

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special Second Division

MELCO RESORTS LEISURE
(PHP) CORPORATION,

Petitioner,

-versus-

COMMISSIONER OF
INTERNAL
REVENUE,

Respondent.

CTA Case No. 10514

Members:

RINGPIS-LIBAN, P.J. & Chairperson,
MODESTO-SAN PEDRO, and
FERRER-FLORES, JL.

Promulgated:

SEP 28 2026

4:05 AM

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R E S O L U T I O N

RINGPIS-LIBAN, J.:

For resolution is the "Motion for Partial Reconsideration (Re: Amended Decision promulgated 4 May 2026)"¹ of Respondent Commissioner of Internal Revenue (CIR), timely filed on May 18, 2026, and received by Petitioner on June 3, 2026, seeking the reversal and setting aside of the Amended Decision dated May 4, 2026² (the Amended Decision), on the following ground:

WHETHER THE HONORABLE COURT ERRED IN RULING THAT PETITIONER IS ENTITLED TO REFUND IN THE REDUCED AMOUNT OF ₱13,463,146.00 ALLEGEDLY REPRESENTING ERRONEOUS AND UNUTILIZED WITHHOLDING TAX ON ITS GAMING REVENUES FOR TAXABLE YEAR 2018.

The dispositive portion of the Amended Decision reads:

“**WHEREFORE**, premises considered, the Motion for Partial Reconsideration filed by the Commissioner of Internal Revenue is hereby **DENIED** for lack of merit. The Motion for Partial Reconsideration filed by Petitioner Melco Resorts Leisure

¹ Docket - Vol. 3, unpaginated.

² *Id.*, pp. 1085-1092.

(PHP) Corporation is hereby **PARTIALLY GRANTED**. The Decision dated January 6, 2026 is **AFFIRMED with MODIFICATION** in that Respondent Commissioner of Internal Revenue is **ORDERED to REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of Petitioner Melco Resorts Leisure (PHP) Corporation the total amount of ₱13,463,146.00, representing (a) ₱12,620,976.15 in erroneous and unutilized withholding taxes on gaming revenues for taxable year 2018, and (b) ₱842,170.85 in excess creditable withholding taxes on non-gaming revenues for taxable year 2018. In all other respects, the Decision stands.

SO ORDERED.³

Procedural Antecedents

Petitioner Melco Resorts Leisure (PHP) Corporation is a corporation duly organized under Philippine laws, engaged in developing and operating tourist facilities, including hotel casino entertainment complexes, and engaged in casino gaming activities.⁴ It is a licensee of the Philippine Amusement and Gaming Corporation (PAGCOR), having been issued an Amended Certificate of Affiliation & Provisional License on January 28, 2013,⁵ and subsequently a Gaming License dated April 29, 2015, and Gaming License (Amended) dated August 8, 2018, valid until July 11, 2033, for casino operations in Entertainment City, Parañaque City, under the brand name City of Dreams Manila.⁶

Petitioner filed its Annual Income Tax Return (ITR) for taxable year 2018 on April 15, 2019.⁷ On April 12, 2021, it filed an administrative claim for refund with the Large Taxpayers Service of the BIR in the amount of ₱24,798,420.00, representing allegedly erroneously withheld and unutilized creditable withholding taxes (CWTs) for taxable year 2018.⁸ Petitioner filed the Petition for Review via electronic mail on April 14, 2021.⁹

After full trial on the merits, this Court promulgated the Decision dated January 6, 2026,¹⁰ partially granting the Petition and ordering the refund of ₱12,620,976.15 representing erroneous CWTs on Petitioner's gaming revenues, while denying the refund of ₱12,171,230.60 representing unutilized CWTs on non-gaming revenues for failure to establish the third requisite.

³ *Id.*, unpaginated.

⁴ Docket – Vol. 1, p. 412, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI).

⁵ *Id.*

⁶ Docket - Vol. 2, p. 730, Exhibit "P-2".

⁷ *Id.*, pp. 731 to 732, Exhibits "P-3" and "P-4".

⁸ *Id.*, pp. 744 to 756, Exhibits "P-7", "P-7-1", and "P-7-2".

⁹ *Id.*, pp. 786 to 798, Exhibits "P-11" and "P-11-1".

¹⁰ *Id.* at Note 1, pp. 1003-1027.

Both parties timely filed their respective Motions for Partial Reconsideration of the January 6, 2026 Decision. Respondent received a copy of the Decision on January 16, 2026, and filed his first Motion for Partial Reconsideration on January 26, 2026.¹¹ Petitioner received a copy on January 16, 2026, and filed its Motion for Partial Reconsideration on February 2, 2026.¹² Respondent filed an Opposition on February 27, 2026.¹³

This Court resolved the dual Motions for Partial Reconsideration in the Amended Decision dated May 4, 2026,¹⁴ which: (a) DENIED the CIR's first Motion for Partial Reconsideration in its entirety; (b) PARTIALLY GRANTED Petitioner's Motion for Partial Reconsideration; and (c) MODIFIED the refund award from ₱12,620,976.15 to ₱13,463,146.00 by adding ₱842,170.85 in excess CWTs on non-gaming revenues, upon finding that the applicable standard of proof for excess CWT refund claims under Section 76 of the National Internal Revenue Code (NIRC) is preponderance of evidence, not *strictissimi juris*.

Respondent received a copy of the Amended Decision on May 12, 2026, and timely filed the present Motion for Partial Reconsideration on May 18, 2026.¹⁵ Petitioner received a copy of the Motion on June 3, 2026. The Court issued a Resolution ordering Petitioner to file its Comment/Opposition, which was filed on June 23, 2026.¹⁶ The Motion is now submitted for resolution.

Summary of Grounds

Respondent-Movant raises the single ground set out in the preamble above, which, upon analysis, breaks down into the following substantive arguments: (a) the income claimed for refund was not proven to pertain exclusively to casino gaming operations; (b) PAGCOR's payment of the 5% franchise tax was not duly proven; (c) the income on which the CWTs were withheld was not declared in Petitioner's Annual ITR; and (d) actual remittance of the withheld taxes to the BIR was not established.

The Court's Ruling

The Motion for Partial Reconsideration is **DENIED**.

The Motion is pro forma and warrants outright denial.

¹¹ *Id.*, pp. 1029-1039.

¹² *Id.*, pp. 1043-1057.

¹³ *Id.*, pp. 1676-1682.

¹⁴ *Id.* at Note 2.

¹⁵ *Id.* at Note 1.

¹⁶ *Id.*, unpaginated.

The present Motion is, in substance, a verbatim repetition of the arguments raised by Respondent in his first Motion for Partial Reconsideration of the January 6, 2026 Decision. Each of the four arguments now reasserted was expressly considered and rejected in the Amended Decision. Respondent identifies no specific finding or conclusion of the Amended Decision alleged to be contrary to law, cites no authority not previously before the Court, and presents no new evidence.

A motion for reconsideration that merely reiterates previously rejected arguments without raising a substantial and compelling reason to modify the judgment is *pro forma*. As the Supreme Court held in *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*,¹⁷ the movant must convince the court that certain findings or conclusions are contrary to law, and must raise new or substantial legitimate grounds to justify the reconsideration sought. Where, as here, the grounds raised have already been sufficiently addressed in the assailed decision and no new or substantial matter is presented, the Court is not obliged to re-examine them anew.

The Court finds that the present Motion presents no new factual matter, legal issue, or supervening circumstance that would justify a re-examination of the Amended Decision. All four arguments were thoroughly addressed. The Motion is *pro forma* and is accordingly **DENIED** outright.

Even on the merits, the grounds are without basis.

Without prejudice to the foregoing, the Court addresses the substance of the grounds raised, and finds each one unmeritorious.

*The gaming revenues' exemption
from income and withholding tax is
settled.*

Section 13(2)(b) of PD No. 1869,¹⁸ as interpreted by the Supreme Court in *Bloomerry Resorts and Hotels, Inc. v. Bureau of Internal Revenue*,¹⁹ is clear: the tax exemption enjoyed by PAGCOR under its franchise inures to the benefit of and extends to all corporations with whom PAGCOR or its operator has any contractual relationship in connection with the operations of casino(s) authorized under the Franchise, upon PAGCOR's payment of the 5% franchise tax in lieu of all other taxes. This Court correctly applied that ruling in both the January 6, 2026 Decision and the Amended Decision.

¹⁷ G.R. No. 159938, January 22, 2007.

¹⁸ CONSOLIDATING AND AMENDING PRESIDENTIAL DECREE NOS. 1067-A, 1067-B, 1067-C, 1399 AND 1632, RELATIVE TO THE FRANCHISE AND POWERS OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR).

¹⁹ G.R. No. 212530, August 10, 2016.

The income subject of the refund — credit card settlement receipts from BDO attributable exclusively to buy-in transactions at designated gaming cage terminals — is unambiguously income from the operation of casino gaming activities, not from “other related services.” The Merchant Agreement with BDO, the Merchant Identification Number (MID)/Terminal Address identification system, and the BIR Forms 2307 all confirm this classification. The factual finding in the Amended Decision on this point is correct and will not be disturbed.

*PAGCOR’s payment of the 5%
franchise tax was duly established.*

The Amended Decision found PAGCOR’s payment of the 5% franchise tax for taxable year 2018 duly established by: (1) the Statement of Franchise Tax Remittances for Calendar Year 2018 issued by PAGCOR,²⁰ and (2) the BIR Forms 2553 filed by PAGCOR for the 1st through 4th quarters of 2018.²¹ Under *Philippine Amusement and Gaming Corporation (PAGCOR) v. BIR*,²² PAGCOR’s actual payment of the 5% franchise tax is the operative fact that activates the tax exemption for its contractees and licensees. That fact was established on the basis of admitted documentary evidence. The CIR’s characterization of this evidence as mere allegation is directly contradicted by the record.

*Proof of actual remittance by the
withholding agent is not required of
Petitioner.*

Section 2.58.3(B) of Revenue Regulations No. 2-98, as amended, expressly provides: “Proof of remittance is the responsibility of the withholding agent.”²³ Petitioner is the payee-recipient, not the withholding agent. The BIR Forms 2307 issued by BDO constitute the prescribed evidence of withholding.²⁴ The burden of proving non-remittance lies with the BIR, not with the refund claimant.²⁵ This argument was already barred in the Amended Decision as a new argument raised for the first time in the first Motion for Partial Reconsideration. Raising it again in the present Motion compounds the defect.

*The gaming revenues were correctly
reported as exempt income in the
Annual ITR.*

²⁰ *Id.* at Note 6, p. 801, Exhibit “P-14”.

²¹ *Id.*, pp. 804 to 823, Exhibits “P-16 and series”, “P-17 and series”, “P-18 and series”, and “P-19 and series”.

²² G.R. No. 215427, December 10, 2014.

²³ Section 2.58.3(B), Revenue Regulations No. 2-98, as amended.

²⁴ Exhibits “P-25-1” to “P-25-79”, USB marked as “P-21-2”.

²⁵ *Philippine Bank of Communications v. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.

Petitioner's gaming revenues are exempt from corporate income tax under PD No. 1869. They are therefore reported in the exempt income column of the Annual ITR, not the taxable column. The ICPA verified, and this Court confirmed in both the January 6, 2026 Decision and the Amended Decision, that Petitioner's gaming revenues attributable to credit card transactions at cage terminals correspond to the income payments on which the CWTs of ₱12,627,189.40 were withheld, reduced to ₱12,620,976.15 after the Court's own disallowances. For the non-gaming CWT component of ₱842,170.85, the Amended Decision applied the preponderance-of-evidence standard confirmed in *Commissioner of Internal Revenue v. Sonoma Services, Inc.*²⁶ and *Tullett Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*,²⁷ and found the ICPA's specific tracing of ₱168,436,849.05 in income payments (Tables 29 and 30 of the Amended ICPA Report) sufficient to satisfy the third requisite. No error is shown. The CIR presents no new evidence or authority warranting a different result.

The Court reiterates that a claimant's burden of proof is to establish the factual basis of its claim.²⁸ Respondent has consistently failed to discharge the burden of showing that the Amended Decision's findings are contrary to law or constitute a manifest misappreciation of evidence.²⁹

WHEREFORE, premises considered, the Motion for Partial Reconsideration filed by Respondent Commissioner of Internal Revenue dated May 18, 2026, is hereby **DENIED** for lack of merit. The Amended Decision dated May 4, 2026 is **AFFIRMED** in its entirety.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

²⁶ G.R. No. 263916, August 18, 2025.

²⁷ G.R. No. 257219, July 15, 2024.

²⁸ *Citibank, N.A. v. Court of Appeals, et al.*, G.R. No. 107434, October 10, 1997.

²⁹ *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc., et al.*, G.R. No. 127105, June 25, 1999.

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice