REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 2416** (CTA Case No. 9771)
- versus-	Present: **DEL ROSARIO,** *PJ,* **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID**, and **FERRER-FLORES,** *JJ.*
SONOMA SERVICES, INC., *Respondent.*	Promulgated: DEC 07 2022 2:45pm

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RESOLUTION

MANAHAN, J.:

For resolution is petitioner's *Motion for Reconsideration* posted on July 7, 2022 which was received by the Court on July 25, 2022, with respondent's *Comment (Re: Motion for Reconsideration Dated July 7, 2022)* filed on September 5, 2022.

Petitioner seeks reconsideration of the Court's Decision promulgated on June 16, 2022, the dispositive portion of which reads as follows:

> "**WHEREFORE,** in light of the foregoing considerations, the Petition for Review is **DENIED** for lack of merit. The assailed Decision dated July 21, 2020 and the Resolution dated December 16, 2020 are hereby **AFFIRMED.**
>
> **SO ORDERED.**"

Petitioner requests the Court to revisit its Decision (assailed Decision) based on the following Assignment of Errors, and we quote:

I. THE CTA 3rd DIVISION *(sic)* ERRED IN UPHOLDING THE DECISION OF THE CTA 3RD DIVISION DECLARING THAT RESPONDENT ADEQUATELY PROVED THE EXISTENCE OF ITS CALENDAR YEAR (CY) 2016 PRIOR YEAR'S EXCESS TAX CREDITS WITHOUT REQUIRING RESPONDENT'S PRESENTATION OF PRIOR YEAR'S CREDITABLE WITHHOLDING TAX (CWT) CERTIFICATES FROM 2006 TO 2016 IN VIEW OF THE RULING IN CIR VS. ZUELLIG PHARMA CORPORATION (CTA EB CASE NO. 1794, CTA CASE NO. 8801, OCTBER 1, 2019).

II. THE CTA 3RD EN BANC *(sic)* ERRED IN UPHOLDING OF THE DECISION OF THE CTA 3RD DIVISION IN NOT DECLARING THAT RESPONDENT FAILED TO COMPLY WITH THE REQUIREMENTS UNDER REVENUE REGULATIONS NO. 2-98, AS AMENDED BY REVENUE REGULATIONS NO. 2-2006, ON THE CLAIM FOR REFUND OF ITS EXCESS/UNUTILIZED CREDITABLE INCOME TAXES WITHHELD FOR CY 2015.

On the first assignment of error, petitioner cites the ruling of the Court En Banc in the consolidated case of *Zuellig Pharma Corporation vs. CIR* and *CIR vs Zuellig Pharma Corporation,* [1] where it was supposedly held that the best evidence that would prove the existence and amount of prior year's excess tax credits are the prior year's certificates of creditable withholding taxes (CWT). Petitioner alleges that the Third Division of this Court (Court in Division) merely relied on

[1] CTA *EB* Nos. 1793 & 1794, October 1, 2019.

respondent's Annual Income Tax Return (ITR) for calendar year (CY) 2016 to substantiate respondent's total credits of Php13,982,000.00 and did not require the corresponding CWT Certificates from 2006 to 2016. She also mentions that the Independent Certified Public Accountant (ICPA) likewise relied on the Annual ITRs of respondent from 2003 to 2016 which served as bases for the conclusions embodied in the ICPA report, thus, unreliable.

Petitioner alleges that respondent failed to comply with the requirements prescribed by Revenue Regulations (RR) No. 2-98 as amended by RR No. 2-2006 to prove its claim for refund of alleged excess CWT for CY 2016 specifically, the requirement of showing that the income payments have been declared as part of the gross income of respondent and that the fact of withholding is established by copies of withholding tax statements duly issued by the payor to the payee showing the amount paid and the amount of tax withheld.

Petitioner also insists that Section 2 of RR No. 2-2006 declares the mandatory submission of the Summary Alphalist of Withholding Agents of Income Payments Subjected to CWT (SAWT) which refers to a consolidated alphalist of withholding agents from whom income was earned or received and subjected to withholding tax. According to petitioner, respondent failed to present these SAWTs in support of its claim for refund of excess/unutilized creditable income taxes withheld for taxable year 2015, hence, its claim for refund should have been denied outright by the Court in Division. Moreover, petitioner adds that respondent should have also submitted the Monthly Alphalist of Payees (MAPs), which shows, among others, the total amounts of income/gross sales/gross receipts and taxes withheld and remitted.

Respondent, in its *Comment,* contravenes petitioner's assertions and maintains that it has adequately proven the existence of prior year's excess tax credits that were carried over to its Annual ITR for CY 2016. It gives emphasis on the findings of the ICPA which it claims examined the documentary evidence and ascertained that its excess prior year's excess credits in the amount of Php5,366,304.00 consist of the following:

(i) Reinstated 2004 CWTs amounting to P4,131,427.09;

(ii) Adjustments made in CY 2013 amounting to Php380,481.09; and

(iii) 2014 CWTs amounting to Php4,864,750.00.

Respondent alleges that the ICPA also examined and verified its Certificates of CWT as well as its Annual ITRs for CYs 2004 and 2014 and was able to ascertain the prior year's excess credits which was also reflected in its Annual ITR for 2016, thus, contravening petitioner's claim.

As regards petitioner's insistence on the submission of the SAWTs and MAPs to prove the claim for refund, respondent asserts that this has no basis in law and jurisprudence and that it is well-settled that the presentation of Certificates of CWT issued by the withholding agents constitutes sufficient proof of the existence and validity of its excess CWT.

RULING OF THE COURT EN BANC

After a careful review of the parties' differing arguments, we find no merit in petitioner's Motion for Reconsideration and hold that the arguments and reasons raised therein have been sufficiently passed upon in the decisions of the Court in Division and the Court *En Banc*. No novel arguments have been proferred in her Motion for Reconsideration

To emphasize, the evidentiary standards in proving a claim for refund of excess CWT have been well-established not only by relevant administrative regulations but also by jurisprudence, to wit:

(1) the claim for refund must be filed within the two-year prescriptive period from the date of payment of the tax as prescribed under Section 204 (C) in relation to Section 229 of the 1997 National Internal Revenue Code (NIRC), as amended;

(2) the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount of tax withheld therefrom; and

(3) the income upon which the taxes were withheld was included in the ITR of the recipient as part of the gross income.[2]

The determination of respondent's claim for refund was based on said requirements *vis a vis* the documents presented during trial resulting to the grant of the entire amount claimed.

Petitioner's assertion that the Court did not require the presentation of respondent's certificate of CWTs and merely relied on its 2016 Annual ITR is not accurate as records would show that it presented said certificates during trial and upon examination, the Court found them to be sufficient. We quote relevant portions of the Decision of the Court in Division dated July 21, 2020, thus:

> "In this case, in order to prove the fact of withholding, **petitioner presented Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) duly issued to it by various withholding agents for CY 2016,** reflecting a CWT of Php5,365,000.00 and P1,303.57 on Management Fees of P35,900,000.00 and Proceeds from Sale of Equipment of P65,178.57, xxx xxx xxx
>
> xxx xxx xxx
>
> Verification of the said certificates reveal that they are respectively complete in their relevant details, with a written statement that they were made under penalties of perjury. Thus, petitioner has shown compliance with the second condition, i.e., the establishment of the fact of withholding." (Emphasis supplied)

As regards the submission of the SAWTs and the MAPs, we agree with respondent that this finds no basis in law and jurisprudence and what is required is the submission of a copy of the withholding tax statement issued by the payor to

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[2] *Commissioner of Internal Revenue vs. Cebu Holdings, Inc.*, G.R. No. 189792, June 20, 2018.

the payee showing the amount paid and the amount of tax withheld therefrom which specifically refers to the Certificates of CWT (BIR Form 2307) mentioned earlier.

In sum, petitioner's arguments on the insufficient evidence, particularly the non-presentation of the Certificates of CWT and SAWTs and MAPs to prove a claim for refund of excess CWT is without factual and legal merit and are not enough to warrant a reversal of the assailed *En Banc* Decision.

WHEREFORE, premises considered, the *Motion for Reconsideration* filed by petitioner CIR is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

(ON OFFICIAL BUSINESS)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

(On Leave)
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice