REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Third Division

SONY PHILIPPINES INCORPORATED,	**CTA CASE NO. 10302**
Petitioner,	Members:
	RINGPIS-LIBAN, *Chairperson, and*
-versus-	**MODESTO-SAN PEDRO,** *JJ.*
	Promulgated:
COMMISSIONER OF INTERNAL REVENUE,	JUL 17 2024
Respondent.	1:22 a.m.

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RESOLUTION

MODESTO-SANPEDRO, J.:

For resolution is petitioner's Motion for Reconsideration [Re: Decision dated 30 August 2023], filed on October 25, 2023 ("Motion"),[1] together with respondent's Comment/Opposition (On Petitioner's Motion for Reconsideration), filed on December 21, 2023.

In its Motion, petitioner contends that the Court erred in ruling that the former failed to prove that the income from which the subject creditable withholding taxes were withheld were declared part of petitioner's gross income.

First, petitioner highlights that the total net sales per Annual Income Tax Return (AITR),[2] amounting to Php5,935,819,420, is more than the amount of income payments subjected to withholding tax based on the Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld (CWT) at Source (BIR Form 2307),[3] amounting to Php5,306,126,946. It insists that the latter is necessarily included in the former, and further explains that the difference of Php629,692,474 is due to the non-withholding of its income payors who are not classified as top withholding agents (TWA) required to withhold one percent (1%) on the regular purchase of goods.

[1] Records Vol. 5, pp. 2144-2156.
[2] Exhibit "P-6", Docket Vol. 4, pp. 1766-1773.
[3] Exhibit "P-1144-A", USB flash drive submitted by ICPA Calica on 19 November 2021.

Petitioner then brings to the Court's attention that the income of Php5,935,819,420, per AITR, may be derived from its Audited Financial Statements (AFS) annual gross sales amounting to Php6,117,203,363 less sales return, allowances and discounts of Php181,383,943.

Citing the case of *RCD Realty Marketing Corp. vs. Commissioner of Internal Revenue* (RCD Realty case),[4] decided by this Court's Special First Division, petitioner advances that the foregoing inevitably proves that the income payments, from which the withholding taxes subject of the instant claim were withheld, were declared part of the gross income per AITR.

We disagree. To put simply the foregoing argument of petitioner, it submits that the income payments relative to the instant CWT claim are declared as sales by attempting to make a two-step reconciliation. First was to reconcile the sales subjected to 1% CWT versus sales declared per AITR, and second was to reconcile the sales per AITR versus per AFS.

In the first reconciliation, however, petitioner did not present any supporting documents or schedule showing a breakdown of the alleged sales not subject to 1% CWT. Instead, it appears to have merely made a general claim that the difference in amounts pertain to income payments made by non-TWAs.

The Court understands that the duty to withhold is not applicable to taxpayers not considered TWAs; thus, a difference between total net sales and sales corresponding to the subject CWT refund claim may result therefrom. However, in this case, where the Court is unable to verify whether the income subjected to 1% CWT was indeed included in the declared net sales, We deem it necessary to provide schedules and other documents to support the supposed reconciliation item between the two amounts.

Moreover, we note that Independent Certified Public Accountant Joseph Cedric V. Calica (ICPA Calica) mentioned in the ICPA Report that:

> 1. We noted that the difference in the amount of P629,692,474.00 between the total net sales in the 2018 AITR and the total amount of income payments in the Summary Alphalist of Withholding Tax at Source are due to the fact that some of the Company's income payors are not part of those corporations which are required to withhold %1 on the regular purchase of goods. . . .

However, there was no mention on the procedures performed by ICPA Calica in order to verify the nature of the noted difference. Likewise, there was a lack of supporting documents attached to the ICPA Report that would allow Us to validate such claim. Thus, petitioner's *first* argument fails to convince.

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[4] CTA Case No. 8271, November 18, 2013.

Next, petitioner insists that the ICPA traced the gross income using petitioner's various schedules and accounting documents. It explains that the Schedule of Creditable Income Tax Withheld, as declared in the AITR, (Exhibit "P-1144") was compared against the General Ledger of Creditable Withholding Taxes (Exhibit "P-1146", also referred as "CWT Ledger"). Such CWT Ledger, in turn, shows reference official receipts (OR) number. Thus, petitioner implores that following the double entry system in accounting, ICPA Calica not only verified the asset account, but also the revenue account.

As explained by petitioner in its Motion, the double entry system pertains to a method in bookkeeping wherein in each transaction, an entry shall be recorded with at least one debit account and at least one credit account. Following this, the entry of CWT, an increase in the asset account (debit), should have a corresponding matching increase in the liability account or the revenue account (credit). Here, according to petitioner, since the CWT Ledger show OR number references, this would necessarily mean that the debit to the CWT asset account has a corresponding credit to a matching revenue account.

In other words, petitioner is basically arguing that the CWT Ledger must be deemed sufficient to prove recognition of income related to the instant claim since, according to petitioner, the reference to the ORs demonstrates that the corresponding credit entry was made to its sales account.

The Court, however, is not persuaded. We understand that the double-entry system requires both debit and credit recording of a business transaction. Nonetheless, the Court cannot be expected to draw conclusions as to where or to what account the corresponding entries were recorded. We are aware that while every entity must comply with certain accounting standards, each of them, however, maintains its own books of accounts and implements its own internal policies. Here, petitioner failed to show proof that the account credited upon recording of the CWTs, per CWT ledger, are the very same account or ledger used as basis for sales declaration not only for financial reporting purposes but also for income tax purposes.

Further, We emphasize that while the ORs serve as proof of existence of the sales transactions, they do not confirm having been duly declared by a taxpayer for income tax purposes – the latter being what is required for excess CWT refund claims.

Finally, petitioner asserts that the submitted documents would allow the Court to verify the veracity of its claim on having duly reported the sales corresponding to the subject withholding taxes.

In the Court's Decision, it was held that Exhibit "P-144-A" cannot be used by the Court to trace the sales to the corresponding books and returns, due to the mismatch of amounts under columns "Amount of Income Payments" and "Amount of Income Payments Per Certificate of Creditable Tax Withheld at Source (BIR Form 2307)" totaling, Php5,306,126,946 and Php4,300,906,971.58, respectively, to wit:

> The Court has also independently examined the records and found that no general ledger or any similar document was presented by petitioner to aid Us in tracing the sales to the corresponding books and returns. We cannot even use Exhibit P-1144-A for such purpose as the amounts under columns "Amount of Income Payments" and "Amount of Income Payments Per Certificate of Creditable Tax Withheld at Source (BIR Form 2307)" do not match. Thus, We are unable to verify the veracity of petitioner's claim on having duly reported the sales corresponding to the subject withholding taxes.

Now, petitioner submits that the noted difference between the two aforementioned columns corresponds to the portion of the disallowed items in Exhibit "P-1145," broken down as follows:

Particular	**Exhibit**	**Tax Withheld**
Incorrect or incomplete address of the payee or petitioner	P-1145-A	Php 840,642.23
Not in the period covered by the claim indicated in the BIR Form 2307	P-1145-B	2,693.19
No BIR Form 2307 submitted by the petitioner	P-1145-C	11,348,255.31
TOTAL EXCEPTIONS		**Php12,191,590.73**

It does not escape the Court's attention, however, that the foregoing is merely petitioner's weak attempt to appear to have reconciled the amounts in Exhibit "P-144-A" summarized in the table below:

Particular	**Tax Withheld**
Amount of Income Payments	Php 5,306,126,946.00
Amount of Income Payments Per BIR Form 2307	4,300,906,971.58
Difference	**Php 1,005,219,974.42**
CWT Amount at 1%	**Php 10,052,199.74**

Clearly, the difference in the "Amount of Income Payments" and "Amount of Income Payments Per BIR Form 2307" under Exhibit "P-144-A" is Php1,005,219,974.42. This results to withholding tax equivalent to 1% or Php10,052,199.74. The latter clearly does not equate to the total exceptions noted by ICPA Calica per Exhibit "P-1145, amounting to Php12,191,590.73.

The Court emphasizes time and again that tax refunds are construed strictly against the taxpayer, and liberally in favor of the State. Thus, the law upon which the claim of refund is made, as well as the documents presented to prove such entitlement to the refund are construed *strictissimi juris* against the taxpayer. Accordingly, it is incumbent upon the claimant to establish the factual basis of his or her claim for tax credit or refund. This petitioner failed to do.

ACCORDINGLY, petitioner's Motion for Reconsideration [Re: Decision dated 30 August 2023] is **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

I CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice