REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

MELCO RESORTS LEISURE (PHP) CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10807

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

SEP 12 2025
9:14 a.m.

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RESOLUTION

MANAHAN, J.:

For resolution of the Court are the following:

1. Respondent Commissioner of Internal Revenue ("**CIR**")'s *Motion for Reconsideration RE: Decision dated 24 April 2025* ("**respondent's *Motion***") filed on May 19, 2025,[1] with petitioner's comment filed on June 10, 2025;[2] and

2. Petitioner Melco Resorts Leisure (PHP) Corporation ("**Melco**")'s *Motion for Partial Reconsideration [of Decision dated April 24, 2025]* ("**petitioner's *Motion***") filed on May 19, 2025.[3]

To recall, in the *Decision* dated April 24, 2025 ("**assailed *Decision***"),[4] the Court partially granted Melco's claim for refund of erroneously or excessively paid withholding tax on its

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[1] Docket – Vol. 4, pp. 1808-1820.
[2] *Comment [On Respondent's Motion for Reconsideration dated May 16, 2025]*, *id.* at pp. 1836-1842.
[3] *Id.* at pp. 1821-1832.
[4] *Id.* at pp. 1788-1806.

rental payments. The dispositive portion of the assailed *Decision* reads:

> **ACCORDINGLY**, the present *Petition for Review* filed on March 11, 2022 is **PARTIALLY GRANTED.** Respondent CIR is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** for the amount of **₱93,813,631.87** in favor of petitioner.
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> **SO ORDERED.**

Respondent's Motion

In his motion, respondent CIR seeks that the Court set aside the assailed *Decision* on the ground that Melco failed to exhaust administrative remedies, or, in the alternative, that Melco's claim utterly lacks merit.

The CIR maintains that Melco circumvented his authority to review and act on its tax refund claim when it filed a judicial claim for refund only three days after filing its administrative claim. According to the CIR, this constitutes a blatant violation of the doctrine of exhaustion of administrative remedies, especially in light of the fact that Melco presented supporting documents at the judicial level which were not submitted at the administrative level. The CIR also argues that Melco's supporting documents fell short of establishing its entitlement to the refund claim.

The Court denies respondent's *Motion* for lack of merit.

In the assailed *Decision*, the Court cited the Supreme Court's ruling in *Commissioner of Internal Revenue v. Estate of Mr. Charles Marvin Romig*[5] in squarely addressing the CIR's contention:

> With regard to respondent's argument that petitioner failed to exhaust administrative remedies when it filed its judicial claim only three (3) days after filing its administrative claim, the Supreme Court already settled the same in this wise:
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>> ... the CIR insists that respondent's claim for refund of the estate tax that the latter had previously paid should be denied for failure to exhaust administrative remedies. According to the CIR, the Estate's filing of its administrative claim with the BIR at 8:00 a.m. and its judicial

[5] G.R. No. 262092, October 9, 2024 [Per J. Hernando, First Division].

> claim before the CTA at 4:47 p.m. both on June 28, 2017 – just two days prior the lapse of the two-year period, deprived the BIR the opportunity to act on the administrative claim for refund. The CIR argues that, with less than nine hours given to him, he was not "afforded a complete chance to pass upon the matter" nor "given an opportunity to act and correct the errors committed in the administrative forum."
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> The contention is untenable.
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> ***It is of no moment that there is only a short interval between the filing of the two claims. The law merely requires that both claims are filed within the two-year period.*** In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*, ... this Court held that, "from the plain language of the law, it does not matter how far apart the administrative and judicial claims were filed, or whether the [CIR] was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.[6]

Earlier jurisprudence had likewise already affirmed the timeliness and validity of a judicial claim filed immediately after the administrative claim for refund, as long as it is made within the two-year prescriptive period. In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*, the Supreme Court explained:[7]

> Sections 204 and 229 fixed the same period of two years for filing an administrative claim for refund before the Bureau of Internal Revenue and to sue before the Court of Tax Appeals... as long as these two acts fall within the two-year period, there is no legal impediment to the judicial claim for refund.
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> Consequently, from the plain language of the law, ***it does not matter how far apart the administrative and judicial claims were filed, or whether the [CIR] was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.***
>
> ...this Court upheld the propriety of the taxpayer's judicial claim instituted as early as five and 13 days after the administrative claim had been filed, on the ground that both claims were filed within the two-year prescriptive period.

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6 Citation omitted, emphasis in the original.
7 G.R. No. 226592, July 27, 2021 [Per J. Leonen, *en banc*]. Emphasis supplied.

> The Court of Tax Appeals likewise allowed judicial claims filed simultaneously, or one to 28 days from the administrative claim's filing, on the same ground that both claims were filed within the two-year prescriptive period.

Plainly, respondent's *Motion* failed to refute the above-cited doctrine or its applicability to the present case. Neither did it substantiate its allegation that Melco's claim for refund is not supported by evidence, contrary to the Court's findings in the assailed *Decision*. Thus, there is no reason for the Court to reconsider the assailed *Decision* based on respondent's *Motion*.

While a motion for reconsideration may dwell on the same issues and arguments already previously addressed by the court, it is still incumbent upon a movant to raise matters substantially plausible or compellingly persuasive to warrant the reconsideration sought.[8] More importantly, it behooves the movant to specify the findings or conclusions in the judgment which are not supported by evidence or which are contrary to law, making express reference to the pertinent evidence or legal provisions, as required by Rule 37, Section 2 of the Rules of Court.[9]

Petitioner's Motion

In its motion, Melco asks the Court to partially reconsider its finding in the assailed *Decision* that its refund claim has prescribed with respect to the excessively paid expanded withholding tax ("**EWT**") for the month of January 2020. Citing Revenue Regulations No. 11-18 which provides that the filing and payment of withholding taxes shall be made quarterly, Melco argues that in computing its over-remittance or excess EWT payment, the entire payment made for the month of January 2020 should first be applied to the total EWT due, then the remaining EWT due should be settled by the payment for February 2020. According to Melco, since there is no excess payment for January 2020, the two-year prescriptive period to file a refund claim should be reckoned from the date of payment for February 2020.

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[8] *Roque, Jr. v. Commission on Elections*, G.R. No. 188456 (Resolution), February 10, 2010 [Per J. Velasco, *En Banc*].
[9] *People v. Rodriguez*, G.R. No. 32657, September 1, 1992 [Per J. Nocon, Second Division].

Melco also invokes the principle of *solutio indebiti* and implores the Court to set aside legal technicalities, considering that it has proven the excessiveness of its EWT payments in relation to the rent adjustment made due to the financial adversity brought by the COVID-19 pandemic in 2020.

The Court is constrained to deny petitioner's *Motion* for lack of merit.

In the assailed *Decision*, the Court found that the reduced rent, pursuant to the *Supplemental Agreement to Contract to Lease*, resulted in a decrease of the corresponding EWT from ₱116,287,430.60 to ₱13,949,801.89—or an excess EWT in the amount of ₱102,337,628.71. Melco computes the excess EWT as follows:

MONTH FOR 2020	DATE OF PAYMENT	EWT PAID (5%)	EWT DUE	ALLEGED OVERPAYMENT
Jan.	Feb. 12, 2020	₱ 9,686,480.33	₱ 9,686,480.33	**None**
Feb.	Mar. 12, 2020	9,686,038.66	4,263,321.56	₱ 5,422,717.10
Mar.	Apr. 27, 2020	9,685,901.16		9,685,901.16
Apr.	May 22, 2020	9,685,455.33		9,685,455.33
May	Jun. 15, 2020	9,687,351.16		9,687,351.16
Jun.	Jul. 29, 2020	9,686,776.16		9,686,776.16
Jul.	Aug. 12, 2020	9,690,426.16		9,690,426.16
Aug.	Sep. 15, 2020	9,693,067.83		9,693,067.83
Sep.	Oct. 29, 2020	9,695,551.16		9,695,551.16
Oct.	Nov. 12, 2020	9,696,201.16		9,696,201.16
Nov.	Dec. 14, 2020	9,696,467.83		9,696,467.83
Dec.	Jan. 28, 2021	9,697,713.66		9,697,713.66
	TOTAL	116,287,430.60	13,949,801.89	102,337,628.71

Meanwhile, in the assailed *Decision*, the Court computed the excess EWT in the following manner and held that the overpayment of ₱8,523,996.84 for January 2020 can no longer be refunded due to the same being made beyond the two-year prescriptive period under Section 229 of the Tax Code:

MONTH FOR 2020	DATE OF PAYMENT	EWT PAID (5%)	EWT DUE	OVERPAYMENT
Jan.	Feb. 12, 2020	₱ 9,686,480.33	₱ 1,162,483.49	**₱ 8,523,996.84**
Feb.	Mar. 12, 2020	9,686,038.66	1,162,483.49	8,523,555.17
Mar.	Apr. 27, 2020	9,685,901.16	1,162,483.49	8,523,417.67
Apr.	May 22, 2020	9,685,455.33	1,162,483.49	8,522,971.84
May	Jun. 15, 2020	9,687,351.16	1,162,483.49	8,524,867.67
Jun.	Jul. 29, 2020	9,686,776.16	1,162,483.49	8,524,292.67

Jul.	Aug. 12, 2020	9,690,426.16	1,162,483.49	8,527,942.67
Aug.	Sep. 15, 2020	9,693,067.83	1,162,483.49	8,530,584.34
Sep.	Oct. 29, 2020	9,695,551.16	1,162,483.49	8,533,067.67
Oct.	Nov. 12, 2020	9,696,201.16	1,162,483.49	8,533,717.67
Nov.	Dec. 14, 2020	9,696,467.83	1,162,483.49	8,533,984.34
Dec.	Jan. 28, 2021	9,697,713.66	1,162,483.49	8,535,230.17
	TOTAL	116,287,430.60	13,949,801.89	102,337,628.72

The computation in the assailed *Decision*—as well as Melco's own monthly EWT remittances in 2020—are consistent with the rule that the obligation to deduct and withhold the tax arises "at the time an income is paid or payable, whichever comes first."[10] Once withheld, it is deemed to be the full and final payment of the income tax due,[11] hence a claim for its refund on the ground that it is erroneously or excessively paid must be instituted within two (2) years therefrom. Section 229 of the Tax Code states:

> **Section 229. *Recovery of Taxes 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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> 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:** ...

The above-quoted statutory provision governing the refund of erroneously or excessively paid taxes is clear: all claims must be made within two (2) years "from the date of payment" and "regardless of any supervening cause." It is therefore immaterial that an overpayment is determined only at the end of the taxable quarter or year. Consequently, while Melco is not precluded from applying the monthly EWT it remitted in advance against the actual total EWT due for the quarter, a claim for full or partial refund of any such remittance made outside the two-year prescriptive period is barred by express provision of law. In *Commissioner of Internal*

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[10] Revenue Regulations No. 2-98.
[11] *Philippine Airlines, Inc. (PAL) v. Commissioner of Internal Revenue,* G.R. No. 206079, January 17, 2018 [Per J. Leonen, Third Division].

Revenue v. Manila Electric Company (MERALCO),[12] the Supreme Court instructs:

> *Though the Tax Code recognizes the right of taxpayers to request the return of such excess/erroneous payments from the government, they must do so within a prescribed period.* Further, "a taxpayer must prove not only his entitlement to a refund, but also his compliance with the procedural due process as non-observance of the prescriptive periods within which to file the administrative and the judicial claims would result in the denial of his claim."[13]

The principle of *solutio indebiti* cannot override the operation of Section 229 of the Tax Code in tax refund cases. *Solutio indebiti*, which is grounded on the age-old tenet that no one should be unjustly enriched at the expense of another, creates the quasi-contractual obligation to return payment received by mistake where there is "no binding relation between the payor, who has no duty to pay, and the person who received the payment."[14] In tax refund cases, the relation between the payor-taxpayer and the government is defined and bound by law. Thus, jurisprudence affirms that *solutio indebiti* finds no application therein. As explained in *Commissioner of Internal Revenue v. San Miguel Corporation*:[15]

> ...petitioner is misguided when it relied upon the six (6)-year prescriptive period for initiating an action on the ground of quasi-contract or *solutio indebiti*... There is *solutio indebiti* where: (1) payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment; and (2) the payment is made through mistake, and not through liberality or some other cause. Here, there is a binding relation between petitioner as the taxing authority in this jurisdiction and respondent MERALCO which is bound under the law to act as a withholding agent... Hence, the first element of *solutio indebiti* is lacking. Moreover, such legal precept is inapplicable to the present case since the Tax Code, a special law, explicitly provides for a mandatory period for claiming a refund for taxes erroneously paid.
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> Citing *Meralco*, the Court again, in *Metropolitan Bank and Trust Company v. Commissioner of Internal Revenue* (Metrobank), rejected the application to tax refund cases of the principle of *solutio indebiti* as well as the six (6)-year prescriptive period for claims based on quasi-contract. It reiterated that both administrative and judicial claims for tax refund or credit should be filed within the two (2)-year

[12] G.R. No. 181459, June 9, 2014 [Per J. Peralta, Third Division].
[13] Emphasis supplied, citation omitted.
[14] *Id.*
[15] G.R. No. 180740, November 11, 2019 [Per J. Hernando, Second Division].

> prescriptive period fixed under Section 229 of the Tax Reform Act of 1997.

Considering the foregoing, the Court affirms its ruling that since Melco's administrative and judicial claims were filed on March 8, 2022 and March 11, 2022, respectively, the same were timely filed insofar as the payments for the months of February 2020 to December 2020 are concerned. However, with respect to the payment for the month of January 2020, Melco's claim has prescribed since it should have been filed on or before February 14, 2022,[16] within two years from the date of its payment on February 12, 2020.

ACCORDINGLY, respondent's *Motion for Reconsideration RE: Decision dated 24 April 2025* and petitioner's *Motion for Partial Reconsideration [of Decision dated April 24, 2025]* are both **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(on leave)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

[16] February 12, 2022 fell on a Saturday.