REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PROCTER & GAMBLE DISTRIBUTING (PHILIPPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9946

Members:

CASTAÑEDA, JR., *Chairperson,*
BACORRO-VILLENA, *JJ.*

Promulgated: JUL 22 2021 9:10 a.m.

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Procter & Gamble Distributing (Philippines), Inc. (**petitioner/P&G**). The petition seeks a tax refund of the aggregate amount of ₱105,367,282.00, representing excess and unutilized Creditable Withholding Taxes (**CWTs**) for fiscal year (**FY**) 01 July 2015 to 30 June 2016.

[1] Filed on 11 October 2018, Division Docket, Volume I, pp. 10-21.

PARTIES OF THE CASE

Petitioner is a corporation organized and existing under the laws of the Republic of the Philippines with principal office located at 17th Floor, 6750 Ayala Avenue, Acacia Avenue, Makati City.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) who holds office at the Bureau of Internal Revenue (**BIR**) National Office Building located at Agham Road, Diliman, Quezon City where he may be served with summons and other legal processes.

FACTS OF THE CASE

Petitioner filed with the BIR, through the Electronic Filing and Payment System (eFPS), its Annual Income Tax Return[2] (ITR) for FY 2016, wherein it declared a taxable income of ₱109,632,913.00.

As a result, petitioner reported a regular corporate income tax (**RCIT**) in the amount of ₱32,889,874.00 and a minimum corporate income tax (**MCIT**) of ₱2,541,720,529.00. In total, petitioner calculated its income tax (**IT**) liability at ₱50,834,411.00. In its ITR, petitioner likewise reported the total IT credits in the amount of ₱105,367,282.00.

After deducting its MCIT from its total income credits for FY 2016 and the prior year's excess credits other than MCIT, petitioner also claimed a total overpayment of ₱184,779,338.00 as of 30 June 2016, computed as follows:

Aggregate Income Tax Due (MCIT)		Php 50,834,441.00
Less: Tax Credits/Payments		
Prior Year's Excess Credits other than MCIT		Php 130,246,467.00
CWT for the first three quarters of FY 2016	Php 105,304,919.00	
CWT for the 4th quarter (BIR Form 2307)	62,363.00	105,367,282.00

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[2] Exhibit "P-3", id., Volume II, pp. 455-462.

Total Tax Credits/Payments	Php 235,613,749.00
Total Amount Payable/ Overpayment	**Php (184,779,338.00)**[3]

In its ITR, petitioner also indicated its option to refund its excess and unutilized CWT for FY 2016 and as result thereof, petitioner did not carry over the amount of ₱105,367,282.00 to the succeeding taxable year.[4]

On 31 May 2018, petitioner initiated its administrative claim for refund.[5] Due to respondent's inaction, petitioner filed the present action before the Court in Division on 11 October 2018. The case was raffled to the Court's Second Division. Later, the Summons[6] was issued to respondent.

After granting additional time for respondent to file his Answer, the Court once again granted a second extension in an Order dated 10 December 2018[7], which gave respondent a non-extendible period of fifteen (15) days from 01 December 2018 or until 16 December 2018 within which to file his Answer. Despite the extensions given, respondent still failed to file his Answer within the provided period.

The period for filing his Answer having prescribed, respondent filed a Motion for Leave to Admit Attached Answer[8] on 18 December 2018. In opposition thereto, petitioner filed a Comment on respondent's Motion for Leave to Admit Attached Answer (With Motion to Declare Respondent in Default)[9] on 11 February 2019.

Finding merit in petitioner's arguments, the Court, through a Resolution dated 20 February 2019[10], denied respondent's Motion for Leave to Admit Attached Answer (due to its belated filing) and granted petitioner's Motion to Declare Respondent in Default.

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3 Id., Volume I, p. 12.
4 Id.
5 Exhibits "P-8" and "P-8-b", id., Volume II, pp. 535-539.
6 Id., Volume I, p. 63.
7 Id., p. 74.
8 Id., pp. 80-83.
9 Id., pp. 100-107.
10 Id., pp. 114-119.

Disagreeing with the Court's action, on 18 March 2019, petitioner filed its Omnibus Motion[11] seeking a reconsideration of the aforesaid resolution and a suspension of the proceedings pending resolution of his motion.

In a Resolution dated 30 May 2019[12], the Court denied respondent's Omnibus Motion and set the *ex parte* presentation of petitioner's evidence.

Later, petitioner presented the testimony of petitioner's Associate Tax Manager, Marian B. Concibido (**Concibido**), who testified by way of her Judicial Affidavit.[13] Her testimony was offered to prove that: (1) petitioner has excess and unutilized CWT credits in the aggregate amount of ₱105,376,282.00; (2) the fact thereof is supported by documentary evidence; (3) petitioner did not carry over the unutilized CWT for FY 2016 to the succeeding taxable year; and, (4) the CWT being claimed for refund were withheld and reported in petitioner's Annual ITR.[14]

Petitioner also presented the testimony of the Court-appointed Independent Certified Public Accountant (**ICPA**), Mary Josephine D. Tesalona (**Tesalona**) who likewise testified through her Judicial Affidavit.[15] Aside from identifying and verifying petitioner's documents, she further attested to her findings as regards its claim. As a result of her study, she recommended that the grant of petitioner's claim for refund of excess and unutilized CWT in the amount of ₱86,228,262.00.[16]

Thereafter, petitioner rested its case and on 16 October 2019, submitted its Formal Offer of Evidence[17] (**FOE**).

In resolving petitioner's FOE, except for certain pages of Exhibits "P-19",[18] "P-22-M"[19] and "P-23-K"[20] which were not found in the records,

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11 Id., pp. 120-126.
12 Id., pp. 142-145.
13 Exhibit "P-13", id., pp. 162-174.
14 Id., p. 159.
15 Exhibit "P-32", id., pp. 371-414.
16 Id., p. 404.
17 Id., Volume II, pp. 421-439.
18 VAT Reg. TIN Sales Invoices.

and some pages of Exhibits "P-15-B"[21], "P-17-C"[22] and "P-19"[23], the Court admitted all of petitioner's documentary evidence.[24]

With the filing of petitioner's motion for reconsideration (**MR**), the Court ultimately admitted the previously denied exhibits.[25] Given that respondent had already been previously declared in default, the Court gave petitioner thirty (30) days to submit its memorandum. The latter submitted its Memorandum[26] on 16 July 2020. On 25 August 2020[27], the Court submitted the case for decision.

ISSUE

The principal issue to be resolved in the case at bar is –

> WHETHER PETITIONER PROCTER & GAMBLE DISTRIBUTING (PHILIPPINES), INC. IS ENTITLED TO THE REFUND OF ₱105,367,282.00.

In support of the above issue, petitioner argues essentially that it has a right to a refund since its excess CWTs remain unutilized. Petitioner specifically relies on Sections 58(D) and 76 of the National Internal Revenue Code (**NIRC**) of 1997, as amended. Section 58(D) states:

> SEC. 58. *Returns and Payment of Taxes Withheld at Source.* -
>
> ***(D) Income of Recipient***. - Income upon which any creditable tax is required to be withheld at source under Section 57 shall be included in the return of its recipient but the excess of the amount of tax so withheld over the tax due on his return shall be refunded to him subject to the provisions of Section 204; if the income tax collected at source is less than the tax due on his return, the

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19 FY 2016 General Ledger - Cash on Delivery Discount – Automated F (30310021).
20 FY 2015 General Ledger - Cash on Delivery Discount – Automated F (30310021).
21 Quarterly Income Tax Returns for the Fiscal Year ended June 30, 2016.
22 Certificates of Creditable Taxes Withheld at Source (BIR Form No. 2307) for the Fiscal Year ended June 30, 2014.
23 Supra at note 18.
24 See Resolution dated 30 January 2020, Division Docket, Volume II, pp. 584-586.
25 See Resolution dated 11 March 2020, id., pp. 595-597.
26 Id., pp. 605-637.
27 See Resolution, id., p. 638.

difference shall be paid in accordance with the provisions of Section 56.

On the other hand, Section 76 of the NIRC of 1997, as amended, 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.[28]

...

According to petitioner, since it did not irrevocably opt to carry-over the excess and unutilized CWTs to the succeeding taxable year, it should be properly entitled to a refund thereof.

RULING OF THE COURT

After a careful review of the records, the Court finds partial merit in petitioner's arguments.

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[28] Emphasis supplied.

Petitioner's claim for refund of its excess and unutilized CWTs, as previously mentioned, is anchored on Section 76[29] of the NIRC of 1997, as amended.

In interpreting Section 76 of the NIRC of 1997, as amended, the Supreme Court, in *Systra Philippines, Inc. v. Commissioner of Internal Revenue*[30], held that:

> ...
> A corporation entitled to a tax credit or refund of the excess estimated quarterly income taxes paid has two options: (1) to carry over the excess credit or (2) to apply for the issuance of a Tax Credit Certificate or to claim a cash refund. If the option to carry over the excess credit is exercised, the same shall be irrevocable for that taxable period.
> ...

In another case, the Supreme Court also held that the phrase, "for that taxable period" merely identifies the excess income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer.[31] Thus, a corporation must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention either to carry over the excess credit or to claim a refund. To ease the administration of tax collection, these remedies are in the alternative and the choice of one precludes the other.[32]

In the case at bar, petitioner opted for the refund of its excess and unutilized CWTs by marking the box "To be refunded" in its Annual ITR for FY 2016.[33] A perusal thereof reveals that it had a total IT due of ₱50,834,411.00. The said amount was paid using its IT credits in the amount of ₱235,613,749.00, consisting of the following: (**a**) prior year's excess tax credits in the amount of ₱130,246,467.00; and, (**b**) accumulated CWT during the four (4) quarters of FY 2016 in the total amount of ₱105,367,282.00. According to petitioner, it left a balance from the prior year's excess credits in the amount of ₱79,412,056.00

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29 Supra at page 6.
30 G.R. No. 176290, 21 September 2007.
31 *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, 609 Phil. 678 (2009).
32 *Philippine Bank of Communications v. Commissioner of Internal Revenue, et al.*, 361 Phil. 916 (1999).
33 Exhibit "P-3", supra at note 2.

and CWTs in FY 2016 of ₱105,367,282.00, totaling to ₱184,779,338.00 excess tax credits as of 30 June 2016, as shown below:

Prior Year's Excess Credits		₱130,246,467.00
Less: Income Tax Due		50,834,411.00
Balance of Prior Year's Excess Credits		79,412,056.00
Add: Creditable Tax Withheld during FY 2016		
From previous quarters	₱105,304,919.00	
For the fourth quarter	62,363.00	105,367,282.00
Excess Tax Credits as of June 30, 2016		**₱184,779,338.00**

It is noted that the balance of ₱79,412,056.00 was subsequently carried over and reflected as "Prior Year's Excess Credits" in petitioner's Quarterly ITRs[34] and Annual ITR for FY 2017.[35] Thus, the CWTs for FY 2016 in the amount of ₱105,367,282.00, which is the subject of petitioner's claim, may be the proper subject of a claim for refund under Section 76[36] of the NIRC of 1997, as amended.

In *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation [formerly Mirant (Phils.) Energy Corporation]*[37], the Supreme Court laid down the following requirements for a corporate taxpayer to be entitled to a refund or issuance of a tax credit certificate (**TCC**) involving excess withholding taxes, to wit:

> ...
>
> 1. The claim for refund was filed within the two-year reglementary period pursuant to Section 229 of the NIRC;
>
> 2. 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 income tax withheld from that amount; and,
>
> 3. It is shown on the ITR that the income payment received is being declared part of the taxpayer's gross income.
>
> ...

34 Exhibits "P-10", "P-11" and "P-12", id., pp. 548-552.
35 Exhibit "P-9", id., pp. 540-547.
36 Supra at page 6.
37 750 Phil. 700 (2015); Citation omitted.

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

> ...
> **Sec. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
> ...
>
> (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.
> ...
>
> **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.[38]
>
> ...

Based on the foregoing provisions, both the administrative and judicial claims must be filed within two (2) years from the date of

[38] Emphasis supplied.

payment of the taxes. The two-year prescriptive period within which to claim a refund commences to run, at the earliest, on the date of the filing of the adjusted final tax return.[39] This is necessitated by the fact that it is only on such date when it can be finally ascertained if the taxpayer still has to pay additional income tax or if he is entitled to a refund of overpaid income tax.[40]

The present claim for refund pertains to FY 2016 for which petitioner filed its Annual ITR on 14 October 2016. Counting two (2) years from this date, petitioner had until 14 October 2018 within which to file a claim for refund of its excess and unutilized CWTs both in the administrative and judicial levels. Petitioner filed its administrative claim on 31 May 2018[41] and its judicial claim through the instant Petition for Review on 11 October 2018.[42]

With the foregoing and in regard to the *first requisite*, it is clear that petitioner has complied accordingly.

Anent the *second* and *third requisites*, Section 2.58.3(B) of Revenue Regulations **(RR)** No. 2-98[43], 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.**[44]
> ...

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39 *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*, 281 Phil. 1060 (1991), citing *Commissioner of Internal Revenue v. Asia Australia Express, Ltd.*, G.R. No. 85956, 10 April 1989.

40 *Commissioner of Internal Revenue v. TMX Sales, Inc., et al.*, G.R. No. 83736, 15 January 1992.

41 Exhibits "P-8" and "P-8-b", supra at note 5.

42 Petition for Review, id., Volume I, p. 10.

43 *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.*

44 Emphasis supplied.

However, the Supreme Court, in *Commissioner of Internal Revenue v. Philippine National Bank*[45], affirmed that a certificate of creditable tax withheld at source is a 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 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.**
>
> ...

To prove its compliance with the *second requisite*, petitioner submitted the Certificates of Creditable Tax Withheld at Source (BIR

[45] G.R. No. 180290, 29 September 2014; Citations omitted and emphasis supplied.

Form No. 2307)[46] and the Summary Alphalist of Withholding Agents of Income Payments Subjected to Creditable Withholding Taxes (SAWTs) for FY 2016.[47] ICPA Tesalona examined such documents and detailed the results thereof in the ICPA Report dated 22 August 2019[48], as follows:

Reference	Findings	Amount
Annex B-1 of the ICPA Report	Properly supported with CWT certificates	₱72,779,136.99
Annex B-2 of the ICPA Report	Properly supported with CWT certificates but not with in the exact registered name of petitioner but supported with certification[49] from the SEC that there is no other company registered in the SEC under that abbreviated/shortened name.	27,225,180.36
Annex B-3 of the ICPA Report	Properly supported with CWT certificates, with period covering June 29, 2015 (within FY 2015) to September 27, 2015 (within FY 2016) but the corresponding CWT certificate was received in FY 2016	1,447,087.77
Page 15 of the ICPA Report	Excess of the CWT certificates over the amount of tax credits claimed per FY 2016 ITR[50]	(261.12)
Sub-Total		**₱101,451,144.00**
Exceptions noted		
Annex B-4 of the ICPA Report	Properly supported with CWT certificates but with stamped or electronic signatures of payor	3,852,526.24
Annex B-5 of the ICPA Report	Properly supported with photocopied CWT Certificates (BIR Form No. 2307) issued in the name of the Company and dated within FY 2016	62,362.57
Annex B-6 of the ICPA Report	Supported by original CWT Certificate (BIR Form No. 2307) but with incorrect TIN of the Company	1,249.19
Sub-Total		**₱3,916,138.00**
Total		**₱105,367,282.00**

As regards the ICPA's findings, We are inclined to disallow a portion of her recommendation. Out of the ₱101,451,144.00 found by the ICPA to be duly supported by original, duly accomplished CWT certificates or BIR Form No. 2307, the amount of ₱1,447,087.77 should be disallowed since the CWT certificate[51] issued by Watsons Personal

46 Exhibit "P-15-D", USB.

47 Exhibit "P-15-C", id.

48 Exhibit "P-14", id.

49 Exhibit "P-21", id.

50

CWTs per CWT Certificates	105,367,543.12
Total CWT per annual ITR for FY 2016	<u>105,367,282.00</u>
Difference	*261.12*

51 Exhibit "P-15-D", USB.

Care Stores (Phils.), Inc. for the said amount of tax credits is dated **6/29/15 to 9/27/15**, which is outside of the period subject for refund *i.e.*, **01 July 2015 to 30 June 2016**. Moreover, the said certificate is not signed by the payor.

With respect to the *third requisite*, petitioner must prove that the income payments pertaining to the substantiated CWTs of ₱105,367,282.00 were declared as part of its gross income subject to IT for FY 2016.

Petitioner's Annual ITR for FY 2016 reported the following:

Line 6 "Net Sales/Revenues/Receipts/Fees" of "Schedule 1 - Sales/Revenues/Receipts/Fees"[52]	₱11,487,007,557.00
Line 1 "Service Income" of "Schedule 3 – Other Taxable Income Not Subjected to Final Tax"[53]	28,999,129.00
Total Revenues	**₱11,516,006,686.00**

Per examination of petitioner's SAWTs for FY 2016[54], the subject claim amounting to ₱105,367,282.00 taxes withheld corresponds to the total income payments of ₱10,506,036,448.22, broken down as follows:

	Income payments
1st quarter FY 2016	₱8,695,651,059.00
2nd quarter FY 2016	1,807,185,212.00
3rd quarter FY 2016	65,113.52
4th quarter FY 2016	3,135,063.70
Total	**₱10,506,036,448.22**

To ascertain whether the income payments related to the CWTs being claimed for refund were reported as part of its gross income subject to IT in FY 2016, petitioner submitted its VAT Reg. TIN Sales Invoices[55], VAT Reg. TIN Credit Memos[56], VAT Reg. TIN Official Receipts[57], General Ledger (GL)[58], Reconciliation Schedules[59] and

52 Exhibit "P-3", Division Docket, Volume II, p. 457.
53 Id., p. 458.
54 Exhibit "P-15-C", supra at note 47.
55 Exhibit "P-19", USB.
56 Exhibit "P-20", id.
57 Exhibit "P-30", id.
58 Exhibits "P-22-A to P-22-AH" and "P-23-A to P-23-AE", id.
59 Exhibits "P-25-A to P-25-AF", id..

Adjusting Journal Entries[60] for the said period.

Based on the ICPA Report[61], ICPA Tesalona was able to trace the CWT amount of ₱86,228,262.30 to petitioner's GL and annual ITR. However, the ICPA noted that there was an income billed, recorded in the GL in FY 2015 and declared in the FY 2015 Annual ITR, and for which the related CWT certificates were issued by the payors to petitioner in FY 2016, as shown below:[62]

Reference	Particulars	Amount
Table III-N (A), (B), (C), (D), (E-1), (F), (G-2), and (H)[63]	Properly supported CWTs traced to FY 2016 GL and FY 2016 ITR	₱84,674,246.01
Table III-N (E-2) and (G-2)[64]	Properly supported CWTs traced to FY 2015 GL and FY 2015 ITR	1,554,016.29
Total CWTs traced to petitioner's GL and ITR		**₱86,228,262.30**

Notwithstanding the above, the ICPA considered the same to be valid income payments which formed part of petitioner's gross income within the period of claim. *However*, contrary to her findings, Section 2.58.3(A) of RR No. 2-98 requires the following in order that tax credits may be validly allowed against IT liability:

> ...
>
> SEC. 2.58.3. *Claim for Tax Credit* or *Refund.* —
>
> (A) The amount of creditable tax withheld shall be allowed as **a tax credit against the income tax liability of the payee in the quarter of the taxable year in which income was earned or received.**[65]
>
> ...

The above-cited provision shows that it is not enough that the related income earned or received be declared as part of the gross income. What is essential is that in claiming the tax credits is that, there must be proof that the **declaration of income earned or**

60 Exhibit "P-29", id.
61 Exhibit "P-14", supra at note 48.
62 Id., p. 45.
63 Id., pp. 34-39.
64 Id., pp. 38-39.
65 Emphasis supplied.

received is made in the same period with the claiming of the related tax credit.[66]

In *Commissioner of Internal Revenue v. Ayala Property Management Corporation*[67], the Court *En Banc* explained the rationale of the aforementioned rule in this wise:

> ...
> Equally important in claiming the tax credits is proof that the declaration of income earned or received is made in the same period with the claiming of the related tax credit.
>
> The aforementioned rule finds support in the expanded concept of the matching principle which states that, when an entity claims a deduction, another entity must include the deducted amount in its income. Since respondent has already recognized the revenues in 2008, respondent's customers should have also claimed the corresponding expenses in 2008 and subjected the same to withholding tax in 2008. As such, under normal circumstances, respondent should have also claimed the tax credits arising from the 2008 income in 2008. **The apparent rationale for this rule is to prevent double or multiple claiming of tax credits arising from the same revenue.**
>
> ...

Following this principle, in the case of *PNOC Development and Management Corporation v. Commissioner of Internal Revenue*[68], this Court disallowed the claim for CWT since the Court could not ascertain if the recognition of income arising from such withholding was properly recorded and declared as income in the same period when the related tax credit is claimed.

Again, in *Philippine National Bank v. Commissioner of Internal Revenue*[69], this Court denied PNB's claim for issuance of TCC for its 2007 excess and unutilized CWTs because the Court could not determine (with certainty) that the income payments related to the claimed CWTs indeed formed part of its gross taxable income in its 2007 Annual ITR.

66 *Commissioner of Internal Revenue v. Ayala Property Management Corporation*, CTA EB No. 2053, 07 July 2020.

67 Supra; Citation omitted, emphasis supplied and underscoring in the original text.

68 CTA Case No. 8649, 22 January 2016.

69 CTA Case No. 8077, 19 November 2013.

Considering the foregoing, the CWT amount of ₱1,554,016.29, which the ICPA had traced to petitioner's FY 2015 GL and FY 2015 Annual ITR and was supported with sales invoices dated within FY 2015, should be disallowed.

The ICPA further determined that there were deductions from gross sales that resulted in the reversal or cancellation of sales transactions recorded under Account No. 30000001 – "Gross Sales - Manual (COPA)" amounting to ₱30,775,239.45, with a corresponding CWT amount of ₱308,079.53.[70] Petitioner did not proffer any evidence to show that such reversed or cancelled sales were not previously subjected to CWT or that the related CWT was also reversed. As it is, the related CWT of the said reversed or cancelled sales amounting to ₱308,079.53 should be disallowed for failure to adhere to the *third requisite*.

In sum, out of the total claim of ₱105,367,282.00, petitioner was only able to sufficiently prove its entitlement to the refund or issuance of a TCC representing unutilized excess CWT for FY 2016 in the reduced amount of ₱84,365,905.35, computed as follows:

CWTs *per* claim		**₱105,367,282.00**
Less: Disallowances		
Per ICPA		
Disallowed BIR Form No. 2307	₱3,916,138.00	
Untraceable CWTs	15,223,142.83[71]	19,139,280.83[72]
CWT on reversed or cancelled sales		308,079.53
Per this Court's independent verification:		
Income reported in FY 2015		1,554,016.29
Total Disallowances		**₱21,001,376.65**
Total Amount of Refundable CWT		**₱84,365,905.35**

WHEREFORE, the foregoing considered, the Petition for Review filed on 11 October 2018 by petitioner Procter & Gamble Distributing (Philippines), Inc. is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED** to

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70 Supra at note 48, pp. 46-49.

71 Including the income payment from Watsons Personal Care Stores (Phils.), Inc. amounting to ₱1,447,087.77.

72 See Table III-N, ICPA Report dated 22 August 2019, supra at note 48; Total amount of CWT disallowed for refund *per* ICPA's recommendation.

REFUND petitioner or **ISSUE** a **TAX CREDIT CERTIFICATE** in the amount of **₱84,365,905.35**, representing petitioner's excess and unutilized Creditable Withholding Taxes for fiscal year 01 July 2015 to 30 June 2016.

SO ODERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ATTESTATION

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

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice