REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

WINEBRENNER & IÑIGO INSURANCE BROKERS, INC.,
Petitioner,

CTA Case No. 8277

- versus-

Members:

Bautista, *Chairperson*
Cotangco-Manalastas, JJ.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
DEC 19 2012
ABFernando 1:58p.m.

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DECISION

COTANGCO-MANALASTAS, *J.*:

This is a Petition for Review filed by petitioner Winebrenner & Iñigo Insurance Brokers, Inc. on April 15, 2011 to seek the issuance of a tax credit certificate (TCC) in the amount of P5,646,202.00, allegedly representing its excess and unutilized creditable income taxes withheld for taxable year 2008.

FACTS

Petitioner is a domestic corporation duly organized and existing under Philippine laws, with principal office at 8th Floor, 88 Corporate Center, Sedeño corner Valero Streets, Salcedo Village, Makati City.[1] It is registered with the Bureau of Internal Revenue (BIR) and was

[1] Exhibit "B".

issued Tax Identification Number (TIN) 000-151-714-000 and BIR Certificate of Registration No. 9RC0000185715.[2]

Respondent Commissioner of Internal Revenue is the head of the Bureau of Internal Revenue empowered to perform the duties of said office including, among others, the power to decide, approve and grant refunds or tax credits of erroneously or excessively paid taxes. She holds office at the BIR National Office Building, Diliman, Quezon City, Metro Manila.

On April 15, 2009, petitioner filed its Annual Income Tax Return (ITR) for taxable year 2008.[3] Petitioner chose to be issued a tax credit certificate for its excess and unutilized CWT.

Petitioner likewise filed amended Annual Income Tax Returns for 2008 on May 15, 2009 and April 15, 2010.[4]

On April 14, 2011, petitioner filed with the BIR its administrative claim for refund or issuance of TCC for its alleged excess and unutilized CWT in 2008 in the amount of ₱5,646,202.00.[5]

Due to inaction of respondent on petitioner's claim for refund or issuance of TCC, petitioner filed the instant Petition for Review on April 15, 2011.

In her Answer[6] filed on June 3, 2011, respondent averred the following Special and Affirmative Defenses:

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[2] Exhibit "A".
[3] Exhibit "N".
[4] Exhibits "M" and "O"; Par. 2, Joint Stipulation of Facts, Joint Stipulation of Facts and Issues, docket, p. 114.
[5] Exhibits "EE" and "FF".
[6] Docket, pp. 86-88.

"3. She reiterates and repleads the preceeding paragraphs of this answer as part of her Special and Affirmative Defenses;

4. Petitioner's claim for refund is still subject to the administrative routinary investigation/ examination by the respondent's Bureau;

5. Taxes paid and collected are presumed to have been made in accordance with law and implementing regulations, hence, not refundable.

6. Petitioner's claim for refund/issuance of tax credit in the amount of **Php5,646,202.00**, as alleged excess and unutilized creditable income taxes withheld for taxable year 2008 were not fully substantiated by proper documentary evidence, such as, but not limited to certificates of income taxes withheld at source.

7. Petitioner failed to prove that the amount of **Php5,646,202.00**, as alleged excess and unutilized creditable income taxes withheld for taxable year 2008 was included as part of its gross income for taxable year 2008 and the same was not utilized in payment of its income tax liability for the succeeding taxable quarters/years;

8. Petitioner has already exercised its option to carry-over to the succeeding taxable quarters/years the subject of its claim, pursuant to Section 76 of the 1997 Tax Code.

9. Petitioner failed to prove that the amount subject of its claim was remitted in full to the BIR.

10. Petitioner failed to comply with the requirements prescribed under Section 76 of the 1997 Tax Code.

11. Assuming but without admitting that petitioner is entitled to tax refund, it is incumbent upon the latter to show that it has complied with the provisions under *Sections 204 in relation to Section 230 (now 229) of the Tax Code*. Otherwise, its failure to prove the same is fatal to its claim for refund.

> 12. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and as such, they are looked upon with disfavor *(Western Minolco Corp vs. Commissioner of Internal Revenue, 124 SCRA 121)*."

A Notice of Pre-Trial Conference[7] dated June 21, 2011 was sent to the parties, setting the case for pre-trial conference on July 14, 2011 and requiring both parties to be present at the pre-trial and to file with the Court at least three (3) days before the date of the pre-trial their pre-trial briefs.

In compliance with the said Notice, respondent's Pre-Trial Brief[8] and petitioner's Pre-Trial Brief[9] were filed on July 11, 2011. On July 27, 2011, the parties filed their Joint Stipulation of Facts and Issues.[10]

During trial, petitioner presented its testimonial and documentary evidence. Respondent's counsel, on the other hand, manifested that he will not present any evidence.

On August 1, 2012, this Court issued a Resolution submitting the case for decision, considering petitioner's Memorandum filed on June 14, 2012 and respondent's Memorandum filed on July 24, 2012.

[7] Docket, p. 90.
[8] Docket, pp. 100-102.
[9] Docket, pp. 91-99.
[10] Docket, pp. 113-116.

STATEMENT OF ISSUES

The parties submitted the following issues[11] for this Court's resolution:

> "A. WHETHER OR NOT THE INCOME PAYMENTS FROM WHICH THE 2008 CREDITABLE WITHHOLDING TAX SOUGHT TO BE REFUNDED/ISSUED TAX CREDIT CERTIFICATE WERE WITHHELD WERE INCLUDED AS PART OF PETITIONER'S GROSS INCOME FOR TAXABLE YEAR 2008.
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> B. WHETHER OR NOT PETITIONER HAS EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAX FOR TAXABLE YEAR 2008 IN THE AMOUNT OF PHP5,646,202.00.
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> C. WHETHER OR NOT PETITIONER CARRIED-OVER TO THE SUCCEEDING TAXABLE QUARTERS OR YEARS THE CLAIMED EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAX FOR TAXABLE YEAR 2008 AND APPLIED THE SAME IN PAYMENT OF ITS INCOME TAX LIABILITY FOR THE SUCCEEDING TAXABLE QUARTERS OR YEARS.
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> D. WHETHER OR NOT PETITIONER'S CLAIM FOR REFUND OF EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAX FOR TAXABLE YEAR 2008 IN THE AMOUNT OF PHP5,646,202.00 AS WELL AS FULL REMITTANCE THEREOF TO THE BUREAU OF INTERNAL REVENUE WERE DULY SUBSTANTIATED BY PROPER DOCUMENTARY EVIDENCE.
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> E. WHETHER OR NOT PETITIONER COMPLIED WITH THE REQUIREMENTS UNDER SECTION 76 OF THE 1997 TAX CODE, IN RELATION TO SECTIONS 204 AND 229 OF THE SAME CODE, AND IS ENTITLED TO THE CLAIMED REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE IN THE SUM OF PHP5,646,202.00 AS EXCESS CREDITABLE WITHHOLDING TAX FOR TAXABLE YEAR 2008." *L*

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[11] Docket, pp. 115-116.

DISCUSSION/RULING

The foregoing issues boil down to the question of whether or not petitioner is entitled to an issuance of tax credit certificate in the amount of P5,646,202.00, representing alleged excess and unutilized creditable withholding tax for taxable year 2008.

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

> "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 the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.**" *(Emphasis supplied)*

Based on the afore-quoted Section 76, a corporation entitled to a tax credit or refund of the excess estimated quarterly income taxes paid has two options: (1) to carry over the excess credit or (2) to apply for the issuance of a tax credit certificate or to claim a cash refund. If the option to carry over the excess credit is exercised, the same shall be irrevocable for that taxable period.[12]

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 ease the administration of tax collection, these remedies are in the alternative and the choice of one precludes the other.[13]

On April 15, 2009, petitioner manually filed its Annual Income Tax Return for taxable year 2008.[14] Subsequently, it amended the said return on May 15, 2009[15] and April 15, 2010[16]. Below are the amounts as shown in the returns:

	Exhibit "N"	**Exhibit "M"**	**Exhibit "O"**
Date Filed with the BIR	**04/15/09**	**05/15/09**	**04/15/10**
Sales/Revenues/Receipts/Fees	₱ 52,352,761.00	₱ 52,352,761.00	₱ 52,352,761.00
Less: Cost of Sales/Services	35,593,120.00	35,597,298.00	35,597,298.00
Gross Income from Operation	₱ 16,759,641.00	₱ 16,755,463.00	₱ 16,755,463.00
Add: Non-Operating & Other Income	5,653,203.00	6,106,065.00	6,106,065.00
Total Gross Income	₱ 22,412,845.00	₱ 22,861,528.00	₱ 22,861,528.00
Less: Deductions	18,863,388.00	17,809,561.00	17,809,561.00
Taxable Income	₱ 3,549,456.00	₱ 5,051,966.00	₱ 5,051,966.00
Income Tax Due (35%)	₱ 1,242,310.00	₱ 1,768,188.00	₱ 1,768,188.00
Less: Tax Credits/Payments			
Prior Year's Excess Credits	₱ 2,143,557.00	₱ 2,143,557.00	₱ 2,143,557.00

[12] *Systra Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 176290, September 21, 2007.
[13] *Philippine Bank of Communications vs. Commissioner of Internal Revenue, et al.*, G.R. No. 112024, January 28, 1999.
[14] Exhibit "N".
[15] Exhibit "M".
[16] Exhibit "O".

Tax Payments for the First Three Quarters			
Creditable Tax Withheld for the First 3 Quarters	**455,551.00**	**455,551.00**	**455,551.00**
Creditable Tax Withheld for the Fourth Quarter	**4,220,104.00**	**5,190,651.00**	**5,190,651.00**
Total Tax Credits/Payments	₱ 6,819,212.00	₱ 7,789,759.00	₱ 7,789,759.00
Tax Payable/(Overpayment)	₱ (5,576,903.00)	₱ (6,021,571.00)	₱ (6,021,571.00)

A perusal of the records shows that petitioner marked the box "To be issued a Tax Credit Certificate" in its original[17], first amended[18] and second amended[19] manually filed Annual Income Tax Returns for taxable year 2008. However, petitioner did not mark any of the three option boxes in Line 31 of its electronically filed original and amended Annual Income Tax Returns.[20]

Notwithstanding the failure of petitioner to make the appropriate marking in its electronically filed Annual Income Tax Return, the marking of the option "To be issued a Tax Credit Certificate" in all its manually filed returns served as an expression of its choice to request a tax refund in the form of a TCC with respect to the income tax overpayment shown in the said returns.

Anent petitioner's second amended Annual Income Tax Return for taxable year 2008[21], records indicate that petitioner had total tax credits of P7,789,759.00, which consisted of its prior year's excess credits in the amount of P2,143,557.00 and creditable taxes withheld during the year 2008 in the amount of P5,646,202.00.

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[17] Line 33, Exhibit "N".
[18] Line 33, Exhibit "M".
[19] Line 33, Exhibit "O".
[20] Exhibits "G" and "H".
[21] Exhibit "O".

Petitioner claims that its 2008 income tax due amounting to P1,768,188.00 was paid using a portion of its prior year's excess credits of P2,143,557.00; thus, leaving the prior year's excess credits in the amount of P375,369.00 (P2,143,557.00 less P1,768,188.00) and creditable taxes withheld during the year 2008 in the amount of P5,646,202.00 totaling to P6,021,571.00 unutilized as of December 31, 2008, as shown below:

Income Tax Due	P 1,768,188.00
Less: Prior Year's Excess Credits	2,143,557.00
Balance of Prior Year's Excess Credits	P 375,369.00
Add: Creditable Taxes Withheld – 2008	**5,646,202.00**
Excess Creditable Taxes Withheld as of December 31, 2008	P 6,021,571.00

Inasmuch as only the prior year's excess credit of P375,369.00 was carried over to the subsequent quarters/year 2009,[22] the excess creditable tax withheld in 2008 in the amount of P5,646,202.00 appears to be refundable pursuant to Section 76 of the NIRC of 1997.

However, this Court cannot ascertain whether petitioner's Quarterly Income Tax Return[23] for the first quarter of 2009 is an original return. The return was filed on August 28, 2009 at 12:00am, which is the same date and time when petitioner filed its Quarterly Income Tax Return for the second quarter[24]. Moreover, petitioner did not place any tick mark to indicate whether the said return is amended or not.

[22] Exhibits "D", "E", "F", "L", and "C".
[23] Exhibit "D".
[24] Exhibit "E".

Petitioner should have established before this Court that the said document is its original First Quarter Income Tax Return for 2009. It must be stressed that the original First Quarter Income Tax Return would be material in determining whether petitioner exercised the irrevocable option of carry-over.

In addition to the requisite provided under Section 76 of the NIRC of 1997, a taxpayer must satisfy the following requirements in order to be entitled to a refund or issuance of tax credit certificate for excess/unapplied CWT:

1. The claim for refund was filed within the two-year prescriptive period as provided under Section 204(C) in relation to Section 229 of the NIRC of 1997, as amended;

2. The fact of withholding is 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 was included in the return of the recipient *(Section 2.58, Revenue Regulations No. 2-98, as amended; Citibank N.A. vs. Court of Appeals, et al. G.R. No. 107434, October 10, 1997).*

As regards the first requisite, the applicable provisions of the NIRC of 1997 are 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 supplied)*

"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 supplied)*

Well-settled in our jurisprudence is that the reckoning of the two-year prescriptive period for the filing of a claim for refund/tax credit of excess income tax paid/withheld commences from the date of filing of the Final Adjustment Return.[25]

[25] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991.

In the case at bench, petitioner filed its Annual Income Tax Return for taxable year 2008 on April 15, 2009[26]. Counting therefrom, petitioner had until April 15, 2011 within which to file its claim for refund or tax credit certificate both in the administrative and judicial levels. Therefore, petitioner's administrative claim for refund filed on April 14, 2011[27] and the Petition for Review filed on April 15, 2011 both fell within the two-year prescriptive period.

To prove the fact of withholding of the subject claim in compliance with the second requisite, petitioner submitted a Schedule of Income and Creditable Tax Withheld Certificates for the year 2008[28], Summary of 2008 CWT Certificates[29] and various Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307)[30].

The Schedule of Income and Creditable Tax Withheld Certificates for the year 2008 shows tax withheld in the total amount of P5,646,202.86, while the Summary of 2008 CWT Certificates shows P5,634,084.42. However, in the summary, the certificates reflect creditable withholding taxes of only P5,634,082.50, detailed as follows:

Exhibit	Payor/Withholding Agent	Income Payment	Income Tax Withheld
COMMISSION / INSURANCE AGENTS/BROKERS/ADJUSTERS			
"KK-1"	ASALUS CORPORATION	₱ 268,421.31	₱ 26,842.13
"KK-2"	ASALUS CORPORATION	439,106.90	43,910.69
"KK-3"	ASALUS CORPORATION	276,176.30	27,617.63
"KK-4"	ASALUS CORPORATION	356,386.20	35,638.62

[26] Exhibit "N".
[27] Exhibits "EE" and "FF".
[28] Exhibit "CC" or "KK".
[29] No. 09, Exhibit "NN", docket, pp. 1257-1263.
[30] Exhibits "KK-1" to "KK-121".

"KK-5"	ASIA INSURANCE (PHILS.) CORP.	69,287.42	6,928.74
"KK-6"	ASIA UNITED INSURANCE INC.	17,601.25	1,760.13
"KK-7"	ASIA UNITED INSURANCE INC.	1,332.00	133.20
"KK-8"	ASIA UNITED INSURANCE INC.	1,005.00	100.50
"KK-9"	ASIANLIFE & GENERAL ASSURANCE CORP.	183,695.57	18,369.56
"KK-10"	BLUE CROSS INSURANCE, INC.	30,115.39	3,011.54
"KK-11"	BLUE CROSS INSURANCE, INC.	47,176.80	4,717.68
"KK-12"	BLUE CROSS INSURANCE, INC.	119,556.82	11,955.68
"KK-13"	BLUE CROSS INSURANCE, INC.	63,162.27	6,316.23
"KK-14"	BPI/MS INSURANCE CORP.	1,403,339.84	140,334.59
"KK-15"	CORPORATE GUARANTEE & INSURANCE CO. INC.	11,885.20	1,188.52
"KK-16"	CORPORATE GUARANTEE & INSURANCE CO. INC.	46,862.10	4,686.21
"KK-17"	CORPORATE GUARANTEE & INSURANCE CO. INC.	220,281.30	22,028.13
"KK-18"	CORPORATE GUARANTEE & INSURANCE CO. INC.	159,028.40	15,902.84
"KK-19"	FEDERAL PHOENIX ASSURANCE CO., INC.	364,229.50	36,422.95
"KK-20"	FEDERAL PHOENIX ASSURANCE CO., INC.	565,502.80	56,550.28
"KK-21"	FEDERAL PHOENIX ASSURANCE CO., INC.	464,838.70	46,483.87
"KK-22"	FEDERAL PHOENIX ASSURANCE CO., INC.	347,021.72	34,702.17
"KK-23"	FIRST GUARANTEE LIFE ASSURANCE COMPANY, INC.	63,061.00	6,306.10
"KK-24"	FIRST GUARANTEE LIFE ASSURANCE COMPANY, INC.	19,103.10	1,910.31
"KK-25"	FIRST GUARANTEE LIFE ASSURANCE COMPANY, INC.	88,803.80	8,880.38
"KK-26"	FIRST GUARANTEE LIFE ASSURANCE COMPANY, INC.	4,311.00	431.10
"KK-27"	FLT PRIME INSURANCE CORPORATION	136,054.90	13,605.49
"KK-28"	FORTUNE GENERAL INSURANCE CORP.	4,349,970.60	434,997.06
"KK-29"	GENERALI PILIPINAS LIFE ASSURANCE COMPANY INC.	2,774.30	277.43
"KK-30"	GENERALI PILIPINAS LIFE ASSURANCE COMPANY INC.	2.80	0.28
"KK-31"	GENERALI PILIPINAS LIFE ASSURANCE COMPANY INC.	3,309.80	330.98
"KK-32"	GENERALI PILIPINAS INSURANCE CO. INC.	1,172,922.91	117,336.54
"KK-33"	INSURANCE COMPANY OF NORTH AMERICA	51,434.90	5,143.49
"KK-34"	INSURANCE COMPANY OF NORTH AMERICA	80,180.54	8,018.06
"KK-35"	INSURANCE COMPANY OF NORTH AMERICA	17,539.80	1,753.98
"KK-36"	INSURANCE COMPANY OF NORTH AMERICA	211,356.62	21,135.66
"KK-37"	INTRA STRATA ASSURANCE CORPORATION	9,069.00	906.90
"KK-38"	MAA GENERAL ASSURANCE PHILS., INC.	1,236,797.90	123,679.79
"KK-39"	MAA GENERAL ASSURANCE PHILS., INC.	355,511.50	35,551.15
"KK-40"	MAA GENERAL ASSURANCE PHILS., INC.	259,386.10	25,938.61
"KK-41"	MAA GENERAL ASSURANCE PHILS., INC.	646,054.40	64,605.44
"KK-42"	MALAYAN INSURANCE CO., INC.	821,896.90	82,189.69
"KK-43"	THE MANILA INSURANCE CO INC	927.49	92.75
"KK-44"	MAPFRE INSULAR INSURANCE CORP.	734,270.08	73,428.20
"KK-45"	METROPOLITAN INSURANCE CO. INC.	151,767.79	15,176.77
"KK-46"	METROPOLITAN INSURANCE CO. INC.	92,163.34	9,216.33
"KK-47"	MAXICARE HEALTHCARE CORP.	27,790.38	2,779.04
"KK-48"	MAXICARE HEALTHCARE CORP.	100,863.90	10,086.39
"KK-49"	MAXICARE HEALTHCARE CORP.	153,505.30	15,350.53
"KK-50"	MAXICARE HEALTHCARE CORP.	205,377.83	20,537.78
"KK-51"	MEDICARD PHILIPPINES, INC.	2,163,224.78	216,322.48
"KK-52"	MEDICARD PHILIPPINES, INC.	1,197,910.18	119,791.02
"KK-53"	MEDICARD PHILIPPINES, INC.	1,173,762.29	117,376.23
"KK-54"	MEDICARD PHILIPPINES, INC.	58,528.49	5,852.85
"KK-55"	THE MERCANTILE INSURANCE CO INC	70,976.57	7,097.66

"KK-56"	METROPOLITAN INSURANCE CO. INC.	59,781.51	5,978.15
"KK-57"	NEW HAMPSHIRE INSURANCE COMPANY	62,792.50	6,279.25
"KK-58"	ORIENTAL ASSURANCE CORPORATION	2,920,340.89	292,034.09
"KK-59"	PACIFIC UNION INSURANCE COMPANY	2,088.50	208.85
"KK-60"	PARAMOUNT LIFE & GENERAL INSURANCE CORP.	529,020.40	52,902.04
"KK-61"	PHIL. CHARTER INSURANCE CORP	146,610.22	14,661.02
"KK-62"	PHILAMCARE HEALTH SYSTEMS, INC.	19,055.50	1,905.55
"KK-63"	PHILAMCARE HEALTH SYSTEMS, INC.	34,791.50	3,479.15
"KK-64"	PHILAM INSURANCE COMPANY INC.	958,937.57	95,893.76
"KK-65"	PHILAM INSURANCE COMPANY INC.	879,266.78	87,926.68
"KK-66"	PHILAM INSURANCE COMPANY INC.	1,274,983.64	127,498.36
"KK-67"	PHILAM INSURANCE COMPANY INC.	429,817.18	42,981.72
"KK-68"	THE PHIL. AMERICAN LIFE & GENERAL INSURANCE CO.	10,915.59	974.61
"KK-69"	THE PHIL. AMERICAN LIFE & GENERAL INSURANCE CO.	46,608.44	4,161.47
"KK-70"	THE PHIL. AMERICAN LIFE & GENERAL INSURANCE CO.	13,105.13	1,170.10
"KK-71"	PHILIPPINE BRITISH ASSURANCE CO., INC.	19,896.00	1,989.60
"KK-72"	PHILIPPINE BRITISH ASSURANCE CO., INC.	3,172.00	475.80
"KK-73"	PHILIPPINE BRITISH ASSURANCE CO., INC.	9,327.80	932.78
"KK-74"	PHILIPPINE BRITISH ASSURANCE CO., INC.	9,415.20	1,412.28
"KK-75"	PHILIPPINE BRITISH ASSURANCE CO., INC.	43,177.70	4,317.77
"KK-76"	PHILIPPINE BRITISH ASSURANCE CO., INC.	18,280.80	1,828.08
"KK-77"	PHILIPPINE BRITISH ASSURANCE CO., INC.	3,744.80	374.48
"KK-78"	PHILIPPINE BRITISH ASSURANCE CO., INC.	9,221.70	922.17
"KK-79"	PHILIPPINE BRITISH ASSURANCE CO., INC.	2,504.93	375.74
"KK-80"	PHILIPPINE BRITISH ASSURANCE CO., INC.	8,865.40	886.54
'KK-81"	PHILIPPINE BRITISH ASSURANCE CO., INC.	61,964.10	6,196.41
"KK-82"	PHILIPPINE BRITISH ASSURANCE CO., INC.	9,994.27	1,499.14
"KK-83"	PHILIPPINE GENERAL INSURANCE CORP	2,656.00	265.60
"KK-84"	PHILIPPINE GENERAL INSURANCE CORP	2,442.00	244.20
"KK-85"	PLARIDEL SURETY & INSURANCE COMPANY	2,475.75	247.58
"KK-86"	PHILIPPINE PHOENIX SURETY & INSURANCE, INC.	56,603.20	5,660.32
"KK-87"	PHILIPPINE PHOENIX SURETY & INSURANCE, INC.	30,079.61	3,007.97
"KK-88"	PHILIPPINE PHOENIX SURETY & INSURANCE, INC.	9,380.50	938.05
"KK-89"	PHILIPPINE PHOENIX SURETY & INSURANCE, INC.	15,742.90	1,574.29
"KK-90"	PHILIPPINE FIRST INSURANCE CO., INC.	23,120.80	2,312.08
"KK-91"	PIONEER INSURANCE & SURETY CORP.	8,474,038.97	847,403.90
"KK-92"	PNB GENERAL INSURERS CO., INC.	49,467.60	4,946.76
"KK-93"	PNB GENERAL INSURERS CO., INC.	6,568.00	656.80
"KK-94"	PNB GENERAL INSURERS CO., INC.	8,035.60	803.56
"KK-95"	PNB GENERAL INSURERS CO., INC.	2,935.20	293.52
"KK-96"	THE PREMIER INSURANCE & SURETY CORP.	13,794.10	1,379.41
"KK-97"	THE PREMIER INSURANCE & SURETY CORP.	4,952.00	495.20
"KK-98"	THE PREMIER INSURANCE & SURETY CORP.	30,075.40	3,007.54
"KK-99"	PRUDENTIAL GUARANTEE AND ASSURANCE INC.	35,953.60	3,595.36
"KK-100"	PRUDENTIAL GUARANTEE AND ASSURANCE INC.	133,411.10	13,341.11
"KK-101"	PRUDENTIAL GUARANTEE AND ASSURANCE INC.	53,531.90	5,353.19
"KK-102"	PRUDENTIAL GUARANTEE AND ASSURANCE INC.	564,176.30	56,417.63
"KK-103"	QBE INSURANCE (PHILS.), INC.	37,314.10	3,731.41
"KK-104"	QBE INSURANCE (PHILS.), INC.	83,105.20	8,310.52
'KK-105"	QBE INSURANCE (PHILS.), INC.	24,902.60	2,490.26
"KK-106"	RECOVERY INSURANCE AGENCY, INC.	2,793.60	279.36

"KK-107"	STANDARD INSURANCE CO., INC.	7,753,067.30	775,306.73
"KK-108"	STRONGHOLD INSURANCE CO., INC.	270,598.30	27,059.83
"KK-109"	UNITED COCONUT PLANTERS LIFE ASSURANCE CORP.	449,960.10	44,996.01
"KK-110"	UNITED COCONUT PLANTERS LIFE ASSURANCE CORP.	99,249.96	9,925.00
"KK-111"	UNITED COCONUT PLANTERS LIFE ASSURANCE CORP.	421,254.40	42,125.44
"KK-112"	UNITED COCONUT PLANTERS LIFE ASSURANCE CORP.	934,228.00	93,422.80
"KK-113"	UCPB GENERAL INSURANCE CO INC.	7,495,848.05	749,584.81
"KK-115"	SUN LIFE OF CANADA (PHILS.), INC.	12,408.10	1,240.81
"KK-116"	SUN LIFE OF CANADA (PHILS.), INC.	18,523.09	1,852.31
"KK-117"	SUN LIFE OF CANADA (PHILS.), INC.	4,664.81	466.48
'KK-118"	SEABOARD-EASTERN INSURANCE CO., INC.	417,404.20	41,740.42
"KK-119"	VALUE CARE HEALTH SYSTEMS, INC.	13,567.30	1,356.73
"KK-120"	VALUE CARE HEALTH SYSTEMS, INC.	14,246.20	1,424.62
"KK-120"	VALUE CARE HEALTH SYSTEMS, INC.	2,610.53	391.58
	TOTAL *Commission / Insurance Agents/Brokers/Adjusters*	**₱ 56,279,489.50**	**₱ 5,628,623.14**
			Top 10,000 Corporation
"KK-114"	MISYS INT'L BANKING SYSTEMS, INC.	252,878.00	5,057.56
	TOTAL Top 10,000 Corporation	**₱ 252,878.00**	**₱ 5,057.56**
			Prime Contractor / Sub-contractor
"KK-121"	DIAMOND EXPORT CORPORATION	20,090.00	401.80
	TOTAL Prime Contractor / Sub-contractor	**20,090.00**	**401.80**
	GRAND TOTAL	**₱ 56,552,457.50**	**₱ 5,634,082.50**

However, the CWT in the amount of ₱5,634,082.50 shall be further reduced by ₱30,624.17 because there are supporting certificates wherein no year was indicated. The breakdown of the CWT of ₱30,624.17 is as follows:

EXHIBIT	PAYOR	AMOUNT OF INCOME PAYMENTS	TAX WITHHELD
"KK-48"	MAXICARE HEALTHCARE CORP.	₱ 100,863.90	₱ 10,086.39
"KK-50"	MAXICARE HEALTHCARE CORP.	205,377.83	20,537.78
	TOTAL	**₱ 306,241.73**	**₱ 30,624.17**

Applying the second requirement to the foregoing, this Court will only consider the amount of ₱5,603,458.33[31] out of the total claimed CWT of ₱5,646,202.00.

[31] ₱5,634,082.50 less ₱30,624.17

As for the third requirement, a perusal of the withholding tax certificates reveals that the CWT of ₱5,603,458.33 was withheld on gross income payments of ₱56,246,215.77[32]. On the other hand, in its 2008 Annual Income Tax Return and Audited Financial Statements, petitioner's gross income amounted to ₱58,458,826.00[33] and ₱57,949,733.00[34], respectively. The difference of ₱509,093.00 purportedly represents Interest Income, Gain on Disposal of Asset, and Other Income as shown in the 2008 Annual Income Tax Return[35].

However, based solely on the 2008 Annual Income Tax Return[36], Audited Financial Statement[37], and Income Statement[38] submitted by petitioner, the Court cannot determine whether the gross income payments of ₱56,246,215.77 related to the CWT of ₱5,603,458.33 formed part of the gross income of ₱58,458,826.00 reported by petitioner in its 2008 Annual Income Tax Return.

Petitioner should have presented additional supporting documents such as official receipts, sales invoices, detailed general ledger, sales register, reconciliation schedules or any other document whereby the income payments related to the claimed CWT can be traced and confirmed as forming part of the income reflected in its 2008 Annual Income Tax Return. Thus, petitioner's non-compliance with the third requirement is fatal to its claim.

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[32] ₱56,552,457.50 less ₱306,241.73
[33] ₱52,352,761.00 plus ₱6,106,065.00, lines 17C and 20B, Exhibit "O".
[34] Exhibit "U", docket, p. 388.
[35] Exhibit "O", docket, p. 375.
[36] Exhibits "N", "G", "M", "H", and "O".
[37] Exhibit "U".
[38] Exhibit "DD".

Entrenched in our jurisprudence is the principle that tax refunds are in the nature of tax exemptions, which are construed *strictissimi juris* against the taxpayer and liberally in favor of the government. As tax refunds involve a return of revenue from the government, the claimant must show indubitably the specific provision of law from which the right arises; it cannot be allowed to exist upon a mere vague implication or inference nor can it be extended beyond the ordinary and reasonable intendment of the language actually used by the legislature in granting the refund. To repeat, strict compliance with the conditions imposed for the return of the revenue collected is a doctrine consistently applied in this jurisdiction.[39] Thus, petitioner as a claimant has the burden of proof to establish the factual basis of his claim for tax credit or refund.[40]

WHEREFORE, premises considered, the Petition for Review is hereby **DENIED** for insufficiency of evidence.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

CONCURS:

LOVELL R. BAUTISTA
Associate Justice

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[39] *Commissioner of Internal Revenue vs. Rosemarie Acosta*, G.R. No. 154068, August 3, 2007.
[40] *Citibank, N.A. vs. Court of Appeals and the Commissioner of Internal Revenue*, G.R. No. 107434, October 10, 1997.

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Acting Presiding Justice