REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

GLOBAL ENERGY SUPPLY CORPORATION, *Petitioner,*	**CTA CASE NO. 10871** Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 03 2025 3:04 p.m.

x -x

RESOLUTION

ANGELES, J.:

For this Court's resolution are:

(1) The ***Motion for Partial Reconsideration (Re: Decision dated 20 September 2024)***[1] filed by respondent Commissioner of Internal Revenue (CIR) on October 09, 2024, praying for the partial reconsideration of the *Decision* dated September 20, 2024, and for this Court to render another decision denying the entire claim for refund of petitioner Global Energy Supply Corporation; and

(2) The ***Motion for Partial Reconsideration (of Decision dated 20 September 2024)***[2] posted by petitioner Global Energy Supply Corporation on October 10, 2024, seeking also the partial reconsideration of the same *Decision*, and for this Court to declare petitioner entitled to a refund of the unutilized and excess creditable expanded withholding tax in the amount of ₱29,780,205.34 for taxable year (TY) 2019.

---

[1] Docket – Vol. II, pp. 578-585.
[2] Docket – Vol. II, pp. 591-599.

To recall, on May 30, 2022, petitioner filed a *Petition for Review* praying that a judgment be rendered declaring petitioner entitled to a refund in the amount of ₱31,924,168.00, representing its alleged unutilized and excess creditable withholding tax (CWT) withheld by its customers for the TY 2019.

On September 20, 2024, the Court rendered the *Decision* partially granting the *Petition*, the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **PARTIALLY GRANTED**.
>
> Accordingly, respondent is **ORDERED** to issue a tax credit certificate in favor of petitioner in the total amount of **₱29,074,538.34**, representing petitioner's unutilized CWT for the TY 2019.
>
> **SO ORDERED**.

Respondent's Motion for Partial Reconsideration

Respondent imputes error to this Court as follows:

> THE HONORABLE COURT ERRED IN RULING THAT PETITIONER IS ENTITLED TO THE CLAIM FOR REFUND OF ALLEGED EXCESS AND UNUTILIZED CWT FOR CY 2019.[3]

Respondent submits that: ***(a)*** petitioner's documentary evidence failed to sufficiently establish the direct linkage between the CWT and the income as reflected in the Annual Income Tax Return (ITR); ***(b)*** it is incumbent upon the petitioner to prove actual remittance of the alleged withheld taxes; ***(c)*** petitioner failed to comply with the checklist of requirements set forth under Revenue Memorandum Order (RMO) No. 52-98[4] and Revenue Regulations (RR) No. 2-2006;[5] and ***(d)*** petitioner's non-presentation of the withholding agents to verify the Certificates of Creditable Tax Withheld at Source and to prove the propriety of its claim, and failure to establish the fact of

---

3 *Supra* note 1, at 579.

4 Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which comprise a Complete Tax Docket, dated June 01, 1998.

5 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, dated December 01, 2005.

remittance of the alleged withheld taxes by various payors to the Bureau of Internal Revenue (BIR), are fatal to its claim.

In compliance with the *Minute Resolution* dated October 22, 2024, petitioner posted on October 28, 2024 its *Comment (on Respondent's Motion for Partial Reconsideration dated October 7, 2024)*,[6] seeking the denial of the instant *Motion*. In its *Comment*, petitioner counter-argues that respondent's *Motion* is frivolous and merely a repetition of his *Answer* dated August 26, 2022 which was already disproven during trial.

The *Motion* is **denied** for lack of merit.

It is important to note that a cursory reading of respondent's *Motion* reveals that it is a near-verbatim rehash of his *Answer* to the *Petition for Review*. The arguments raised in the *Motion* have been exhaustively passed upon, duly considered, and resolved by the Court in the assailed *Decision*.

In *Ortigas and Co. Ltd. Partnership v. Judge Velasco*,[7] the Supreme Court explained the effect and disposition of a motion for reconsideration, as follows:

> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, **does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor**, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. **This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant**; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. **It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial** (Sec. 14, Art. VIII, Constitution; *i.e.*, **the motion contains merely a <u>reiteration or rehash of arguments</u> already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration**, etc. (Emphasis supplied)

---

[6] Division Docket – Vol. II, pp. 625-632.
[7] *Ortigas and Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645, March 04, 1996.

Based on the foregoing, the Court may deny a motion for reconsideration if it contains mere reiteration of arguments which were already passed upon and considered without merit.

Relative thereto, it is well-settled that if the grounds relied upon are mere reiterations of the issues already passed upon, the Court need not "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the Motion for Reconsideration. [8]

Be that as it may, the Court shall once again address the arguments raised by respondent for further clarification.

First, it bears stressing that the Court has evaluated the income payments upon which the CWT were based and determined that the same were declared and reported as part of the gross income as reflected in petitioner's 2019 Annual ITR, except only for the income payments of ₱79,500,170.23 (₱78,969,618.53 plus ₱530,551.70), with corresponding claimed CWT of ₱1,556,046.34 (₱1,545,958.20 plus ₱10,088.14), which cannot be traced to the 2019 General Ledger (GL). Accordingly, petitioner has sufficiently established the linkage between the CWT and the income as reflected in its Annual ITR.

Second, proof of actual remittance of the taxes withheld to the BIR is not indispensable in a claim for refund of excess CWT, as held in *Commissioner of Internal Revenue v. Philippine National Bank*,[9] citing *Commissioner of Internal Revenue v. Asian Transmission Corporation*,[10] thus:

> **[P]roof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner**. Section 2.58.3 (B) of Revenue Regulations No. 2-98 clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Sections 57 and 58 of the NIRC of 1997, as amended, **the withholding of income tax and the remittance**

[8] *Social Justice Society Officers v. Lim*, G.R. Nos. 187836 & 187916, March 10, 2015.
[9] G.R. No. 180290, September 29, 2014.
[10] G.R. No. 179617, January 19, 2011.

> **thereof to the BIR is the responsibility of the payor and not the payee. Therefore, respondent x x x has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents**. (Emphasis Supplied)

Third, We must reiterate that neither RMO No. 53-98 nor RR No. 2-2006 state that non-submission of the documents provided therein shall result in a non-filed claim for refund. The case of *Philippine National Bank v. Commissioner of Internal Revenue*[11] is instructive on this matter, to wit:

> Nothing in our laws and jurisprudence supports the CIR's position that the exhaustion of an administrative claim for tax refund is a condition precedent that must be completely acted upon by the BIR before a judicial claim for refund may be filed by the taxpayer concerned. **The Court rejects the CIR's contention that PNB cannot be deemed to have filed its administrative claim because the latter failed to submit all of the documents mentioned in RMO No. 53-98 and RR No. 2-2006**.
>
> xxx And at any rate, a cursory reading of RMO No. 53-98 and RR No. 2-2006 reveals that **neither issuance explicitly states that the failure to submit the required documents is tantamount to a non-filed claim**. In fact, Section 5 of RR No. 2-2006 merely provides a penalty of fine for non-submission of these documents.
>
> Indeed, jurisprudence dictates that a **taxpayer need not await the BIR's action on an administrative claim before going to the CTA**.
>
> xxx
>
> In Commissioner of Internal Revenue v. Univation Motor Philippines, Inc., Univation Motor Philippines, Inc. (Univation) filed on April 15, 2011 its Final Adjustment Return for 2010. On March 12, 2012, it filed an administrative claim for tax refund. Because the BIR did not act on its administrative claim, Univation filed a petition for review with the CTA on April 12, 2013. The CIR excoriated Univation for not awaiting its action on the administrative claim before elevating the matter to the CTA.
>
> Finding in favor of Univation, We declared:
>
> xxx Under the circumstances, if respondent awaited for the commissioner to act on its administrative claim (before resort to the Court), chances are, the two-year prescriptive period will lapse effectively resulting to the loss of respondent's right to seek judicial

[11] G.R. Nos. 242647 & 243814 & 242842-43, March 15, 2022.

> recourse and worse, its right to recover the taxes it erroneously paid to the government. Hence, respondent's immediate resort to the Court is justified.
>
> Contrary to petitioner CIR's assertion, there was no violation of the doctrine of exhaustion of administrative remedies. xxx
>
> **The law only requires that an administrative claim be priorly filed.** That is, to give the BIR at the administrative level an opportunity to act on said claim. In other words, for as long as the administrative claim and the judicial claim were filed within the two-year prescriptive period, then there was exhaustion of the administrative remedies. (Emphasis Supplied)

Finally, contrary to respondent's position that non-presentation of the withholding agents to verify the *Certificates of Creditable Tax Withheld at Source* (BIR Form No. 2307) was fatal to petitioner's claim, it is well-settled that the *Certificate of Creditable Tax Withheld at Source* is the competent proof to establish the fact of withholding. Thus, in *Commissioner of Internal Revenue vs. Philippine National Bank,*[12] the Supreme Court held that:

> **The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates.**
>
> In *Banco Filipino Savings and Mortgage Bank v. Court of Appeals*, this court declared that a certificate is complete in the relevant details that would aid the courts in the evaluation of any claim for refund of excess creditable withholding taxes:
>
> xxx xxx xxx
>
> Moreover, as correctly held by the Court of Tax Appeals En Banc, the figures appearing in the withholding tax certificates can be taken at face value since these documents were executed under the penalties of perjury, pursuant to Section 267 of the 1997 National Internal Revenue Code, as amended, xxx
>
> xxx xxx xxx
>
> Thus, upon presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly." *(Emphasis added)*

---

[12] G.R. No. 180290, September 29, 2014.

r

In view of the foregoing, the Court finds no merit in respondent's *Motion* as the same did not raise new, cogent, or substantial ground to warrant reconsideration of this Court's *Decision* dated September 20, 2024.

Petitioner's Motion for Partial Reconsideration

Petitioner raises the ground for its *Motion* as follows:

> The disallowance of the excess and unutilized CWT amounting to PhP705,667.03 reflected on Exhibits "P-139" and "P-159" should be reconsidered because the said income payments were indisputably recorded in Petitioner's general ledger and reported by Petitioner in its 2019 Annual Income Tax Return as part of gross income in the calendar year 2019.[13]

According to petitioner, the CWT amounting to ₱705,667.03, and the income payments of Taiheyo Cement Philippines, Inc. and Cathay International Resources Corp. relative thereto were traced by the duly commissioned and independent Certified Public Accountant (ICPA) to the declared annual income of petitioner for the calendar year 2019, as recorded in its General Ledger (GL) and 2019 Annual ITR.

Petitioner's *Motion* is partly impressed with merit, and thus, must be **partially granted.**

The details relating to the said CWT and income payments are summarized as follows:

Exhibit No.	Name of Payor	Amount of Income	CWT	Billing Statement	
				Exhibit No.	No.
P-139	TAIHEIYO CEMENT PHILIPPINES INC	₱32,350,575.50	₱647,011.51	P-139-1	BS#A0029
P-159	CATHAY INTERNATIONAL RESOURCES CORP.	2,932,775.91	58,655.52	P-159-1	JV 7222
	TOTAL	₱35,283,351.41	₱705,667.03		

After a review and further verification of the pertinent exhibits, this Court finds that only the income payment of Cathay International Resources Corp. to petitioner amounting to ₱2,932,775.91 can be reasonably traced to petitioner's 2019 Annual Revenue Breakdown,[14] as well as to the Detailed Results of Examination of BIR Form 2307 and the Tracing of Income Payments to 2019 ITR.[15] Exhibit "P-159-1" specifically reflects the **same 'descriptions'** indicated in the GL, thereby enabling the Court to verify that the income upon which the

[13] Docket – Vol. II, p. 592.
[14] Annex B, ICPA Report, USB.
[15] Annex C, ICPA Report, USB.

tax was withheld was duly declared as part of petitioner's gross income, to wit:

Code	Date	Customer	Reference	Revenue Amount	Description
410203	12/30/2019	Retail Energy Sales (Accrual) - CIRC	CIRC Accrual - November 26 2019 to December 25, 2019	116,537.51	CIRC||Accrual revenue billing|| November 26 2019 to December 25 2019 TED =523,528.80kWh || (FIT - A LL Ch h a rges)||EXEMPT
410203	12/30/2019	Retail Energy Sales (Accrual) - CIRC	CIRC Accrual - November 26 2019 to December 25, 2019	1,036,240.48	CIRC||Accrual revenue billing||November 26 2019 to December 25 2019 TED =523,528.80|DWS VECO_VATABLE
410203	12/30/2019	Retail Energy Sales (Accrual) - CIRC	CIRC Accrual - November 26 2019 to December 25, 2019	750,865.86	CIRC||Accrual revenue billing|| November 26 2019 to December 25 2019TED = 206,872.78 kWh||| VATAB L E (IEMOP)
410203	12/30/2019	Retail Energy Sales (Accrual) - CIRC	CIRC Accrual - November 26 2019 to December 25, 2019	495,612.55	CIRC||Accrual revenue billing|| November 26 2019 to December 25 2019 TED = 152,496.17kWh||| VATA B L E (TP C)
410203	12/30/2019	Retail Energy Sales (Accrual) - CIRC	CIRC Accrual - November 26 2019 to December 25, 2019	533,519.51	CIRC||Accrual revenue billing|| November 26 2019 to December 25 2019 TED = 134,928.32kWh||| VATA B L E (PE DC)_net
Total				**₱2,932,775.91**	

The same, however, cannot be said for the income payment from Taiheiyo Cement Philippines, Inc. While the Court notes that no exceptions were observed by the ICPA in the Detailed Results of Examination of BIR Form 2307 and Tracing of Income Payments to 2019 ITR[16] with respect to this transaction, the said income payment cannot be traced to the Annual Revenue Breakdown,[17] particularly under Billing Statement No. **A0029**.[18] If any, the only line item bearing Billing Statement No. **A0029** is the following—an entry which does not substantiate the claim that the subject transaction was in fact recorded in the petitioner's GL, and subsequently reported in its annual ITR.

Code	Date	Customer	Reference	Revenue Amount	Description
721001	02/28/2019	PPD Customers (GESC, CorpOpEx, ,)	OR#A0224	(260,358.34)	Taiheiyo || OR#A0224 02/18/2019 || COLLECTION for BS#A0029 revenue billing||December 26 to January 2 5 2019 (power from PEDC)|| T ED 1 8 T ED = 5,208,000.00kWh| TED = 4,474,000.00 kWh

Moreover, the Court cannot give full credence to the testimony of the ICPA in his Judicial Affidavit dated October 10, 2024, wherein he stated that "[s]ince the total of the revenues recorded in the general ledger for 2019 is equal to the revenue declared in Petitioner's 2019 Annual Income Tax Return, then, necessarily, the income payments covered by BIR Form No. 2307 marked as Exhibits "P-139" and "P-159" were declared and reported in Petitioner's 2019 Annual Income Tax Return."[19] Jurisprudence and prevailing rules are clear that, the income upon which any creditable tax is required to be withheld at source shall be included in the return of its recipient.[20] Therefore, a

---

[16] *Id.*
[17] Annex B, ICPA Report, USB.
[18] Exhibit "P-139-1," ICPA Report, USB.
[19] *Supra* note 2, at 604.
[20] *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. No. 211348, February 23, 2022; *Republic of the Philippines, represented by the Commissioner of Internal*

mere reconciliation of the total revenues in the GL and the annual ITR does not suffice. While such reconciliation may serve as the final verification step, it must be preceded by the petitioner's demonstration that **each income payment** comprising the aggregate revenue **can be reasonably traced to entries in the GL**. This tracing must be supported by specific source documents bearing unique identifiers, such as Billing Statement No. **A0029** for the payment made by Taiheiyo Cement Philippines, Inc., to convincingly establish that said income was indeed recorded in the petitioner's books of accounts.

It is worth stressing that the findings of the ICPA are not conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification.[21]

Accordingly, the claimed CWT amounting to ₱647,011.51 must still be disallowed, as its corresponding income payment in the amount of ₱32,350,575.50 cannot be reasonably traced to petitioner's GL.

Hence, the refund of the CWT in the amount of ₱58,655.52 for the corresponding income payment made by Cathay International Resources Corp. (*i.e.*, ₱2,932,775.91) should likewise be made. The disallowance made in the assailed *Decision* amounting to ₱1,556,046.34 must be reduced as follows:

Disallowance per this Court's *Decision*: CWT, the Income Payment of which cannot be traced in the GL and ITR	₱1,556,046.34
Less:	
CWT– for the income payment made by Cathay International Resources Corp.	(58,655.52)
Reduced disallowance of CWT (the Income Payment of which cannot be traced in the GL and ITR)	**₱1,497,390.82**

Correspondingly, the computation of the amount of refund granted to petitioner must be modified as follows:

Claimed CWT		₱31,924,168.00
Less:		
CWT, outside the period of claim	₱1,293,583.32	

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; Revenue Regulations No. 2-98, as amended, Section 2.58.

[21] Revised Rules of the Court of Tax Appeals, Rule 13, Section 3.

r

CWT, income payment of which cannot be traced to the GL and ITR	1,497,390.82	2,790,974.14
Refundable Unutilized CWT for TY 2019		**₱29,133,193.86**

WHEREFORE, in light of the foregoing considerations, respondent's ***Motion for Partial Reconsideration (Re: Decision dated 20 September 2024)*** is **DENIED** for lack of merit; while petitioner's ***Motion for Partial Reconsideration (of Decision dated 20 September 2024)*** is **PARTIALLY GRANTED**.

Accordingly, this Court's Decision dated September 20, 2024 is hereby amended to read as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.
>
> Accordingly, respondent is **ORDERED** to issue a tax credit certificate in favor of petitioner in the amount of **₱29,133,193.86**, representing petitioner's unutilized CWT for the TY 2019.
>
> **SO ORDERED.**"

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

(On Leave)
MARIAN IVY F. REYES-FAJARDO
Associate Justice