REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

SONY PHILIPPINES, INCORPORATED, Petitioner,	**CTA EB No. 2983** (CTA Case No. 10302)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.*, **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 07 2026 3:50 pm

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by Sony Philippines, Incorporated (**petitioner**) seeking to reverse the Special Third Division's Decision[2] promulgated on 30 August 2023 (**assailed Decision**) and Resolution[3] issued on 17 July 2024 (**assailed Resolution**), pursuant to Section 2(a)(1)[4], Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

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[1] Filed on 30 August 2024, *rollo*, pp. 1-20.

[2] Division Docket, Volume V, pp. 2123-2143. Penned by Associate Justice Maria Rowena Modesto-San Pedro with the concurrence of Associate Justice Ma. Belen M. Ringpis-Liban.

[3] Id., pp. 2172-2176.

[4] SEC. 2. *Cases within the jurisdiction of the Court en banc.* - The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

In the assailed Decision and Resolution, the Special Third Division denied petitioner's Petition for Review praying for the refund of its excess and unutilized creditable withholding taxes (**CWT**) for the fiscal year (**FY**) ending 31 March 2018 amounting to ₱53,060,855.00.

PARTIES TO THE CASE

Petitioner is a corporation duly organized and existing under the laws of the Philippines, with principal office at 12th Floor Inoza Tower, 40th Street, Bonifacio Global City, Taguig City.[5] It is primarily engaged in selling, marketing, manufacturing, procuring, and providing repair and other services relating to consumer type electronic and other products bearing the trademark "Sony", and parts, materials, and components thereof.[6] It is registered with the Bureau of Internal Revenue (**BIR**) Regular Large Taxpayer Division I, Revenue District Office No. 116, with Taxpayer Identification Number 005-338-777-000.[7]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) tasked to decide disputed assessments, refunds of internal revenue taxes, fees or charges, and penalties imposed in relation thereto. He or she may be served with notices, pleadings, resolutions, orders, decisions, and other legal processes at the BIR National Office Bldg., Agham Road, Diliman, Quezon City.[8]

FACTS OF THE CASE

On 13 July 2018, petitioner filed its annual Income Tax Return (**ITR**) for FY 2018 through the BIR's Electronic Filing and Payment System.[9] Petitioner filed an amended ITR on 27 July 2018.[10] In both returns, petitioner reported the following figures for FY 2018:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
1. Cases arising from administrative agencies - Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry and Department of Agriculture[.]

5 See Certificate of Filing Amended Articles of Incorporation, Exhibit "P-2", Division Docket, Volume IV, pp. 1747-1760.

6 Id.

7 See BIR Certificate of Registration, Exhibit "P-3", id., p. 1761.

8 Par. 2, Petition for Review, supra at note 1, p. 2.

9 Annual Income Tax Return, Exhibit "P-6", id., Volume IV, pp. 1766-1773.

10 See Amended Annual ITR, Exhibit "P-7", id., pp. 1774-1781.

Details	Amount
Total Gross Income	₱1,085,547,654
Less: Itemized Deductions	959,218,901
Net Taxable Income	126,328,753
RCIT Due (30%)	37,898,626
Less:	
Prior Years' Excess CWT	259,743,982
CWT withheld during FY 2018	53,060,855
Tax Still Due / (Overpayment)	**₱(274,906,211)**

Notably, in both returns, petitioner indicated its intention to refund its overpayments.[11] Thus, on 08 July 2020, petitioner filed with respondent an administrative claim for refund of its excess and unutilized CWT for FY 2018 amounting to ₱53,060,855.00.[12]

PROCEEDINGS BEFORE THE COURT IN DIVISION

On 10 July 2020, when the two (2)-year prescriptive period to file a refund under Sections 204(C)[13] and 229[14] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, was about to expire on 13 July 2020, petitioner filed a Petition for Review[15] before the Court of Tax Appeals (**CTA**). The case was raffled to the Third Division.

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11 Supra at notes 9 and 10, Line 21, id., pp. 1766 and 1774, respectively.

12 Application for Tax Credits/Refund or BIR Form No. 1914, Exhibit "P-11", id., Volume IV, p. 1798.

13 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.

14 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.

15 Division Docket, Volume I to III, pp. 7-1424 (with annexes).

After being granted an extension of time to file an Answer[16], respondent filed the same on 16 November 2020.[17] In the Answer, respondent prayed for the denial of the petition alleging that petitioner failed to exhaust administrative remedies before it elevated its case to the CTA. Respondent added that petitioner was not able to adduce evidence that the income from which the CWTs were withheld were declared in the petitioner's FY 2018 ITR. Respondent, thus, concluded that no direct link exists between the CWT and the income as reflected in petitioner's ITR. Lastly, respondent countered that petitioner failed to submit the complete requirements for refund as set out in Revenue Memorandum Order No. 53-98.[18]

Thereafter, respondent elevated the BIR Records of the case.[19]

On 21 May 2021, petitioner filed a motion to commission an Independent Certified Public Accountant (**ICPA**), Joseph Cedric V. Calica (**Calica**).[20]

The parties then filed their Pre-Trial Briefs.[21] During the Pre-Trial Conference on 14 July 2021, the Third Division commissioned Calica as the ICPA for the case.[22] Afterwards, the parties filed their Joint Stipulation of Facts and Issues[23] (**JSFI**), which the Third Division admitted and approved.[24] Later, the Pre-Trial Order was issued on 02 December 2021, signaling the termination of the pre-trial stage.[25]

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16 See (1) Summons dated 24 July 2020, Division Docket, Volume III, p. 1425; (2) Respondent's Motion for Additional Time to File Answer (**Motion for Time**) filed on 07 October 2020, id., pp. 1427-1429; (3) Resolution dated 14 October 2020 granting the Motion for Time, id., p. 1433, (4) Motion for Additional Time to File Answer (**Second Motion for Time**) filed on 03 November 2020, id., pp. 1434-1436; and (5) Resolution dated 11 November 2020 granting the Second Motion for Time, id., p. 1439.

17 Answer dated 16 November 2020, id., pp. 1440-1449.

18 Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which Comprise a Complete Tax Docket, 01 June 1998.

19 See (1) Resolution dated 19 January 2021 reminding respondent to elevate the BIR Records, Division Docket, Volume III, p. 1455 and (2) Respondent's Compliance filed on 05 February 2021, id. pp. 1457-1458.

20 See Petitioner's Motion for Commissioning of Independent Certified Public Accountant (ICPA), id., Volume IV, pp. 1532-1554 (with annexes).

21 See Petitioner's Pre-Trial Brief dated 21 May 2021, id., pp. 1555-1566. See also Respondent's Pre-Trial Brief dated 09 July 2021, id., pp. 1575-1577.

22 See Order dated 14 July 2021, id., pp. 1583-1585.

23 See Joint Stipulation of Facts and Issues filed on 21 October 2021, id., pp. 1609-1615.

24 See Resolution dated 16 November 2021, id., pp. 1679.

25 See Pre-Trial Order, id., pp. 1684-1689.

Subsequently, the trial proper ensued where petitioner presented Edward D. Roguel (**Roguel**), a partner at Punongbayan & Araullo (**P&A**).

On the witness stand, Roguel, who testified by way of his Judicial Affidavit[26], testified that petitioner engaged P&A to assist in the examination of pertinent documents to ensure that petitioner's claim for refund of its excess CWT for FY 2018 is properly substantiated. Roguel added that based on their evaluation, petitioner was entitled to its claim for refund in the amount of ₱53,060,855.00. Lastly, Roguel stated that on 08 July 2020, P&A filed petitioner's administrative claim for refund for FY 2018 with the BIR.

No cross-examination followed.[27]

Upon clarificatory questions from the Court, Roguel explained that even though petitioner engaged P&A as early as September 2019, it was able to file the administrative claim with the BIR only 08 July 2020 (or two (2) days before the expiration of the two (2)-year prescriptive period) because of the Covid-19 pandemic and the busy season.[28]

Another hearing was held on 15 February 2022, during which petitioner presented its remaining witnesses. First to take the witness stand was Atty. Maria Regina A. Ruiz (**Ruiz**) who testified through her Judicial Affidavit dated 19 May 2021.[29] Ruiz, in her capacity as petitioner's Corporate Secretary, testified on the latter's juridical capacity. Ruiz also stated that petitioner authorized Alfredo Lotivo, its former Director of Corporate Planning, Finance, and Compliance Division, to file the administrative claim with the BIR.

Again, respondent did not conduct a cross-examination.[30]

Next to take the witness stand was Jan Russel Aquino (**Aquino**) a Tax Compliance Officer from petitioner's Legal, Finance, and

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26 Judicial Affidavit in Lieu of Direct Testimony of Edward D. Roguel, dated 20 May 2021, Exhibit "P-1140", id., pp. 1494-1503.

27 TSN dated 09 December 2021, p. 8.

28 Id., pp. 8-11.

29 Judicial Affidavit in Lieu of Direct Testimony of Atty. Maria Regina A. Ruiz, Exhibit "P-1138", Division Docket, Volume IV, pp. 1486-1493.

30 TSN dated 15 February 2022, p. 9.

Compliance Division.[31] Aquino testified that for FY 2018, petitioner had excess CWTs in the amount of ₱53,060,855.00 and that, as can be seen in petitioner's FY 2018 ITR, it elected to refund the excess CWT by ticking the appropriate box appearing therein. Moreover, Aquino asserted that petitioner's excess CWT for FY 2018 was not included or applied in petitioner's FY 2019 ITR.

On cross-examination, Aquino stated that he did not participate in the preparation of the claim for refund because it was handled by a third party. He added that he was no longer connected with petitioner when the claim for FY 2018 was filed.[32] No redirect examination followed.[33]

Finally, ICPA Calica took the witness stand. In his Judicial Affidavit[34], he testified that after verification, he found that out of petitioner's ₱53,060,855.00 excess CWT for FY 2018, only ₱40,869,264.00 was properly substantiated, computed as follows:[35]

Amount of Claim for Refund	₱53,060,855.00
Amount Withheld Indicated in the SAWT	53,061,269.46
Discrepancies in the amount claimed vs. SAWT	(414.46)
Less: Exceptions noted on CWTs *per* BIR Form 2307	
With incorrect or incomplete address	840,642.23
Not in the period covered by the claim	2,693.19
No BIR Form 2307 submitted	11,348,255.32
Total amount of exceptions noted	12,191,590.73
Amount of Unutilized CWT valid for claim	**₱40,869,264.60**

On cross-examination, ICPA Calica stated it was petitioner that gave him the documents he received and he did not go to the BIR to check on these documents (that petitioner submitted).[37]

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31 Judicial Affidavit in Lieu of Direct Testimony of Jan Russel Aquino, Exhibit "P-1141", id., pp. 1475-1485.

32 TSN dated 15 February 2022, p. 14.

33 Id., p. 15.

34 Judicial Affidavit dated 27 October 2021, of duly appointed Independent Certified Public Accountant, Joseph Cedric V. Calica, Exhibit "P-1142", Division Docket, Volume IV, pp. 1624-1644.

35 Id., Q&A No. 16, p. 1639.

37 Id., p. 29.

Having presented all of its witness, petitioner filed its Formal Offer of Evidence (**FOE**), consisting of Exhibits "P-1" to "P-1172-4", with sub-markings.[38] Respondent did not interpose any objections to the offered exhibits and manifested that he will no longer be presenting witnesses.[39] Thereafter, the Third Division resolved to admit petitioner's exhibits except those which were not identified.[40] Nevertheless, the Special Third Division[41] granted petitioner's motion to have the excluded evidence be made part of the records of the case.[42]

With the submission of the parties' Memoranda[43], the Special Third Division submitted the case for decision on 23 August 2022.[44]

On 30 August 2023, the Special Third Division promulgated the now assailed Decision[45] which denied the prior Petition for Review. In denying petitioner's claim for refund, the Special Third Division found that while petitioner was able to comply with the first two (2) requisites for the grant of CWT refunds (*i.e.*, that petitioner filed its claim within

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38 See Formal Offer of Evidence filed on 17 March 2022, Division Docket, Volume IV, pp. 1704-1729.

39 See Comment (on Petitioner's Formal Offer of Evidence with Manifestation) filed on 21 March 2022, id., pp. 2065-2067.

40 See Resolution dated 21 April 2022, id., Volume V, pp. 2072-2073. The Court denied the admission of the following exhibits for not having been identified:

Exhibits	Description
"P-12"	Copy of the quarterly Amended Income Tax return (BIR Form 1702-Q) for the quarters ended June 2017, with BIR electronic filing reference date of July 3, 2018.
"P-13"	Copy of the quarterly Amended Income Tax return (BIR Form 1702-Q) for the quarters ended September 2017 with BIR electronic filing reference date of July 3, 2018.
"P-14"	Copy of the quarterly Amended Income Tax return (BIR Form 1702-Q) for the quarter ended December 2017, with BIR electronic filing reference date of July 3, 2018.
"P-18"	Copy of petitioner's Audited Financial Statements for the fiscal year ended 2017.
"P-19"	Copy of petitioner's Audited Financial Statements for the fiscal year ended 2018.
"P-20"	Copy of petitioner's Audited Financial Statements for the fiscal year ended 2019.
"P-21"	Printout of eSubmission Validation Report dated July 14, 2018.

41 See Administrative Circular No. 01-22 dated 21 June 2022, pursuant to which, the Court underwent reorganization following the retirement of Associate Justice Juanito C. Castañeda. The case stayed with the Special Third Division composed of Associate Justice Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro.

42 See (**1**) Petitioner's Motion (To Tender Excluded Documentary Evidence) filed on 09 June 2022, Division Docket, Volume V, pp. 2089-2092; (**2**) respondent's Comment/Opposition (Re: Petitioner's Motion to Tender Excluded Documentary Evidence) filed on 11 July 2022, id., pp. 2111-2113; and (**3**) Resolution dated 05 August 2022, id., pp. 2117-2119.

43 See Petitioner's Memorandum filed on 09 June 2022, id., pp. 2094-2107. See also Respondent's Memorandum filed on 30 May 2022, id., pp. 2074-2086.

44 See Order dated 23 August 2022, id., p. 2122.

45 Supra at note 2.

the two (2)-year prescriptive period and was able to prove the fact of withholding to the extent of ₱35,417,263.71), petitioner failed to prove the third requisite (*i.e.*, that the income from which the CWTs were withheld were declared in its income tax return). It held –

> ...
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> Upon review of the Report, the Court observes that while ICPA Calica categorically finds for the proper recording of income in the Company's books, there was no mention of the tracing of such income in the general ledger books of petitioner, or of determining the actual itemized composition of the sales reported in the AITR and AFS. Instead, ICPA Calica merely made a general statement that he tied up the amount of income and ascertained that the income were indeed reported.
>
> Further, while there was a reference to Exhibits "P-1144", and "P-1152", and "P-1153" (i.e., Schedule of Creditable Income Tax Withheld, Amended AITR, and AFS, respectively), there was no mention of petitioner's submission of any general ledger account under which the reported sales were recorded.
>
> Instead, only the General Ledger Transaction Listing under GL Number 49600 or Exhibit "P-1146" was examined by ICPA Calica. This lists petitioner's creditable withholding taxes but not the corresponding sales. ICPA Calica reported that he traced the unutilized creditable income tax withheld per schedule of total creditable withholding tax for the year to the general ledger, to verify whether these have been charged to petitioner's appropriate asset account. Again, it appears that only the asset account was traced by ICPA Calica, and not the revenue recorded by petitioner.
>
> The Court has also independently examined the records and found that no ledger or any similar documents was presented by petitioner to aid Us in tracing the sales to the corresponding books and returns. We cannot even used Exhibit P-1144-A for such purpose as the amounts under columns "Amount of Income Payments" and "Amount of Income Payments Per Certificate of Creditable Tax Withheld at Source (BIR Form 2307)" do not match. Thus, We are unable to verify the veracity of petitioner's claim on having duly reported the sales corresponding to the subject withholding taxes.[46]
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> ...

On 25 October 2023, petitioner filed a Motion for Reconsideration[47] (**MR**), wherein it advanced three (3) arguments in its bid to have the assailed Decision reversed.

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[46] Id., p. 2141.

[47] See Motion for Reconsideration [Re: Decision dated 30 August 2023], id., Volume V, pp. 2144-2156.

First, petitioner claimed that the income payment upon which the taxes were withheld were declared in its ITR as shown by the fact that its net sales as declared in its FY 2018 ITR amounting to ₱5,935,819,420.00 is greater than the total income payments shown in its *Schedule of Creditable Income Tax Withheld* (Exhibit "**P-1144**") and *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**") amounting to ₱5,306,126,946.00. Petitioner explained that the difference pertained to the fact that some of petitioner's income payors are not part of those corporations which are required to withhold 1% on their regular purchase of goods.

Petitioner also argued that its total net sales of ₱5,935,819,420.00 in its FY 2018 ITR can be traced back to its Audited Financial Statements (**AFS**) for the same period showing gross sales of ₱6,117,203,363.00 less sales return, allowances, and discounts of ₱181,383,943.00.

Second, petitioner declared that ICPA Calica was able to trace the total net sales in its *Schedule of Creditable Income Tax Withheld* (Exhibit "**P-1144**") and *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**") amounting to ₱5,306,126,946.00 to the *General Ledger of Creditable Withholding Taxes* (Exhibit "**P-1146**") which shows the official receipt (**OR**) numbers of the sales from which the taxes were withheld. Petitioner, thus, concluded that both the asset account and the corresponding revenue account were duly verified, following the double-entry accounting system.

Lastly, petitioner asserted that the Special Third Division erred in ruling that its *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**") cannot be used to show that petitioner duly reported the sales corresponding to the subject CWTs, just because the amounts under "Amount of Income Payments" and "Amount of Income Payments *per* Certificate of Creditable Tax Withheld at Source (BIR Form 2307)" do not match. The difference, according to petitioner, can be traced to the portion of the disallowed CWTs (due to incorrect or incomplete address, not within the period covered, and those with no BIR Form No. 2307).

However, the Special Third Division was not convinced. On 17 July 2024, it issued the assailed Resolution which denied the MR for lack of merit.[48]

On the first argument, the Special Third Division explained that when the Court is unable to verify whether the income subjected to 1% CWT was indeed included in the declared net sales, it is necessary for the petitioner to provide schedules and other documents to support the supposed reconciliation.

Second, the Special Third Division discussed that it cannot simply rely on petitioner's invocation of the double-entry accounting system because it cannot draw conclusions as to where or to what account the corresponding entries were recorded. Moreover, petitioner failed to show proof that the account credited upon the recording of the CWTs *per* CWT Ledger are the very same account or ledger used as basis for sales declaration not only for financial reporting purposes but also for income tax purposes.

As to petitioner's third argument, the Special Third Division noted that difference in the "Amount of Income Payments" and "Amount of Income Payments *per* BIR Form 2307" as declared in petitioner's *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**") is ₱1,005,219,974.42. This results to withholding tax equivalent to 1% or ₱10,052,199.74 which does not tally to the total exceptions that ICPA Calica noted *per* his *Summary of Exceptions Noted of Creditable Income Tax Withheld* (Exhibit "**P-1145**") amounting to ₱12,191,590.73.

Finally, the Special Third Division emphasized that tax refunds are construed strictly against the taxpayer, and liberally in favor of the State. Thus, the law, as well as the documents presented to prove such entitlement to the refund are construed *strictissimi juris* against the taxpayer. The Special Third Division then reiterated its finding that petitioner failed to establish the factual basis of its claim for tax credit or refund.

48 Supra at note 3.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Unsatisfied with the Special Third Division's actions, petitioner filed the present petition before the Court *En Banc* on 30 August 2024.[49] With the filing of respondent's comment on the petition[50], the Court submitted the case for decision on 08 January 2025.[51]

ISSUE

WHETHER THE SPECIAL THIRD DIVISION ERRED IN RULING THAT PETITIONER SONY PHILIPPINES, INCORPORATED FAILED TO PROVE THAT INCOME FROM WHICH THE CREDITABLE WITHHOLDING TAXES (CWT) WERE WITHHELD WERE DECLARED AS PART OF ITS GROSS INCOME IN ITS FY 2018 INCOME TAX RETURN (ITR).[52]

ARGUMENTS

Before the Court *En Banc*, in calling for the reversal of the assailed Decision and Resolution, petitioner reiterated its arguments in its MR, as follows: *first*, that the income payments upon which the CWTs were withheld were declared as part of the gross income in its ITR as can be seen in the figures in its FY 2018 ITR and schedules; *second*, that ICPA Calica traced the income from which the CWTs arose to petitioner's FY 2018 ITR using various schedules and accounting documents; and *third*, that it submitted documents which would allow the Court to verify the veracity of its' claim.[53] In addition, petitioner argued that claims for tax refunds are civil in nature, thus, while the claimant has the burden of proving its entitlement, only preponderance of evidence is required in order to recover its erroneously paid taxes.[54]

In response, respondent countered that the petition deserves scant consideration after petitioner failed to provide documents that would prove that it is entitled to the CWT refund.[55]

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49 Supra at note 1.
50 See Comment (Petition for Review) filed on 14 November 2024, *rollo*, pp. 69-75.
51 See Notice of Resolution, id., p. 77.
52 Supra at note 1, Grounds in Support of the Petition, p. 7.
53 Supra at note 1, pp. 7-15.
54 Supra at note 1, pp. 15-17.
55 Supra at note 50, pp. 69-71.

RULING OF THE COURT *EN BANC*

At the outset, it is noted that the present petition before the Court *En Banc* was timely filed. Petitioner had fifteen (15) days from its receipt of the assailed Resolution on 15 August 2024[56], or until 30 August 2024, to file a Petition for Review before the Court *En Banc*.[57] Thus, the present Petition for Review was timely filed on 30 August 2024.[58]

We proceed to the merits of the case.

At the core of the Court *En Banc*'s resolution of this case is Section 76 of the NIRC of 1997, as amended, which outlines the mechanisms and remedies that a corporate taxpayer may opt to exercise regarding excess CWTs:

> ...
>
> 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 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

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56 See Notice of Resolution dated 22 July 2024, *rollo*, p. 60.

57 Pursuant to Section 3(b), Rule 8 of the RRCTA, which reads:
SEC. 3. Who may appeal; period to file petition. —
...
(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

58 Supra at note 1.

> 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.
>
> ...

Pertinent provisions of Revenue Regulations (**RR**) No. 02-98[59], as amended, and jurisprudence[60] also lay down the requisites for a taxpayer to be entitled to a refund or the issuance of a TCC for excess and unutilized CWT, as follows —

1. The claim for refund must be filed within the two (2)-year prescriptive period as provided under Sections 204(C)[61] and 229[62] of the NIRC of 1997, as amended;

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.

In the case at bar, the Special Third Division found that petitioner timely filed its claim for refund and proved the fact of withholding to the extent of ₱35,417,263.71. However, it denied petitioner's claim for CWT refund due to the latter's failure to comply with the third requisite. Again, the third requisite requires petitioner to establish that its income payments subjected to CWTs were reported as part of its gross income in its FY 2018 ITR.

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59 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.

60 *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, 14 January 2015; *United International Pictures AB v. Commissioner of Internal Revenue*, G.R. No. 168331, 11 October 2012; *Citibank, N.A. v. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 107434, 10 October 1997; *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*, G.R. No. 96322, 20 December 1991.

61 Supra at note 13.

62 Supra at note 14.

I. PETITIONER DID NOT SUBMIT SUFFICIENT EVIDENCE TO PROVE ITS COMPLIANCE WITH THE THIRD REQUISITE.

To prove that the income payments upon which the taxes were withheld were declared as part of its gross income, petitioner reiterated its argument in its MR before the Court in Division that its total net sales as declared in its FY 2018 ITR amounting to ₱5,935,819,420 is more than the total income payments subjected to withholding tax based on its *Schedule of Creditable Income Tax Withheld* (Exhibit "**P-1144**") amounting to ₱5,306,126,946. In so arguing, petitioner cites the foregoing portion of *RCD Realty Marketing Corporation v. Commissioner of Internal Revenue*[63] (**RCD Realty**):

> ...
>
> Anent the third requisite, — whether the income upon which the taxes were withheld was included in the return of the recipient.
>
> Clear from petitioner's Quarterly ITRs for 2008 and its original and amended Annual ITRs for 2008 that the revenues received by petitioner from which the creditable taxes were withheld were declared part of its gross income for the year 2008.
>
> **The certificates prove that the claimed CWT in the amount of P3,873,748.71 was withheld on income payments in the amount of P38,737,487.02, the very same figure indicated as "Sales/Revenues/Receipts/Fees" by petitioner in its amended Annual ITR for taxable year 2008. Thus, petitioner had properly declared the income related to the reported CWT of P3,873,748.71.**
>
> In sum, petitioner has sufficiently complied with the three requisites for the grant of a claim for refund of excess CWT albeit in the reduced amount of P3,696,086.43.
>
> ...

Petitioner concludes that its situation is even better than that of RCD Realty since its sales as declared its FY 2018 ITR is not only equal, but even higher than the total income payments that was subjected to CWT. Hence, it stands to reason that its sales subjected to CWT were already included as part of the sales declared in its FY 2018 ITR.

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63 C.T.A. Case No. 8271, 18 November 2013; Emphasis supplied.

We do not agree.

In the recent case of *Tullett Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*[64], the Supreme Court already ruled that the third requisite may ***not*** be proved by the mere fact that the income from which the CWT is withheld is less than the total income reported by the claimant:

> ...
>
> [T]**he Court is not inclined to adopt as doctrine that the third requisite may be proved by the mere fact that the income from which CWT is withheld is *less* than the total income reported by the taxpayer-claimant.** This goes against the elementary principle that cases before the CTA are litigated *de novo* and that parties "should prove every minute aspect of their cases." This is particularly true in refund cases as tax refunds are strictly construed against the taxpayer. Even so, while not absolutely determinative of the third requisite, when the total reported sales/income is ***greater*** *than the income corresponding to the CWT withheld, this should prompt the CTA to be* **more circumspect** *in its evaluation of the evidence on record,* especially when there is other evidence that could point to the breakdown of the gross income reported, as in this case.
>
> ...
>
> Accordingly, the case should be remanded and Tullett Prebon should be allowed **to present and submit the expanded general ledger as evidence to prove the third requisite.** The Court leaves the determination of the extent of the effects thereof on the amount of CWT to be refunded to the CTA.
>
> ...

Accordingly, to satisfy the third requisite for a CWT refund, the claimant must submit a general ledger or any other detailed documentation linking specific income payments subjected to withholding directly to the amounts reported in their ITRs. Clearly, it is the obligation of claimant to maintain and present comprehensive records that clearly demonstrate the inclusion of income subjected to withholding in their reported gross income. Failure to provide such detailed documentation undermines the validity of tax refund claims related to excess and unutilized CWTs.

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64 G.R. No. 257219, 15 July 2024; Citations omitted, italics and emphasis in the original text and supplied.

We, therefore, agree with the Special Third Division's ruling that petitioner must provide schedules and other documents to enable it to verify that the income payments subjected to CWT were indeed included in the amount of sales as declared in its FY 2018 ITR.

In another attempt to convince this Court to grant its claim for refund, petitioner also argues that even if the CWTs are incomplete and that there is no general ledger to verify them with, still, petitioner has presented sufficient evidence of the existence of the BIR Form No. 2307. The mere fact that the income payments are traceable to the individual CWT certificates shows that the tax credit exists. Considering that some may not be fully traceable, petitioner asserts that the Court should not completely remove and disallow its entire claim and credence must be given to the income payments, albeit partially. Unfortunately, We could not oblige to do so.

Verily, petitioner's BIR Form No. 2307 is beyond dispute. The Special Third Division already ruled that petitioner was able to comply, albeit partially, with the second requirement for refund (*i.e.*, the fact of withholding is established by a copy of statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom). However, as the records clearly bear, it is for petitioner's non-compliance with the third requirement, not the second, that resulted in the denial of petitioner's claim for excess CWT.

II. PETITIONER'S EXHIBIT'S "**P-1144**", "**P-1144-A**", AND "**P-1146**" ARE NOT SUFFICIENT EVIDENCE TO PROVE ITS COMPLIANCE WITH THE THIRD REQUISITE.

Petitioner submits that contrary to the Special Third Division's findings, ICPA Calica was able to trace the income payments (subjected to CWT amounting to ₱5,306,126,946.00) from the schedules to the book accounts by comparing the *Schedules of Creditable Income Tax Withheld* (Exhibit "**P-1144**") and *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**") against the *General Ledger of Creditable Withholding Taxes* (Exhibit "**P-1146**"). According to petitioner, the *General Ledger of Creditable Withholding Taxes* (Exhibit

"**P-1146**") showed the OR numbers of the sales from which the taxes were withheld. Thus, following the double-entry accounting system, not only was the asset account verified but so was the corresponding revenue account.

Petitioner then went on to explain that the double-entry accounting system pertained to a method of bookkeeping wherein in each business transaction, an entry shall be recorded with at least one (1) debit account and at least one (1) credit account. As applied, the *General Ledger of Creditable Withholding Taxes* (Exhibit "**P-1146**") showed various entries referencing OR numbers. Following the double-entry accounting system, an increase in CWT, an asset account (debit), should have a corresponding increase in the liability or the revenue account (credit). Thus, petitioner argued that the matching revenue account pertained to the sales referencing various ORs.

Petitioner's argument is *non sequitur*. While it may be true that an increase in CWT *might* mean a corresponding increase in revenue account, it does not necessarily mean that the said revenue was reported in petitioner's FY 2018 ITR. Precisely at issue here is that lack of definite proof that the income payments from which the claimed CWTs arose were declared in petitioner's ITR.

Ultimately, petitioner's claim hinges on whether the contents of petitioner's *Schedules of Creditable Income Tax Withheld* (Exhibit "**P-1144**") as detailed in its *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**"), and its *General Ledger of Creditable Withholding Taxes* (Exhibit "**P-1146**") could prove its compliance with the third requisite for CWT refund.

After a careful review of these schedules, the Court *En Banc* could only respond in the negative.

Petitioner's *Schedules of Creditable Income Tax Withheld* (Exhibit "**P-1144**") as reproduced below, shows the quarterly amount of CWT withheld and the corresponding quarterly amount of income payments *per* BIR Form No. 2307:

Particulars	Amount of Income Payments	Tax Withheld
1st Quarter	P 1,183,300,718.00	P 11,833,007.18
2nd Quarter	1,205,473,962.00	12,054,739.62
3rd Quarter	1,793,193,257.00	17,931,932.57
4th Quarter	1,124,159,009.00	11,241,590.09
GRAND TOTAL (Exhibit "P-1144-A")	P 5,306,126,946.00	P 53,061,269.46
Per Application for Tax Refund BIR Form 1914 (Exhibit "P-1169")/ CTA CLAIM (CTA CASE NO. 10302) (Exhibit "P-1171")		53,060,855.00
Variance		*414.46*
Income Payments:		
Per 2018 Annual Income Tax Return (Exhibit "P-1152")/		
2018 Audited Financial Statements (Exhibit "P-1153")	5,935,819,420.00	
Variance	*(629,692,474.00)*	
CREDITABLE TAX WITHHELD		
<u>QUARTERLY INCOME TAX RETURNS - 1702Q (Exhibits "P-1154" to "P-1156")</u>	Tax Withheld	
1st Quarter (Exhibit "P-1154")	P 11,833,007.18	
2nd Quarter (Exhibit "P-1155")	12,055,632.88	
3rd Quarter (Exhibit "P-1156")	17,932,825.83	
	P 41,821,465.89	
<u>ANNUAL INCOME TAX RETURN - 1702 (Exhibit "P-1152")</u>		
Creditable tax withheld for the previous quarter(s)	P 41,819,679.00	
Creditable tax withheld *per* BIR Form 2307 for this quarter	11,241,176.00	
TOTAL	P 53,060,855.00	

Meanwhile, petitioner's *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**") shows a comparison of the CWT being claimed for refund against the details in the individual CWT certificates, as vouched by ICPA Calica. We reproduce below the details for the first five (5) payors:

PAYOR'S NAME	**(1) ABENSON LIBERTY APPLIANCE INC**	**(2) ABENSON VENTURES INC**	**(3) ACHIEVE ENTERPRISES**	**(4) ADDESSA CORPORATION**	**(5) ALTURAS ABENSON APPLIANCE BOHOL INC**
Period	Jun-17	Jun-17	Sep-17	Jun-17	Jun-17
ATC	WC158	WC158	WC158	WC158	WC158
Amount of Income Payments	3,367,717.00	171,791,175.00	39714	1,377,162.00	2,957,093.00
Tax Withheld	33,677.17	1,717,911.75	397.14	13,771.62	29,570.93
Exhibit Number	P-1144-A-1	P-1144-A-5	P-1144-A-9	P-1144-A-10	P-1144-A-24
***Per* Certificate of Creditable Tax Withheld At Source (BIR Form 2307)**					
Period From	4/1/2017	4/1/2017	7/18/2017	4/1/2017	4/1/2017
Period To	6/30/2017	6/30/2017	7/18/2017	6/30/2017	6/30/2017
Amount of Income Payments	3,499,454.28	185,753,202.59	39713.57	570,904.10	3,163,741.03
Tax Withheld	34,994.54	1,857,532.18	397.14	5,709.04	31,637.38

Lastly, petitioner's *General Ledger of Creditable Withholding Taxes* (Exhibit "**P-1146**") shows the line-item journal entries to the account title "Creditable Withholding Taxes" with account number "49600" in petitioner's books of accounts. We reproduce below the first five (5) entries:

Transaction	1st	2nd	3rd	4th	5th
Stat	@5C\Q open@	@5C\Q open@	@5C\Q open@	@5C\Q open@	@5C\Q open@
Assignment	OR023291	OR011941	20170407	20170407	OR024164
G/L	49600	49600	49600	49600	49600
Document No	1300000009	1300000010	1300000025	1300000026	1300000030
Customer	40049	40095	40002	40002	48029

Name	METRO PLAZA - DAVAO	DGTE APPLIANCE CENTRUM	ROBINSONS APPL CORP. - NOVALICHES	ROBINSONS APPL CORP. - NOVALICHES	SOLID VIDEO CORPORATION
BusA	4999	4999	4999	4999	4999
Cost Ctr	-	-	-	-	-
Type	DC	DC	DC	DC	DC
Purch.Doc.	-	-	-	-	-
Reference	OR023291	OR011941	OR024163	OR024578	-
PK	40	40	50	50	40
Tx	-	-	-	-	-
Clrng doc.	-	-	-	-	-
Text	EWT adjustment on OR023291	EWT adjustment on OR011941	EWT Adj Doc 140000017 OR24163	EWT Adj OR24162 Doc 1400000018	OR024164
Doc. Date	4/4/2017	4/4/2017	4/7/2017	4/7/2017	4/10/2017
Amount in local cur.	1,200.00	261.13	-212.31	-137.29	147.62
LCurr	PHP	PHP	PHP	PHP	PHP
Curr.	PHP	PHP	PHP	PHP	PHP
Amount in doc. curr.	1,200.00	261.13	-212.31	-137.29	147.62

Thus, after a careful scrutiny of petitioner's *Schedules of Creditable Income Tax Withheld* (Exhibit "**P-1144**"), *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**"), and *General Ledger of Creditable Withholding Taxes* (Exhibit "**P-1146**"), this Court finds that these schedules, taken singly or cumulatively, ***do not prove*** that the income payments from which the CWTs subject of the present refund are declared in petitioner's FY 2018 ITR.

As to petitioner's *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**"), the Special Third Division ruled that it was not able to use this Exhibit to prove the third requisite as the amounts under "Amount of Income Payments" and "Amount of Income

Payments *per* Certificate of Creditable Tax Withheld at Source (BIR Form 2307)" do not match.

Petitioner has attempted to explain that the "Amount of Income Payments" pertained to the tax base of creditable withholding tax *per* general ledger of CWT while the "Amount Income Payment *per* Certificate of CWT withheld at Source (BIR Form 2307)" referred to the amount of income payments duly supported with BIR Form No. 2307 as verified by ICPA Calica. Petitioner added that the difference between the two (2) amounts corresponded to the portion of the disallowed items due to the following reasons: (1) incomplete address of petitioner; (2) not within the period covered; and (3) no BIR Form No. 2307 was submitted.

However, petitioner's explanation fails to convince. As already discussed above, the Court has carefully reviewed petitioner's *Schedule of Creditable Income Tax Withheld and Corresponding Certificate of Creditable Tax Withheld at Source (BIR Form 2307)* (Exhibit "**P-1144-A**") and found that nowhere therein could this Court trace the income payments subjected to CWT to the revenue declared in petitioner's FY 2018 ITR.

III. PETITIONER WAS NOT ABLE TO PROVE, EVEN BY PREPONDERANCE OF EVIDENCE, ITS COMPLIANCE TO THE THIRD REQUISITE.

Petitioner argues that although actions for tax refunds are in the nature of a claim for exemption and thus construed *strictissimi juris* against the taxpayer, still, tax refund cases are civil in nature. Hence, petitioner need only to prove its claim by preponderance of evidence. Considering the totality of documentary and testimonial evidence adduced in the court *a quo*, petitioner asserts that it has sufficiently and preponderantly established its entitlement to a tax refund.

At the outset, the Supreme Court has ruled that the standard of proof in tax refunds is merely preponderance of evidence.[65] Section 1,

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[65] *Tullett Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*, supra at note 64. See also *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*, G.R. No. 231581, 10 April 2019.

Rule 133 of the Revised Rules on Evidence[66] defines preponderance of evidence in this manner:

> ...
>
> SEC. 1. *Preponderance of evidence, how determined.* — In civil cases, the party having the burden of proof must establish his or her case by a preponderance of evidence. In determining where the preponderance or **superior weight of evidence** on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.[67]
>
> ...

Here, after a judicious consideration of petitioner's arguments and documentary and testimonial evidence, **this Court finds that petitioner was not able to prove, by preponderance of evidence,** its assertion that the income payments from which the CWTs subject of refund were declared in its FY 2018 ITR.

Inarguably, the claimant bears the burden of proof in establishing the factual basis of a claim for a tax credit or refund.[68] Tax refunds are in the nature of tax exemptions. As such, they are regarded as derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.[69] Thus, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[70]

66 A.M. No. 19-08-15-SC, 2019 PROPOSED AMENDMENTS TO THE REVISED RULES ON EVIDENCE, 08 October 2019.

67 Emphasis supplied and italics in the original text.

68 *Citibank N.A. v. Court of Appeals and Commissioner of Internal Revenue*, supra at note 60.

69 *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc. and Court of Appeals*, G.R. No. 127105, 25 June 1999.

70 *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, 25 March 2015, citing *J.R.A. Philippines, Inc. v. Commissioner Internal Revenue*, G.R. No. 171307, 28 August 2013.

ACCORDINGLY, the instant Petition for Review filed by petitioner Sony Philippines, Incorporated on 30 August 2024 is **DENIED** for lack of merit. Thus, the assailed Decision dated 30 August 2023 and assailed Resolution dated 17 July 2024, of the Special Third Division in CTA Case No. 10302, entitled *Sony Philippines, Incorporated v. Commissioner of Internal Revenue*, are hereby **AFFIRMED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

ON LEAVE

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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