

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Second Division

RENOIR IMPLEMENTATION
SERVICES, INC.,

Petitioner,

CTA CASE NO. 11130

Members:

- versus -

RINGPIS-LIBAN, P.J., *Chairperson*,
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

Promulgated:

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DECISION

RINGPIS-LIBAN, J.:

The Case

The *Petition for Review* filed on April 17, 2023, prays for the refund in the amount of Php23,749,510.31, allegedly representing petitioner's accumulated excess creditable withholding taxes (CWTs) for calendar year (CY) 2020.¹

The Facts

Petitioner Renoir Implementation Services, Inc. is a corporation organized and existing under the laws of the Philippines, registered with the Securities and Exchange Commission.² It is also registered with the Bureau of Internal Revenue (BIR) under Taxpayer Identification No. 212-335-168-00000, with principal place of business at 28/F, Tower II, The Enterprise Center, 6766 Ayala

¹ Summary of the Case, Pre-Trial Order dated May 22, 2024, Docket – Vol. II, p. 605.

² Exhibit "P-2", Docket – Vol. II, pp. 704 to 715.

Avenue corner Paseo de Roxas, San Lorenzo, 1223 City of Makati NCR, Fourth District Philippines.³

Respondent is the head of the Bureau of Internal Revenue (“BIR”) and is vested by law with the power to decide, approve, and grant claims for refund or tax credit of internal revenue taxes. Respondent is represented by the Legal Division of Revenue Region 8A-Makati City, located at the 36th Floor, Export Bank Plaza Building, Chino Roces Ave. corner Sen. Gil Puyat Avenue, Makati City.⁴

Petitioner filed its original *Annual Income Tax Return* (BIR Form No. 1702-RT) (Annual ITR), and amended Annual ITR, for CY 2020 on April 15, 2021,⁵ and November 17, 2021,⁶ respectively.

Subsequently, on March 8, 2023, petitioner filed its *Application for Tax Credits/Refunds* (BIR Form No. 1914),⁷ and the letter dated March 8, 2023,⁸ requesting for the refund of its excess CWTs for CY 2020, in the amount of Php23,749,510.31.

On April 17, 2023, petitioner filed the present *Petition for Review*.⁹

In the Resolution dated May 9, 2023,¹⁰ the Court required petitioner to submit within five (5) days from notice the authority of Atty. Joseph Shelner N. Songco to sign the *Verification and Certification of Non-Forum Shopping*. Petitioner filed its *Submission and Compliance* on May 25, 2023,¹¹ attaching therewith the notarized *Secretary’s Certificate* dated April 12, 2023,¹² which states that based on petitioner’s Board Resolution No. 03-2023, its Board of Directors appointed Atty. Songco as its authorized signatory in connection with its application for a refund with this Court. In the Minute Resolution dated June 14, 2023,¹³ the Court noted petitioner’s *Submission and Compliance*.

³ Exhibit “P-3”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁴ Summary of Admitted Facts, par. 2, Respondent’s Pre-Trial Brief dated March 12, 2024, Docket – Vol. I, p. 362.

⁵ Exhibit “P-6”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁶ Exhibit “P-6-1”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁷ Exhibit “P-5”, BIR Records, p. 147

⁸ Exhibit “P-4”, BIR Records, pp. 150 to 153.

⁹ Docket – Vol. I, pp. 1 to 20.

¹⁰ Docket – Vol. I, pp. 302 to 304.

¹¹ Docket – Vol. I, pp. 305 to 308.

¹² Docket – Vol. I, pp. 309 to 310.

¹³ Docket – Vol. I, p. 312.

On August 17, 2023, respondent filed his *Answer with Motion to Dismiss*,¹⁴ interposing the following special and affirmative defenses, to wit: (1) this Court has no jurisdiction over the instant case; (2) Atty. Joseph Shelner N. Songco has no authority to sign the *Verification and Certification of Non-Forum Shopping*; (3) petitioner failed to observe the mandates of Revenue Regulations (RR) No. 2-2006; and (4) claim for refund is strictly construed against the taxpayer for the same partakes the nature of tax exemption. Petitioner filed its *Comment* on September 26, 2023.¹⁵ In the Resolution dated February 2, 2024,¹⁶ the Court: (1) denied respondent's *Motion to Dismiss* for lack of merit; and (2) set the case for pre-trial conference on March 21, 2024.

In the meantime, on August 17, 2023, respondent transmitted the *BIR Records* of this case, consisting of one (1) folder with 166 pages.¹⁷

Respondent then posted his *Motion for Temporary Withdrawal of BIR Records* on December 22, 2023.¹⁸ Petitioner submitted its *Comment/Opposition to Respondent's Motion for Temporary Withdrawal of BIR Records* on January 29, 2024.¹⁹ In the Resolution dated April 17, 2024,²⁰ the Court denied respondent's *Motion for Temporary Withdrawal of BIR Records*.

The Pre-Trial Conference was held on March 21, 2024.²¹ Prior thereto, *Respondent's Pre-Trial Brief* was filed *via* accredited courier on March 13, 2024,²² while petitioner's *Compliance (Re: Notice of Pre-Trial Conference dated 17 January 2024)*,²³ with attached *Pre-Trial Brief (of Renoir Implementation Services, Inc.)*,²⁴ was submitted on March 18, 2024.

On April 22, 2024, the parties submitted their *Joint Stipulation of Facts and Issues*,²⁵ which was admitted and approved in the Resolution dated May 14, 2024,²⁶ thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated May 22, 2024 was then issued.²⁷

¹⁴ Docket – Vol. I, pp. 324 to 332.

¹⁵ Docket – Vol. I, pp. 334 to 343.

¹⁶ Docket – Vol. I, pp. 354 to 361.

¹⁷ Respondent's *Compliance* dated August 17, 2023, Docket – Vol. I, pp. 321 to 322.

¹⁸ Docket – Vol. I, pp. 344 to 346.

¹⁹ Docket – Vol. I, pp. 350 to 352.

²⁰ Docket – Vol. I, pp. 390 to 391.

²¹ Minutes of the meeting held on, and Order dated, March 21, 2024, Docket – Vol. I, pp. 381 to 382, and 384 to 386, respectively.

²² Docket – Vol. I, pp. 362 to 364.

²³ Docket – Vol. I, pp. 369 to 370.

²⁴ Docket – Vol. I, pp. 371 to 380.

²⁵ Docket – Vol. I, pp. 568 to 573.

²⁶ Docket – Vol. II, p. 602.

²⁷ Docket – Vol. II, pp. 605 to 609.

As trial ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following individuals, namely: (1) Atty. Harold S. Ocampo,²⁸ petitioner's Corporate Secretary; (2) Ms. Bernadette F. Absolor,²⁹ Manager in Isla Lipana & Company handling the bookkeeping services of petitioner; and (3) Mr. Ephraim T. Tugano,³⁰ the Court-commissioned Independent Certified Public Accountant (ICPA).³¹

The *Report* of the ICPA was submitted on July 1, 2024.³² Thereafter, the *Amended Report* of the ICPA was submitted on October 8, 2024.³³

On March 6, 2025, petitioner filed its *Formal Offer of Evidence Ad Cautelam (With Manifestation)*,³⁴ to which respondent filed his *Comment (on Petitioner's Formal Offer of Evidence with Manifestation)* via accredited courier on March 17, 2025,³⁵ wherein respondent manifested that he will no longer present any witness in the instant case.

On April 15, 2025, petitioner filed its *Supplemental Formal Offer of Evidence*,³⁶ while respondent failed to file his comment thereto.³⁷

In the Resolution dated September 17, 2025,³⁸ the Court admitted petitioner's offered exhibits, *except* Exhibits "P-23-18" and "P-23-18.c", for not being found in the records.

On October 22, 2025, respondent posted his *Manifestation (In Lieu of Submission of Memorandum)*,³⁹ stating that he would be adopting all his arguments in all the pleadings he filed in relation to this case; while petitioner submitted its *Memorandum* on November 3, 2025.⁴⁰

²⁸ Docket – Vol. I, pp. 100 to 106; Minutes of the hearing held on, and Order dated, October 3, 2024, Docket – Vol. II, pp. 664 to 666.

²⁹ Docket – Vol. I, pp. 399 to 409; Minutes of the hearing held on, and Order dated, February 4, 2025, Docket – Vol. II, pp. 673 to 673-B.

³⁰ Docket – Vol. II, pp. 619 to 636; Minutes of the hearing held on, and Order dated, October 3, 2024, Docket – Vol. II, pp. 664 to 666.

³¹ *Oath of Commission* dated May 30, 2024, Docket – Vol. II, p. 611; Minutes of the hearing held on, and Order dated, May 30, 2024, Docket – Vol. II, pp. 610, and 612 to 613, respectively. On a separate binder.

³³ Exhibit "P-25" (not marked; on a separate binder).

³⁴ Docket – Vol. II, pp. 686 to 693.

³⁵ Docket – Vol. II, pp. 767 to 773.

³⁶ Docket – Vol. II, pp. 782 to 784.

³⁷ Records Verification dated May 28, 2025 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 788.

³⁸ Docket – Vol. II, pp. 790 to 793.

³⁹ Docket – Vol. II, pp. 795 to 796.

⁴⁰ Docket – Vol. II, pp. 700 to 722.

The case was considered submitted for decision on December 1, 2025.⁴¹

The Issue

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

“Whether or not Petitioner is entitled to its claim for refund of its excess and unutilized creditable withholding taxes (CWTs) for taxable year 2020 in the amount of **Twenty Three Million Seven Hundred Forty Nine Thousand and Five Hundred Ten Pesos & 31/100 (P23,749,510.31)**.”⁴²

Petitioner's arguments:

Petitioner argues that its claim for refund or credit of its unutilized excess CWTs should be granted as it complies with the following requisites: (a) its claim for refund was filed within the two (2)-year prescriptive period as required under Sections 204(C) and 229 of the Tax Code, as amended, (b) it established the fact of withholding the unutilized excess CWTs for CY 2020 which it seeks to refund and that the income payment has been declared as part of its gross income, and (c) it expressly manifested its intention to exercise the refund option in its Annual ITR under Section 76 of the Tax Code, as amended; and that the erroneously paid tax should be refunded to petitioner following the principle of “*solutio indebiti*”.

Respondent's counter-arguments:

Respondent, in his *Answer*, contends that the Court has no jurisdiction over the instant case; that Atty. Joseph Shelner N. Songco has no authority to sign the *Verification and Certification of Non-Forum Shopping*; that petitioner failed to observe the mandates of RR No. 2-2006; and that claim for refund is strictly construed against the taxpayer for the same partakes the nature of tax exemption.

Discussion/Ruling

The present *Petition for Review* is meritorious.

⁴¹ Minute Resolution dated December 1, 2025.

⁴² Docket – Vol. I, Stipulation of Issue, JSFI, p. 568.

***Respondent's arguments that were
already resolved in the Court's
Resolution dated February 2, 2024***

With respect to respondent's contentions that: (1) this Court has no jurisdiction over the instant case; (2) Atty. Joseph Shelner N. Songco lacked authority to sign the *Verification and Certification against Non-Forum Shopping*, (3) petitioner failed to observe the requirements of RR No. 2-2006; and (4) claims for refund are construed *strictissimi juris* against the taxpayer as they partake of the nature of a tax exemption, the Court notes that these issues have already been extensively addressed and resolved in its Resolution dated February 2, 2024.⁴³ Hence, a re-discussion thereof would be unnecessary.

***Petitioner complied with Section 76
of the National Internal Revenue
Code of 1997, and has not carried
over the excess CWTs being
claimed for refund***

Pertinent to the resolution of the present case is Section 76 of the National Internal Revenue Code (NIRC) of 1997, which is quoted hereunder for ready reference:

“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

⁴³ Docket – Vol. I, pp. 354 to 361.

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.”

The above provision discusses the two (2) options of a taxable corporation whose total quarterly income tax payments in a given taxable year exceed its total income tax due. The taxpayer 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 taken actually or constructively, 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, either to carry over the excess credit or to claim a refund. To facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other.⁴⁶

Petitioner’s amended Annual ITR for taxable year 2020 shows the following:⁴⁷

Sales/Revenues/Receipts/Fees	Php	100,509,725.00
Less: Sales Returns, Allowances and Discounts		-
Net Sales/Revenues/Receipts/Fees	Php	100,509,725.00
Less: Cost of Sales/Services		39,164,259.00
Gross Income from Operation	Php	61,345,466.00
Add: Other Taxable Income not subjected to		
Final Tax		13,795,340.00

⁴⁴ *Rhombus Energy, Inc. vs. 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 vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015; *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637 & 162004, December 14, 2005; *Systra Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.

⁴⁵ *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, supra; *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.

⁴⁶ Refer to *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.

⁴⁷ Part IV – Computation of Tax, Exhibit “P-6-1”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

Total Taxable Income	Php	75,140,806.00
Less: Deductions Allowable under Existing Law		
Ordinary Allowable Itemized Deductions	Php	46,789,846.00
Special Allowable Itemized Deductions		-
NOLCO		-
Total Itemized Deductions OR	Php	46,789,846.00
Optional Standard Deduction (OSD)		
Net Taxable Income/(Loss)	Php	28,350,960.00
Applicable Income Tax Rate		27.50%
Income Tax Due other than MCIT	Php	7,796,514.00
MCIT Due	Php	1,502,816.00
Total Income Tax Due/(Overpayment)	Php	7,796,514.00
Less: Tax Credits/Payments		
Prior Year's Excess Credits Other than MCIT	Php	20,532,405.00
Income Tax payments under MCIT from		
Previous Quarter/s		-
Income Tax payments under Regular Rate from		
Previous Quarter/s		-
Excess MCIT Applied this Current Taxable Year		-
Creditable Tax Withheld from Previous		
Quarter/s per BIR Form No. 2307		23,749,510.00
Creditable Tax Withheld per BIR Form No. 2307		
for the 4th Quarter		-
Foreign Tax Credits, if applicable		-
Tax Paid in Return Previously Filed, if this is an		
Amended Return		-
Special Tax Credits		-
Total Tax Credits/Payments	Php	44,281,915.00
Net Tax Payable/(Overpayment)	Php	(36,485,401.00)

On the same return and in the originally filed return, petitioner marked the option “*To be refunded*” for its overpayment.⁴⁸

The present claim for refund in the amount of Php23,749,510.31 comes from the CWTs for the taxable year 2020 only, to wit:⁴⁹

Exhibit No. ⁵⁰	Quarter	Amount
“P-12”	First	Php 16,980,192.28
“P-13”	Second	6,012,062.37
“P-14”	Third	757,255.65

⁴⁸ Line 21, Part II – Total Tax Payable, Exhibits “P-6” and “P-6-1”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁴⁹ Par. 7, petitioner’s *Memorandum*, Docket – Vol. II, p. 702.

⁵⁰ USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

"P-6-1"	Fourth	0.00
Total		Php23,749,510.31 ⁵¹

On the other hand, the income tax due for the taxable year 2020 of Php7,796,514.00 is offset against petitioner's prior year's excess credits as reported by the ICPA,⁵² viz.:

"The Petitioner's prior years excess credits of Php20,532,405 as reported in the Income Tax Return as of Calendar Year Ended December 31, 2019 (*Exhibit P-10-1*) after deducting therefrom the income tax due for the Calendar year 2019 is summarized below:

Table 8:

Taxable Year	Exhibit Number	Income Tax Due	Prior Year's Excess Credits	CWT for the Year	Claimed for Refund	Excess CWT End of Year
		(A)	(B)	(C)	(D)	(E=B+C-A-D)
2018	P-9-1	Php6,839,837	Php54,930,108	Php8,250,884	Php-	Php56,341,155
2019	P-10-1	35,808,750	56,341,155	33,047,404	33,047,404*	20,532,405
2020	P-6-1	7,796,514	20,532,405	23,749,510	23,749,510*	12,735,891

**Claimed for refund under CTA Case No. 10840 and 11130 (actual amount claimed per petition for review amounted to Php33,047,404 and Php23,749,510, respectively)*

Based on Table 8, the excess CWT carried forward from prior years (2018 and 2019) in net amount of Php20,532,405 is sufficient to cover the income tax due for the Calendar Year Ended December 31, 2020.

2. In the Petitioner's amended annual income tax return for the Calendar Year Ended December 31, 2020 (*Exhibit P-6-1*), under Line 21, it elected to refund the overpayment and marked the box "To be refunded." We also noted that the CWT being claimed by the Petitioner for the 1st, 2nd, 3rd, and 4th quarters of Calendar Year 2020 amounting to **Php23,749,510** was not carried over to the succeeding periods as presented in line 31A prior year's excess credits – taxes withheld in the quarterly and amended annual income tax returns for the Calendar Year Ended December 31, 2021 (*Exhibits P-24-1, P-24-2, P-24-3 and P-11-1*). Thus, no amount of CWT was utilized or applied

⁵¹ Actual total is Php23,749,510.30.

⁵² Par. 37, petitioner's *Memorandum*, Docket – Vol. II, pp. 715 to 717, and *Amended Report of the ICPA* (not marked but offered as Exhibit "P-25"), pp. 10 to 12.

against income tax liabilities on the succeeding periods. Details are presented in Table 9.”

Verification by the Court reveals that petitioner’s 2020 Annual ITR shows a Net Tax Overpayment of Php36,485,401.00.⁵³ Petitioner reported, as “*Prior Year’s Excess Credits Other Than MCIT*”, the amounts of Php12,735,891.00 (Php36,485,401.00 less Php23,749,510.00) and Php12,735,893.00 in its original and amended Annual ITR for CY 2021, respectively,⁵⁴ which excludes petitioner’s claim of excess CWTs.

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

***Requisites to claim a tax credit or
refund of excess and unutilized
CWTs***

In addition to the requisites provided under Section 76 of the NIRC of 1997, jurisprudence and pertinent provisions of RR No. 2-98 provide that in order for a taxpayer to be entitled to a refund or an issuance of tax credit certificate for unutilized and excess CWTs, the following three (3) requisites must be further complied with:

1. The claim for refund must be filed within the two (2)-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.⁵⁵

⁵³ Line 56, Part IV – Computation of Tax, Exhibit “P-6-1”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁵⁴ Line 44, Part IV – Computation of Tax, Exhibits “P-11” and “P-11-1”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁵⁵ *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, supra; *United International Pictures AB vs. Commissioner of Internal Revenue*, G.R. No. 168331, October 11, 2012; *Citibank N.A. vs. Court of Appeals, et al.*, G.R. No. 107434, October 10, 1997; *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; Section 2.58, Revenue Regulations No. 2-98, as amended.

Thus, it behooves petitioner to establish the foregoing requisites.

***Petitioner's administrative and
judicial claims for refund were
timely filed***

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

“SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –

XXX

XXX

XXX

(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 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 to run on the date of filing of the Final Adjustment Return (FAR), also known as the Annual ITR.⁵⁶ This is so because it is only when the FAR covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.⁵⁷ In other words, it is only logical to reckon the two (2)-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.⁵⁸

In this case, petitioner filed its original Annual ITR on April 15, 2021.⁵⁹ Following Section 204(c), in relation to Section 209, of the NIRC of 1997, the two (2) year prescriptive period for which to file a claim for refund will be until April 15, 2023. Considering that April 15, 2023 falls on a Saturday, petitioner had until the next working day, April 17, 2023, to file both its administrative and judicial claims for refund. Thus, the filing of petitioner’s *Application for Tax Credits/ Refunds* (BIR Form No. 1914),⁶⁰ and the letter dated March 8, 2023,⁶¹ with respondent on March 8, 2023, and the *Petition for Review* before this Court on April 17, 2023,⁶² were well within the two (2)-year prescriptive period.

⁵⁶ *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, supra; *Commissioner of Internal Revenue vs. TMX Sales, Inc., et al.*, G.R. No. 83736, January 15, 1992; *Commissioner of Internal Revenue vs. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, May 29, 1995.

⁵⁷ *Commissioner of Internal Revenue vs. TMX Sales Inc., et al.*, supra.

⁵⁸ *Metropolitan Bank & Trust Company vs. The Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.

⁵⁹ Exhibit “P-6”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁶⁰ Exhibit “P-5”, BIR Records, p. 147

⁶¹ Exhibit “P-4”, BIR Records, pp. 150 to 153.

⁶² Docket – Vol. I, pp. 1 to 20.

Petitioner established the fact of withholding

With regard to the *second* and *third* requisites for a taxpayer to be entitled to a refund or an issuance of tax credit certificate for unutilized and excess CWTs, Section 2.58.3(B) of RR No. 2-98 states:

“Sec. 2.58.3. Claim for tax credit or refund. —

xxx

xxx

xxx

(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.**

Proof of remittance is the responsibility of the withholding agent.” (*Emphases added*)

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

Relative thereto, the certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld.⁶³ It is a withholding statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom, as described in Section 2.58.3(B) of RR No. 2-98.

In this case, petitioner submitted the *Certificates of Creditable Tax Withheld at Source* (BIR Form No. 2307) to establish the fact of withholding of the claimed excess and unutilized CWTs of Php23,749,510.31,⁶⁴ which were examined by the ICPA,⁶⁵ broken down as follows:

⁶³ *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014.

⁶⁴ Exhibits “P-15-1” to “P-15-49”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁶⁵ Annexes A-1 to B-2, *Amended Report* of the ICPA (not marked but offered as Exhibit “P-25”), USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

CUSTOMER	Exhibit No.	From	To	Tax Base (in Php)	Tax Withheld (in Php)
Victory Liner Inc.	"P-15-1"	31 Jan. 20	31 Mar. 20	Php1,045,500.00	Php156,825.00
Victory Liner Inc.	"P-15-2"	31 Jan. 20	31 Mar. 20	1,052,675.00	157,901.25
Victory Liner Inc.	"P-15-3"	31 Jan. 20	31 Mar. 20	3,040,800.00	456,120.00
Victory Liner Inc.	"P-15-4"	31 Jan. 20	31 Mar. 20	2,359,875.00	353,981.25
Victory Liner Inc.	"P-15-5"	31 Jan. 20	31 Mar. 20	1,047,550.00	157,132.50
Victory Liner Inc.	"P-15-6"	30 Apr. 20	30 Jun. 20	11,303,700.00	1,695,555.00
Victory Liner Inc.	"P-15-7"	31 July 20	30 Sep. 20	5,048,371.00	757,255.65
Philippine Span Asia Carrier Corp.	"P-15-8"	1 Jan. 20	31 Jan. 20	867,555.90	130,133.38
Philippine Span Asia Carrier Corp.	"P-15-9"	1 Jan. 20	31 Jan. 20	870,804.53	130,620.68
Philippine Span Asia Carrier Corp.	"P-15-10"	1 Jan. 20	31 Jan. 20	865,675.12	129,851.27
Philippine Span Asia Carrier Corp.	"P-15-11"	1 Feb. 20	29 Feb. 20	868,923.75	130,338.56
Philippine Span Asia Carrier Corp.	"P-15-12"	1 Feb. 20	29 Feb. 20	869,094.73	130,364.21
Philippine Span Asia Carrier Corp.	"P-15-13"	1 Feb. 20	29 Feb. 20	869,094.73	130,364.21
Philippine Span Asia Carrier Corp.	"P-15-14"	1 Feb. 20	29 Feb. 20	867,213.94	130,082.09
Philippine Span Asia Carrier Corp.	"P-15-15"	1 Mar. 20	31 Mar. 20	870,633.53	130,595.03
Philippine Span Asia Carrier Corp.	"P-15-16"	1 Mar. 20	31 Mar. 20	863,965.33	129,594.80
Philippine Span Asia Carrier Corp.	"P-15-17"	1 Mar. 20	31 Mar. 20	867,213.94	130,082.09
Philippine Span Asia Carrier Corp.	"P-15-18"	1 Mar. 20	31 Mar. 20	867,213.94	130,082.09
Philippine Span Asia Carrier Corp.	"P-15-19"	1 Apr. 20	30 Apr. 20	872,001.40	130,800.21
RAFI Micro Finance Inc.	"P-15-20"	31 Jan. 20	31 Mar. 20	1,263,148.32	189,472.25
RAFI Micro Finance Inc.	"P-15-21"	31 Jan. 20	31 Mar. 20	1,894,722.48	284,208.37
RAFI Micro Finance Inc.	"P-15-22"	31 Jan. 20	31 Mar. 20	944,193.00	18,883.86
RAFI Micro Finance Inc.	"P-15-23"	31 Jan. 20	31 Mar. 20	1,265,640.72	189,846.11
RAFI Micro Finance Inc.	"P-15-24"	31 Jan. 20	31 Mar. 20	1,265,640.72	189,846.11
RAFI Micro Finance Inc.	"P-15-25"	30 Apr. 20	30 June 20	944,193.00	18,883.86
RAFI Micro Finance Inc.	"P-15-26"	30 Apr. 20	30 June 20	396,090.00	7,921.80
RAFI Micro Finance Inc.	"P-15-27"	30 Apr. 20	30 June 20	389,642.00	7,792.84
PLDT, Inc.	"P-15-28"	31 Jan. 20	31 Mar. 20	64,577,367.03	9,686,605.05

PLDT, Inc.	"P-15-29"	30 Apr. 20	30 June 20	12,864,412.67	1,929,661.90
PRG Prince Management Services Corporation	"P-15-30"	1 Jan. 20	31 Jan. 20	1,654,139.85	248,120.98
PRG Prince Management Services Corporation	"P-15-31"	1 Jan. 20	31 Jan. 20	1,654,139.85	248,120.98
PRG Prince Management Services Corporation	"P-15-32"	1 Jan. 20	31 Jan. 20	1,654,139.85	248,120.98
PRG Prince Management Services Corporation	"P-15-33"	1 Jan. 20	31 Jan. 20	1,654,139.85	248,120.98
PRG Prince Management Services Corporation	"P-15-34"	1 Jan. 20	31 Jan. 20	1,654,139.85	248,120.98
PRG Prince Management Services Corporation	"P-15-35"	1 Jan. 20	31 Jan. 20	1,650,905.95	247,635.89
PRG Prince Management Services Corporation	"P-15-36"	1 Jan. 20	31 Jan. 20	1,650,905.95	247,635.89
PRG Prince Management Services Corporation	"P-15-37"	1 Feb. 20	29 Feb. 20	1,642,821.20	246,423.18
PRG Prince Management Services Corporation	"P-15-38"	1 Feb. 20	29 Feb. 20	1,642,821.20	246,423.18
PRG Prince Management Services Corporation	"P-15-39"	1 Feb. 20	29 Feb. 20	1,618,566.95	242,785.04
PRG Prince Management Services Corporation	"P-15-40"	1 Mar. 20	31 Mar. 20	1,618,566.95	242,785.04
PRG Prince Management Services Corporation	"P-15-41"	1 Mar. 20	31 Mar. 20	1,641,204.25	246,180.64
PRG Prince Management Services Corporation	"P-15-42"	1 Mar. 20	31 Mar. 20	1,641,204.25	246,180.64

PRG Prince Management Services Corporation	"P-15-43"	1 Mar. 20	31 Mar. 20	1,668,692.40	250,303.86
PRG Prince Management Services Corporation	"P-15-44"	1 Mar. 20	31 Mar. 20	1,668,692.40	250,303.86
PRG Prince Management Services Corporation	"P-15-45"	1 May 20	31 May 20	3,275,940.70	491,391.11
PRG Prince Management Services Corporation	"P-15-46"	1 May 20	31 May 20	3,275,940.70	491,391.11
PRG Prince Management Services Corporation	"P-15-47"	1 May 20	31 May 20	3,295,344.10	494,301.62
PRG Prince Management Services Corporation	"P-15-48"	1 Jun. 20	30 Jun. 20	3,337,384.80	500,607.72
PRG Prince Management Services Corporation	"P-15-49"	1 Jun. 20	30 Jun. 20	1,625,034.75	243,755.21
TOTAL				Php160,647,637.58	Php23,749,510.31

The Court finds the foregoing to be in order. Considering that petitioner's claim of Php23,749,510.31 is properly supported by certificates of withholding issued by its clients, the *second* requisite has been complied with.

The income upon which the taxes were withheld was declared as part of petitioner's gross income in its Annual ITRs

The *third* requisite demands that the income upon which the claimed taxes were withheld must be included in the return of the recipient. In this case, petitioner must prove that the corresponding income payments of Php160,647,637.58 is included in its Annual ITR.

In verifying petitioner's revenues, the ICPA compared the amount declared in its Annual ITR for taxable year 2020 with the amount of revenue

reported in its Audited Financial Statements (AFS) for the same period, and reports the following finding:⁶⁶

“Table 4:

	Exhibit	Amount
Revenue per Amended Annual Income Tax Return for CY 2020	<i>P-6-1</i>	Php100,509,725
Revenue per Audited Financial Statements	<i>P-7</i>	112,791,528
Difference		(Php12,281,803)

The difference of Php12,281,803 pertains to deferred revenue which arises from advance payments received by RISI from several customers in 2019. These advance payments were initially recorded as contract liabilities in the audited financial statement as of December 31, 2019 (*Refer to Note 11 of audited financial statements – Exhibit P-7*) and subsequently adjusted to revenue in 2020 when the related services were performed and billed.

For income tax purposes, these deferred revenues (or advance payments) were already reported as revenue in the annual income tax return and subjected to income tax for the taxable year ending December 31, 2019 (*Refer to Annex C for details of Php12,281,803*).”

The breakdown of the 2019 deferred revenue is as follows:⁶⁷

Project	Deferred Revenue
PLDT - BTS	Php 4,481,500.48
Prince Retail	4,585,406.24
Span Asia (Onshore)	3,214,896.28
TOTAL	Php12,281,803.00

The ICPA then proceeded to compare the revenue subjected to withholding tax per *Summary Alphalist of Withholding Tax* (SAWT) against the revenue per AFS and found a discrepancy of Php45,538,541.⁶⁸

Table 6.1:

	Exhibit	Amount
Revenue per Audited Financial Statements / General Ledger	<i>P-7 / P-21</i>	Php112,791,528
Revenue Subjected to Withholding Tax per SAWT	<i>P-19-4</i>	158,330,069

⁶⁶ *Amended Report* of the ICPA (not marked but offered as Exhibit “P-25”), p. 5.

⁶⁷ *Annex C, Amended Report* of the ICPA (not marked but offered as Exhibit “P-25”), USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

⁶⁸ *Amended Report* of the ICPA (not marked but offered as Exhibit “P-25”), p. 6.

Difference		(Php45,538,541)
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The foregoing difference is reconciled by the ICPA in this wise:⁶⁹

Table 6.2:

Description	Exhibit/ Annex/Table	Amount
Revenue per Audited Financial Statements / General Ledger	<i>Exhibit P-7 / P-21</i>	Php112,791,528
Add (Deduct) reconciling items:		
a. Revenue reported in the 2020 Audited Financial Statements but already subjected to withholding tax and reported as revenue in income tax return for Calendar Year 2019	<i>Annex C Table 4</i>	(12,281,803)
b. Revenue reported in the Audited Financial Statements and Income Tax Return for Calendar Year 2019 but collected and subjected to withholding tax only in Calendar Year 2020	<i>Annex D</i>	60,347,806
c. Difference in the receipt reported by petitioner's client (Rafi-Micro Finance) per BIR Form 2307 and the receipt recorded in the petitioner's SAWT	<i>Annex E</i>	(2,317,569)
d. Net foreign exchange difference per Petitioner's books and CWT Certificates	<i>Annex F</i>	(209,893)
Subtotal reconciling items		45,538,540 ⁷⁰
Revenue and collections per Audited Financial Statements / General Ledger subjected to CWT		Php158,330,069
Revenue Subjected to Withholding Tax per SAWT	<i>P-19-4</i>	Php158,330,069
Difference		—

We were able to trace the revenues recognized in 2019 (but collected and subjected to withholding tax only in 2020) against the General Ledger and these were reported in 2019 income tax return (Please refer to Annex D and Exhibit P-22)

The Court examined the documents submitted by petitioner to support the foregoing reconciling items. Petitioner's *General Ledger* for the year 2019,⁷¹

⁶⁹ *Amended Report* of the ICPA (not marked but offered as Exhibit "P-25"), p. 6.

⁷⁰ Should be Php45,538,541.00.

⁷¹ Exhibit "P-21", USB (submitted on October 8, 2024, not marked but offered as Exhibit "P-25-1").

Billing Invoices dated in 2019,⁷² and *Official Receipts* dated in 2020⁷³ show that revenue in the amount of Php60,347,806.00 was reported as revenue for the taxable year 2019, but was subjected to CWT in the year 2020.

Anent the amount Php2,317,569.00, which is the discrepancy between the total income payments per BIR Form No. 2307 and SAWT, the ICPA explains that the same pertains to an error by one of its clients Rafi-Micro Finance,⁷⁴ to wit:

“We noted that the revenue reported in the SAWT was the grossed-up value of the withholding tax. The Petitioner computed the revenue by dividing the amount of tax actually withheld by the withholding tax rate of 15%. However, per BIR form 2307 prepared by its customers, some withholding taxes were withheld using a rate of 2%. This discrepancy led to an understatement of the tax base by Php2,317,569 as reported in the SAWT. Upon reviewing the related billing statements, official receipts and journal vouchers, we found that the actual revenues collected differed from the amount reported in the SAWT, although the amount of tax withheld remain the same (see Annex E).”

Relative thereto, an examination by the Court shows the following:

CWT per BIR Form 2307	Php	53,482.36	Php	53,482.36
Divided by CWT rate		0.02		0.15
Grossed-up Income Payment	Php	2,674,118.00	Php	356,549.07
Difference				<u>Php2,317,568.93</u>

Finally, the ICPA found that there is a net foreign exchange difference arising from the time petitioner recorded its foreign currency billings and when petitioner’s clients issued the CWT certificates, summarized as follows:⁷⁵

Client	Net Foreign Exchange Difference
Victory Liner Inc.	Php (124,818.88)
Philippine Span Asia Carrier Corp.	3,709.11

⁷² Exhibits “P-16-36”, “P-16-42” to “P-16-45”, “P-16-49” to “P-16-51”, and “P-16-67”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).
⁷³ Exhibits “P-17-36”, “P-17-42” to “P-17-45”, and “P-17-49” to “P-17-52”, USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).
⁷⁴ *Amended Report* of the ICPA (not marked but offered as Exhibit “P-25”), p. 7.
⁷⁵ Annex F, *Amended Report* of the ICPA (not marked but offered as Exhibit “P-25”), USB (submitted on October 8, 2024, not marked but offered as Exhibit “P-25-1”).

RAFI Micro Finance Inc.	(473.70)
PLDT, Inc.	(240,076.96)
PRG Prince Management Services Corp.	151,766.93
Total	Php (209,893.50)

The foregoing is supported by *Billing Invoices*⁷⁶ and *Sales Journal*⁷⁷ which are examined by the ICPA.

In sum, the Court finds that the foregoing is in order, and that petitioner has complied with the *third* requisite.

Considering that petitioner complied with all the requisites in order for a taxpayer to be entitled to a refund of unutilized excess CWTs, petitioner's claim should perforce be granted.

In sum, petitioner has sufficiently proven that it is entitled to the refund in the amount of **Php23,749,510.31**, representing its unutilized CWTs for CY 2020, pursuant to Section 76 in relation to Sections 204(C) and 229 of the NIRC of 1997.

ACCORDINGLY, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**.

Respondent is **ORDERED TO REFUND** in favor of petitioner the total amount of **Php23,749,510.31**, representing petitioner's excess and unutilized CWTs for CY 2020.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

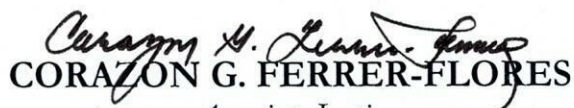
⁷⁶ Exhibits "P-16-1" to "P-16-66", USB (submitted on October 8, 2024, not marked but offered as Exhibit "P-25-1").

⁷⁷ Exhibits "P-23-1" to "P-23-31", USB (submitted on October 8, 2024, not marked but offered as Exhibit "P-25-1").

WE CONCUR:



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice

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.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice