CTA Form No. 8

22-000289-0040

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10892

SONOMA SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI A. HUSSIN
ATTY. ABRILLUS RAFFY C. LAGUESMA
Bureau of Internal Revenue-Region No.8A- Makati City
36th Floor, Legal Division, Export Bank Plaza Building
Sen. Gil Puyat Ave. corner Chino Roces Ave.
Makati City

SALVADOR LLANILLO & MIJARES
17th Floor, Tower One and Exchange Plaza
Ayala Triangle, Ayala Ave. Makati City

GREETINGS:

You are hereby notified by these presents that on **June 26, 2025**, a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 1, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SONOMA SERVICES, INC.,
Petitioner,

CTA CASE NO. 10892

Members:

- versus -

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 26 2025 3:41PM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Sonoma Services, Inc. (**petitioner**) against respondent Commissioner of Internal Revenue (**respondent/CIR**) pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(1)[3], Rule 4 of the Revised Rules of the Court of Tax Appeals

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[1] Filed on 15 June 2022, Division Docket, pp. 6-21.

[2] **SEC. 3.** *Who may appeal; period to file petition.* —
(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] Sec. 7. *Jurisdiction.* — The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

(**RRCTA**). It prays that judgment be rendered ordering respondent to refund to petitioner the amount of ₱5,857,500.00, representing the latter's excess and unutilized creditable withholding taxes (**CWTs**) for the year ended 31 December 2019 or calendar year (**CY**) 2019.[4]

PARTIES OF THE CASE

Petitioner is a domestic corporation duly organized and existing under Philippine laws, with principal office at 3rd Floor, Makati Stock Exchange, Ayala Triangle, Ayala Avenue, Makati City.[5] It is primarily engaged to carry on and conduct a general services business with any party, including the rendering of management and other allied services within limits allowed by law, including office and electrical support services, maintenance services of any kind, or otherwise, to engage in any preservation, maintenance or repair work upon any and every kind of property, to enter into and execute contracts therefore or relating thereto.[6] It is registered with the Bureau of Internal Revenue (**BIR**) with Tax Identification Number (**TIN**) 220-868-954-000.[7]

Respondent, on the other hand, is the duly appointed CIR tasked to perform the duties of his or her office, including, *inter alia*, the power to decide claims for tax refund or tax credit subject to the exclusive appellate jurisdiction of this Court, pursuant to Section 4[8] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and

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1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue[.]

4 Prayer, Petition for Review, Division Docket, p. 18.

5 Paragraph 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (**JSFI**), id., p. 193.

6 See primary purpose in the Amended Articles of Incorporation of Sonoma Services, Inc., Exhibit "P-1", id., p. 364.

7 Exhibit "P-2", id., p. 372.

8 **SEC. 4.** *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

Section 7[9] of Republic Act (**RA**) No. 1125[10], as amended by RA 9282.[11] He or she may be served with summons, pleadings and other court processes, through the counsel at BIR, Revenue Region No. 8A-Makati City, 36th Floor, Export Bank Plaza Building, Sen. Gil Puyat Avenue, cor. Chino Roces Avenue, Makati City.[12]

FACTS OF THE CASE

On 15 June 2020, through the electronic filing and payment system (**eFPS**), petitioner filed its Annual Income Tax Return[13] (**ITR**) for CY 2019. Subsequently, or on 13 July 2020, petitioner filed an Amended Annual ITR for CY 2019.[14] In both Annual ITRs, petitioner declared that: (1) it had an overpayment of ₱9,064,550.00; (2) it had an unutilized CWT for the year in the total amount of ₱5,857,500.00[15]; and (3) it manifested its option to be refunded the said amount by checking the appropriate box therein.[16]

With the excess CWTs, petitioner sought the refund of the withheld taxes for CY 2019. Thus, on 11 February 2022, it filed a letter dated 02 December 2021[17] and its Application for Tax Credits/Refund (BIR Form No. 1914)[18], with BIR's Revenue District Office (**RDO**) No. 50-South Makati.

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9 **Sec. 7.** *Jurisdiction.* - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
(1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue[.]

10 AN ACT CREATING THE COURT OF TAX APPEALS.

11 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

12 Paragraph 5, Stipulation of Facts, JSFI, Division Docket, p. 194.

13 Exhibit "P-3", id., pp. 373-381.

14 See Exhibit "P-4", id., pp. 382-390.

15 See lines 5 and 6, page 6 of the Annual Income Tax Return for 31 December 2019, Exhibit "P-3", id., p. 379; See lines 5 and 6, page 6 of the Amended Annual Income Tax Return for 31 December 2019, Exhibit "P-4", id., p. 388.

16 See Line 21, Exhibit "P-3", id., p. 374; See Line 21, Exhibit "P-4", id., p. 383.

17 Exhibit "P-12", id., p. 435.

18 Id., p. 436.

The BIR, however, did not act on petitioner's claim. Due to the BIR's inaction, it filed before this Court the present petition on 15 June 2022.[19] The case was initially raffled to this Court's Second Division.[20]

PROCEEDINGS BEFORE THIS COURT

On 20 June 2022, the Court issued Summons[21] on respondent. Although it was claimed that respondent failed[22] to file an Answer within the allowed extended period[23], he or she filed an Answer[24] on 22 August 2022 through registered mail.

In the Answer, respondent countered that petitioner's judicial claim for refund before the Court was prematurely filed considering as the BIR was yet to thresh out the factual issues in the said administrative claim. Respondent also averred that petitioner failed to prove the fact of withholding the subject taxes due to the discrepancies noted in the various BIR Forms No. 2307[25], Summary of Alphalist of Withholding Taxes (**SAWT**) and in the official receipts (**ORs**). Moreover, the accuracy of the income from where the subject taxes were withheld is doubtful since there is no reconciling items between the amounts reflected in the Annual ITR and the Audited Financial Statement (**AFS**).

Lastly, respondent pointed out that there were no excess credits from prior years from where the income tax (**IT**) due of 2019 may be credited. According to respondent, the Court *En Banc*, in CTA *En Banc* Case No. 697[26], already denied petitioner's claim for CWT refund (amounting to ₱4,357,499.04) arising from CY 2004. However, petitioner reinstated the denied refund claim as part of its excess tax credits which was later utilized in the subsequent years. Respondent contended that the said *En Banc* decision never permitted petitioner to reinstate the same as tax credit. Removing the same would show that as early as 2017,

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19 Supra at note 1.

20 Composed of Associate Justice Erlinda P. Uy (Ret.) as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David as Members.

21 Division Docket, p. 129.

22 Records Verification dated 25 August 2022, id., p. 136.

23 See Motion for Extension of Time to File Answer, id., pp. 131-133; Order dated 03 August 2022, id., p. 135.

24 Id., pp. 137-147.

25 Certificate of Creditable Tax Withheld at Source.

26 *Commissioner of Internal Revenue v. Sonoma Services, Incorporated.* Promulgated on 20 April 2012.

petitioner had no sufficient prior year tax credit to cover the IT due for 2017, 2018 and 2019.

Thereafter, the case was set for Pre-Trial Conference on 24 November 2022.[27] Hence, on 18 November 2022, petitioner filed its Pre-Trial Brief[28] while respondent filed his or her Pre-Trial Brief[29] on 21 November 2022.

During the Pre-Trial Conference, the parties were directed to submit a Joint Stipulation of Facts and Issues (**JSFI**) within forty-five (45) days from hearing date. Within the same period, petitioner was ordered to submit its motion for the commissioning of an Independent Certified Public Accountant (**ICPA**). The Court also set the dates for the presentation of the parties' evidence and commissioner's hearing for the marking of exhibits.[30]

On 09 January 2023, the parties filed their JSFI[31], which the Court approved in its Resolution dated 12 January 2023.[32] As the Pre-Trial ended, a Pre-Trial Order dated 31 January 2023[33] was thereafter issued.

In the *interim*, the case was transferred to the First Division[34] pursuant to a reorganization based on Administrative Circular No. 01-2023.[35] Subsequently, respondent transmitted the BIR Records consisting of one (1) folder only.[36]

Thereafter, as prayed for *via* petitioner's "Motion to Commission an [ICPA]"[37], Madonna Mia S. Dayego (**Dayego**) was appointed as such on 21 September 2023.[38] She was granted a period of thirty (30) days to

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27 See Notice of Pre-Trial Conference dated 08 September 2022, Division Docket, pp. 150-151.
28 Petitioner's Pre-Trial Brief, id., pp. 152-166.
29 Respondent's Pre-Trial Brief, id., pp. 167-171.
30 See Order dated 24 November 2022, id., pp. 175-176.
31 Id., pp. 193-201.
32 Id., p. 203.
33 Id., pp. 205-210.
34 Composed of Presiding Justice Roman G. Del Rosario as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David as Members.
35 See Minute Resolution dated 29 May 2023, Division Docket, p. 211.
36 See "Compliance" dated 21 July 2023, id., pp. 230-232.
37 Motion to Commission an Independent Certified Public Accountant, id., pp. 177-180.
38 See Order dated 21 September 2023, id., pp. 235-237.

file the ICPA report. Within the said period, or on 23 October 2023, Dayego filed the ICPA Report.[39]

When trial ensued subsequently, petitioner presented the following witnesses, namely: (1) Krystal E. Gamit (**Gamit**)[40], its Financial Accountant; and (2) ICPA Dayego.

On the witness stand, Gamit testified through her Judicial Affidavit[41] and declared that: (1) as the company's accountant, she is responsible for the compliance of any requirements relating to tax, including the preparation of the tax returns; (2) in CY 2019, petitioner was found liable for the minimum corporate income tax (**MCIT**) of ₱437,675.00; (3) petitioner had an excess CWTs in the total amount of ₱9,502,225.00 from CY 2019 amounting to ₱5,857,500.00, and prior years' excess credits of ₱3,644,725.00; (4) the prior years' excess credits fully covered the MCIT, thus petitioner opted to refund the excess CWTs from CY 2019; (5) on 11 February 2022, petitioner filed its administrative claim for refund before the BIR; (6) however, the BIR failed to act on the said claim; and (7) the remainder of the prior years' excess credits were carried over to CY 2020.

On cross-examination, Gamit stated that the signatories in petitioner's Annual ITRs (namely, Maria Socorro A. Ligon, Vanessa M. Besas and Sofia Zobel Elizalde) are different from the signatory in the application in the administrative claim for refund (who is Romualdo L. Katigbak [**Katigbak**]).[42] On redirect examination, Gamit answered that Katigbak is duly authorized to sign the application for tax refund since he is petitioner's General Manager.[43] No re-cross examination was conducted.[44]

ICPA Dayego also assumed the witness stand where she identified her ICPA Report and her Judicial Affidavit[45], adopting the latter as her

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39 Exhibit "P-21", id., pp. 245-305.
40 See Minutes of the Hearing and Order, both dated 24 November 2022, id., pp. 174, and 175-176, respectively.
41 Exhibit "P-19", Sworn Statement of Ms. Krystal E. Gamit to Questions Propounded by Atty. Ana Riza N. Santos-Bernil, id., pp. 114-128.
42 TSN dated 21 September 2023, pp. 29-33.
43 Id., pp. 34-35.
44 Id., p. 35.
45 Exhibit "P-20", Sworn Statement of Ms. Madonna Mia S. Dayego to Questions propounded by Atty. Hafizah D. Disomangcop, Division Docket, pp. 310-324.

direct testimony. In the Judicial Affidavit, she declared that: (1) the subject CWTs for CY 2019 were duly supported with BIR Forms No. 2307; (2) the income from where the subject taxes were withheld were traced to the cash receipt books (**CRBs**), general ledgers (**GLs**), ORs, Annual ITRs and AFS; (3) the subject claim for refund were not carried over to the subsequent years; (4) the prior years' excess credits (that was utilized in CY 2019) came from CWTs arising from CY 2014 and were duly supported with BIR Forms No. 2307; and (5) the documents she vouched and examined are all faithful reproductions of the originals. No cross-examination was conducted.[46]

With no other witnesses to present, petitioner was given five (5) days to file its Formal Offer of Evidence (**FOE**). Within the same period, respondent was also ordered to comment thereon before the Court proceeds to resolve the FOE. Moreover, as respondent manifested that he or she will not be presenting any witnesses, the Court directed the parties to file their respective memoranda within 30 days from the receipt of Court's resolution of petitioner's FOE.[47]

On 26 February 2024, petitioner filed its FOE[48], with respondent commenting thereon on 04 March 2024.[49] In its Resolution dated 06 May 2024[50], except for Exhibits "**P-22-2**", "**P-22-3**" and "**P-22-4**"[51] (which were denied for petitioner's failure to submit the marked exhibits), the Court admitted all of petitioner's offered exhibits.

Later, or on 10 June 2024, petitioner and respondent filed their respective Memoranda.[52] With both memoranda filed, the Court considered the case submitted for decision on 01 July 2024.[53]

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46 See Order dated 21 February 2024, id., pp. 332-333.

47 Id.

48 Id., pp. 335-360.

49 Comment/Opposition (Re: Petitioner's Formal Offer of Evidence), id., pp. 459-481.

50 Id., pp. 487-488.

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Exhibit No.	Description
"P-22-2"	Ms. Madonna Mia S. Dayego's Application for Renewal of SEC Accreditation
"P-22-3"	M.F. Padernal and Co.'s Application for Renewal of SEC Accreditation
"P-22-4"	Ms. Madonna Mia S. Dayego's Renewed PRC ID

52 Petitioner's Memorandum, Division Docket, pp. 489-510; Memorandum (For the Respondent), Division Docket, pp. 512-524.

53 See Resolution dated 01 July 2024, id., p. 527.

ISSUE

As the parties so stipulated in the JSFI, the following issue is submitted for this Court's determination —

> WHETHER PETITIONER SONOMA SERVICES, INC. IS ENTITLED TO ITS CLAIM FOR REFUND OR ISSUANCE OF TAX CREDIT CERTIFICATE (TCC) OF ITS EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAXES (CWTs) FOR CALENDAR YEAR (CY) 2019 IN THE AMOUNT OF ₱5,857,500.00.[54]

ARGUMENTS

In support of its petition, petitioner argues that it is entitled to the refund of the excess and unutilized CWTs earned in CY 2019 in the amount of ₱5,857,500.00 after it satisfied all the requisites. Citing the Dayego's ICPA Report, petitioner maintains that the subject taxes are duly substantiated with the CWT Certificates (BIR Form No. 2307). It is likewise firm in its position that the corresponding incomes (upon which the taxes were withheld) were duly reported. Lastly, petitioner avers that claim for refund was not carried over to the subsequent periods.

As for the issue of jurisdiction, petitioner alleges that both the administrative and judicial claims for refund were timely filed pursuant to Sections 204[55] and 229[56] of the NIRC of 1997, as amended.

Respondent, on the other hand, counters that petitioner is not entitled to a refund. Reiterating the arguments in the Answer, respondent posits that: (1) petitioner's judicial claim for refund was prematurely filed as he or she had not been given the opportunity to act on the administrative claim before the judicial claim was filed; (2) petitioner failed to prove the fact of withholding the subject taxes due to the discrepancies noted among the supporting documents, such as, the BIR Forms No. 2307, SAWT and the ORs; (3) there is doubt in the accuracy of the income from where the subject taxes were withheld since there are no reconciling items between the amounts reflected in the

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[54] See Issues, JSFI, id., p. 194.
[55] SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*
[56] SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.*

Annual ITR and the AFS; and (4) that there are no excess credits from the prior years from where the IT due of 2019 may be credited.

Respondent also adds that petitioner carried over the subject CWTs of CY 2019 to the subsequent periods. With the foregoing, he or she prays for the dismissal or the denial of the instant Petition for Review.

RULING OF THE COURT

Before We proceed with a discussion of the substantive issue raised, We find it propitious to first rule on the timeliness of the filing of this present case.

Sections 204(C) and 229 of the NIRC of 1997, as amended, provide that claims for refund must be filed within two (2) years after the payment of the tax or penalty:

> ...
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> **SEC. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
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> ...
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> (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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> ...
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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 upon which payment was made, such payment appears clearly to have been erroneously paid.[57]
>
> ...

As shown above, both the administrative and judicial claims must be filed within two (2) years from the date of payment of the tax or penalty. Significantly, it must be emphasized that the two (2)-year prescriptive period within which to claim a refund begins to run, at the earliest, on the date of the filing of the final adjustment return (or the final Annual ITR).[58] This must be so since it is only on such date when it can be finally ascertained if a taxpayer still has to pay additional IT or if the latter is entitled to a refund of overpaid IT.[59] Alternatively stated, it is only at this point that it can be ascertained whether a taxpayer paid an amount exceeding its annual IT liability.[60]

As earlier mentioned, petitioner filed its original Annual ITR[61] for CY 2019 *via* eFPS on **15 June 2020**. Counting two (2) years from 15 June 2020, petitioner had until **15 June 2022**, within which to file both its administrative and judicial claims.

Considering that petitioner filed its administrative claim for refund with the BIR on 11 February 2022[62], while the present judicial claim was filed on 15 June 2022[63], both claims for the refund of the excess and unutilized CWTs were seasonably filed within the two (2)-year prescriptive period.

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57 Emphasis supplied and italics in the original text.

58 See *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*, G.R. No. 96322, 20 December 1991; *Commissioner of Internal Revenue v. TMX Sales, Inc. and the Court of Tax Appeals*, G.R. No. 83736, 15 January 1992; *Commissioner of Internal Revenue v. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, 29 May 1995.

59 See *Commissioner of Internal Revenue v. TMX Sales, Inc., et al.*, supra.

60 *Metropolitan Bank & Trust Company v. The Commissioner of Internal Revenue*, G.R. No. 182582, 17 April 2017.

61 Exhibit "P-3", supra at note 13.

62 Exhibit "P-12", supra at notes 17 and 18.

63 Supra at note 1.

In its attempt to oust this Court of its jurisdiction over the present controversy, respondent contends that the judicial claim for refund was prematurely filed and violative of the doctrine of exhaustion of administrative remedies. According to respondent, if the Court were to allow petitioner's judicial claim for refund to prosper, it would deprive the BIR of its opportunity to verify fully petitioner's administrative claim for refund.

This Court disagrees with respondent.

A party's failure to observe the doctrine of exhaustion of administrative remedies does not affect the court's jurisdiction.[64] In a long line of cases[65], it has been repeatedly ruled that the only effect of non-compliance with the doctrine of exhaustion of administrative remedies is that it will deprive the complainant of a cause of action, which is waivable if not invoked at the proper time.

Moreover, even if We are to assume that a party's failure to exhaust administrative remedies may deprive this Court of jurisdiction, the instant case falls within the well-recognized exceptions thereto: (1) when there is urgent need for judicial intervention; and (2) when irreparable damage will be suffered.[66]

In the case at bar, petitioner filed its judicial claim on 15 June 2022[67], *i.e.*, the last day of the two (2)-year reglementary period (counted from 15 June 2020. Had petitioner waited for respondent's final action on its refund claim or issuance of tax credit certificate before filing a judicial claim (knowing fully well that the prescriptive period was about to end), it would have already lost its right to seek judicial recourse.

Moreover, the Supreme Court, in the seminal case of *Commissioner of Internal Revenue v. Carrier Air Conditioning*

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64 *GMA Network, Inc., et al. v. ABC Development Corporation (ABC), et al.*, G.R. No. 205986, 11 January 2023.

65 Id.; *In Re: Motion to Correct Original Certificate of Title No. P-672 covering Lot No. 4569 Cauayan Cad. Francisca Soto v. Marina S. Jareno, et al.*, G.R. No. L-38962, 15 September 1986.

66 *Santiago Aquino, et al. v. Hon. Guillermo R. Luntok, et al.*, G.R. No. 84324, 05 April 1990; *Vicente De Lara, Jr., et al. v. Gaudencio Cloribel, et al.*, G.R. No. L-21653, 31 May 1965.

67 Supra at note 1.

Philippines, Inc.[68], exhaustively explained that a taxpayer-claimant need not wait for the BIR to act on the administrative claim for refund. What is significant is the filing of both claims (administrative and judicial) within the two (2)-year prescriptive period. The pertinent parts held as follows –

> ...
>
> A closer reading of Sections 204 and 229 of the 1997 National Internal Revenue Code, in conjunction with Section 7 of Republic Act No. 9282, reveals a problem of what is considered a "reasonable period" for the Commissioner of Internal Revenue to act on a claim for refund of taxes.
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> **Section 229, which requires a prior administrative claim before a judicial claim is filed, recognizes the Commissioner of Internal Revenue's primary jurisdiction to decide refunds of internal revenue taxes.** It gives the Commissioner '"an opportunity to consider [their] mistake, if mistake has been committed," or to investigate and ascertain the veracity of the claim, before they are sued. This Court in *CBK Power Company*, citing *P.J. Kiener*, held that the **primary purpose of filing an administrative claim is to serve as a *notice* or *warning* to the Commissioner that *court action would follow unless the tax or penalty is refunded.* This necessarily implies that the Commissioner has sufficient time to examine, evaluate, and act on the matter within their jurisdiction.**
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> On the other hand, Section 7 of Republic Act No. 9282 grants the Court of Tax Appeals exclusive appellate jurisdiction over a decision or "inaction deemed denial" of the Commissioner in a claim for refund. Under its clear wording, the Court of Tax Appeals can take cognizance of appeals in cases of the Commissioner's "inaction" only where the 1997 National Internal Revenue Code specifically provides a period for the Commissioner to act on a claim for refund. However, unlike in claims for refund of input value-added tax, **the 1997 National Internal Revenue Code does not prescribe a specific period within which the Commissioner must resolve the claim for refund or credit of erroneously paid taxes.**
>
> **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. *CBK Power Company* explained that 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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68 G.R. No. 226592, 27 July 2021; Italics in the original, emphasis in the original and supplied, and citations omitted.

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 Commissioner of Internal Revenue was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.

Thus, in *CBK Power Company*, as with subsequent cases, 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.

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.

In much earlier cases, however, it was the Commissioner who was considered long delayed in resolving the administrative claims. Hence, this Court has held that the taxpayer need not wait for the Commissioner's decision, and may file its judicial claim when the two-year prescriptive period is about to lapse.

For instance, in *P.J. Kiener*, the taxpayer filed its administrative claim for refund four months after the last payment of the tax sought to be refunded. Yet, the then Collector of Internal Revenue took their time—*more than two years*—to decide on the claim, so much so that when the taxpayer filed its appeal, its action had already prescribed. This Court held: "*Having filed his claim **and the Collector of Internal Revenue having had ample time to study it**, the claimant may, indeed should, within the statutory period of two years proceed with his suit without waiting for the Collector's decision.*'"

In *Collector of Internal Revenue v. Court of Tax Appeals and Hume Pipe & Asbestos Co., Inc.*, this Court deemed *two months* as ample time for the Collector to have decided the claim for refund of overpaid income tax. Hence, in that case, it upheld the taxpayer's filing of a petition for review before the Court of Tax Appeals without waiting for the Collector's decision, since the two-year prescriptive period was already about to expire.

In *Commissioner of Customs and Commissioner of Internal Revenue v. The Honorable Court of Tax Appeals and Planters Products, Inc., eight months and 10 days* had lapsed from the taxpayer's filing of an administrative claim, but the Commissioner had not acted on it. Ruling in the taxpayer's favor, this Court, quoting a ruling of the tax court, said:

> The taxpayer need not wait indefinitely for a decision or ruling which may or may not be forthcoming and which he has no legal right to expect.
>
> . . .
>
> It is disheartening enough to a taxpayer to keep him waiting for an indefinite period of time for a ruling or decision of the Collector [(now Commissioner)] of Internal Revenue on his claim for refund. It would make matters more exasperating for the taxpayer if we were to close the doors of the courts of justice for such a relief until after the [Commissioner], would have, at his personal convenience, given his go signal.
>
> In these cases, the written claim for refund was duly filed at the administrative level, but the claim had not been acted upon by the Commissioner (then Collector) of Internal Revenue. Since the two-year period was about to lapse, the taxpayer was held justified in filing its judicial claim, without waiting for the Commissioner's decision, to protect its interest. Otherwise, should the Commissioner render an adverse decision after the two-year period, the taxpayer would be barred, to its prejudice, from pursuing its appeal to the Court of Tax Appeals.
>
> **These cases show that the lack of a specific period fixed by the law within which the Commissioner must decide the claim has led to delays, to the taxpayer's prejudice. On the other hand, there were instances when the Commissioner was deprived of the opportunity to act on the matter within their jurisdiction because of the short interval between the filing of the administrative claim and the filing of the judicial claim.** This is so because the law merely provides two years for a taxpayer to file the administrative claim and judicial claim, with the former required to be filed first.
>
> ...

Thus, Section 229 of the NIRC of 1997, as amended, only requires that an administrative claim be priorly filed to give notice or warning to respondent that court action would follow unless the tax or penalty alleged to have been collected erroneously or illegally is refunded. As long as the filing of both administrative and judicial claim falls within the two (2)-year prescriptive period, there is no legal impediment to the judicial claim for refund. To be sure, it is of no moment that there is only a short interval between the filing of the two (2) claims. The law merely requires that both claims are filed within the two (2)-year period.[69]

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69 *Commissioner of Internal Revenue v. Estate of Mr. Charles Marvin Romig, Represented by its Sole Heir Mrs. Maricel Narciso Romig*, G.R. No. 262092, 09 October 2024.

Moving forward, a careful examination of the evidence and records of the case compel Us to rule that petitioner's arguments are impressed with merit.

The reasons are essayed below, in *seriatim*.

PETITIONER'S COMPLIANCE WITH SECTION 76 OF THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED.

Petitioner's claim for refund of its excess and unutilized CWTs is anchored on Section 76 of the NIRC of 1997, as amended, which provides:

> ...
>
> **SEC. 76.** *Final Adjustment Return.* — Every corporation liable to 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:
>
> (A) Pay the balance of 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 quarters 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 a tax credit certificate shall be allowed therefor.[70]
>
> ...

[70] Emphasis supplied and italics in the original text.

Based on the foregoing provision, two (2) options are available to a corporation that overpays its IT for the CY: (*i*) to carry-over and apply the overpayment as tax credit against the estimated quarterly IT liabilities of the succeeding CYs (also known as *automatic tax credit*) until fully utilized (meaning, there is no prescriptive period); and (*ii*) to apply for a cash refund or issuance of a TCC within the prescribed period.[71] In exercising its option, the applying corporation must signify, in its Annual ITR, which option it intends to avail. This is done by marking the appropriate box provided in the BIR form.[72]

In the case of *University Physicians Services Inc.-Management, Inc. v. Commissioner of Internal Revenue*[73], the Supreme Court provides the irrevocability rule. Interpreting the last sentence of above-quoted Section 76 of the NIRC of 1997, as amended, it held that the provision applies only when the option to carry-over is elected and there is nothing therein that suggests that the other choice, *i.e.*, cash refund or TCC, is also irrevocable.[74] Meanwhile, the phrase "for that taxable period" refers to the CY when the excess IT (subject of the option) was acquired by the taxpayer.[75]

In the case at bar, petitioner opted to refund the unutilized CWTs by marking the option "To be refunded" in its BIR-received Annual ITRs for CY 2019.[76]

A careful review of petitioner's amended Annual ITR for CY 2019[77] shows that petitioner had IT credits in the total amount of ₱9,502,225.00, consisting of the: (*i*) prior year's excess tax credits in the amount of ₱3,644,725.00, and (*ii*) CWTs accumulated during the four (4) quarters of CY 2019 in the aggregate amount of ₱5,857,500.00, as follows:[78]

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71 *University Physicians Services Inc.-Management, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205955, 07 March 2018.
72 See *Philippine Bank of Communications v. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, 28 January 1999.
73 Supra at note 71.
74 Id.
75 *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, 07 July 2009.
76 Supra at note 16.
77 Supra at note 14.
78 Schedule 7 – Tax Credits/Payments, Exhibit "P-4", id., p. 388.

Prior Year's Excess Credits Other Than the MCIT		₱ 3,644,725.00
Add: CWT – CY 2019		
for the first three (3) quarters	₱5,542,500.00	
for the 4th Quarter	315,000.00	5,857,500.00
Total Tax Credits		**₱9,502,225.00**

Based on petitioner's Annual ITRs for CYs 2003 to 2018[79] filed with the BIR, the prior years' excess credits reported in the petitioner's Amended Annual ITR for the CY 2019 in the amount of ₱3,644,725.00 can be traced as follows:

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
2003			
Tax credits/payments	–	₱2,506,600.00	₱2,506,600.00
Less application of excess tax credits against Regular Corporate Income Tax (RCIT) due	–	(289,502.00)	(289,502.00)
Amount carried over to 2004	–	₱2,217,098.00	₱2,217,098.00
2004			
Tax credits/payments	₱2,217,098.00	₱5,188,970.00	₱7,406,068.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2003 CWT of ₱2,217,098.00 carried over to 2004	(550,220.00)	–	(550,220.00)
Amount claimed for refund of or issuance of tax credit certificate (CTA Case No. 7613[80])	–	(5,188,970.00)	(5,188,970.00)
Amount carried over to 2005	₱1,666,878.00	₱ –	₱1,666,878.00
2005			
Tax credits/payments	₱1,666,878.00	₱5,070,932.00	₱6,737,810.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2003 CWT of ₱1,666,878.00 carried over to 2005	(1,029,302.00)	–	(1,029,302.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 7757[81])	–	(5,070,932.00)	(5,070,932.00)
Amount carried over to 2006	₱637,576.00	₱ –	₱637,576.00

79 Exhibits "P-35-1", "P-35-2", "P-35-3", "P-35-4", "P-35-5", "P-35-6", "P-35-7", "P-35-8", "P-35 9", "P-35-10", "P-35-11", "P-35-12", "P-35-13", "P-35-14", "P-35-15" and "P-35-16", USB marked as Exhibit "P-21-2". Refer also to *Report* of the ICPA (Exhibit "P-21", Division Docket, pp. 250-255).

80 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 18 June 2010.

81 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 02 September 2011.

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
2006			
Tax credits/payments	₱637,576.00	₱3,991,800.00	₱4,629,376.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2003 CWT of ₱637,576.00 carried over to 2006	(434,043.00)	-	(434,043.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 7911[82])	-	(3,991,800.00)	(3,991,800.00)
Amount carried over to 2007	₱203,533.00	₱ -	₱203,533.00
2007			
Tax credits/payments	₱203,533.00	₱3,643,050.00	₱3,846,583.00
Less application of excess tax credits against RCIT due from the:			
Remainder of 2003 CWT of ₱203,533.00 carried over to 2007	(203,533.00)	-	(203,533.00)
2007 CWT	-	(553,207.00)	(553,207.00)
Amount carried over to 2008	₱ -	₱3,089,843.00	₱3,089,843.00
2008			
Tax credits/payments	₱3,089,843.00	₱3,683,100.00	₱6,772,943.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2007 CWT of ₱3,089,843.00 carried over to 2008	(827,408.40)	-	(827,408.40)
Amount claimed for refund of or issuance of TCC (CTA Case No. 8266[83])	-	(3,683,100.00)	(3,683,100.00)
Amount carried over to 2009	₱2,262,434.60	₱ -	₱2,262,434.60
2009			
Tax credits/payments	₱2,262,434.60	₱4,045,410.00	₱6,307,844.60
Less:			
Application of excess tax credits against RCIT due from the remainder of 2007 CWT of ₱2,262,434.60 carried over to 2009	(995,903.10)	-	(995,903.10)
Amount claimed for refund of or issuance of TCC (CTA Case No. 8458[84])	-	(4,045,410.00)	(4,045,410.00)
Amount carried over to 2010	₱1,266,531.50	₱ -	₱1,266,531.50
2010			
Tax credits/payments	₱1,266,531.50	₱3,911,850.00	₱5,178,381.50
Less:			

82 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 25 April 2012.
83 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 26 April 2013.
84 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 27 November 2013.

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
Application of excess tax credits against MCIT due from the remainder of 2007 CWT of ₱1,266,531.50 carried over to 2010	(178,931.38)	-	(178,931.38)
Amount claimed for refund of or issuance of TCC (CTA Case No. 8639[85])	-	(3,911,850.00)	(3,911,850.00)
Amount carried over to 2011	₱1,087,600.12	₱ -	₱1,087,600.12
2011			
Tax credits/payments	₱1,087,600.12	₱4,386,654.40	₱5,474,254.52
Less: Application of excess tax credits against RCIT due from the:			
Remainder of 2007 CWT of ₱1,087,600.12 carried over to 2011	(1,087,600.12)	-	(1,087,600.12)
2011 CWT	-	(392,088.25)	(392,088.25)
Amount carried over to 2012	₱ -	₱3,994,566.15	₱3,994,566.15
2012			
Tax credits/payments	₱3,994,566.15	₱4,880,190.40	₱8,874,756.55
Less:			
Application of excess tax credits against RCIT due from the remainder of 2011 CWT of ₱3,994,566.15 carried over to 2012	(1,479,209.10)	-	(1,479,209.10)
Amount claimed for refund of or issuance of TCC (CTA Case No. 9026[86])	-	(4,880,190.40)	(4,880,190.40)
Amount carried over to 2013	₱2,515,357.05	₱ -	₱2,515,357.05
2013			
Tax credits/payments	₱2,515,357.05	₱4,733,500.00	₱7,248,857.05
Add reinstatement of 2004 CWTs disallowed by the CTA (*per* decision in CTA EB Case No. 697[87] dated 20 April 2012 (Paragraph B.5.b)	4,357,499.04	-	4,357,499.04
Less adjustment made by the Petitioner (Paragraph (B.5.c)	(380,481.09)	-	(380,481.09)
Net 2004 CWT reinstated in 2013	3,977,017.95	-	3,977,017.95
	6,492,375.00	4,733,500.00	11,225,875.00
Less:			
Application of excess tax credits against RCIT due from the remainder of 2011 CWT of ₱2,515,357.05 carried over to 2013	(971,659.00)	-	(971,659.00))

85 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 15 April 2015.
86 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 05 April 2017.
87 Supra at note 26.

x - x

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
Amount claimed for refund of or issuance of TCC (CTA Case No. 9249[88])	-	(4,733,500.00)	(4,733,500.00)
Amount carried over to 2014	₱5,520,716.00	₱ -	₱5,520,716.00
2014			
Tax credits/payments	₱5,520,716.00	₱4,864,750.00	₱10,385,466.00
Less application of excess tax credits against RCIT due from the remainder of 2011 CWT of ₱1,543,698.05 carried over to 2014	(1,324,343.00)	-	(1,324,343.00)
Amount carried over to 2015	₱4,196,373.00	₱4,864,750.00	₱9,061,123.00
2015			
Tax credits/payments	₱9,061,123.00	₱4,993,000.00	₱14,054,123.00
Less:			
Application of excess tax credits against RCIT due from the:			
Remainder of 2011 CWT of ₱219,355.05 carried over to 2015	(219,355.05)	-	(219,355.05)
Net 2004 CWT reinstated in 2013 of ₱3,977,017.95 carried over to 2015	(226,071.95)	-	(226,071.95)
Amount claimed for refund of or issuance of TCC (CTA Case No. 9808[89])	-	(4,993,000.00)	(4,993,000.00)
Amount carried over to 2016	₱8,615,696.00	₱ -	₱8,615,696.00
2016			
Tax credits/payments	₱8,615,696.00	₱5,366,304.00	₱13,982,000.00
Less:			
Application of excess tax credits against RCIT due from the remainder of the net 2004 CWT reinstated in 2013 of ₱3,750,946.00 carried over to 2016	(2,439,214.00)	-	(2,439,214.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 9771[90])	-	(5,366,304.00)	(5,366,304.00)
Amount carried over to 2017	₱6,176,482.00	₱ -	₱6,176,482.00
2017			
Tax credits/payments	₱6,176,482.00	₱5,437,000.00	₱11,613,482.00
Less:			
Application of excess tax credits against RCIT due from the:			
Remainder of the net 2004 CWT reinstated in 2013 of ₱1,311,732.00 carried over to 2017	(1,311,732.00)	-	(1,311,732.00)

[88] *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 15 August 2018.
[89] *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 01 October 2020.
[90] *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 21 July 2020.

Particulars	Prior Years' Excess Credits	CWT for the Year	Total
2014 CWT of ₱4,864,750.00 carried over to 2017	(889,642.00)	-	(889,642.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 10272[91])	-	(5,437,000.00)	(5,437,000.00)
Amount carried over to 2018	₱3,975,108.00	₱ -	₱3,975,108.00
2018			
Tax credits/payments	₱3,975,108.00	₱5,533,500.00	₱9,508,608.00
Less:			
Application of excess tax credits against MCIT due from the remainder of the 2014 CWT of ₱3,975,108.00 carried over to 2018	(330,384.00)	-	(330,384.00)
Amount claimed for refund of or issuance of TCC (CTA Case No. 10515[92])	-	(5,533,500.00)	(5,533,500.00)
Amount carried over to 2019	₱3,644,724.00	₱ -	₱3,644,724.00*

**Difference of ₱1 on the amount carried over in 2019 is due to rounding-off.*

Upon scrutiny of the above movements of the excess CWTs from CY 2003 to CY 2018, petitioner's prior years' excess credits (shown in its CY 2019 Annual ITR) actually pertain to tax credits for CY 2014 amounting to ₱4,864,750.00, which were utilized as follows:

CY 2014 CWT		₱4,864,750.00
CY 2017 RCIT Balance	₱889,642.00	
CY 2018 MCIT	330,384.00	1,220,026.00
Remainder of 2014 CWT carried over to 2019		**₱3,644,724.00**

Furthermore, to prove the existence of its prior years' excess credits of ₱3,644,724.00, petitioner presented its Annual ITR for CY 2014[93], *Schedule of CWTs*[94], *Summary of CWTs*[95], and the corresponding *Certificates of Creditable Tax Withheld at Source* (BIR Forms No. 2307)[96], for CY 2014, to wit:

91 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 22 September 2023.
92 *Sonoma Services, Inc. v. Commissioner of Internal Revenue*, 02 July 2024.
93 Exhibit "P-35-12", USB marked as Exhibit "P-21-2".
94 Exhibit "P-31", id.
95 Exhibit "P-32", id.
96 Exhibits "P-32-1" to "P-32-24, id.

Exhibit No	Payor / Withholding Agent	Income Payments	Taxes Withheld
"P-32-1"	Corullon Holdings, Inc.	1,750,000.00	262,500.00
"P-32-2"	Corullon Holdings, Inc.	1,750,000.00	262,500.00
	Sub-Total	₱3,500,000.00	₱525,000.00
"P-32-3"	FBC Holdings, Inc.	1,750,000.00	262,500.00
"P-32-4"	FBC Holdings, Inc.	1,750,000.00	262,500.00
	Sub-Total	₱3,500,000.00	₱525,000.00
"P-32-5"	FBC Steps Realty, Inc.	300,000.00	45,000.00
"P-32-6"	FBC Steps Realty, Inc.	300,000.00	45,000.00
	Sub-Total	₱600,000.00	₱90,000.00
"P-32-7"	Fercat Holdings, Inc.	1,750,000.00	262,500.00
"P-32-8"	Fercat Holdings, Inc.	1,750,000.00	262,500.00
	Sub-Total	₱3,500,000.00	₱525,000.00
"P-32-9"	Gilmon Holdings, Inc.	1,750,000.00	262,500.00
"P-32-10"	Gilmon Holdings, Inc.	1,750,000.00	262,500.00
	Sub-Total	₱3,500,000.00	₱525,000.00
"P-32-11"	Gracie Square Holdings, Inc	1,750,000.00	262,500.00
"P-32-12"	Gracie Square Holdings, Inc	1,750,000.00	262,500.00
	Sub-Total	₱3,500,000.00	₱525,000.00
"P-32-13"	Mermac, Inc.	2,345,000.00	351,750.00
"P-32-14"	Mermac, Inc.	2,720,000.00	408,000.00
	Sub-Total	₱5,065,000.00	₱759,750.00
"P-32-15"	Reinosa Holdings, Inc.	1,750,000.00	262,500.00
"P-32-16"	Reinosa Holdings, Inc.	1,750,000.00	262,500.00
	Sub-Total	₱3,500,000.00	₱525,000.00
"P-32-17"	San Puente Holdings, Inc.	1,750,000.00	262,500.00
"P-32-18"	San Puente Holdings, Inc.	1,750,000.00	262,500.00
	Sub-Total	₱3,500,000.00	₱525,000.00
"P-32-19"	Steps Dance Center, Inc.	100,000.00	10,000.00
"P-32-20"	Steps Dance Center, Inc.	100,000.00	10,000.00
"P-32-21"	Steps Dance Center, Inc.	100,000.00	10,000.00
"P-32-22"	Steps Dance Center, Inc.	100,000.00	10,000.00
	Sub-Total	₱400,000.00	₱40,000.00
"P-32-23"	Zobel de Ayala, Jaime Pfitz	750,000.00	112,500.00
"P-32-24"	Zobel de Ayala, Jaime Pfitz	1,250,000.00	187,500.00
	Sub-Total	₱2,000,000.00	₱300,000.00
	Grand Total	**₱32,565,000.00**	**₱4,864,750.00**

From the preceding table, the total CWTs of ₱4,864,750.00 for CY 2014 was properly supported by BIR Forms No. 2307. Likewise, the total amount of ₱4,864,750.00, per *Schedule of CWTs*, coincides with the total CWTs reported in the Annual ITR for CY 2014[97], thus:

[97] Exhibit "P-35-12", id.

Schedule of Certificates of Creditable Tax Withheld at Source		₱4,864,750.00
Less: CWT – CY 2014 per ITR		
for the first three (3) quarters	₱4,844,750.00	
for the 4th Quarter	20,000.00	4,864,750.00
	Difference	-

Consequently, the total valid prior years excess tax credits of ₱3,644,725.00 is enough to cover the IT liabilities in the amount of ₱437,675.00 for CY 2019.[98]

Since petitioner marked the box corresponding to the option "***To be refunded***"[99] in its Annual ITR for CY 2019, the CWTs for CY 2019 in the amount of ₱5,857,500.00 may be a proper subject of a claim for refund under Section 76 of the NIRC of 1997, as amended.

However, a closer look of petitioner's Original Quarterly ITR for the First Quarter of CY 2020[100] shows that petitioner claimed ₱3,233,661.27 (₱26,611.27 more of the should be amount of ₱3,207,050.00[101]) as "***Prior Year's Excess Credits.***" Notably, the Amended Quarterly ITR for the First Quarter of CY 2020[102] correctly showed the ₱3,207,049.34.[103] It may have been petitioner's initial choice to claim a refund of the **entire** amount of excess creditable income tax payments, as shown when it marked the option "***To be refunded***"[104] in its Annual ITR for CY 2019. However, such choice was *partially* negated when it actually exercised its option to carry-over ₱26,611.27 of the amount to be refunded and included the same to the prior year credits to CY 2020 as shown on the Original Quarterly ITR for the First Quarter of CY 2020. As the law and jurisprudence provide that the option to

98 Line 16 of Part II – Total Tax Payable, Exhibits "P-3" and "P-4", Division Docket, pp. 374 and 383, respectively.

99 Supra at note 16.

100 Exhibit "P-15", Division Docket, p. 449.

101 *Computed as follows:*

Total Tax Credits – CY 2019	₱9,502,225.00
Less:	
CWT – CY 2019 (*To be refunded*)	5,857,500.00
CY 2019 Total Income Tax Due	437,675.00
Prior Year's Excess Credits Other Than the MCIT – CY 2020	**₱3,207,050.00**

102 Exhibit "P-16", Division Docket, p. 452.

103 Rounding off difference of ₱0.66.

104 Supra at note 16.

"P-24-35"	1st quarter	Urzu Ventures, Inc.	10,000.00	1,500.00
		Sub-Total	**₱10,000.00**	**₱1,500.00**
"P-24-36"	1st quarter	Zangroniz Holdings, Inc.	10,000.00	1,500.00
		Sub-Total	**₱10,000.00**	**₱1,500.00**
		Grand Total	**₱39,050,000.00**	**₱5,857,500.00**

Exhibit No.	**BIR Form No. 2307**	**Amount**
"P-23"	*Per* Schedule of CWTs prepared by the Petitioner	₱5,857,500.00
"P-24"	*Per* Summary of CWTs Supported by Original BIR Form No. 2307 in the Petitioner's Name	5,857,500.00
	Difference	**₱** -

Upon examination of the CWTs listed-above, the Court finds that petitioner properly substantiated the CWTs it claimed for refund or for issue of a TCC. Accordingly, petitioner was able to satisfy the *second* requisite.

THIRD (3RD) REQUISITE:
THE INCOME RECEIVED UPON WHICH THE TAXES WERE WITHHELD MUST HAVE BEEN DECLARED AS PART OF GROSS INCOME.

Lastly, with regard to the *third* requisite, petitioner complied therewith as the ₱39,050,000.00 administration/management fees related to the CWTs of ₱5,857,500.00 were traced to petitioner's *ORs*[113], *CRB*[114], *GL of Administration Fees*[115], *Summary of Management Fees Traced from CRB to GL*[116], *Summary of CWTs Supported by Original Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) in the Petitioner's Name and TIN for CY Ended 31 December 2019*[117], and *Summary of Income Payments With CWTs – Management Fees Traced to ORs and CRB for CY Ended 31 December 2019*[118], and in turn reported in its AFS[119] and Annual ITR[120] for CY 2019.

113 Exhibits "P-25-1-1" to "P-25-1-36", id.
114 Exhibit "P-25-2", id.
115 Exhibit "P-28-1", id.
116 Exhibit "P-28", id.
117 Exhibit "P-24", id.
118 Exhibit "P-25", id.
119 Exhibit "P-5", Division Docket, p. 399.
120 Line 30 of Part IV – Computation of Tax, Exhibit "P-4", id., p. 384.

While the amount of ₱68,800,000.00 administration/ management fees reflected *per* petitioner's AFS and Annual ITR for CY 2019 is higher than the amount of ₱39,050,000.00 shown in its certificates, the discrepancy of ₱29,750,000.00 was verified against petitioner's *ORs*[121], *Schedule of Management Fees Without CWTs for CY Ended 31 December 2019*[122], *Summary of Management Fees Traced from CRB to GL*[123], and *Summary of Management Fees Without CWTs Traced to OR and CRB for CY Ended 31 December 2019*[124], as pertaining to management fees upon which no withholding of taxes was made by petitioner's clients or payors, to wit:

PER OR				*Per* Cash Receipts Book (CRB)	
Exhibit No.	OR Reference		Management Fees	Exhibit No.	Amount
	Date	Number			
"P-27-1"	January 23, 2019	1322	10,000.00	"P-25-2" (1/14)	10,000.00
Eduardo Zobel Artworks			**₱10,000.00**		**₱10,000.00**
"P-27-2"	April 10, 2019	1331	1,000,000.00	"P-25-2" (5/14)	1,000,000.00
"P-27-3"	October 3, 2019	1353	1,000,000.00	"P-25-2" (11/14)	1,000,000.00
"P-27-4"	December 20, 2019	1366	200,000.00	"P-25-2" (13/14)	200,000.00
Elizalde, Sofia Zobel			**₱2,200,000.00**		**₱2,200,000.00**
"P-27-5"	April 17, 2019	1338	1,900,000.00	"P-25-2" (5/14)	1,900,000.00
"P-27-6"	October 3, 2019	1359	1,900,000.00	"P-25-2" (11/14)	1,900,000.00
Padilla, Alejandro Zobel			**₱3,800,000.00**		**₱3,800,000.00**
"P-27-7"	January 17, 2019	1313	100,000.00	"P-25-2" (1/14)	100,000.00
"P-27-8"	July 23, 2019	1344	100,000.00	"P-25-2" (8/14)	100,000.00
Steps Dance Studio Scholarship Foundation, Inc.			**₱200,000.00**		**₱200,000.00**
"P-27-9"	April 15, 2019	1336	2,270,000.00	"P-25-2" (5/14)	2,270,000.00
"P-27-10"	October 3, 2019	1360	2,270,000.00	"P-25-2" (11/14)	2,270,000.00
Zobel de Ayala, Alfonso Jr.			**₱4,540,000.00**		**₱4,540,000.00**
"P-27-11"	April 10, 2019	1329	1,000,000.00	"P-25-2" (5/14)	1,000,000.00
"P-27-12"	October 3, 2019	1354	1,000,000.00	"P-25-2" (11/14)	1,000,000.00
"P-27-13"	December 23, 2019	1374	200,000.00	"P-25-2" (13/14)	200,000.00
Zobel de Ayala, Beatriz Susana			**₱2,200,000.00**		**₱2,200,000.00**
"P-27-14"	April 10, 2019	1332	400,000.00	"P-25-2" (5/14)	400,000.00
"P-27-15"	October 3, 2019	1352	400,000.00	"P-25-2" (11/14)	400,000.00
Zobel de Ayala, Cristina			**₱800,000.00**		**₱800,000.00**
"P-27-16"	April 10, 2019	1328	1,000,000.00	"P-25-2" (5/14)	1,000,000.00
"P-27-17"	October 3, 2019	1355	1,000,000.00	"P-25-2" (11/14)	1,000,000.00
"P-27-18"	December 23, 2019	1376	200,000.00	"P-25-2" (13/14)	200,000.00
Zobel de Ayala, Fernando			**₱2,200,000.00**		**₱2,200,000.00**
"P-27-19"	April 15, 2019	1335	1,200,000.00	"P-25-2" (5/14)	1,200,000.00
"P-27-20"	October 3, 2019	1358	1,200,000.00	"P-25-2" (11/14)	1,200,000.00
"P-27-21"	December 20, 2019	1368	600,000.00	"P-25-2" (13/14)	600,000.00
Zobel de Ayala, Jaime			**₱3,000,000.00**		**₱3,000,000.00**

[121] Exhibits "P-27-1" to "P-27-31", USB marked as Exhibit "P-21-2".
[122] Exhibit "P-26", id.
[123] Exhibit "P-28", id.
[124] Exhibit "P-27", id.

"P-27-22"	April 11, 2019	1334	1,000,000.00	"P-25-2" (5/14)	1,000,000.00
"P-27-23"	October 3, 2019	1356	1,000,000.00	"P-25-2" (11/14)	1,000,000.00
"P-27-24"	December 20, 2019	1367	200,000.00	"P-25-2" (13/14)	200,000.00
Zobel de Ayala, Jaime Augusto			**₱2,200,000.00**		**₱2,200,000.00**
"P-27-25"	April 10, 2019	1333	400,000.00	"P-25-2" (5/14)	400,000.00
"P-27-26"	October 3, 2019	1351	400,000.00	"P-25-2" (11/14)	400,000.00
Zobel de Ayala, Monica			**₱800,000.00**		**₱800,000.00**
"P-27-27"	April 10, 2019	1330	1,000,000.00	"P-25-2" (5/14)	1,000,000.00
"P-27-28"	October 3, 2019	1357	1,000,000.00	"P-25-2" (11/14)	1,000,000.00
"P-27-29"	December 23, 2019	1375	200,000.00	"P-25-2" (13/14)	200,000.00
Zobel de Ayala, Patricia			**₱2,200,000.00**		**₱2,200,000.00**
"P-27-30"	April 16, 2019	1337	2,800,000.00	"P-25-2" (5/14)	2,800,000.00
"P-27-31"	October 3, 2019	1361	2,800,000.00	"P-25-2" (11/14)	2,800,000.00
Zobel, Georgina Padilla			**₱5,600,000.00**		**₱5,600,000.00**
		TOTAL	**₱29,750,000.00**		**₱29,750,000.00**

In sum, petitioner has sufficiently proven that it is entitled to the refund or issuance of a TCC in the amount of ₱5,830,888.73, representing its excess and unutilized CWTs for CY 2019, pursuant to Section 76, in relation to Sections 204 and 229 of the NIRC of 1997, as amended, computed as follows:

Substantiated CWTs of CY 2019	₱5,857,500.00
Less:	
CWTs carried over to the first quarter of CY 2020	26,611.27
Refundable CWTs	**₱5,830,888.73**

WHEREFORE, the foregoing premises considered, the Petition for Review filed by petitioner Sonoma Services, Inc. on 15 June 2022 is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED TO REFUND TO OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Sonoma Services, Inc. in the reduced amount of **₱5,830,888.73**, representing unutilized creditable withholding taxes for calendar year 2019.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

carry-over, once chosen, is irrevocable[105], petitioner cannot now renege on its choice to partially carry-over ₱26,611.27. Accordingly, such amount should be disallowed. Petitioner's only recourse is to apply the disallowed excess and unutilized CWTs of ₱26,611.27 to the succeeding years until fully utilized.

PETITIONER MUST COMPLY WITH THE REQUISITES FOR A CLAIM OF REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE (TCC).

In order for a corporate taxpayer to successfully claim for a refund or issuance of a TCC involving excess CWTs, the following requirements must be satisfied:

1. The claim must be filed with the CIR within the two (2)-year period from the date of payment of the tax;

2. The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld; and,

3. It must be shown on the return that the income received was declared as part of the gross income.[106]

We proceed to the discussion of each requisite.

<u>FIRST (1ST) REQUISITE:</u>
BOTH THE ADMINISTRATIVE AND JUDICIAL CLAIMS MUST BE TIMELY FILED.

Anent the *first requisite*, as earlier intimated, both the administrative and judicial claims were seasonably filed.

105 *United Coconut Planters Bank, substituted by Land Bank of the Philippines v. Commissioner of Internal Revenue*, G.R. No. 204687, 24 April 2023.

106 See *Commissioner of Internal Revenue v. Philippine Bank of* Communications, G.R. No. 211348, 23 February 2022.

As for the *second and third requisites*, Section 2.58.3(B) of Revenue Regulations (**RR**) No. 2-98[107], as amended, is instructive, *viz*:

> ...
>
> SEC. 2.58.3. *Claim for Tax Credit or Refund.* —
>
> ...
>
> (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course **only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.**[108]
>
> ...

SECOND (2ND) REQUISITE:
THERE MUST BE SUFFICIENT EVIDENCE OF THE FACT OF WITHHOLDING.

As regards the *second requisite*, the Supreme Court, in *Commissioner of Internal Revenue v. Philippine National Bank*[109], affirmed that a certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld and that proof of actual remittance is not a condition to claim for a refund of unutilized tax credits, to wit:

> ...
>
> **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.
>
> ...
>
> **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**

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107 Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.

108 Emphasis supplied and italics in the original text.

109 G.R. No. 180290, 29 September 2014; Citations omitted, emphasis and italics in the original text.

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.

Petitioner's posture that respondent is required to establish actual remittance to the Bureau of Internal Revenue deserves scant consideration. **Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits.** Under Sections 57 and 58 of the 1997 National Internal Revenue Code, as amended, **it is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with the responsibility of withholding and remitting income taxes.**

This court's ruling in *Commissioner of Internal Revenue v. Asian Transmission Corporation*, citing the Court of Tax Appeals' explanation, is instructive:

...

> **... 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.**

...

Based on the foregoing, it is undeniable that the fact of withholding may be established by presenting the pertinent certificates of creditable tax withheld at source where the relevant details (amount paid and the amount of tax withheld) are reliably reflected.

To prove its compliance with the *second* requisite, petitioner presented its *Schedule of CWTs*[110], *Summary of CWTs*[111], and the related *Certificates of Creditable Tax Withheld at Source* (BIR Forms No. 2307)[112] for CY 2019, reflecting CWTs in the aggregate amount of ₱5,857,500.00, to wit:

Exhibit No.	Period Covered	Payor	Amount of Income Payments	Amount of Taxes Withheld
"P-24-1"	1st quarter	Capa Property Holdings, Inc.	10,000.00	1,500.00
		Sub-Total	**₱10,000.00**	**₱1,500.00**
"P-24-2"	1st quarter	Corullon Holdings, Inc,	2,000,000.00	300,000.00
"P-24-3"	3rd quarter	Corullon Holdings, Inc,	2,000,000.00	300,000.00

110 Exhibit "P-23", USB marked as Exhibit "P-21-2".
111 Exhibit "P-24", id.
112 Exhibits "P-24-1" to "P-24-36", id.

"P-24-4"	4th quarter	Corullon Holdings, Inc,	200,000.00	30,000.00
		Sub-Total	**₱4,200,000.00**	**₱630,000.00**
"P-24-5"	1st quarter	Estrellamar Holdings, Inc.	10,000.00	1,500.00
		Sub-Total	**₱10,000.00**	**₱1,500.00**
"P-24-6"	1st quarter	FBC Holdings, Inc.	2,000,000.00	300,000.00
"P-24-7"	3rd quarter	FBC Holdings, Inc.	2,000,000.00	300,000.00
"P-24-8"	4th quarter	FBC Holdings, Inc.	200,000.00	30,000.00
		Sub-Total	**₱4,200,000.00**	**₱630,000.00**
"P-24-9"	1st quarter	FBC Steps Realty, Inc.	300,000.00	45,000.00
"P-24-10"	3rd quarter	FBC Steps Realty, Inc.	300,000.00	45,000.00
		Sub-Total	**₱600,000.00**	**₱90,000.00**
"P-24-11"	1st quarter	Fercat Holdings, Inc.	2,000,000.00	300,000.00
"P-24-12"	3rd quarter	Fercat Holdings, Inc.	2,000,000.00	300,000.00
"P-24-13"	4th quarter	Fercat Holdings, Inc.	200,000.00	30,000.00
		Sub-Total	**₱4,200,000.00**	**₱630,000.00**
"P-24-14"	1st quarter	Gilmon Holdings, Inc.	2,000,000.00	300,000.00
"P-24-15"	3rd quarter	Gilmon Holdings, Inc.	2,000,000.00	300,000.00
"P-24-16"	4th quarter	Gilmon Holdings, Inc.	200,000.00	30,000.00
		Sub-Total	**₱4,200,000.00**	**₱630,000.00**
"P-24-17"	1st quarter	Gracie Square Holdings, Inc.	2,000,000.00	300,000.00
"P-24-18"	3rd quarter	Gracie Square Holdings, Inc.	2,000,000.00	300,000.00
"P-24-19"	4th quarter	Gracie Square Holdings, Inc.	200,000.00	30,000.00
		Sub-Total	**₱4,200,000.00**	**₱630,000.00**
"P-24-20"	2nd quarter	JZA Artworks, Inc.	500,000.00	75,000.00
"P-24-21"	4th quarter	JZA Artworks, Inc.	500,000.00	75,000.00
		Sub-Total	**₱1,000,000.00**	**₱150,000.00**
"P-24-22"	1st quarter	Kalima Holdings, Inc.	10,000.00	1,500.00
		Sub-Total	**₱10,000.00**	**₱1,500.00**
"P-24-23"	1st quarter	Kaseriya Holdings, Inc.	10,000.00	1,500.00
		Sub-Total	**₱10,000.00**	**₱1,500.00**
"P-24-24"	1st quarter	Mermac, Inc.	3,790,000.00	568,500.00
"P-24-25"	2nd quarter	Mermac, Inc.	3,790,000.00	568,500.00
		Sub-Total	**₱7,580,000.00**	**₱1,137,000.00**
"P-24-26"	1st quarter	Reinosa Holdings, Inc.	2,000,000.00	300,000.00
"P-24-27"	3rd quarter	Reinosa Holdings, Inc.	2,000,000.00	300,000.00
"P-24-28"	4th quarter	Reinosa Holdings, Inc.	200,000.00	30,000.00
		Sub-Total	**₱4,200,000.00**	**₱630,000.00**
"P-24-29"	1st quarter	San Puente Holdings, Inc.	2,000,000.00	300,000.00
"P-24-30"	3rd quarter	San Puente Holdings, Inc.	2,000,000.00	300,000.00
"P-24-31"	4th quarter	San Puente Holdings, Inc.	200,000.00	30,000.00
		Sub-Total	**₱4,200,000.00**	**₱630,000.00**
"P-24-32"	1st quarter	Sotobela, Inc.	10,000.00	1,500.00
		Sub-Total	**₱10,000.00**	**₱1,500.00**
"P-24-33"	4th quarter	Steps Dance Center, Inc.	200,000.00	30,000.00
"P-24-34"	1st quarter	Steps Dance Center, Inc.	200,000.00	30,000.00
		Sub-Total	**₱400,000.00**	**₱60,000.00**