₱11,678,228.00, or a total of ₱54,901,861.76 as unutilized excess creditable taxes withheld as of December 31, 2009, as shown below:

Minimum Corporate Income Tax (MCIT)	₱ 1,003,592.24
Less: Prior Year's Excess Credits	44,227,226.00
Balance of Prior Year's Excess Credits	₱ 43,223,633.76
Add: Creditable Taxes Withheld – 2009	11,678,228.00
Excess Creditable Taxes Withheld as of December 31, 2009	₱ 54,901,861.76

Considering that petitioner marked the option "To be issued a Tax Credit Certificate" in its Annual ITR[36] for taxable year 2009, and reflected the amount of ₱43,223,634.00 only as "Prior Year's Excess Credits" in its Quarterly Income Tax Returns[37] and Annual ITR[38] for taxable year 2010, the unutilized creditable withholding taxes for taxable year 2009 in the amount of ₱11,678,227.64 may be the subject of a claim for refund or issuance of tax credit certificate pursuant to Section 76 of the NIRC of 1997, as amended.

To be entitled to the refund or issuance of tax credit certificate for excess/unapplied creditable withholding taxes, petitioner must satisfy the following requirements:

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[34] Commissioner of Internal Revenue vs. Mirant (Philippines) Operations, Corporation, et seq., G.R. Nos. 171742 and 176165, June 15, 2011.
[35] ₱7,446,135.00 plus ₱4,232,093.00 (minor rounding off difference).
[36] Line 33, Exhibit "B-1", *CTA Docket*, p. 234.
[37] ₱43,223,633.63 (with a minor rounding off difference), Line 31A, Exhibits "H", "I" and "J", *CTA Docket*, pp. 356-361.
[38] Exhibit "C-2", *CTA Docket*, p. 293.

1. That the claim for refund was filed within the two-year prescriptive period as provided under Section 204(C) in relation to Section 229 of the 1997 NIRC, as amended;

2. That the fact of withholding is 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. That the income upon which the taxes were withheld was included in the return of the recipient.[39]

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

> "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, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund."
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> "SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return

[39] Section 2.58, Revenue Regulations No. 2-98, as amended; Citibank N.A. vs. Court of Appeals and CIR, 280 SCRA 459; ACCRA Investment Corporation vs. CA, 204 SCRA 957.

upon which payment was made, such payment appears clearly to have been erroneously paid."

Pursuant to *ACCRA Investments Corporation vs. Court of Appeals*,[40] petitioner has two years from the filing of the Final Adjustment Return/Annual ITR within which to file a claim for refund of excess creditable income taxes withheld both in the administrative and judicial levels.

The present claim covers taxable year 2009 for which petitioner electronically filed its Annual ITR on April 15, 2010.[41] Counting from this date, petitioner had until **April 15, 2012** within which to file its claim for refund or tax credit certificate both in the administrative and judicial levels. Considering that the petitioner's administrative and judicial claims were filed on January 25, 2012,[42] and April 13, 2012, respectively, the Court finds that both claims were indeed filed within the two-year prescriptive period.

As to the second and third requisites, petitioner presented various documents such as the 2009 Certificates of Creditable Tax Withheld at Source[43] [BIR Forms No. 2307]; 2008,[44] 2009,[45] 2010[46] and 2011[47] Annual ITRs; 2009[48] and 2010[49] Quarterly Income Tax Returns; 2009[50] and 2010[51] Audited Financial Statements; 2009 General Ledger,[52] 2009 Audit Trail Listing;[53] and 2009 Allocation Report[54] which were all examined by the Court-commissioned Independent CPA, Navarro Amper & Co., through its Partner, Atty. Fredieric B. Landicho.

The certificates show that the claimed creditable taxes of ₱11,678,227.64 were withheld on income payments received by petitioner for the year 2009 amounting to ₱95,832,936.52.[55] On the other hand, petitioner's declared income in its Annual ITR for the same year amounted

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[40] 204 SCRA 957
[41] Exhibit "B-1", *CTA Docket*, pp. 233-237.
[42] Exhibit "K", *CTA Docket*, p. 362 and Par. 4, Facts, JSFI, *CTA Docket*, p. 66.
[43] Exhibits "T"-"T2", "U"-"U2", "V"-"V574", "W"-"W46", "X"-"X8", "Y"-"Y-2", "Z"-"Z22", "AA" to "AA11" and "BB" to "BB113".
[44] Exhibit "HH".
[45] Exhibits "B" and "B-1", *CTA Docket*, pp. 228-287.
[46] Exhibits "C" and "C-1", *CTA Docket*, pp. 288-344.
[47] Exhibit "II".
[48] Exhibits "E", "F" and "G".
[49] Exhibits "WW-1" to "WW-3".
[50] Attached to Exhibit "B-1", *CTA Docket*, pp. 239-287.
[51] Attached to Exhibit "C-1", *CTA Docket*, pp. 300-344.
[52] Exhibit "EE".
[53] Exhibit "FF".
[54] Exhibit "GG".
[55] Annex 1, Exhibit "S", *CTA Docket*, pp. 140-144.

to ₱114,201,639.00, comprising of ₱109,384,695.00[56] as operating income and ₱4,816,944.00 [57] as non-operating income. Evidently, there is a discrepancy of ₱18,368,702.48[58] between the income payments shown per certificates *vis-à-vis* the income reported per petitioner's 2009 Annual ITR.The Independent CPA reconciled the afore-stated discrepancy as follows: [59]

Total Income Reported in 2009 CWT		**₱ 95,832,936.52**
Add/Deduct:	Annex	
Income/collections not subject to withholding taxes	L	8,647,225.08
Income accrued in 2009	M	7,102,130.94
Unsupported CWTs (for collection)	N	6,275,595.75
2009 Income uncollected as of Dec 31, 2009	O	4,630,205.42
Collection of prior years' income with CWT in 2009	P	(8,252,212.52)
Other items	Q	(34,242.85)
Total Income Reported in 2009 ITR		**₱ 114,201,638.34**

Based on his examination and verification of petitioner's supporting documents, the Independent CPA classified petitioner's claimed creditable withholding taxes into the following categories:[60]

Findings	**Annex**	**Exhibit**	**CWT**
a.) Creditable Withholding Taxes where Certificate was dated 2008	C	T	₱ 556.63
b.) Creditable Withholding Taxes where Certificate was not duly signed by the authorized representative	D	U	22.50
c.) Creditable Withholding Taxes Supported with Original CWTs Official Receipts provided With Related Income recorded in 2009 Books	E	V	7,240,486.34
d.) Creditable Withholding Taxes Supported with Original CWTs Official Receipts provided With Related Income recorded in the 2008 Books	F	W	278,498.79
e.) Creditable Withholding Taxes Supported with Original CWTs Official Receipts not provided With Related Income not recorded in 2009 Books	G	X	22,945.43
f.) Schedule of Creditable Withholding Taxes Supported with Original CWTs With Official Receipt dated 2008 With Related Income recorded in 2009 Books	H	Y	22.50

[56] Line 17C, Exhibits "B" and "B-1", *CTA Docket*, pp. 228 and 233.
[57] Line 20B, Exhibits "B" and "B-1", *CTA Docket*, pp. 228 and 233.
[58] ₱114,201,639.00 less ₱95,832,936.52.
[59] Page 8, Exhibit "S".
[60] Exhibit "S", *CTA Docket*, pp. 135-137.

g.) Creditable Withholding Taxes Supported with Original CWTs Official Receipts dated 2010 With Related Income recorded in 2009 Books	I	Z	687,474.77
h.) Creditable Withholding Taxes Supported with Original CWTs Official Receipts not provided With Related Income recorded in 2009 Books	J	AA	139,057.30
i.) Creditable Withholding Taxes Supported with Original CWTs CWT partly valid and partly with exception *Broken down as follows:*			
Recorded in 2009 Books with related OR dated 2009	K	BB	1,900,815.88
Recorded in 2009 Books with related OR dated 2010			80,058.75
Recorded in 2009 Books with OR not yet provided			97,032.67
Not recorded in 2009 Books with related OR dated 2009			836,260.82
Not recorded in 2009 Books with related OR dated 2010			101,792.81
Not recorded in 2009 Books with OR not yet provided			10,503.80
j.) Creditable Withholding Taxes Not supported with CWTs			282,698.65
Total Creditable Withholding Taxes			**₱ 11,678,227.64**

Upon careful scrutiny of the Independent CPA report and the certificates presented, the Court has found that the creditable withholding taxes in the amounts of ₱556.63, ₱22.50, and ₱282,698.65 or in the sum of ₱283,277.78 (*under items a, b and j of the Findings*) should be disallowed for the reasons stated therein.

Furthermore, as correctly found by the Independent CPA, petitioner's claimed creditable withholding taxes in in the amount of ₱278,498.79 (*under item d of the Findings*) should be disallowed. The Court found out that petitioner failed to present supporting documents such as general ledger, invoices/receipts, sales summary or any other document wherein the income corresponding to the creditable withholding taxes of ₱278,498.79 can be traced as forming part of the income reported in its 2008 Annual ITR.

The Court further found that petitioner's claimed creditable withholding taxes in the amounts of ₱22,945.43, ₱836,260.82, ₱101,792.81, and ₱10,503.80 or in the sum of ₱971,502.86 (*under items e and i of the Findings*), although duly supported by original Certificates of Creditable Tax Withheld at Source, should also be disallowed because the related income of which was not recorded in 2009 books.

To recapitulate, out of the total claimed creditable withholding taxes of ₱11,678,227.64, the Court found that only the amount of ₱10,144,948.21, as computed below, was duly supported with certificates and the related income actually formed part of the taxable income reflected in petitioner's 2009 Annual ITR:

Amount of Claimed Creditable Withholding Taxes	Annex	Exhibit		₱ 11,678,227.64
Less: Disallowances				
a. Certificate was dated 2008	C	T	₱ 556.63	
b. Certificate was not duly signed by the authorized representative	D	U	22.50	
c. Not supported with certificates			282,698.65	
d. Supported with original certificates				
With related income recorded in the 2008 Books	F	W	278,498.79	
With related income not recorded in the 2009 Books	G	X	22,945.43	
Not recorded in 2009 Books with related OR dated 2009	K	BB	836,260.82	
Not recorded in 2009 Books with related OR dated 2010	K	BB	101,792.81	
Not recorded in 2009 Books with OR not yet provided	K	BB	10,503.80	1,533,279.43
Substantiated Creditable Withholding Taxes				**₱ 10,144,948.21**

To prove that no amount of the subject claim was utilized to pay for its 2009 MCIT liability of ₱1,003,592.24,[61] petitioner presented various Certificates of Creditable Tax Withheld at Source for the year 2008.[62] The certificates showed creditable withholding taxes in the total amount of ₱13,743,324.97,[63] which was also the sum of the creditable taxes withheld for the first three quarters and fourth quarter of 2008 in the respective amounts of ₱10,097,781.00[64] and ₱3,646,803.00[65] as reflected in petitioner's 2008 Annual ITR. After deducting the taxes due for the year 2008 in the amount of ₱4,623,297.00,[66] petitioner would still have excess tax credits from 2008 in the amount of ₱9,120,027.97[67] against which the MCIT of ₱1,003,592.24 for the year 2009 may be offset. Indubitably, petitioner had sufficient prior year's excess credits to cover its 2009 MCIT liability of ₱1,003,592.24, and the substantiated claim of ₱10,144,948.21 which represents petitioner's unapplied excess tax credits for taxable year 2009 remains undiminished. om

[61] Lines 27 and 28A, Exhibit "B-1", *CTA Docket*, pp. 233-234.
[62] Exhibits "DD1"-"DD261".
[63] Annex B, Exhibit "S", *CTA Docket*, pp. 145-148 and Exhibit "DD".
[64] Line 30C, Exhibit "HH".
[65] Line 30D (erroneously printed as Line 28D in the blank provided in the ITR), Exhibit "HH".
[66] Line 29, Exhibit "HH".
[67] ₱13,743,324.97 less ₱4,623,297.00.

WHEREFORE, in light of the foregoing principles, the Petition for Review is hereby **PARTIALLY GRANTED**, respondent **COMMISSIONER OF INTERNAL REVENUE** is hereby ordered to refund or issue a tax credit certificate to petitioner **PHILAM PROPERTIES CORPORATION** in the total amount of **TEN MILLION ONE HUNDRED FORTY-FOUR THOUSAND NINE HUNDRED FORTY-EIGHT** and **21/100 PESOS (₱10,144,948.21)** representing petitioner's excess/unutilized creditable withholding tax for taxable year ended December 31, 2009.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

Cielito N. Mindaro-Grulla

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Section 13 of 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.

ROMAN G. DEL ROSARIO
Presiding Justice