REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

HONDA CARS PHILIPPINES, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 6028

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

SEP 12 2002

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DECISION

This is a petition seeking for the issuance of tax credit certificates on the alleged unutilized creditable taxes withheld in the amount of P70,325,624.00 for the fiscal year ended March 31, 1998 and P53,859,115.00 for the fiscal year ended March 31, 1999.

As borne out by the records, the pertinent facts of the case are as follows:

Petitioner is a domestic corporation with principal office at Laguna, Technopark, Sta. Rosa, Laguna. It is primarily engaged in the manufacture and assembly of automobiles, cars and automobile products *(pars. 1 and 2, Joint Stipulation of Facts).*

On July 15, 1998 petitioner filed its Annual Income Tax Return for the fiscal year ended March 31, 1998 *(Exhibit D)* reflecting the following information:

Gross income from sales	P 888,667,425.00
Service Income	188,413,245.00
Other Income	39,382,747.00
Total	P1,116,463,417.00
Less: Deductions	1,108,437,757.00
Taxable Income	P 8,025,660.00
Tax Due	P 6,386,623.00
Less: Creditable Tax Withheld	76,712,247.00
Amount Refundable	P 70,325,624.00

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The said return showed that petitioner placed "x" marks on both options: "To be refunded" and "To be applied as credit to next year" in the corresponding boxes.

On July 15, 1999, petitioner filed its Annual Income Tax Return for the fiscal year ended March 31, 1999 *(Exhibit N)*. The return disclosed the following:

Tax Due	P 15,248,788.00
Less: Tax Credits	
Tax Withheld for the First Three Quarters	P 49,326,261.00
Tax Withheld for the Fourth Quarter	19,781,642.00
Total Tax Credits	P 69,107,903.00
Amount Refundable	P 53,859,115.00

In addition, the return reflected that petitioner opted to carry-over to the succeeding taxable year its excess creditable taxes.

On August 25, 1999 petitioner filed with the respondent a claim for tax credit or refund of the excess creditable withholding taxes for the taxable fiscal year ended March 31, 1998 in the amount of P73,928,000.00 *(Exhibit O; par.17, Joint Stipulation of Facts).*

On January 7, 2000, petitioner amended its Annual Income Tax Return for the fiscal year ended March 31, 1999 *(Exhibit T; par. 16, Joint Stipulation of Facts)*. The return was amended to show that petitioner did not utilize its prior year's excess credit and to change its option from "To be carried as tax credit next year" to " To be issued as tax credit certificate."

On February 1, 2000 petitioner filed with respondent a claim for tax credit or refund of the excess creditable withholding taxes for the taxable fiscal year ended March

31, 1999 in the amount of P53,859,115.00 *(Exhibit Y; par. 18, Joint Stipulation of Facts)*.

Due to respondent's inaction, petitioner filed with this court the instant petition on March 16, 2000, in order to judicially claim for the issuance of tax credit certificates of its unutilized creditable withholding taxes for the taxable years 1998 and 1999 pursuant to Section 76 of the Tax Reform Act of 1997.

In his Answer filed on April 25, 2000, respondent raised the following Special and Affirmative Defenses:

4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau;
5. The amounts of P70,325,624.00 and P53,859,115.00 being claimed by petitioner as alleged excess and unutilized creditable withholding taxes for the fiscal years ended March 31, 1998 and march 31, 1999 were not properly documented;
6. In an action for refund the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;
7. Petitioner must show that it has complied with the provisions of Section 204(C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit;
8. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.

The issues we are tasked to resolve have been jointly stipulated by the parties to be as follows:

1. Whether or not petitioner filed with respondent the written claim for tax credit or refund for overpaid income taxes for the fiscal year ended March 31, 1998 and the instant claim for refund within the two-year prescriptive period from date of payment of the tax.

2. Whether or not petitioner filed with respondent the written claim for tax credit or refund for overpaid income taxes for the fiscal year ended March 31, 1999 and the instant claim for refund within the two year prescriptive period from date of payment of the tax.

3. Whether or not the income payments to petitioner which were subjected to the creditable expanded withholding taxes were declared by petitioner as part of gross income in its income tax returns.

4. Whether or not petitioner had excess and unused creditable expanded withholding taxes in the amount of P70,325,624 at the close of the fiscal year ended March 31, 1998 and in the amount of P53,859,115 at the close of the fiscal year ended March 31, 1999.

Respondent argues that a perusal of petitioner's 1998 and 1999 Annual Income Tax Returns would show that it put an "x" mark on the option "to be applied as tax credit for the next year." Thus, the claim for refund is contrary to the provisions of Section 76 of the Tax Code, as amended, that once the option to carry-over has been made, such option is irrevocable for that taxable period and no application for refund or issuance of tax credit certificate shall be allowed. Moreover, respondent contends that petitioner's allegation that it did not carry-over its unutilized creditable taxes withheld to the succeeding quarters of 1998, 1999 and 2000 is immaterial because the option to carry-over is irrevocable, regardless of whether or not the excess tax credit is actually utilized.

On the other hand, in its Reply Memorandum, petitioner maintains that respondent's claim that it put an "x" mark on the box "to be applied as tax credit for the next year" in its 1998 Annual Corporate Income Tax Return is half true and misleading, because petitioner actually put an "x" mark on both boxes "to be refunded" and "to be applied as credit to next year," which indicates that it did not exercise an option. Petitioner likewise averred that when it filed its 1998 Annual Income Tax Return, respondent had not yet issued the new form for the Annual Income Tax Return that provides lines and spaces for the excess Minimum Corporate Income Tax (MCIT); thus,

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the amount refundable of P73,928,000.00 indicated in the return is the sum of the unutilized creditable taxes withheld of P70,325,624.00 and the excess of the MCIT of P3,602,376.00. According to petitioner, it marked the option "to be refunded" to indicate its intention to refund the unutilized creditable taxes withheld and it also marked the option "to be applied as tax credit to the next year" to indicate that the excess MCIT will be carried-over to the following year.

With regard to the alleged refundable amount for the fiscal year ended March 31, 1999, petitioner anchored its claim for refund on Section 2.58.3 paragraph (C) of Revenue Regulations N0. 2-98, which is hereby quoted for easy reference, thus:

> "(C.) Excess Credits- An individual or corporate taxpayer's excess expanded withholding tax credits for the taxable quarter/year shall automatically be allowed as a credit against his income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, provided he submits with his income tax return, a copy of the first page of his income tax return for the previous taxable period showing the amount of his excess withholding tax credits, and on which return he has not opted for a cash refund or tax credit certificate.
>
> 1. If in lieu of the automatic application of his excess credit, the taxpayer wants a cash refund or a tax credit certificate for use in payment of his other national internal revenue tax liabilities, he shall make a written request therefor, within two years after the payment of the tax (Ref. Secs. 204 (c) and 229 of the Code), provided however, that if the taxpayer has indicated in his income tax return his option for either a cash refund or a tax credit certificate, such indication shall be considered sufficient for the purpose. Upon filing of his request, the taxpayer's income tax return showing the excess expanded withholding tax credits shall be examined. The excess expanded withholding tax so determined, shall be refunded/credited to the taxpayer."

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On the basis of the above-mentioned regulation and Section 76 of the Tax Code, petitioner advanced the argument that the controlling act which indicates the exercise of the irrevocable option to carry-over the excess income tax credit is the application of the prior year's excess income tax credit against the income tax due for the first quarter of the subsequent taxable year and not the "x" mark indicated in the Annual Income Tax Return.

We do not agree with the petitioner's argument that it is the actual application of the prior year's excess tax credit against the income tax due for the first quarter of the subsequent taxable year which makes the option to carry-over irrevocable. Rather, we believe that the act of choosing the option, which is done by marking the appropriate box in the Annual Income Tax Return, whether to refund or to carry-over the excess tax credits, is the controlling act. The act of exercising the option is done at time of filing of the returns. As a consequence, once the taxpayer marks in the Annual Income Tax Return its option to carry-over, it is bound to apply such option. Its non-application of the option will not alter the option made because, as stated earlier, it is already irrevocable. Also, an amendment made in the Annual Income Tax Return changing the option from carrying-over to the next year to the issuance of tax credit certificate is not permissible. To hold otherwise will make the irrevocability of the option to carry-over as provided in Section 76 of the Tax Code a nullity.

Section 76 of the Tax Reform Act of 1997 provides:

> **"Section 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

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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. <u>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.</u>" (*Emphasis supplied*)

After an examination of petitioner's 1999 Annual Income Tax Return, this court finds that petitioner is already barred from claiming the creditable taxes withheld for the taxable year 1999. It is clear from the original 1999 ITR *(Exhibit N)* that petitioner marked "x" on the box corresponding to the option "to be carried as tax credit next year." Pursuant to Section 76 of the Tax Reform Act of 1997, once a taxpayer chooses an option, it is irrevocable. Petitioner's act of amending its 1999 Annual Income Tax Return changing the option it marked from carrying-over to issuance of tax credit certificate cannot be given effect as it would run counter to the meaning of the above-mentioned law. Thus, the amount claimed for taxable year 1999 cannot be given due course.

However, with reference to the 1998 Annual Income Tax Return, this court noticed that petitioner placed "x" marks on both options "To be refunded" and "To be applied as tax credit for the next year" in the corresponding boxes in the 1998 Annual Income Tax Return. As explained by petitioner, it marked the option "to be refunded" to indicate its

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intention to refund the unutilized creditable taxes withheld and it also marked the option "to be applied as tax credit for the next year" to indicate that the excess minimum corporate income tax (MCIT) will be carried over to the following year in view of the fact that the available form for the Annual Income Tax Return did not yet provide lines and spaces for the excess MCIT. Since it is evident from the 1999 return that the 1998 excess tax credits were not carried-over, then we believe that petitioner exercised the option of refund instead of applying the excess payment as automatic tax credit.

Thus, we now determine whether or not petitioner was able to satisfy the following requirements in order to be entitled to the refund of the excess creditable withholding tax at source *(Citibank N. A. vs. Court of Appeals and Commissioner of Internal Revenue, G.R. No. 107434, dated October 10, 1997):*

1. That the claim for refund is filed within the two-year reglementary period pursuant to Section 230 of the Tax Code, as amended;
2. That the income upon which the taxes were withheld were included as part of the gross income declared in the income tax return of the recipient; and
3. That the fact of withholding is established by a copy of the statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.

Anent the first requirement, records show that for the fiscal year ending March 31, 1998, petitioner filed its claim for refund with the Bureau of Internal Revenue on August 25, 1999. On the other hand, this Petition for Review was filed on March 16, 2000. Clearly, both administrative and judicial claims were filed within the two-year prescriptive period reckoned from July 15, 1998, the date of filing of the 1998 FY final adjustment return *(Exhibit D)*.

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On the second requirement, the income upon which the 1998 creditable withholding taxes were withheld were included in the gross income of the petitioner declared in its 1997 and 1998 Annual Income Tax Returns, although with some exceptions. These exceptions were noted by the commissioned independent CPA in his report dated July 17, 2001 (Exhibit J-Revised), to wit:

B. Tracing of Related Sales to Year Reported in the ITR

Findings	Amount of Related Sales
(a) Sales reported as part of gross income in FY ended March 31, 1997 (FY 1997) and prior years, which were collected only in FY 1998.	P 72,973,007.51
(b) Sales to Honda Cars Quezon City and Honda Cars Manila, which were reported as part of gross income in FY 1997 and collected also in said fiscal year. CWT on these sales were withheld by customers (and included in the certificates) and recorded in the Company's books only in FY 1998.	342,914,621.88
Total of items (a) and (b) – Related Sales Reported as Part of Gross Income in Prior Years	P 415,887,629.39
(c) Sales reported as part of gross income in FY 1998 which were collected also in said fiscal year.	6,373,836,859.34
(d) Unverified items of income, i.e. sales which we were not able to trace to the corresponding current and prior years' sales ledgers.	4,063,498.38
Total of items (a) to (d): ***Total sales on which CWT amounting to P76,712,247.58 have been withheld by customers***	**P 6,793,787,987.11**

Petitioner's total creditable withholding taxes for the fiscal year 1998 amounted to P76,712,247.00. After applying the total 1998 creditable taxes withheld against the 1998

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income tax liability of P6,386,623.00, petitioner will have an excess tax credit in the amount of P70,325,624.00. The latter amount was verified to be unutilized.

On the third requirement, records show that petitioner submitted various Certificates of Creditable Taxes Withheld at Source to establish the fact of withholding, thus:

a. **Professional Fees**

WITHHOLDING AGENT	EXHIBIT	PERIOD		INCOME PAYMENT		TAX WITHHELD
Avesco Marketing	H-57	Jan '98 - Mar '98	P	2,371,736.37	P	118,586.82
Business Harmony Realty, Inc.	H-63	Apr '97 - Mar '98		2,634,400.40		131,720.02
Diez Corporation	H-8	Apr '97 - Jun '97		8,670,358.40		433,517.92
Diez Corporation	H-26	Jul '97 - Sep '97		8,562,828.20		428,141.41
Diez Corporation	H-60	Jan '98 - Mar '98		6,519,645.00		325,982.25
Fujitsu-Ten/Diez Corporation	H-44	Oct '97 - Dec '97		4,949,255.40		247,462.77
Hadsys Philippines Corporation	H-9	Apr '97 - Jun '97		26,046,703.63		1,302,335.18
Hadsys Philippines Corporation	H-61	Jan '98 - Mar '98		21,600.00		21,600.00
Hadsys Philippines Corporation	H-27	Jul '97 - Sep '97		27,652,685.45		1,382,634.27
Hadsys Philippines Corporation	H-45	Oct '97 - Dec '97		38,132,842.20		1,733,311.01
Hadsys Philippines Corporation	H-61	Jan '98 - Mar '98		1,671,516.88		1,671,516.88
Philippine Auto Components, Inc.	H-10	Apr '97 - Jun '97		714,120.00		33,054.00
Philippine Auto Components, Inc.	H-28	Jul '97 - Sep '97		92,400.00		4,620.00
Philippine Auto Components, Inc.	H-46	Oct '97 - Dec '97		126,960.00		6,348.00
Philippine Auto Components, Inc.	H-62	Jan '98 - Mar '98		187,200.00		9,360.00
Spirit Electronics Systems, Inc.	H-7	Apr '97 - Jun '97		3,285,623.64		164,281.18
Spirit Electronics Systems, Inc.	H-25	Jul '97 - Sep '97		3,127,854.40		156,392.72
Spirit Electronics Systems, Inc.	H-43	Oct '97 - Dec '97		1,716,766.60		85,838.33
Spirit Electronics Systems, Inc.	H-59	Jan '98 - Mar '98		4,424,881.20		221,244.06
Tecno Industrial Corporation	H-24	Jul '97 - Sep '97		3,182,309.72		159,115.49
Tecno Industrial Corporation	H-6	Apr '97 - Jun '97		5,053,219.21		252,660.96
Tecno Industrial Corporation	H-42	Oct '97 - Dec '97		3,965,848.60		198,292.43
Tecno Industrial Corporation	H-58	Jan '98 - Mar '98		6,950,486.70		315,931.22
		Subtotal	P	**160,061,242.00**	P	**9,403,946.92**

b. **Income from rental of real property**

WITHHOLDING AGENT	EXHIBIT	PERIOD		INCOME PAYMENT		TAX WITHHELD
Honda Engine Manufacturing, Inc.	H-11	Apr '97 - Jun '97	P	590,895.20	P	29,544.76
Honda Engine Manufacturing, Inc.	H-47	Oct '97 - Dec '97		776,909.40		38,845.47

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Hadsys Philippines Corporation	H-27	Jul '97 - Sep '97		432,000.00		21,600.00
Hadsys Philippines Corporation	H-45	Oct '97 - Dec '97		475,200.00		21,600.00
Honda Engine Manufacturing, Inc.	H-64	Jan '98 - Mar '98		590,895.60		29,544.78
Honda Engine Manufacturing, Inc.	H-29	Jul '97 - Sep '97		590,895.60		29,544.78
		Subtotal	**P**	**3,456,795.80**	**P**	**170,679.79**

c. **Income from sales**

WITHHOLDING AGENT	EXHIBIT	PERIOD		INCOME PAYMENT		TAX WITHHELD
Honda Engine Manufacturing , Inc.	H-11	Apr '97 - Jun '97	P	1,247,632.50	P	24,952.65
Honda Cars Alabang	H-33	Oct '97 - Dec '97		239,169,835.00		2,391,698.35
Honda Cars Alabang	H-52	Jan '98 - Mar '98		86,407,071.00		864,070.71
Honda Cars Alabang	H-53	Oct '97 - Dec '97		106,277,918.00		1,062,779.18
Honda Cars Alabang	H-3	Apr '97 - Jun '97		248,366,173.00		2,483,661.73
Honda Cars Alabang	H-15	Jul '97 - Sep '97		262,228,624.00		2,622,286.24
Honda Cars Cebu, Inc.	H-23	Jul '97 - Sep '97		39,005,499.00		390,054.99
Honda Cars Cebu, Inc.	H-41	Oct '97 - Dec '97		128,757,649.00		1,287,576.49
Honda Cars Cebu, Inc.	H-56	Jan '98 - Mar '98		1,129,555.42		1,129,555.42
Honda Cars Kalookan, Inc.	H-5	Apr '97 - Jun '97		292,881,946.00		2,928,819.46
Honda Cars Kalookan, Inc.	H-20	Jul '97		105,450,365.00		1,054,503.65
Honda Cars Kalookan, Inc.	H-21	Aug '97		108,220,593.00		1,082,205.93
Honda Cars Kalookan, Inc.	H-22	Sep '97		93,685,418.00		936,854.18
Honda Cars Kalookan, Inc.	H-38	Oct '97		65,206,881.00		652,068.81
Honda Cars Kalookan, Inc.	H-39	Nov '97		62,839,304.00		628,393.04
Honda Cars Kalookan, Inc.	H-40	Dec '97		112,145,694.00		1,121,456.49
Honda Cars Kalookan, Inc.	H-55	Jan '98 - Mar '98		268,907,985.00		2,444,618.11
Honda Cars Makati, Inc.	H-1	Apr '97 - Jun '97		363,910,262.00		3,639,102.62
Honda Cars Makati, Inc.	H-13	Jul '97 - Sep '97		330,022,862.00		3,300,228.62
Honda Cars Makati, Inc.	H-31	Oct '97 - Dec '97		251,974,305.00		2,519,743.05
Honda Cars Makati, Inc.	H-48	Jan '98 - Mar '98		153,777,958.00		1,537,779.58
Honda Cars Makati, Inc.	H-49	Jan '98 - Mar '98		101,699,428.00		1,016,994.28
Honda Cars Manila	H-19	Jul '97		60,403,988.00		604,039.88
Honda Cars Manila	H-37	Apr '97 - Jun '97		308,925,233.00		3,089,252.33
Honda Cars Pasig	H-2	Apr '97 - Jun '97		223,160,691.00		2,231,606.91
Honda Cars Pasig	H-14	Jul '97 - Sep '97		345,728,889.00		3,457,288.89
Honda Cars Pasig	H-32	Oct '97 - Dec '97		199,193,074.00		1,991,930.74
Honda Cars Pasig	H-50	Jan '98 - Mar '98		230,589,114.00		2,305,891.14
Honda Cars Quezon City, Inc.	H-4	Apr '97 - Jun '97		173,139,662.00		1,731,396.62
Honda Cars Quezon City, Inc.	H-16	Jul '97		156,949,140.00		1,569,491.40
Honda Cars Quezon City, Inc.	H-17	Aug '97		209,410,771.55		2,094,107.72
Honda Cars Quezon City, Inc.	H-18	Sep '97		186,791,668.11		1,867,916.67
Honda Cars Quezon City, Inc.	H-34	Oct '97 - Dec '97		329,286,573.48		3,292,865.73
Honda Cars Quezon City, Inc.	H-35	Apr '97 - Jun '97		195,117,383.00		1,951,173.83
Honda Cars Quezon City, Inc.	H-36	Apr '97 - Jun '97		195,105,811.00		1,951,058.11
Honda Cars Quezon City, Inc.	H-54	Jan '98 - Mar '98		482,117,274.17		4,821,172.74
Honda Cars Shaw	H-51	Jan '98 - Mar '98		73,936,880.00		739,368.80

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Honda Philippines, Inc.	H-12	Apr '97 - Jun '97		610.51		6.11
Yasaki Torres	H-30	Jul '97 - Sep '97		27,099.00		270.99
		Subtotal	**P**	**6,793,196,819.74**	**P**	**68,818,242.19**
		Total	**P**	**6,956,714,857.54**	**P**	**78,392,868.90**

The discrepancy between the amounts reflected in the certificates of creditable withholding tax at source in the gross amount of P78,392,868.90 and that of the creditable withholding taxes per books and ITR in the sum amount of P76,712,247.58 was elucidated by the commissioned independent CPA in his *(Exhibit-J)* revised report. It states:

> "We noted a difference between the total amount of CWT indicated in the certificates and the total amount of CWT recorded in the Company's books (Annex J-2).
>
> | | Amount of CWT |
> |---|---|
> | Total Amount of CWT per Certificates | P 78,392,868.80 |
> | Total Amount of CWT Per Books | 76,712,247.58 |
> | **Difference – CWT per Certificates is over by** | **P 1,680,621.22** |
>
> We understand that the above difference amounting to P1,680,621.22 may be accounted for as follows:
>
> (a) CWT on income recorded in FY 1998 were already included in the Certificates issued in FY 1998 by the customer, i.e. Hadsys Philippines Corporation, though not yet recorded in the Company's books since the corresponding income were still uncollected as of the end of FY 1998, thus resulting in higher CWT per Certificates than CWT per books (We understand that Hadsys records EWT and include these in the Certificates upon accrual, while the Company records CWT only upon collection);
>
> (b) Other adjustments to sales (e.g., sales returns, sales discounts, price adjustments, etc.), although already effected in the books are considered only in the CWT certificates after collection and receipt of the corresponding Certificates; and
>
> (c) Timing differences in the recording of CWT due to the following:
>
> i. Sales recorded in FY 1998 (current year) where the related payments were already issued by the customers also in FY 1998, but received by the Company only in FY 1999. Thus,

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the corresponding CWT for said sale was recorded by the Company only in FY 1999 when considered as collected by the Company (e.g., when the checks were received), while the same was already included in the Certificates issued by the customers upon release of the checks in FY 1998 when the related purchase was considered paid (e.g., CWT on a check payment issued by the customer in March 1998 was included in the Certificates issued by said customer for FY 1998, but was recorded by the Company only upon receipt of the check in April 1999).

ii. Sales recorded in FY 1997 where the related payments were already issued by the customers in FY 1997, but received by the Company only in FY 1998. Thus, the corresponding CWT for said sale was recorded by the Company only in FY 1998 when considered as collected by the Company (e.g., when the checks were received), while the same was already included in the Certificates issued by the customers upon release of the checks in FY 1997 when the related purchase was considered paid (e.g., CWT on a check payment issued by the customer in March 1997 was included in the Certificates issued by said customer for FY 1997, but was recorded by the Company only upon receipt of the check in April 1998).

WHEREFORE, in the light of the foregoing, the instant Petition for Review is hereby **PARTIALLY GRANTED.** Accordingly, respondent is hereby **ORDERED** to **ISSUE A TAX CREDIT CERTIFICATE** in favor of the petitioner in the reduced amount of P70,283,805.20, computed as follows:

Total Amount Claimed for 1998		P 70,325,624.00
Less: Creditable withholding taxes corresponding to the unverified income of P4,063,498.38 (Exhibit J-Revised)		
(a) From sales (P4,033,902.97 x 1%)	P 40,339.03	
(b) From rental (P29,595.42 x 5%)	1,479.77	41,818.80
Amount Refundable		**P 70,283,805.20**

SO ORDERED.

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

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I CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge

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