REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

BAHAY BONDS 2 SPECIAL PURPOSE TRUST, administered by the National Home Mortgage Finance Corporation, *Petitioner,*	**CTA Case No. 10475**
- versus -	Members: **MANAHAN**, *Chairperson,* **REYES-FAJARDO**, and **ANGELES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** SEP 13 2024 1:42 p.m.

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DECISION

REYES-FAJARDO, J.:

Before the Court is a Petition for Review[1] filed by Bahay Bonds 2 Special Purpose Trust (SPT) on March 4, 2021 seeking the refund of the aggregate amount of ₱1,944,000.00, representing alleged erroneously remitted taxes withheld from the interest income payments to bond holders relative to the period from November 26, 2018 to December 4, 2020.

ANTECEDENTS

Republic Act (RA) No. 9267, otherwise known as "The Securitization Act of 2004," declares that it shall be the State's policy to promote the development of the capital market by supporting **securitization**.[2] Securitization involves the sale, assignment, or exchange of assets (e.g., loans or receivables) on a without recourse basis[3] by a seller[4]-**originator**[5] (*i.e.*, an entity who is the original creditor or obligee in an outstanding loan or other debt instrument to a

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1 Docket, pp. 6-23.
2 Section 2, RA No. 9267.
3 Section 12(d), RA No. 9267.
4 Section 3(j), RA No. 9267.
5 Section 3(g), RA No. 9267.

purchaser-**Special Purpose Entity** (SPE).[6] In turn, the SPE—which may be a Special Purpose Corporation or SPT—shall issue or offer securities or instruments to investors to generate funds for the purchase of the seller-originator's assets.[7] These instruments are referred to as "Asset-Backed Securities (ABS)" because the SPE shall use the cash flow generated by the assets/instruments purchased (*i.e.*, collections from the originator's debtors) to pay the investors' return of capital and other yields from the ABS.[8]

The law provides that, for tax purposes, ABS issued by an SPE shall not be regarded as deposit substitutes within the meaning of the General Banking Law and the National Internal Revenue Code of 1997 (Tax Code). However, as a general rule, the yield or income therefrom shall be subject to a 20% final withholding tax, unless the securities pertain to those held by tax-exempt investors[9] or any low-cost or socialized housing-related ABS,[10] in which case said yield or income shall not be subject to income tax.

Petitioner is an SPT formed under Philippine laws, with SPE status pursuant to RA No. 9267, duly registered and qualified as such by the Bangko Sentral ng Pilipinas under the General Banking Law. At the outset, it was administered by the Land Bank of the Philippines (LBP), a government-owned and controlled financial institution duly authorized to engage in trust business through its Trust Banking Group, with address at 21/F Landbank Plaza, 1598 M.H. Del Pilar corner Dr. J. Quintos Sts., Malate, Manila. It is a registered taxpayer of the Bureau of Internal Revenue (BIR), Revenue Region No. 6-Manila, Revenue District Office (RDO) No. 33.

National Home Mortgage Finance Corporation (NHMFC), as will be narrated later on, took the place of LBP as petitioner's administrator during the course of herein proceedings. It was created by virtue of Presidential Decree (PD) No. 1267, to develop and provide for a secondary market for home mortgages granted by public and/or private home financing institutions.[11] As such, it is regarded as a Secondary Mortgage Institution under RA No. 9267,[12] authorized to

[6] Section 3(a), RA No. 9267.
[7] Section 3(a), RA No. 9267.
[8] Section 3(b), RA No. 9267.
[9] Section 31, RA No. 9267.
[10] Section 33, RA No. 9267.
[11] Section 4, PD No. 1267.
[12] Section 3(i), RA No. 9267.

"**issue housing-related ABS through an SPE**, and issue bonds and other debt instruments."[13]

Petitioner further asserted that, in 2012, pursuant to a Securitization Plan[14] approved by the Securities and Exchange Commission, petitioner SPT and NHMFC executed a Loan and Sale and Purchase Agreement (LSPA)[15] covering SPT's purchase of 3,365 long-term, mortgage-secured housing loans secured by mortgages (also referred to as "assets" or "asset pool") from NHMFC (as seller/originator).[16] The loans were extended to home borrowers as part of the Unified Home Loan Program (UHLP)[17]—a nationwide housing program for the low- and middle-income sectors of the Philippines, pursuant to Executive Order No. 90[18]—and payable to NHMFC.[19]

Still in accordance with the Securitization Plan, the SPT issued ABS in the form of peso-denominated Fixed Rate Notes, collectively known as "Bahay Bonds 2"[20] (Bonds), the proceeds of which were used to finance the purchase of the subject assets. **The Bonds were interest-bearing, entitling the investors/holders to periodic interest payments.**

NHMFC was also given a "Clean up Call" option, where it may choose to purchase or buy back the remaining assets (i.e., outstanding balance of housing loans),[21] upon the concurrence of the conditions set out in the Securitization Plan[22] and the LSPA.

On July 9, 2012, the NHMFC filed with the Bureau of Internal Revenue (BIR) a request for ruling on the tax consequence of the issuance, offer, and sale of petitioner's Bonds, asserting that the

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[13] Section 38(d), RA No. 9267.
[14] Exhibit "P-10," Docket, pp. 419-443.
[15] Exhibit "P-10," Docket, p. 420.
[16] Exhibit "P-10," Docket, p. 423.
[17] Exhibit "P-10," Docket, p. 423.
[18] Creation of Housing and Urban Development Coordinating Council, Executive Order No. 90, December 17, 1986.
[19] These loans were purchased previously by NHMFC from public and private institutions within the UHLP. Exhibit "P-10," Docket, p. 465.
[20] Exhibit "P-10," Docket, p. 419.
[21] Rule 3(e) of the Rules Implementing RA No. 9267 defines "Clean up Call" as "an option granted to the Seller/Originator to purchase or buy back the remaining Assets in the Asset Pool, as provided in Rule 32."
[22] Docket, p. 422.

interest income arising from the Bonds is exempt from income tax and withholding tax.[23]

In response, the BIR issued BIR Ruling No. 516-2012 dated August 3, 2012, stating that the Bonds are regarded as "deposit substitutes" within the definition in Section 22(Y) of the Tax Code, and interest income derived therefrom is not exempt from the following:

> a) 20% final withholding tax imposed under Sections 24(b)(1) and 25(A)(2) of the NIRC of 1997, if the bondholder is an individual citizen or a resident alien, respectively;
>
> b) 25% tax imposed under Section 25(B) of the NIRC of 1997, as amended, if the bondholder is a non-resident alien individual not engaged in trade or business within the Philippines;
>
> c) 20% final tax imposed under Section 27(D)(1) and 28 (A)(7)(a) of the NIRC of 1997, as amended, if the bondholders are domestic and resident foreign corporations, respectively;
>
> d) 32% final withholding tax under Section 28(B)(1) of the NIRC of 1997, as amended, if the bondholder is a non-resident foreign corporation; and
>
> e) Such other rate that may be imposed under the appropriate tax treaty to which the Philippines is a signatory.[24]

NHMFC requested for reconsideration[25] of the above-mentioned BIR ruling, arguing that the Bonds are not deposit substitutes and, as such, enjoy tax exemption privileges under RA No. 9267. During the pendency of NHMFC's request, petitioner paid interest income accruing from the Bonds, withheld taxes therefrom, and remitted said withholding taxes.

In particular, from 2018 to 2020, petitioner paid interest quarterly every November, February, May, and August. Final taxes withheld therefrom amounted to ₱1,944,000.00. Petitioner remitted the taxes withheld and filed the corresponding returns (BIR Form No. 1602/1602Q) as follows:

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[23] *Admitted Facts*, Pre-Trial Order dated June 20, 2022, pp. 262-263.
[24] *Admitted Facts*, Pre-Trial Order dated June 20, 2022, pp. 262-263.
[25] Exhibit "P-7," Docket, pp. 413-414.

Year	Qtr	Month	Interest Paid	Tax Withheld	Filing/ Payment Date	Remittance Return
2018	4	November	₱1,440,000.00	₱288,000.00	Nov. 26, 2018	P-5-1[26]
2019	1	February	1,350,000.00	270,000.00	Mar. 4, 2019	P-5-3[27]
2019	2	May	1,260,000.00	252,000.00	Jun. 3, 2019	P-5-5[28]
2019	3	August	1,170,000.00	234,000.00	Sept. 3, 2019	P-5-7[29]
2019	4	November	1,080,000.00	216,000.00	Dec. 2, 2019	P-5-9[30]
2020	1	February	990,000.00	198,000.00	Mar. 4, 2020	P-5-11[31]
2020	2	May	900,000.00	180,000.00	Jun. 5, 2020	P-5-13[32]
2020	3	August	810,000.00	162,000.00	Sept. 3, 2020	P-5-15[33]
2020	4	November	720,000.00	144,000.00	Dec. 4, 2020	P-5-17[34]
		Total	₱9,720,000.00	**₱1,944,000.00**		

In a letter[35] dated November 27, 2020 addressed to respondent CIR, petitioner, through LBP as its administrator,[36] requested for the refund of the aggregate amount of **₱1,800,000.00**, representing taxes withheld from quarterly interests paid to bondholders between **November 26, 2018 to September 3, 2020**. Respondent received the letter on **November 27, 2020.**

On March 1, 2021, petitioner wrote another letter[37] requesting for a refund in the amount of **₱144,000.00**, representing tax withheld from the interest paid for the **fourth quarter of 2020**. Respondent received the letter on **March 2, 2021**.

The above-mentioned letter-requests shall be hereinafter referred to collectively as "Administrative Claim."

On **March 4, 2021**, petitioner filed the present petition seeking the refund of the aggregate amount of ₱1,944,000.00, representing final withholding taxes (FWT) on the interest paid to holders of the Bonds,

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26 Docket, pp. 377-378.
27 Docket, pp. 380-382.
28 Docket, pp. 384-385.
29 Docket, pp. 387-389.
30 Docket, pp. 392-394.
31 Docket, pp. 396-398.
32 Docket, pp. 400-402.
33 Docket, pp. 404-406.
34 Docket, pp. 408-409.
35 Exhibit "P-3," Docket - pp. 352-353.
36 Signed by Mario S. Sabino, Jr., Assistant Vice President & Head, Trust Account Management Department, LBP, and Lolita M. Almazar, First Vice President & Trust Officer, Trust Banking Group, LBP.
37 Exhibit "P-4," Docket - pp. 374-375.

for the period between November 26, 2018 to December 4, 2020 (Judicial Claim).

Proceedings before the Court.

Respondent filed its Answer[38] on June 7, 2021.

After the parties' submission of their respective pre-trial briefs,[39] Pre-Trial Conference was set on March 1, 2022.[40] The Court directed the parties to submit a Joint Statement of Facts and Issues (JSFI).[41] On account of their failure to submit a JSFI,[42] the parties were deemed to have waived the filing thereof. The Court terminated Pre-Trial on May 5, 2022[43] and issued a Pre-Trial Order on June 20, 2022.[44]

The case proceeded to trial.

Meanwhile, LBP, petitioner's then administrator, filed a Joint Manifestation and Motion for Substitution of Parties[45] on August 22, 2022, stating that NHMFC exercised its "Clean up Call" option and bought back all underlying assets (*i.e.*, housing loans), thereby terminating the LSPA[46] between the parties.

Finding merit in the aforesaid motion and there being no objection from respondent,[47] the Court granted[48] the substitution, recognizing/naming NHMFC as petitioner's new administrator.

Subsequently, petitioner offered the testimonies of the following: (1) Maria Luisa Favila, Officer-in-Charge, Corporate Support Service Group, NHMFC,[49] and (2) Mario S. Sabino, Jr., Assistant Vice

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[38] Docket, pp. 176-185.
[39] Docket, pp. 190-193 (for respondent), 197-205 (for petitioner).
[40] Docket, p. 224.
[41] Order dated March 1, 2022, Docket, p. 226-227.
[42] Records Verification Report dated April 21, 2022, Docket, p. 236.
[43] Resolution dated May 5, 2022, Docket, p. 238.
[44] Docket, pp. 261-269.
[45] Docket,
[46] The LSPA is referred to as the "SPT Agreement" in the Joint Manifestation and Motion for Substitution of Parties, Docket, p. 280.
[47] Records Verification dated December 7, 2022, Docket, p. 330.
[48] Resolution dated December 15, 2022, Docket, pp. 332-336.
[49] Order dated January 25, 2023, Docket, p. 338; Exhibit "P-12," Docket, pp. 161-166.

President, LBP Trust Banking Group.[50] It submitted its Formal Offer of Evidence on May 19, 2023.[51] Respondent did not offer any objection thereto;[52] thus, the Court resolved[53] to admit all of petitioner's offered exhibits and, in the event respondent opts not to present evidence, directed the parties to file their respective memoranda.

After manifesting that there is still no report of investigation, respondent no longer offered any documentary or testimonial evidence[54] and proceeded to file its Memorandum[55] on July 25, 2023.

Upon petitioner's submission of its Memorandum[56] on September 6, 2023, the Court resolved[57] to submit the case for decision.

ARGUMENTS

SPT's Arguments

In the main, petitioner insists that the interest income arising from the subject Bonds is exempt from income tax for the following reasons: *First,* the Bonds are not deposit substitutes as held by the Supreme Court in *Commissioner of Internal Revenue v. Bahay Bonds 2 Special Purpose Trust* (G.R. No. 240515 (Notice), February 4, 2019). *Second,* it is tax-exempt for the following reasons: (a) it is income from a low cost and socialized housing-related ABS, pursuant to Section 33 of RA No. 9267, and (b) the subject Bonds are guaranteed by the Home Guaranty Corporation, pursuant to Section 15(a) of RA No. 9267.

In view of these exemptions, the final taxes it withheld from interest income paid to the holders of the subject bonds were erroneously remitted to the government and, thus, must be refunded.

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50 Order dated May 4, 2023, Docket, pp. 340-341; Exhibit "P-11," Docket, pp. 129-136.
51 Docket, pp. 342-347.
52 Docket, pp. 508-510.
53 Resolution dated June 23, 2023, Docket, pp. 517-518.
54 Resolution dated June 23, 2023, Docket, p. 518.
55 Docket, pp. 519-529.
56 Docket, pp. 532-549.
57 Resolution dated September 13, 2023, Docket, p. 556.

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CIR's Counter-Arguments

Respondent refutes petitioner's claim as follows: *First,* the subject Bonds are deemed to be deposit substitutes within the meaning in Section 22(Y) of the Tax Code. Hence, interests arising therefrom are subject to 20% FWT under Section 27(D)(1) of the Tax Code. *Second,* petitioner failed to prove its entitlement in the present case, similar to the outcome of its claim in a previous case docketed as CTA Case No. 9916, which was decided on November 9, 2020. *Third,* petitioner's judicial claim was filed barely three days after it filed its administrative claims before the CIR. Petitioner did not give the BIR opportunity to ascertain the veracity and validity of its administrative claim.

ISSUES

We are now tasked to determine whether petitioner SPT is entitled to the refund or credit of FWT on interest income paid to bondholders, which, it alleges to have been paid in error. Resolution of this main issue turns upon the following questions: *First,* are the bonds deposit substitutes? *Second,* is the FWT on interest income arising from the subject bonds erroneous/illegal, and, thus, subject to refund? *Third,* if the FWT had been erroneous/illegal, did petitioner establish its entitlement to the refund thereof?

OUR RULING

The Petition for Review is partially meritorious.

The Bonds are not deposit substitutes.

Respondent's argument that the Bonds are deposit substitutes pursuant to Section 22(Y) of the Tax Code is unavailing. It ignores the express provision of RA No. 9267, which declares that the ABS issued by an SPE pursuant to an approved plan, Bonds cannot be regarded as deposit substitutes:

> SECTION 31. Securities not to be Categorized as Deposit Substitutes. — The ABS issued by an SPE pursuant to the Plan approved by the Commission **shall <u>not</u> be considered as deposit substitutes** under the laws mentioned in Section 30 hereof: *Provided,*

> *however,* **That for purposes of taxation, the yield from the ABS shall be subject to a twenty percent (20%) final withholding tax, <u>except</u> those held by tax-exempt investors.**

Interest income arising from the subject Bonds is not subject to FWT.

Also pursuant to RA No. 9267, as the Bonds are related to NHMFC's low-cost or socialized housing receivables, the interest income arising therefrom is exempt from income tax, to wit:

> SECTION 33. Incentives for Securitization. – In order to promote the securitization of the mortgage and housing-related receivables of the government housing agencies as may be determined by the Housing and Urban Development Coordinating Council (HUDCC) and the Department of Finance (DOF), **the yield or income of the investor** ***from any low-cost or socialized housing-related ABS*** **<u>shall be exempt from income tax</u>.** (Emphasis Supplied)

While RA No. 9267 does not treat ABS as deposit substitutes, the **general rule** is that the yield from ABS shall be subject to 20% FWT under Section 31. *However,* the same law provides for an **exception** under Section 33, in favor of **any low-cost or socialized housing-related ABS**.

The Bonds are "ABS" within the context of RA No. 9267. These were issued to generate proceeds to be used for the purchase of assets from NHMFC on a without recourse basis, pursuant to an approved Securitization Plan.

That these Bonds are "low-cost or socialized housing-related ABS" is evident from (a) the Securitization Plan, where the underlying assets are described as "residential loans" made up of "long-term housing loans secured by mortgages purchased by NHMFC from public and private institutions within the Unified Home Loan Program,"[58] and (b) nature and purpose of NHMFC, having been created to provide a secondary market for home mortgages[59] and

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[58] Exhibit "P-10," p. 435.

[59] PD No. 1267.

regarded as a Secondary Mortgage Institution empowered to issue housing-related bonds and other securities through an SPE.[60]

Further, the Housing and Urban Development Coordinating Council (HUDCC)[61] confirmed the character of the Bonds as "low-cost and socialized housing-related" through Memoranda issued by the HUDCC Secretary General on December 23, 2011[62] and August 1, 2012.[63]

In BIR Ruling No. 516-12 dated August 3, 2012, the CIR also recognized the Bonds' association to low-cost and socialized housing: "As advertised, Bahay Bonds issued by the Special Purpose Trust, composed of current and performing loans from NHMFC's low delinquency residential loan portfolio."

Stated differently, the provisions of the Securitization Plan, nature and purpose of NHMFC as defined by statute, HUDCC's confirmatory statements, as well as the BIR's tacit recognition support the conclusion that the subject Bonds are low-cost or socialized housing-related ABS. Thus, the interest income arising therefrom is tax-exempt, as expressly set out in Section 33 of RA No. 9267. The Supreme Court already upheld this tax exemption in a previous case also involving a refund claim by herein petitioner.[64]

Based on the foregoing, no tax shall be imposed on the bond interest income payments. Any amount collected or withheld from said interest income payments shall be erroneous/illegal for being in violation of the above-discussed tax exemption and, thus, subject to refund pursuant to Section 229 of the Tax Code.

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[60] RA No. 9267.

[61] Created under Executive Order (EO) No. 90 (December 17, 1986) for the purpose of coordinating the activities of the government housing agencies to ensure the accomplishment of the National Shelter Program. Its mandate under RA No. 7279 is "to direct the formulation of a National Urban Development and Housing Framework in coordination with the Local Government Units and other public and private sector agencies."

[62] Exhibit "P-1," p. 350.

[63] Exhibit "P-2," p. 351.

[64] *Commissioner of Internal Revenue v. Bahay Bonds 2 Special Purpose Trust*, G.R. No. 240515 (Notice), February 4, 2019.

Petitioner established its entitlement to the refund sought.

In addition to pointing to the specific legal provisions creating its right to refund, the claimant must also establish the **fact of payment** of the tax sought to be refunded and the **timeliness** of its claim.[65]

Petitioner presented proof showing fact of withholding.

Here, petitioner showed it withheld tax (FWT) on the quarterly bond interest payments between 2018 to 2020 in the aggregate amount of ₱1,944,000.00 and remitted the same to the government by presenting its FWT remittance returns (BIR Form No. 1602/1602Q) for the corresponding periods. Significantly, respondent did not present evidence to refute said fact of withholding/payment of FWT.

Petitioner's administrative and judicial claims were filed on time.

Whether or not a claim for refund of erroneously/illegally collected tax was filed on time in accordance with Section 229 of the Tax Code is conditioned upon the following: *first*, an administrative claim must have been filed previously and, *second*, both administrative and judicial claims for refund were filed within two years from the time of payment/remittance of tax.[66]

In the present case, petitioner filed its *administrative claim* in two parts: first on **November 26, 2020**, relative to FWT remitted between the fourth quarter of 2018 to the third quarter of 2020, then on **March 2, 2021**, relative to FWT remitted in the fourth quarter of 2020. On the other hand, the present *judicial claim* was filed on **March 4, 2021**.

Counting the two-year prescriptive period from the dates on which petitioner remitted the FWT, We find that the administrative

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[65] *Commissioner of Internal Revenue v. Interpublic Group of Companies, Inc.*, G.R. No. 207039, August 14, 2019. Also see *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, G.R. No. 209776, December 7, 2016, 802 PHIL 636-659.

[66] *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, G.R. No. 209776, December 7, 2016, 802 PHIL 636-659.

and judicial claims were filed on time, **except** with respect to the 2018 fourth quarter FWT, *viz.*:

<table>
<tr><th rowspan="2">Year</th><th rowspan="2">Qtr</th><th rowspan="2">Month</th><th rowspan="2">Remittance Date</th><th rowspan="2">End of 2-Year Period</th><th colspan="2">Filing Date</th></tr>
<tr><th>Administrative Claim</th><th>Judicial Claim</th></tr>
<tr><td>2018</td><td>4</td><td>November</td><td>Nov. 26, 2018</td><td>Nov. 26, 2020</td><td rowspan="8">Nov. 27, 2020</td><td rowspan="9">Mar. 4. 2021</td></tr>
<tr><td>2019</td><td>1</td><td>February</td><td>Mar. 4, 2019</td><td>Mar. 4, 2021</td></tr>
<tr><td>2019</td><td>2</td><td>May</td><td>Jun. 3, 2019</td><td>Jun. 3, 2021</td></tr>
<tr><td>2019</td><td>3</td><td>August</td><td>Sept. 3, 2019</td><td>Sept. 3, 2021</td></tr>
<tr><td>2019</td><td>4</td><td>November</td><td>Dec. 2, 2019</td><td>Dec. 2, 2021</td></tr>
<tr><td>2020</td><td>1</td><td>February</td><td>Mar. 4, 2020</td><td>Mar. 4, 2022</td></tr>
<tr><td>2020</td><td>2</td><td>May</td><td>Jun. 5, 2020</td><td>Jun. 5, 2022</td></tr>
<tr><td>2020</td><td>3</td><td>August</td><td>Sept. 3, 2020</td><td>Sept. 3, 2022</td></tr>
<tr><td>2020</td><td>4</td><td>November</td><td>Dec. 4, 2020</td><td>Dec. 4, 2020</td><td>Mar. 2, 2021</td></tr>
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The **2018 fourth quarter FWT** was remitted on November 26, 2020. Petitioner had two years therefrom or until November 26, 2020, to file both administrative and judicial claims with respect to said period's FWT. However, its November 27, 2020 and March 4, 2021 respective filings of its administrative and judicial claims, were already **beyond the prescriptive period**.

On the other hand, its claims relative to FWT remittances for the **2019 first quarter until 2020 fourth quarter** were filed on time. Notably, while the judicial claim was filed merely two days after filing the second part of the administrative claim, both administrative and judicial claims were filed within the two-year reglementary period. These filings satisfy the timeliness requirements under Section 229 of the Tax Code.[67]

Resultantly, petitioner is entitled to the refund of erroneously/illegally collected FWT amounting to **₱1,656,000.00**, computed as follows:

Year	Quarter	Tax Withheld
2019	First	₱270,000.00
2019	Second	252,000.00
2019	Third	234,000.00
2019	Fourth	216,000.00
2020	First	198,000.00
2020	Second	180,000.00
2020	Third	162,000.00
2020	Fourth	144,000.00
Total		**₱1,656,000.00**

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[67] *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, G.R. No. 209776, December 7, 2016, 802 PHIL 636-659.

While petitioner's right and entitlement to the refund sought has been established, the payment/release of the refund granted in this case gives rise to petitioner's concomitant obligation to return the amount to its bondholders from whom the taxes were withheld. The Supreme Court elaborated on this in *Commissioner of Internal Revenue v. Smart Communications, Inc.*,[68] *viz.*:

> In this connection, it is however significant to add that while the withholding agent has the right to recover the taxes erroneously or illegally collected, he nevertheless has the obligation to remit the same to the principal taxpayer. As an agent of the taxpayer, it is his duty to return what he has recovered; otherwise, he would be unjustly enriching himself at the expense of the principal taxpayer from whom the taxes were withheld, and from whom he derives his legal right to file a claim for refund.

WHEREFORE, in light of the foregoing considerations, the consolidated Petitions for Review filed by Bahay Bonds 2 Special Purpose Trust is **PARTIALLY GRANTED**. Respondent Commissioner of Internal Revenue is **ORDERED** to refund or issue a tax credit certificate in favor of petitioner in the reduced amount of **₱1,656,000.00** representing erroneously paid final withholding taxes on interest income arising from the Fixed Rate Notes, collectively known as "Bahay Bonds 2" between the first quarter of 2019 to the fourth quarter of 2020.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice

[68] G.R. Nos. 179045-46, August 25, 2010, 643 PHIL 550-568.

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CATHERINE T. MANAHAN
Chairperson
Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Third Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice