CTA Form No. 8

21-000158-0037

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10507

FORD GROUP PHILIPPINES, INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. NIKI BERYL B. DELA CRUZ
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

EMMANUEL C. ALCANTARA
AND ASSOCIATES LAW OFFICES
5th Floor, SGV I Building
6760 Ayala Avenue
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **July 10, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 11, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

FORD GROUP PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 10507**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 10 2024 10:40AM

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DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review*[1] praying for the refund in the amount of ₱262,074,181.00, allegedly representing petitioner's excess and unutilized creditable withholding taxes (CWTs) for calendar year (CY) 2018.

THE PARTIES

Petitioner Ford Group Philippines, Inc. is registered with the Securities and Exchange Commission as the Philippine Branch Office of Ford Group Philippines, Inc. (formerly FGP, Incorporated), a foreign corporation organized and existing under the laws of the State of Delaware, United States of America.[2] Its principal place of business is located on the 8th Floor, Filinvest One Building, Northgate Cyberzone, Filinvest City, Alabang, Muntinlupa City.[3] It is engaged in wholesale distribution and importation of automotive vehicles, parts, and components and provides services relating to the same.[4] It is

[1] Docket, pp. 6-23.
[2] Exhibits "P-1" to "P-3" and "P-5", Docket, pp. 466-505 and 508-523, respectively.
[3] Par. 4, *Petition for Review*, Docket, p. 7; Exhibit "P-4", Docket, pp. 506-507.
[4] Exhibits "P-2" and "P-3-A", Docket, pp. 475 and 477, respectively.

also registered with the BIR under Taxpayer's Identification No. (TIN) 206-377-654-00000.[5]

Respondent Commissioner of Internal Revenue (CIR) is empowered to perform the duties of his office, including acting upon protest cases and approval of claims for refund or tax credit as provided by law and implementing regulations. He can be served with notices and other processes at the Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.[6]

THE FACTS

On April 13, 2019, petitioner filed its Annual Income Tax Return (ITR) for CY 2018 *via* the BIR's Electronic Filing and Payment System (eFPS).[7] Subsequently, it filed an Amended Annual ITR on May 16, 2019,[8] which reflected the following Tax Credits/Payments:[9]

Schedule 7 - Tax Credits/Payments	
Prior Year's Excess Credits Other Than MCIT	₱ 465,807,210.00
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	180,864,958.00
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	81,209,223.00
Total Tax Credits/Payments	**₱ 727,881,391.00**

Petitioner's 2018 Amended Annual ITR also reflected an overpayment of ₱695,311,325.00, computed as follows:[10]

Part II – Total Tax Payable	
Total Income Tax Due (Overpayment)	₱ 32,570,066.00
Less: Total Tax Credits/Payments	727,881,391.00
Total Amount Payable (Overpayment)	**(₱695,311,325.00)**

Petitioner marked the option "To be refunded" for the overpayment in its original and amended Annual ITR for CY 2018.[11]

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5 Exhibit "P-4", Docket, pp. 506-507.
6 Par. A (1), *Joint Stipulation of Facts and Issues* (JSFI), Docket, p. 264.
7 Exhibit "P-6", Docket, pp. 524-533.
8 Exhibit "P-6-F", Docket, pp. 537-544.
9 Exhibit "P-6-A", Docket, p. 542.
10 Exhibit "P-6-B", Docket, p. 537.
11 Exhibits "P-6" and "P-6-C", Docket, pp. 526 and 537, respectively.

On September 23, 2020, petitioner filed with the BIR an *Application for Tax Credits/Refunds* (BIR Form No. 1914)[12] and a letter of even date,[13] requesting a refund of its excess CWTs for CY 2018 in the amount of ₱262,074,181.00.

PROCEEDINGS BEFORE THIS COURT

On May 17, 2021, petitioner elevated its claim for a refund *via* the present *Petition for Review,* alleging inaction by respondent. [14]

On July 15, 2021, respondent filed his *Motion to Admit Attached Answer and Manifestation,*[15] which the Court granted and noted in the Resolution dated October 27, 2021[16] which admitted the *Answer.*[17]

On December 6, 2021, respondent transmitted the BIR Records of this case, consisting of 239 pages, in one (1) folder.[18]

The Pre-Trial Conference was initially set for January 20, 2022,[19] but was later reset to and held on March 31, 2022.[20] Prior thereto, petitioner's *Pre-Trial Brief* was filed on December 15, 2021,[21] while *Respondent's Pre-Trial Brief* was submitted on March 8, 2022.[22]

On April 19, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*[23] stating, among others, that respondent would not present a witness, considering that there is no report on the audit findings.[24] The Court approved the same in the Resolution dated April 28, 2022,[25] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated May 23, 2022, was then issued.[26]

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[12] Exhibit "P-11", Docket, p. 618.
[13] Exhibit "P-12", Docket, pp. 619-621.
[14] Docket, pp. 6-23.
[15] *Id.*, pp. 206-209.
[16] *Id.*, pp. 228.
[17] *Id.*, pp. 216-225.
[18] *Compliance* dated November 25, 2021, Docket, pp. 235-237.
[19] Notice of Pre-Trial Conference dated November 4, 2021, Docket, pp. 232-234.
[20] Order dated February 9, 2022, Docket, p. 250; Minutes of the hearing held on, and Order dated, March 31, 2022, Docket, pp. 256-256-B and 257-257-B, respectively.
[21] Docket, pp. 239-248.
[22] *Id.*, pp. 251-253.
[23] *Id.*, pp. 264-271.
[24] Par. F, JSFI, Docket, p. 270.
[25] Docket, p. 274.
[26] *Id.*, pp. 294-302.

As the trial ensued, petitioner presented testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Ms. Jo-Anne T. Matas,[27] petitioner's Tax Manager; and (2) Joel C. Romano,[28] the Court-commissioned Independent Certified Public Accountant (ICPA).[29]

The *Report* of the ICPA was submitted on July 4, 2022.[30]

Petitioner filed its *Formal Offer of Evidence* on July 21, 2022,[31] to which respondent filed his *Comment (on Petitioner's Formal Offer of Evidence)* on August 2, 2022.[32]

In the Resolution dated September 13, 2022,[33] the Court admitted petitioner's offered exhibits, *except* for Exhibit "P-6-D," for petitioner's failure to identify the same.

Thereafter, petitioner filed a *Motion for Reconsideration to the Resolution dated September 13, 2022,* on September 28, 2022,[34] while respondent failed to file a comment thereto.[35] The Court, in the Resolution dated August 2, 2023,[36] granted petitioner's motion, admitting in evidence Exhibit "P-6-D."

On October 7, 2022, petitioner filed its *Memorandum*,[37] while respondent submitted his *Memorandum* on October 18, 2022.[38]

The case was submitted for decision on August 2, 2023.[39]

THE ISSUE

As stipulated by the parties, the sole issue for this Court's resolution is as follows:

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27 Exhibit "P-14", Docket, pp. 26-35; Minutes of the hearing held on, and Order dated, May 24, 2022, Docket, pp. 303-306 and 308-309, respectively.
28 Exhibits "P-38", Docket, pp. 376-386; Minutes of the hearing held on, and Order dated, July 12, 2022, Docket, pp. 448-453.
29 *Oath of Commission* dated May 24, 2022, Docket, p. 307; Minutes of the hearing held on, and Order dated, May 24, 2022, Docket, pp. 303-306 and 308-309, respectively.
30 Exhibit "P-16", Docket, pp. 313-369.
31 Docket, pp. 454-464.
32 *Id.*, pp. 634-636.
33 *Id.*, pp. 644-645.
34 *Id.*, pp. 646-648.
35 Records Verification dated July 20, 2023, issued by the Judicial Records Division of this Court, Docket, p. 693.
36 Docket, pp. 699-700.
37 *Id.*, pp. 650-672.
38 *Id.*, pp. 679-688.
39 Resolution dated August 2, 2023, Docket, pp. 699-700.

WHETHER PETITIONER IS ENTITLED FOR TAX REFUND OF ITS EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAX (CWT) FOR THE YEAR 2018 AMOUNTING TO TWO HUNDRED SIXTY-TWO MILLION SEVENTY-FOUR THOUSAND AND ONE HUNDRED EIGHTY-ONE PESOS (PHP262,074,181.00).[40]

Petitioner's arguments:

Petitioner argues that the claim for refund should be granted because all necessary elements are present:

(a) that petitioner has filed both the administrative and judicial claims for refund within the two (2)-year prescriptive period provided for in Section 229 of the Tax Code, as amended; that the fact of withholding can be established by the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by different payors to petitioner showing the amount paid and the amount of tax withheld;

(b) that the CWTs in the amount of ₱262,074,181.00 were withheld from income payments to petitioner in the total amount of ₱26,138,846,057.00, which were declared as part of its total gross income (sales and other taxable income) in the Amended Annual ITR for the taxable year 2018;

(c) that in taxable year 2018, the sizable amount of its prior year's credits was more than enough to cover and pay the income tax due for 2018, and thus, the CWTs for 2018 were not needed in paying the income tax due for said taxable year, and remained unutilized which can be properly refunded to petitioner; that petitioner unequivocally indicated its intention to refund the excess and unutilized CWTs for the taxable year 2018 in its 2018 Annual ITR as it placed a tick mark on the box next to the words "To be refunded"; and

(d) that the Quarterly Income Tax Return for the first, second and third quarters of taxable year 2019, and the Final Adjustment Income Tax Return for taxable year 2019 clearly show that petitioner did not carry-over the excess 2018 CWTs, subject of the present petition.

Respondent's counter-arguments:

Respondent contends that petitioner is not entitled to a refund of the alleged excess and unutilized CWTs for taxable

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[40] Par. B, JSFI, Docket, p. 264.

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year 2018 in the amount of ₱262,074,181.00 because petitioner did not provide supporting documents to show that the income from which the CWT being claimed was declared in the Annual ITR. Respondent adds that petitioner should have presented evidence to prove the actual remittance of the alleged taxes to the BIR and that petitioner failed to prove compliance with Revenue Memorandum Order (RMO) No. 53-98[41] and Revenue Regulations (RR) No. 2-2006.[42]

THE COURT'S RULING

The Court has jurisdiction over the instant Petition.

Given the timely filing of the instant Petition for Review, as discussed below, the Court has jurisdiction to take cognizance of this case pursuant to Section 3(a)(2), Rule 4[43] of the Revised Rules of the Court of Tax Appeals (RRCTA).

Petitioner complied with Section 76 of the NIRC of 1997 and has not carried over the excess CWTs being claimed for refund.

Section 76 of the National Internal Revenue Code (NIRC) of 1997, as amended, governs the procedure for corporate taxpayers to file claims for refund or credit of excess income tax payments or unutilized CWT, *viz.*:

> SEC. 76. *Final Adjustment Return.* — Every corporation liable to tax under Section 27 shall file a final adjustment

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[41] SUBJECT: Checklist of Documents-be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements-be Prepared by a Revenue Officer, all of which Comprise a Complete Tax Docket.

[42] SUBJECT: Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected-Tax Withheld at Source (SAWT)-Tax Returns With Claimed Tax Credits due-Creditable Tax Withheld at Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected-Withholding Tax-the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments.

[43] SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:
....
(2) Inaction by 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 Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: ... and Provided, still further, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;

> 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.** (*Emphasis added*)

In fine, a taxable corporation whose total quarterly income tax payments in a given taxable year exceed its total income tax due may either (1) **carry over** the excess amount to the succeeding taxable quarters/years until it is fully utilized, or (2) file a **claim for refund** in the form of cash or tax credit certificate. However, once the carry-over option is actually or constructively taken, it becomes irrevocable for that taxable period.[44] The phrase "for that taxable period" refers to the taxable year when the excess income tax, subject of the option, was acquired by the taxpayer.[45]

In exercising its option, the corporation must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention to carry over the excess credit or claim a refund. To facilitate tax collection, these remedies are in the alternative, and the choice of one precludes the other.[46]

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[44] *Rhombus Energy, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206362, August 1, 2018, citing the case of *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015; *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 156637 & 162004, December 14, 2005; *Systra Philippines, Inc v. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.

[45] *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015; *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.

[46] *Philippine Bank of Communications v. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.

A perusal of petitioner's Amended Annual ITR for CY 2018[47] shows that petitioner had income tax credits in the total amount of ₱727,881,391.00, consisting of the: (i) prior year's excess tax credits in the amount of ₱465,807,210.00, and (ii) CWTs accumulated during the four (4) quarters of CY 2018, in the aggregate amount of ₱262,074,181.00 (the sum of ₱180,864,958.00 and ₱81,209,223.00).[48]

Petitioner claims that its prior year's excess credits of ₱465,807,210.00 were applied against its minimum corporate income tax (MCIT) due for CY 2018 in the amount of ₱32,570,066.00;[49] thus, leaving the balance of the prior year's excess tax credits in the amount of ₱433,237,144.00 and creditable taxes withheld during the CY 2018 in the amount of ₱262,074,181.00, or a total of ₱695,311,325.00, unutilized as of December 31, 2018, as shown below:

Prior Year's Excess Credits other than MCIT	₱465,807,210.00
Less: Income Tax Due (MCIT)	32,570,066.00
Balance of Prior Year's Excess Credits	₱433,237,144.00
Add: Creditable Taxes Withheld – CY 2018	262,074,181.00
Excess Creditable Taxes Withheld as of December 31, 2018	**₱695,311,325.00**

With regard to the prior year's excess credits, Section 2.58.3 of Revenue Regulations No. 2-98[50] provides that the excess CWTs of a taxable year, which were opted to be carried over to the succeeding taxable year, are automatic credits against the income tax due of such succeeding taxable year, so long as the amount of excess CWTs is evidenced by the ITR for the taxable year when such excess credits arose, to wit:

> SEC. 2.58.3. *Claim for Tax Credit or Refund.* —
>
> ... ...
>
> (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**

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[47] Exhibit "P-6-F", Docket, pp. 537-544.
[48] Exhibit "P-6-A", Docket, p. 542.
[49] Exhibit "P-6-B", Line 16, Docket, p. 537.
[50] SUBJECT: 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

> **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." (*Emphasis added*)

Simply put, the submission of the Annual ITR for the preceding taxable year (CY 2017 in this case) is sufficient to substantiate the "Prior Year's Excess Credits other than MCIT" reported in a taxpayer's Annual ITR for the current taxable year (CY 2018 in this case).

Here, petitioner presented its Annual ITR for CY 2017, showing the excess tax credits amounting to ₱609,074,610.00, [51] which consisted of prior year's excess credits of ₱228,692,478.00 and CWTs during CY 2017 in the amount of ₱380,382,132.00, as shown below:

Prior Year's Excess Credits other than MCIT		₱271,138,903.00
Less: Income Tax Due (MCIT)		42,446,425.00
Balance of Prior Year's Excess Credits		₱228,692,478.00
Creditable Taxes Withheld – CY 2017:		
Creditable Tax Withheld from Previous Quarter/s per BIR Form No. 2307	₱276,753,795.00	
Creditable Tax Withheld per BIR Form No. 2307 for the 4th Quarter	103,628,337.00	380,382,132.00
Excess Creditable Taxes Withheld as of December 31, 2017		**₱609,074,610.00**

In its Annual ITR for CY 2017, petitioner indicated the option "To be refunded" for its excess and unutilized CWTs for CY 2017.[52] However, petitioner carried over to the succeeding CY 2018 the amount of ₱465,807,210.00[53] as "Prior Year's Excess Credits other than MCIT" instead of the balance of the prior year's excess credits as of the end of CY 2017 in the amount of ₱228,692,478.00, as computed above.

The ICPA explained that comparison of the amount of excess CWT reflected in the amended Annual ITR for CY 2018 against the amount of excess CWT disclosed in Note 6 of the Audited Financial Statements (AFS) for the same year shows a difference of ₱237,114,144.00 [54] allegedly due to the

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[51] Exhibit "P-26-a", Part II-Line 20 and Schedule 7, pp. 1 and 6 of 8, USB.
[52] Exhibit "P-26-a", Part II-Line 21, p. 1 of 8, USB.
[53] Exhibit "P-6-A", Line 1, Docket, p. 542.
[54] With ₱588.00 discrepancy.

Difference per ICPA [Exhibit "P-16" (ICPA Report), Docket, p. 321, par. 3]		
Per Amended AITR CY 2018	₱433,237,144.00	

amendment in the 2018 Annual ITR to reinstate the CWTs that were previously applied for refund for the years 2008 and 2014 but which were reverted to CWTs available for credit against current income tax.[55]

Since the balance of the prior year's excess credits as of the end of CY 2017 in the amount of ₱228,692,478.00 per Annual ITR for CY 2017, which was carried over to the succeeding CY 2018 as part of the "Prior Year's Excess Credits other than MCIT" in the amount of ₱465,807,210.00,[56] is more than enough to cover the MCIT due of ₱32,570,066.00 for CY 2018, the CWTs during CY 2018, in the amount of ₱262,074,181.00, remained unutilized as of the end of CY 2018.

Further, in its original and amended Annual ITR for CY 2018, petitioner indicated the option "To be refunded" for its excess and unutilized CWTs for CY 2018.[57] Also, the excess CWTs during CY 2018 in the amount of ₱262,074,181.00 were not carried over to the succeeding taxable periods as only the balance of the prior year's excess tax credits as of the end of CY 2018, for ₱433,237,144.00 (rounded off amount), was reflected in petitioner's Quarterly ITRs[58] and Annual ITR[59] for CY 2019 as "Prior Year's Excess Credits other than MCIT."

Thus, the said excess and unutilized CWTs during CY 2018 in the amount of ₱262,074,181.00 may be the subject of a claim for refund under Section 76 of the NIRC of 1997, as amended.

Other requisites for a claim for refund of excess or unutilized CWTs.

In addition to the requisites under Section 76 of the NIRC of 1997, as amended, jurisprudence[60] dictates that for a

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Per AFS Disclosure *Difference per Court*	196,123,000.00	₱237,114,144.00
Prior Year's Excess Credits carried-over-CY 2018 (Exhibit "P-6-A", Line 1, Docket, p. 542)	₱465,807,210.00	
Balance of prior year's excess credits as of end of CY 2017	228,692,478.00	237,114,732.00
Discrepancy		₱(588.00)

55 Exhibit "P-16" (ICPA Report), Docket, pp. 320-321, par. 3.
56 Exhibit "P-6-A", Line 1, Docket, p. 542.
57 Exhibits "P-6" and "P-6-C", Line 21, Docket, pp. 526 and 537, respectively.
58 Exhibits "P-7", "P-8" and "P-9", Line 31A, Docket, pp. 605, 607 and 609, respectively.
59 Exhibit "P-10", Schedule 7, Line 1, Docket, p. 615.
60 *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. No. 211348, February 23, 2022.

taxpayer to be entitled to a refund or an issuance of a tax credit certificate for unutilized excess CWTs, the following three (3) requisites must be further complied with:

1. The claim for refund must be filed within the two-year prescriptive period as provided under Sections 204(C) and 229 of the NIRC of 1997;

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

3. The income upon which the taxes were withheld must be included in the return of the recipient.[61]

The submission of complete documents, as stated in RMO No. 53-98 and RR No. 2-2006, is not a requirement for a grant of tax refund.

Before tackling the merits of this case, this Court shall first address respondent's claim that petitioner's failure to submit relevant documents under RMO No. 53-98 and RR No. 2-2006 deprived him of the opportunity and time to study petitioner's claim and exercise his function fully. Respondent contends that failure on the part of the taxpayer to submit relevant documents on the administrative level makes the administrative claim for refund or credit *pro forma* and shall be construed as if no administrative claim was filed at all.

We disagree.

A review of RMO No. 53-98 and RR No. 2-2006 does not indicate that the non-submission of the enumerated documents would *ipso facto* result in the denial of the claim for tax refund or credit. RR No. 2-2006 merely imposes a penalty of fine for non-submission of the information or statement required therein, but not the outright denial of any tax refund or credit claim.[62]

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[61] *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015; *United International Pictures AB v. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012; *Citibank N.A. v. Court of Appeals*, et al., G.R. No. 107434, October 10, 1997; *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; Section 2.58, Revenue Regulations No. 2-98, as amended.

[62] *Philippine National Bank v. Commissioner of Internal Revenue*, G.R. Nos. 242647 & 243814 & 242842-43 (Notice), March 15, 2022.

At any rate, even if petitioner failed to submit the complete documents at the administrative level, it would not render its Petition for Review dismissible. In *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.),* [63] the Supreme Court ruled as follows:

> In this case, it was the inaction of petitioner CIR which prompted respondent to seek judicial recourse with the CTA. Petitioner CIR did not send any written notice to respondent informing it that the documents it submitted were incomplete or at least require respondent to submit additional documents. As a matter of fact, petitioner CIR did not even render a Decision denying respondent's administrative claim on the ground that it had failed to submit all the required documents.
>
> Considering that the administrative claim was never acted upon, there was no decision for the CTA to review on appeal *per se*. However, this does not preclude the CTA from considering evidence that was not presented in the administrative claim with the BIR. Thus, RA No. 1125 states:
>
>> Section 8. *Court of record; seal; proceedings.* — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.
>
> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.
>
> Cases filed in the CTA are litigated *de novo* as such, respondent 'should prove every minute aspect of its case by presenting, formally offering and submitting ... to the Court of Tax Appeals all evidence ... required for the successful prosecution of its administrative claim. Consequently, **the CTA may give credence to all evidence presented by respondent, <u>including those that may not have been submitted to the CIR</u> as the case is being**

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[63] G.R. No. 231581, April 10, 2019.

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> **essentially decided in the first instance.** (*Emphasis and underscoring added*)

Since this case is being essentially decided in the first instance, as respondent's inaction on petitioner's claim for refund prompted the latter to seek judicial recourse, this Court may give credence to all evidence presented by petitioner, including those that may not have been submitted at the administrative level.

We now examine whether petitioner has complied with the three (3) requisites established by jurisprudence.

***First requisite**: petitioner's administrative and judicial claims for refund were timely filed.*

Anent the *first* requisite, the pertinent provisions are Sections 204(C) and 229 of the NIRC of 1997, as amended, which provide as follows:

> 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. (*Emphasis added*)
>
> 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

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> 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." (*Emphasis added*)

The above-stated provisions mandate that the administrative and judicial remedy of filing a claim for refund of erroneously or excessively paid tax must be done within two (2) years from the date of payment of the tax.

It is well settled that the two (2)-year prescriptive period for claiming a refund of overpaid income tax/CWTs commences on the date of filing of the Final Adjustment Return (FAR)[64] (or Annual ITR). This is because the taxpayer only knows whether a tax is still due or a refund can be claimed based on the adjusted and audited figures when the FAR covering the whole year is filed.[65] In other words, it is only logical to reckon with the two-year prescriptive period from the time the FAR or the Annual ITR was filed since it is only at that time that it would be possible to determine whether the corporate taxpayer paid an amount exceeding its annual income tax liability.[66]

In this case, petitioner electronically filed its Annual ITR for CY 2018 on April 13, 2019.[67] Thus, counting two (2) years, petitioner had until April 13, 2021, to file administrative and judicial claims. Records show that petitioner seasonably filed its administrative claim for a refund on September 23, 2020.[68] However, the present *Petition for Review* was only filed on May 17, 2021.[69]

Notably, due to the physical closure of the courts brought about by COVID-19, the Supreme Court issued the following Administrative Circulars (ACs) suspending the filing periods for

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

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

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

67 Exhibit "P-6", Docket, pp. 525-533.

68 Exhibits "P-11" and "P-12", Docket, pp. 618-621.

69 Docket, pp. 6-23.

pleadings and court submissions for courts in the National Capital Region and nearby provinces until the physical reopening of the relevant courts, to wit:

Issuance	Date Issued	Content
AC No. 21-2021	April 10, 2021	RE: EXTENSION OF PHYSICAL CLOSURE OF COURT "Considering the unabated rise of COVID-19 cases, the requests of the judges and court personnel, and upon the concurrence of the members of the Court *en banc*, ALL the courts and judicial offices in the National Capital Judicial Region ... **shall remain physically closed until 18 April 2021**. ... ... The time for filing and service of pleadings and motions during this period is SUSPENDED and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court."
AC No. 22-2021	April 14, 2021	RE: PHYSICAL CLOSURE OF COURTS IN ENHANCED COMMUNITY QUARANTINE AND MODIFIED ENHANCED COMMUNITY QUARANTINE AREAS "Considering that the National Capital Region, ... are under Modified Enhanced Community Quarantine (MECQ) until 30 April 2021, the physical closure of courts in the said areas is likewise **extended to 30 April 2021.** ... The time for filing and service of pleadings and motions during this period is SUSPENDED and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court."
AC No. 29-2021	April 30, 2021	RE: WORK ARRANGEMENTS IN COURTS ON 3 – 14 MAY 2021 "Considering that the National Capital Region... continue to be under Modified Enhanced Community Quarantine (MECQ) until 14 May 2021, ALL first and second level courts, and appellate collegiate courts, and their judicial offices in the said areas **shall continue to be physically closed until 14 May 2021**.

Issuance	Date Issued	Content
		... The time for filing and service of pleadings and motions during this period in these areas is SUSPENDED and **shall resume after seven (7) calendar days counted from the first day of the physical reopening of the relevant court**."
AC No. 33-2021	May 14, 2021	RE: COURT OPERATIONS STARTING 17 MAY 2021 "Considering that the National Capital Region ... have been placed under General Community Quarantine (GCQ) starting 15 May until 31 May 2021, all first and second level courts, and appellate collegiate courts (except the Supreme Court), and the judicial offices in these areas under GCQ **shall be physically opened** with a skeleton force of at least thirty percent (30%) to at most fifty percent (50%), **beginning 17 May 2021** until further notice."

Based on the foregoing circulars, the reopening of courts resumed on May 17, 2021, and petitioner had seven (7) days from this date, or until May 24, 2021, to file its *Petition for Review.* As such, petitioner timely filed its administrative claim with the BIR on September 23, 2020,[70] and its judicial claim before this Court on May 17, 2021,[71] thus fulfilling the *first* requisite.

Second requisite*: petitioner established the fact of withholding but only to the extent of ₱233,864,381.78.*

With regard to the *second* and *third* requisites, Section 2.58.3(B) of RR No. 2-98, as amended, states:

> 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**

[70] Exhibits "P-11" and "P-12", Docket, pp. 618-621.
[71] Docket, pp. 6-23.

> **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.** (*Emphasis added*)

The *second* requisite mandates petitioner to prove the fact of withholding of the claimed CWTs through a copy of the statement duly issued by the payor (withholding agent) to the payee showing the names of the payor and payee, the income payment and the amount of tax withheld therefrom.

Respondent, however, contends that proof of actual remittance of the taxes withheld to the BIR is indispensable in a claim for refund of excess CWT.

In *Commissioner of Internal Revenue v. Philippine National Bank*, [72] the Supreme Court ruled that proof of actual remittance is not a condition to claim a refund of unutilized tax credits:

> 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 responsibility of withholding and remitting income taxes**. (*Emphases and underscoring added*)

Thus, respondent's contention that proof of actual remittance of the taxes withheld to the BIR is indispensable lacks merit.

In the same case, the Supreme Court further held that the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307), complete in relevant details, is the competent proof to establish that taxes are withheld. [73]

To prove the fact of withholding of the claimed CWTs during CY 2018 in the amount of ₱262,074,181.00, petitioner presented various BIR Forms No. 2307[74] issued to it by its clients and its Summary Alphalist of Withholding Taxes (SAWT)

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[72] G.R. No. 180290, September 29, 2014.
[73] *Id.*
[74] Exhibits "P-18-a" to "P-18-hc", USB.

for CY 2018,[75] which were all examined by the Court-commissioned ICPA.

Based on the ICPA's verification, the total CWTs per the supporting BIR Forms No. 2307 amounted to ₱262,347,163.49.[76] Upon comparison of the CWTs claimed per SAWT in the amount of ₱262,074,181.00 (rounded off amount) as against the CWTs reflected in the BIR Forms No. 2307 in the amount of ₱262,347,163.00 (rounded off amount), the ICPA noted a difference amounting to ₱272,982.00, broken down as follows:[77]

Particulars	Amount	Exhibit Reference
Unclaimed CWTs		
Millennium Cars Mindanao Inc.	₱263,069.00	"P-20"
Fairlane Automotive Ventures, Inc.	7,750.00	"P-20"
Subtotal	270,819.00	
Typographical error per CWT certificates		
Westcoast Automotive Corporation	1,000.00	"P-20"
MJTY Auto Corp.	1,000.00	"P-20"
Michigan Motors Inc.	831.00	"P-20"
Dearborn Motors Co., Inc.	(330.00)	"P-20"
Subtotal	2,501.00	
No CWT certificates provided		
(Blooms With Looms Logistics, Inc.)	(338.00)	"P-19"
Subtotal	(338.00)	
Total	**₱272,982.00**	

The unclaimed CWTs, in the total amount of ₱270,819.00, shall not affect petitioner's claim since these pertain to CWTs supported by BIR Forms No. 2307 but were not part of the claimed CWTs per SAWT.

The alleged typographical errors per CWT certificates resulted in a net discrepancy of ₱2,501.00 (rounded-off amount). Since there is no proof that the discrepancy was only due to typographical errors in BIR Forms No. 2307, the said finding should be treated as an unsubstantiated allegation.

Considering that the CWT amounts per BIR Forms No. 2307 do not tally with the claimed CWT amounts per SAWT and the discrepancies thereon were not reconciled, it cannot be determined with certainty whether the CWTs supported by BIR

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[75] Exhibits "P-13" to "P-13-C", Docket, pp. 622-633.
[76] Exhibit "P-18", Docket, pp. 336-341.
[77] Exhibit "P-16" (ICPA Report), Docket, p. 320, par. 2.

Forms No. 2307 formed part of the claimed CWTs per SAWT. As such, the entire amount of CWTs claimed related to the said discrepancies, totaling ₱28,209,461.36, as detailed below, shall be disallowed:

Payor Name	Per BIR Form No. 2307		Per SAWT		Discrepancy
	Exhibit No.[78]	CWT	Exhibit No.[79]	CWT	
WESTCOAST AUTOMOTIVE CORPORATION	"P-20-b" ("P-18-cl")	₱813,484.71			
	"P-20-b" ("P-18-cp")	506,590.46			
	"P-20-b" ("P-18-cv")	241,429.31			
	Total	*₱1,561,504.48*	"P-13-A"	₱1,560,504.48	₱1,000.00
MJTY AUTO CORP	"P-20-d" ("P-18-fz")	₱1,254,003.77			
	"P-20-d" ("P-18-ga")	28,539.95			
	"P-20-d" ("P-18-gb")	2,211,879.45			
	"P-20-d" ("P-18-gc")	25,451.73			
	"P-20-d" ("P-18-gd")	160,367.34			
	Total	*₱3,680,242.24*	"P-13-C"	3,679,242.24	1,000.00
MICHIGAN MOTORS INC.	"P-20-c" ("P-18-dl")	₱21,873.60			
	"P-20-c" ("P-18-ek")	2,556.13			
	Total	*₱24,429.73*	"P-13-B"	23,598.84	830.89
DEARBORN MOTORS CO., INC.	"P-20-c" ("P-18-cw")	₱2,484,510.28			
	"P-20-c" ("P-18-cx")	233,193.77			
	"P-20-c" ("P-18-cy")	613,005.26			
	"P-20-c" ("P-18-cz")	234,476.79			
	"P-20-c" ("P-18-da")	3,528,450.14			
	"P-20-c" ("P-18-db")	193,068.84			
	Total	*₱7,286,705.08*	"P-13-B"	7,287,005.08	(300.00)
	"P-20-d" ("P-18-fa")	2,986,434.62			
	"P-20-d" ("P-18-fb")	3,868,290.05			
	"P-20-d" ("P-18-fc")	8,358,370.22			
	"P-20-d" ("P-18-fd")	207,584.86			
	"P-20-d" ("P-18-fe")	238,400.97			
	Total	*₱15,659,080.72*	"P-13-C"	15,659,110.72	(30.00)
Total		₱28,211,962.25		**₱28,209,461.36**	₱2,500.89

Anent the CWTs of ₱337.79[80] (₱338.00 is rounded off amount) from the sales to Bloom with Looms Logistics, Inc., the same shall likewise be disallowed for being unsupported by BIR Form No. 2307.

Thus, in compliance with the *second* requisite, petitioner has proven the fact of withholding of its CWTs for CY 2018, but only to the extent of ₱233,864,381.78, computed as follows:

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[78] Docket, pp. 352 (for Exhibit "P-20-b"), 353 and 355 (for Exhibit "P-20-c"), 359 and 362 (for Exhibit "P-20-d").
[79] Docket, pp. 627 (for Exhibit "P-13-A"), 630 (for Exhibit "P-13-B") and 633 (for Exhibit "P-13-C").
[80] Exhibit "P-19", Docket, p. 342.

Claimed CWTs per SAWT		₱262,074,180.93[81]
Less: Disallowances		
CWTs with supporting BIR Forms No. 2307 but do not tally with the claim per SAWT	₱28,209,461.36	
Unsupported CWTs	337.79	28,209,799.15
Properly Substantiated CWTs		**₱233,864,381.78**

***Third requisite**: petitioner failed to prove that the income payments subjected to CWTs were reported as part of its gross income in its Annual ITR.*

As regards the *third* requisite, petitioner must prove that the income payments from which the substantiated CWTs of ₱233,864,381.78 were withheld were declared as part of petitioner's gross income in its Annual ITR. To comply therewith, petitioner presented its AFS[82] and General Ledger (GL)[83] for CY 2018.

As can be gleaned from petitioner's Amended Annual ITR and AFS for CY 2018, the Revenues/Net Sales declared therein amounted to ₱30,015,143,075.00[84] and ₱30,015,143,000.00[85] (rounded off amount), respectively. These amounts tally with the Revenue/Net Sales appearing in the GL for CY 2018, totaling ₱30,015,143,074.86, detailed as follows:[86]

Account Description	Account Balance
DELIVERY & TRUCKING (23A01A00_IFDT)	₱(100,192,385.88)
Rev Veh-Dealer Gross.	(29,955,584,104.49)
ADM-MKTG-OTHERS (23A01A21_VROT)	421,913.10
ADM-RETAIL VAR.MKTG EXP (23A01A1_VRRE)	665,840,180.81
Rev Veh-Var Mktg Retail. ADM-FLEET VAR.MKTG EXP (23A01A23_VRFL)	20,996,088.85
Rev Veh-Var Mktg Fleet.	746,428.57
Var Marketing wholesale (23A01B21_VRWS)	588,933,045.96
Rev P&A-Dealers Gross.	(1,415,514,016.82)

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81 Sum of ₱73,636,672.69, ₱61,413,571.98, ₱45,814,712.91 and ₱81,209,223.35, Exhibits "P-13", "P-13-A", "P-13-B" and "P-13-C", Docket, pp. 624, 627, 630 and 633, respectively.
82 Exhibit "P-6-E", Docket, pp. 545-602.
83 Exhibit "P-28", USB.
84 Exhibit "P-6-D", Line 30, Docket, p. 538.
85 Exhibit "P-6-E", Docket, p. 555.
86 Exhibit "P-28", pp. 3 and 6 of 6, USB.

Harmonised Remuneration Scheme (23A55G00_ERA) Rev Other Sales - Outside Cust.	(67,657.18)
Rev P&A Interco	(5,743,468.68)
O/Ded-Sundry-Other	84,862,799.96
COS-Customer Appreciation	46,589,537.77
Rev Veh-Dealer Floor Plan	71,635,078.49
SSP Free program (23A50A40_SSPFRE)	(18,061,541.32)
Rev Sales Commissions-Outside	(4,501.00)
Harmonised Remuneration Scheme (23B55G00_ERA)	(473.00)
Total	**₱(30,015,143,074.86)**

However, it cannot be verified that the income payments per SAWT in the amount of ₱26,138,846,056.85 were already included in the revenues reflected in the GL, *viz.*:

Period (CY 2018)	Exhibit No.	Income Payments per SAWT	CWT per SAWT
1st Quarter	"P-13" [87]	₱7,356,014,256.21	₱73,636,672.69
2nd Quarter	"P-13-A" [88]	6,136,888,734.72	61,413,571.98
3rd Quarter	"P-13-B" [89]	4,558,151,840.70	45,814,712.91
4th Quarter	"P-13-C" [90]	8,087,791,225.22	81,209,223.35
	Total	**₱26,138,846,056.85**	**₱262,074,180.93**

Petitioner did not provide a reconciliation of the difference between the amounts of revenues per GL (₱30,015,143,074.86) and income payments per SAWT (₱26,138,846,056.85) nor a detailed tracing of the income payments to the GL to ascertain whether the income payments corresponding to the substantiated CWTs claimed were indeed included in the declared revenue per its Annual ITR for CY 2018.

Thus, petitioner failed to satisfy the *third* requisite, *i.e.*, the income payments upon which the substantiated CWTs of ₱233,864,381.78 were withheld were declared as part of petitioner's gross income in its Annual ITR.

For petitioner's failure to sufficiently prove its entitlement to refund the amount of ₱262,074,181.00 for its excess and unutilized CWTs for CY 2018, the present claim must necessarily fail.

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87 Docket, p. 624.
88 *Id.*, p. 627.
89 *Id.*, p. 630.
90 *Id.*, p. 633.

We reiterate that actions for tax refund, as in the present case, are in the nature of a claim for exemption. As such, the law is not only construed in *strictissimi juris* against the taxpayer, the pieces of evidence presented entitling a taxpayer to an exemption must also be *strictissimi* scrutinized and duly proven. The burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented, as they are not intended to be liberally construed.[91]

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[91] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

CERTIFICATION

Pursuant to Article VIII, Section 13 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