REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

WATSONS PERSONAL CARE STORES (PHILIPPINES), INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11119

Members:

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

Promulgated:

JUN 17 2026

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DECISION

***MODESTO-SAN PEDRO, J.*:**

The Case

Before Us is a Petition for Review ("Petition"),[1] filed on April 4, 2023 pursuant to *Section (7)(a)(2) of Republic Act ("RA") No. 1125,*[2] *as amended by RA No. 9282,*[3] praying that the Court render judgment ordering respondent to grant petitioner's claim for refund in the total amount of ₱453,359,523.00 representing alleged unutilized creditable withholding tax ("CWT") for taxable year ("TY") 2020.[4]

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[1] Docket Vol. 1, pp. 6-28.

[2] An Act Creating the Court of Tax Appeals, June 16, 1954.

[3] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections or Republic Act No. 1125, As Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes; March 30, 2004.

[4] Prayer, Petition for Review, Docket Vol. 1, p. 22.

The Parties

Petitioner Watsons Personal Care Stores (Philippines), Inc. ("petitioner" or "WPCSPI") is a corporation duly organized and registered under the laws of the Republic of the Philippines, with principal office address at Unit 211, 2nd Floor, The Podium, ADB Avenue, Ortigas Center, Wack-Wack Greenhills, City of Mandaluyong, NCR, Second District Philippines, 1550.[5]

Respondent Commissioner of Internal Revenue ("respondent" or "CIR") is the chief of the Bureau of Internal Revenue ("BIR"), the government agency vested with the authority to administer and enforce national internal revenue taxes, including, among others, the power to credit or refund internal revenue taxes erroneously, excessively, or illegally paid, assessed, or collected. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City, where he may be served with summons, notices and other court processes.[6]

The Facts

On April 14, 2021 and May 14, 2021, petitioner filed its original[7] and amended[8] annual income tax returns ("AITRs") for TY 2020. The amended AITR reflected an overpayment of ₱508,229,680.00 calculated as follows:

Total income tax due		₱108,318,976.00
Less: Total tax credits/payments		
Prior year's excess credits other than MCIT	₱163,189,133.00	
Creditable tax withheld for TY 2020	453,359,523.00[9]	616,548,656.00
Total amount of overpayment		**₱(508,229,680.00)**

Petitioner manifested its option to refund the same by checking the appropriate box in the amended AITR for TY 2020.[10]

On December 7, 2022, petitioner filed with BIR-Regular Large Taxpayers Audit Division ("LTAD") I its claim for refund of alleged unutilized CWTs for taxable year 2020 in the amount of ₱453,359,523.00,

[5] Par. 5, Petition for Review, *id.* at 12.

[6] Par. 6, Petition for Review, *id.*; see also par. 1, Stipulation of Fact, Statement of Facts and Issues, Joint Stipulation of Facts and Issues ("JSFI"), *id.* at 230.

[7] Exhibit "P-1-1", Docket Vol. 1, pp. 344-349.

[8] Exhibit "P-1-2", *id.* at 352-355.

[9] Exhibit "P-1-2-B", *id.* at 353; sum of Creditable tax withheld from previous quarter/s per BIR Form 2307 (₱293,244,581.00) and Creditable tax withheld per BIR Form No. 2307 for the 4th quarter (₱160,114,942.00).

[10] Exhibit "P-1-2-C", *id.* at 352.

through an Application for Tax Credit/Refunds (BIR Form No. 1914)[11] and a letter to the BIR dated December 7, 2022.[12]

Due to respondent's inaction on WPCSPI's administrative claim for refund, petitioner filed the instant Petition before this Court on April 4, 2023,[13] to which respondent filed his Answer on July 11, 2023.[14] Respondent also belatedly issued a Denial Letter to petitioner's administrative claim on July 10, 2023.[15]

On July 31, 2023 and October 13, 2023, respondent[16] and petitioner[17] filed their respective pre-trial briefs. Thereafter, the pre-trial conference was held on October 24, 2023.[18]

On November 17, 2023, the parties submitted their Joint Stipulation of Facts and Issues ("JSFI"),[19] which was approved and adopted in the Pre-Trial Order, dated January 19, 2024.[20]

On November 23, 2023, petitioner filed its Motion to Avail of the Provisions of Rule 13 of the Revised Rules of the Court of Tax Appeals, praying for the commissioning of Normita L. Villaruz as the Independent Certified Public Accountant ("ICPA") for the instant case. The motion was granted on March 5, 2024.[21]

During the same hearing held on March 5, 2024, WPCSPI presented its witness, Lady Ann Luz A. Zipagan, petitioner's Senior Tax Manager-Finance, who directly testified through judicial affidavit dated March 28, 2023.[22]

ICPA Villaluz then submitted the ICPA Reports on May 6, 2024.[23] Additionally, she offered direct testimony through judicial affidavit dated May 20, 2024,[24] and appeared before the Court on June 6, 2024.[25]

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[11] Exhibit "P-2", *id.* at 56.
[12] Exhibit "P-3", *id.* at 57-65.
[13] *Supra* note 1.
[14] Answer, Docket Vol. 1, p. 74-84.
[15] Exhibit "R-6", *id.* at 110.
[16] Respondent's Pre-Trial Brief, *id.* at 112-115.
[17] Petitioner's Pre-Trial Brief, *id.* at 118-136.
[18] See Minutes of hearing held on, and Order dated October 24, 2023, *id.* at 137-139.
[19] *Id.* at 141-154.
[20] *Id.* at 230-238.
[21] See Minutes of hearing held on, and Order dated March 5, 2024, *id.* at 252-254.
[22] Judicial Affidavit of Lady Ann Luz A. Zipagan, Exhibit "P-35", *id.* at 34-55.
[23] Exhibit "P-37".
[24] Judicial Affidavit of Normita L. Villaruz, Exhibit "P-36", *id.* at 267-310.
[25] See Minutes of hearing held on, and Order dated June 6, 2024, *id.* at 319-321.

Afterwards, petitioner filed its Formal Offer of Evidence on July 4, 2024,[26] with respondent submitting his Comment thereon on November 5, 2024.[27] Such offer was resolved by the Court on October 2, 2024.[28]

On the other hand, and in order to support its case, respondent presented Revenue Officer ("RO") Cheryl Arbues as its witness. RO Arbues testified on direct examination by way of her judicial affidavit dated July 28, 2023,[29] and appeared before the Court on October 3, 2024.[30]

Respondent then formally offered his evidence on October 4, 2024.[31] The exhibits were admitted by the Court through a resolution dated November 29, 2024.[32]

Meanwhile, on December 23, 2023, petitioner submitted the direct testimonies of two additional witnesses, as rebuttal evidence against those presented by respondent: (1) judicial affidavit of Nherwin B. Hernandez,[33] petitioner's Tax Reporting Manager; and (2) judicial affidavit of Atty. Sta. Cecilia M. Santillan-Visto,[34] a partner/principal of SGV & Co., authorized and engaged by petitioner to file, assist, and follow up its administrative claim for CWT refund. Atty. Santillan-Visto's testimony was later amended on December 27, 2024.[35] Both witnesses appeared before the Court on January 30, 2025.[36]

Thereafter, petitioner filed a Supplemental Formal Offer of Evidence[37] which was resolved by the Court on April 2, 2025.[38]

Meanwhile, on January 10, 2025, respondent submitted his memorandum,[39] whereas petitioner filed its memorandum on May 6, 2025.[40] Thus, in a Minute Resolution dated June 18, 2025, the case was deemed submitted for decision.

Hence, this Decision.

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[26] Formal Offer of Evidence, *id.* at 323-644, with annexes.
[27] *Id.* at 645.
[28] See Resolution dated October 2, 2024, Docket Vol. 2, pp. 656-657.
[29] Exhibit "R-8", Docket Vol. 1, pp. 96-100.
[30] See Minutes of hearing held on, and Order dated October 3, 2024, *id.* at 658-660
[31] Formal Offer of Evidence, *id.* at 662-667.
[32] Resolution dated November 29, 2024, *id.* at 678.
[33] Judicial Affidavit of Nherwin B. Hernandez, Exhibit "P-42", *id.* at 690-704.
[34] Judicial Affidavit of Sta. Cecilia M. Santillan-Visto, *id.* at 800-808.
[35] Amended Judicial Affidavit of Sta. Cecilia M. Santillan-Visto, Exhibit "P-41", *id.* at 841-849.
[36] See Minutes of hearing held on, and Order dated January 30, 2025, *id.* at 883.
[37] Supplemental Formal Offer of Evidence, *id.* ai 896-907.
[38] Resolution dated April 2, 2025, *id.* at 1000.
[39] Memorandum, dated January 8, 2025, *id.* at 870-879.
[40] Memorandum, dated May 5, 2025, *id.* at 1001-1040.

The Issues

The issues, as submitted by the parties in their JSFI[41] and approved by the Court in the Pre-Trial Order,[42] are as follows:

I. WHETHER PETITIONER IS ENTITLED TO REFUND ALLEGED EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAX IN THE AMOUNT OF ₱453,359,523.00; AND

II. WHETHER THE DECISION OF THE COMMISSIONER OF INTERNAL REVENUE IS CORRECT BASED ON THE DOCUMENTS SUBMITTED BY PETITIONER TO RESPONDENTS.

Arguments of the Parties

Petitioner's Arguments:

Petitioner argues that it is entitled to its claim for refund of its unutilized creditable withholding taxes in the amount of ₱453,359,523.00 for TY 2020. It highlights that the claim for refund was made within the two-year prescriptive period; that the income upon which the unutilized CWTs were withheld was declared as part of its gross income for TY 2020; and that the fact of withholding of the subject CWTs is duly established.

Moreover, petitioner insists that the decision of the CIR is not correct based on the documents submitted by petitioner to respondent. In relation thereto, petitioner advances that it submitted the needed documentation in the administrative level. Also, according to petitioner, granting, without conceding, that petitioner was not able to submit the documents required for the claim at the administrative level, petitioner can still submit the documents before the Court since cases in the CTA are litigated *de novo*.[43]

Respondent's Counter-arguments:

On the other hand, respondent counters that the petition must be dismissed for petitioner's failure to substantiate the administrative claims.

[41] JSFI, Docket Vol. 1, p. 142.
[42] Pre-Trial Order, *id.* at 231.
[43] See Memorandum, dated May 5, 2025, supra.

In addition, respondent emphasizes that petitioner failed to prove that the income related to the subject CWTs were declared in the AITR. Related thereto, respondent also advances that petitioner should have presented evidence to prove actual remittance of the same alleged taxes to the BIR.

Finally, respondent highlights that refunds are in the nature of exemptions and should be construed against the taxpayer claiming such refund.[44]

The Ruling of the Court

Before the Court delves into examining the merits of the case, it is necessary to first address respondent's assertion that petitioner's judicial appeal must be dismissed due to the latter's failure to substantiate its administrative claim for refund.

Respondent refers to the denial letter dated July 10, 2023,[45] received by petitioner's tax representative, Atty. Santillan-Visto, on July 11, 2023, and invokes the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue (Total Gase case).*[46] Respondent advances that if an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice, then the judicial claim should be dismissed, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level.

Such argument proves no merit.

Firstly, it must be emphasized that the date of issuance of respondent's decision through the denial letter, dated July 10, 2023,[47] was a few months after the filing of the instant Petition and beyond the period afforded to petitioner to file a judicial claim before this Court.

As ruled by the Supreme Court in *Commissioner of Internal Revenue vs. Mckinsey & Co. [Phils.] (Mckinsey case)*,[48] the taxpayer must already file the judicial claim if it takes time for the BIR to decide upon the claim and the two-year period to file the judicial appeal is about to expire.

> Nothing prohibits respondent from filing a judicial claim before the investigation by the BIR could be finished. As early as *Collector of Internal Revenue v. Sweeney*, we have pronounced that taxpayers need not wait for

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[44] See Memorandum, dated January 8, 2025, supra.
[45] Exhibit "R-6", BIR Records, p. 213.
[46] G.R. No. 207112, December 8, 2016.
[47] *Supra* note 45.
[48] G.R. No. 233375 (Notice), December 10, 2019.

> the action of the Collector of Internal Revenue on the request for refund before taking the matter to Court. *In Gibbs v. CIR*, we pointed out ***that if the CIR takes time in deciding the claim, and the period of two years is about to end, the suit or proceeding must be started in the Court of Tax Appeals before the end of the two-year period without awaiting the decision of the CIR.*** Thus, a suit or proceeding in the CTA may be started without awaiting the decision of the CIR for claims falling under Section 204 and 229 of the NIRC. . . .
> (Emphasis and italics supplied)

Here, petitioner filed the administrative claim on December 7, 2022. After almost 4 months, the BIR had yet to the decide on the refund application. However, it must be noted that pursuant to *Sections 204 and 229 of the Tax Code*, petitioner had only two years from the date of payment of TY 2020 income tax within which to file an appeal before the Court.

Thus, as petitioner's original AITR[49] was filed on April 14, 2021, it had until April 14, 2023 to file a petition for review before the CTA. At such time, the denial letter had yet to be issued by the BIR. However, as held in the *Mckinsey case*, petitioner need not wait for the administrative decision before seeking judicial recourse, taking into consideration the two-year prescriptive period under the law.

Clearly, the instant Petition filed on April 4, 2023 was elevated due to respondent's inaction. By this point alone, it becomes erroneous for respondent to invoke the *Total Gas case* where the Court made a distinction between cases appealed due to inaction and those made after an unsuccessful administrative claim. Petitioner cannot be faulted for lawfully filing a judicial claim, notwithstanding the alleged defects or insufficiency of submissions in the administrative claim, which it was not made aware of due to the belated issuance of the administrative decision.

Secondly, even if this Court were to find that petitioner had indeed failed to submit the required documents at the administrative level, such an omission is no moment.

Cases filed before the Court are litigated *de novo* wherein taxpayer-claimants must prove every minute aspect of their case.[50] As such, herein petitioner must rightfully show compliance with all the requisites of a valid CWT refund claim, and the absence of any such requirement constitutes a valid ground for the denial of the claim.

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[49] *Supra* note 7.

[50] *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

This has been unequivocally held by the Supreme Court in the case of *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc.*[51] citing *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*,[52] wherein it was enunciated that:

> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, *the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.*
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> ***Cases filed in the CTA are litigated de novo*** as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting. . . to the Court of Tax Appeals all evidence. . . required for the successful prosecution of its administrative claim." ***Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.***
> (Emphasis and italics supplied)

Further, in the case of *Commissioner of Internal Revenue vs. Philippine Bank of Communications*,[53] the Supreme Court, in no uncertain terms, held that the taxpayer-claimants failure in proving an administrative claim for a CWT refund/credit does not preclude the judicial claim of the same, thus:

> We agree with the CTA *en banc's* ruling that the failure of PBCOM to comply with the requirements of its administrative claim for CWT refund/credit does not preclude its judicial claim.
>
> In the case of *Commissioner of Internal Revenue v. Manila Mining Corporation*, this Court held that cases before the CTA are ***litigated de novo where party litigants should prove every minute aspect of their cases***, to wit:
>
> . . .
>
> . . . ***(S) ince the claim for tax refund/credit was litigated anew before the CTA, the latter's decision should be solely based on the evidence formally presented before it, notwithstanding any pieces of evidence that may have been submitted (or not submitted) to the CIR.*** Thus, what is vital in the determination of a judicial claim for a tax credit/refund of CWT is the evidence presented before the CTA, regardless of the body of evidence found in the administrative claim.
> (Emphasis and italics supplied)

[51] G.R. No. 212727, February 1, 2023.
[52] G.R. No. 231581, April 10, 2019.
[53] G.R. No. 211348, February 23, 2022.

As such, the Court disagrees with the respondent's myopic view that since an unfavorable decision has already been rendered at the administrative level, petitioner cannot present before the Court documents not submitted at the administrative level and that the Court must be confined to a limited issue of whether the BIR's denial of the refund claim is warranted.

The CTA, as a court of record, has the authority to determine issues raised by the parties even if these were not raised in the administrative level. Similarly, it has the authority to accept evidence offered by the taxpayer-claimant to the Court, regardless of whether these were submitted during the process of the administrative claim.

In this case, a perusal of the evidence presented by the parties reveals that petitioner's CWT refund claim for TY 2020 is partly meritorious.

The present Petition is primarily anchored on *Section 76 of the Tax Code*, which enumerates the options given to a taxpayer in the event that the sum of the quarterly tax payments during the taxable year is not equal to the tax due on the entire taxable income for the year, 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.* (Italics supplied)

Based on the foregoing, when a corporation overpays its income tax liability, as shown on its final adjustment return, it has two options: (a) to carry over the excess credit; or (b) to apply for the issuance of a tax credit certificate or to claim a cash refund.[54] Such overpayment of income is usually occasioned by the over-withholding of taxes on the income payments to the corporate taxpayer.[55]

In exercising its option, the corporation must signify in its AITR, by marking the option box provided in the BIR form (i.e. the portion after Line 21, Part II of the January 2018 version of BIR Form No. 1702-RT), its intention either to carry over the excess credit or to claim a refund.

To facilitate tax collection, these remedies are in the alternative and the choice of one precludes the other.[56] Moreover, once the carry-over option is taken actually or constructively, it becomes irrevocable for the taxable period.[57] Such irrevocability rule is embodied in the last sentence of *Section 76 of the Tax Code*. The phrase "such option shall be considered irrevocable for that taxable period" means that the option to carry over the excess tax credits of a particular taxable year can no longer be revoked.[58] While the phrase "for that taxable period" merely identifies the excess income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer.[59]

Effectively, the rule prevents a taxpayer from claiming twice the excess quarterly taxes paid: (1) as automatic credit against taxes for the taxable quarters of the succeeding years for which no tax credit certificate has been issued; and (2) as a tax credit either for which a tax credit certificate will be issued or which will be claimed for cash refund.[60]

Once the foregoing requirements under *Section 76 of the Tax Code* have been complied with, the taxpayer is deemed *qualified* to claim for refund. Subsequently, the Court shall proceed to determine whether petitioner is *entitled* therefore after complying with the CWT refund requirements held by the Supreme Court in a number of cases, as will be discussed later on. In other words, herein petitioner must prove that it is both ***qualified*** and ***entitled*** to the subject CWT refund in order to successfully pursue the present claim.

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[54] *University Physicians Services, Inc. – Management, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 205955, March 7, 2018.
[55] *Id.*
[56] *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 176290 (Resolution), September 21, 2007.
[57] Axia Power Holdings Philippines Corporation vs. Commissioner of Internal Revenue, G.R. No. 230847, 14 October 2020, citing Asiaworld Properties Philippine Corporation vs. Commissioner of Internal Revenue, G.R. No. 171766, 29 July 2010.
[58] *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, supra.
[59] *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, July 7, 2009.
[60] *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, supra.

Petitioner is qualified to claim a refund of its excess income tax payments for TY 2020.

In order for a taxpayer to *qualify* for a claim of tax refund under *Section 76 of the Tax Code*, it must be established that it has: (1) excess tax payments for the taxable year, and (2) chosen the option to be credited or refunded of such amount. Otherwise, the Court would not have any basis to proceed and verify if a taxpayer is indeed entitled to such refund.

1.) Petitioner has excess income tax payments from prior years which can sufficiently cover its income tax due for TY 2020.

As *Section 76 of the Tax Code* is worded, only the excess tax payments may be refunded. Clearly, nothing can be refunded if there are no excess tax payments to begin with. Thus, it becomes a paramount consideration for a taxpayer-claimant to prove that it has sufficient tax credits to cover its income tax due for the taxable year.

Here, petitioner's Total Income Tax Due (Line 16, Part II) for TY 2020 amounted to ₱108,318,976 , as declared in its amended AITR.[61] Meanwhile, its Prior Year's Excess Credits Other Than MCIT (Line 44, Part IV) show an amount of ₱163,189,133 which is clearly higher than the income tax due.[62]

In this regard, *Section 2.58.3 of Revenue Regulations ("RR") No. 2-98, as amended*, provides that submission of the prior year AITR showing the amount of excess withholding tax credits shall entitle the taxpayer to an automatic tax credit of said amount in the succeeding quarters/year:

> Sec. 2.58.3. *Claim for tax credit or refund.* —
>
> . . . .
>
> (C) *Excess Credits.* — An individual or corporate taxpayer's excess expanded withholding tax credits for the taxable quarter/year *shall automatically be allowed as a credit* against his income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose, *provided he submits with his income tax return, a copy of the first page of his income tax return for the previous taxable period showing the amount of his excess withholding tax credits, and on which return he has not opted for a cash refund or tax credit certificate.*

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[61] Exhibit "P-1-2", *supra* note 8.
[62] *Id.*

As such, the submission of the prior year AITR is sufficient to support a taxpayer's prior year excess credits carried over to the current year in order to prove that it has sufficient tax credits against which its income tax due for the current year may be charged.

In this case, petitioner's prior year excess credits amounting to ₱163,189,133.00 can be traced to its prior year AITR for TY 2019,[63] as computed below:

Total Tax Credits/Payments for TY 2019 (Line 12, Schedule 7)		₱783,016,898.00
Less: Total Income Tax Due for TY 2019 (Line 16, Part II)		144,137,382.00
Less: CWTs during TY 2019 (Lines 5 & 6, Schedule 7 and opted "To be refunded" in Line 21, Part II)		
Creditable tax withheld from previous quarters	₱315,293,859.00	
Creditable tax withheld for the 4th quarter	160,396,524.00	475,690,383.00
Remaining excess tax credits carried over to succeeding year - TY 2020		**₱163,189,133.00**

This automatically entitled petitioner to a tax credit to the extent of such amount in succeeding year TY 2020, in accordance with *Section 2.58.3 of RR No. 2-98, as amended.*

Clearly, based on petitioner's TY 2019 AITR, its prior year excess credits amounting to ₱163,189,133.00 are more than sufficient to cover its income tax due for TY 2020 in the amount of ₱108,318,976.

Moreover, in order to ultimately determine the existence of excess income tax payments, ICPA Villaruz validated the income tax due for TY 2020 and the excess tax credits other than MCIT as of December 31, 2019. Based on the ICPA's examination, it was verified that prior year's excess tax credits came from CWT for TY 2016 amounting to ₱241,926,787 and excess MCIT applied for TY 2018 amounting to ₱23,133,648. ICPA Villaruz presented the movements and breakdown of prior year's excess tax credits as of January 1, 2020 amounting to ₱163,189,133.00 as follows:

[63] Exhibit "P-30", Docket Vol. 1, pp. 624-631.

	TY 2016	TY 2017	TY 2018	TY 2019	TY 2020	Total
Current year's CWT	₱241,926,787	₱299,013,140	₱380,014,790	₱475,690,383	₱453,359,523	₱1,850,004,623
Excess MCIT Applied this Current Taxable Year			23,133,648			23,133,648
CWT Applied for refund		(299,013,140)	(380,014,790)	(475,690,383)	(453,359,523)	(1,608,077,836)
Balance	241,926,787		23,133,648			265,060,435
Income tax due - 2018			(23,133,648)			(23,133,648)
Income tax due - 2019	(78,737,654)					(78,737,654)
Excess tax credits, December 31, 2020, carried over to 2021 ITR	**₱163,189,133**					**₱163,189,133**

In the process of validation, ICPA Villaruz likewise examined the BIR Form 2307 supporting the CWT for the year 2016. From the total reported CWT of ₱241,926,787, only the amount ₱241,919,286.71 was determined to be supported by BIR Form 2307. The valid CWT was later adjusted to ₱226,173,830.66 after deducting those supported by mere photocopies of the form. Nonetheless, ICPA Villaruz has determined that such adjusted amount can still be sufficiently used as credit against the income tax due in TY 2020, as shown in the calculation below:

Total amount of CWT for the year 2016			₱ 241,926,786.71
Less: CWT supported by photocopies of BIR Form 2307			
1	Duly supported by photocopied BIR Form 2307 and compliant with regulation requirements with MANUAL signature	(15,735,196.05)	
2	Duly supported by photocopied BIR Form 2307 and compliant with regulation requirements with ELECTRONIC signature	(17,760.00)	
Sub-total - Supported by photocopies of BIR Form 2307			(15,752,956.05)
Adjusted amount of CWT per BIR Form 2307 allowable for deduction from income taxes			226,173,830.66
Less: CWT supported by photocopies of BIR Form 2307			
1	Income taxes due for the year 2019	(78,737,654.00)	
2	**Income taxes due for the year 2020**	**(108,318,976.00)**	
Sub-total - income taxes due			(187,056,630.00)
Adjusted balance of Excess Tax Credits from 2016 CWT			**₱39,117,200.66**

Based on the foregoing, petitioner has sufficiently established that it has excess income tax payments from prior years which can sufficiently cover its income tax due for TY 2020 and that its current year CWTs are excess tax payments which qualify for a claim for refund.

2.) Petitioner opted to be refunded of its excess taxes paid for TY 2020, which was no longer carried over to the succeeding taxable years.

A perusal of petitioner's AITR for TY 2020[64] shows that it reported total overpayment of income taxes (Line 21, Part II) in the amount of ₱508,229,680 for the whole taxable year. Out of said amount, ₱453,359,523 pertains to the creditable taxes withheld during TY 2020.[65] It is crucially important to note that petitioner ticked the option "To be refunded" in the applicable portion of the return.[66]

Consistent with choosing the refund option, petitioner no longer carried over the excess tax payments of ₱453,359,523 to the succeeding taxable quarters/year (i.e. 2021). This can be confirmed from petitioner's quarterly ITRs (Line 1, Schedule 4) and AITR (Line 44, Part IV) for TY 2021,[67] where it reported only the amount of ₱54,870,157.00 as its Prior Year's Excess Credits Other Than MCIT, which is the remaining amount after deducting the excess payments for TY 2020 opted to be refunded (i.e. ₱453,359,523) from the total overpayment of income taxes in TY 2020 (i.e. (₱508,229,680).[68]

The creditable taxes withheld during TY 2020 which were not carried over to the succeeding taxable years may then be subjected to a claim for refund. Accordingly, the administrative claim filed with the BIR on December 7, 2022[69] and the instant judicial claim before this Court both properly indicate ₱453,359,523 as the amount sought to be refunded.

In view of the foregoing findings, petitioner was able to satisfactorily demonstrate that it is *qualified* to claim a refund of its excess income tax payments for TY 2020 in the amount of ₱453,359,523 in compliance with *Section 76 of the Tax Code*. We shall now determine whether it is indeed entitled thereto.

Petitioner is partially entitled to CWT refund for TY 2020.

In cases of refund for excess CWT, jurisprudence has laid down the following three basic requirements which must complied with by taxpayer to successfully prove entitlement thereto, namely:

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64 *Supra* note 8.
65 *Supra* note 9.
66 *Supra* note 10.
67 Exhibit "P-8" to "P-11-2", Docket Vol. 1, pp. 434-453.
68 See amended AITR for TY 2020, Exhibit "P-1-2", *supra* note 8.
69 *Supra* note 11.

1.) The claim for refund was filed within the two (2)-year prescriptive period as provided under *Section 204 (C) in relation to Section 229 of the Tax Code*;

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

3.) The income upon which the taxes were withheld were included in the return of the recipient, i.e., declared as part of the gross income.[70]

1.) Petitioner's administrative and judicial claims were filed within the two-year prescriptive period

Pursuant to *Section 58 of the Tax Code*, any amount withheld in excess of the total tax liability of any person shall be returned to him in the form of a credit or refund and made reference to *Section 204* in claiming the same:

> SEC. 58. *Returns and Payment of Taxes Withheld at Source.* –
>
> . . .
>
> (D) *Income of Recipient.* – Income upon which any creditable tax is required to be withheld at source under Section 57 shall be included in the return of its recipient *but the excess of the amount of tax so withheld over the tax due on his return shall be refunded to him subject to the provisions of Section 204*; if the income tax collected at source is less than the tax due on his return, the difference shall be paid in accordance with the provisions of Section 56.
> (Italics supplied)

Thus, the manner and timing by which the claim for refund shall be processed should be in accordance with *Section 204 of the Tax Code* which states:

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

[70] *Commissioner of Internal Revenue vs. Philippine Bank of Communications,* G.R. No. 211348, February 23, 2022; *Rhombus Energy Inc. vs. Commissioner of Internal Revenue,* G.R. No. 206362, August 1, 2018; *Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 206526, January 28, 2015; *Republic of the Philippines vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),* G.R. No. 188016, January 14, 2015.

> (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.
> (Italics supplied)

In conjunction thereto, *Section 229 of the Tax Code* provides the prescriptive period for filing both the administrative and judicial claims for CWT refund, to wit:

> 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, of any sum alleged to have been excessively or in any manner wrongfully 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.
> (Italics supplied)

In jointly interpreting these provisions, the Supreme Court explained in *Commissioner of Internal Revenue vs. Carrier Air Conditioning Philippines, Inc.*[71] that while *both* administrative and judicial claims must be filed within two years after the payment of the alleged erroneously paid or illegally collected tax, the *filing of the administrative claim must still precede the filing of judicial claim*.

Gleaning from the foregoing, an erroneously paid or illegally collected tax may be refunded if:

1) the taxpayer files in writing with the CIR a claim for credit or refund within two years after the payment of the tax or penalty;

[71] G.R. No. 226592, July 27, 2021.

2) the claim for refund was first filed before the CIR before maintaining a suit or proceeding in any court; and

3) such suit or proceeding was also filed within two years from the date of payment of the tax or penalty, regardless of any supervening cause that may arise after payment.

The foregoing citations richly discussed the prescriptive periods with respect to claiming refund of *erroneous or illegally collected taxes*. However, as clarified in *Citibank, N.A. vs. Court of Tax Appeals,*[72] excess CWTs can likewise be deemed as erroneously collected taxes, to wit:

> The payments of the withholding taxes for 1979 and 1980 were creditable to the income tax liability, if any, of petitioner-bank, determined after the filing of the corporate income tax returns on April 15, 1980 and April 15, 1981. As petitioner posted net losses in its 1979 and 1980 returns, it was not liable for any income taxes. Consequently[,] and clearly, the taxes withheld during the course of the taxable year, *while collected legally under the aforesaid revenue regulation, became untenable and took on the nature of erroneously collected taxes at the end of the taxable year.* (Italics supplied.)

Thus, at its inception, income taxes withheld from a taxpayer's income payments and remitted by its customers to the BIR are valid collections in accordance with *Section 58(B) of the Tax Code*[73] and its implementing regulations *RR No. 2-98, as amended.* However, when at the end of the taxable period, it is determined that its income tax due is actually lower than the total taxes withheld from a taxpayer's income payments, the excess amount already in the possession of the BIR becomes erroneously collected.

Moreover, for purposes of reckoning the two-year prescriptive period in CWT refund cases, the same shall run from the date of actual filing of the final adjustment return or the AITR, as ruled in *Commissioner of Internal Revenue v. Univation Motor Philippines (formerly Nissan Motor Philippines, Inc.)*, which states:[74]

> . . . While the law provides that the two-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that *the two-year prescriptive period to claim a refund actually commences to run, at the earliest, on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have*

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[72] G.R. No. 107434, October 10, 1997.

[73] Section 57. *Withholding of Tax at Source.* – . . .
(B) *Withholding of Creditable Tax at Source.* – The Secretary of Finance may, upon the recommendation of the Commissioner, require the withholding of a tax on the items of income payable to natural or juridical persons, residing in the Philippines, by payor-corporation/persons as provided for by law, at the rate of not less than one percent (1%) but not more than thirty-two percent (32%) thereof, which shall be credited against the income tax liability of the taxpayer for the taxable year.

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

> *been audited and adjusted, reflective of the results of the operations of a business enterprise*. "Thus, it is only when the Adjustment Return *covering the whole year* is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures. (Italics supplied)

In the case at bar, petitioner originally filed its TY 2020 AITR on April 14, 2021.[75] Thus, counting two years therefrom, petitioner had until April 13, 2023 to file both its administrative and judicial claims.

It appearing that petitioner's administrative claim was filed on December 7, 2022,[76] while the judicial claim via the instant Petition was later filed on April 4, 2023,[77] it is clear that both claims for refund were timely filed.

2.) The fact of withholding was established by copies of the withholding tax statements, duly issued by the petitioner's payors, showing the amount paid and income tax withheld from that amount.

In relation to the proving the fact of withholding, *Section 2.58.3 (B) of RR No. 2-98, as amended*, provides:

> "(B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payments shall be given due course ***only when it is shown that the income payment has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement*** duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.
>
> Proof of remittance is the responsibility of the withholding agent." (Emphasis and italics supplied.)

Gleaning from the foregoing, the fact of withholding is established by a copy of the withholding tax statement duly issued by the withholding agent to the payee, showing the amount paid and the amount of tax withheld therefrom. When the certificate readily identifies the payor, the income payment and the tax withheld, it is considered complete in the relevant details

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[75] *Supra* note 7.
[76] *Supra* note 11.
[77] *Supra* note 1.

which would aid the courts in the evaluation of any claim for refund of creditable withholding taxes.[78]

Respondent, however, asserts that the same withholding tax statements should not suffice, and that the fact of actual remittance to the BIR must be proven.

We find respondent's argument erroneous.

The proof of actual remittance of taxes withheld is not indispensable in claims for refund or the issuance of tax credit certificates covering excess and unutilized CWT. Indeed, it is the withholding agent, not the taxpayer-claimant, who has the responsibility to prove actual remittance of withheld taxes to the BIR.

The foregoing was categorically held in the case of *Commissioner of Internal Revenue vs. Ayala Corporation*,[79] wherein the Supreme Court, citing *Commissioner of Internal Revenue vs. Philippine National Bank*[80] and *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue ("PAL case")*,[81] ruled:

> As correctly ruled by the CTA *En Banc*, ***proof of actual remittance is not necessary for respondent's claim for refund of excess or unutilized creditable withholding tax (CWT) to prosper***. Notably, '[i]t is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with the responsibility of withholding and remitting income taxes.' ***In establishing its entitlement to a claim for refund for CWT, respondent need only prove the fact that taxes were actually withheld through the presentation of the certificates of withholding issued by the corresponding withholding agents, as it did so in this case***. It is settled that 'the CTA's findings can only be disturbed on appeal if they are not supported by substantial evidence, or there is a showing of gross error or abuse on the part of the Tax Court,' which does not obtain in this case. Hence, the instant petition must be denied.
> (Emphasis and italics supplied; citations omitted.)

Moreover, in the *PAL case*, the High Court clarified that in case of non-remittance, the action should be against the withholding agent and not the income payee/refund claimant:

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[78] *Banco Filipino Savings and Mortgage Bank v. Court of Appeals, et. al.*, G.R. No. 155682, March 27, 2007.
[79] G.R. No. 256539 (Notice), July 28, 2021.
[80] G.R. No. 180290, September 29, 2014.
[81] G.R. Nos. 206079-80 & 206309, January 17, 2018.

When a particular income is subject to a final withholding tax, it means that a withholding agent will withhold the tax due from the income earned to remit it to the Bureau of Internal Revenue. Thus, the liability for remitting the tax is on the withholding agent:

. . .

Clearly, the withholding agent is the payor liable for the tax, and any deficiency in its amount shall be collected from it. *Should the Bureau of Internal Revenue find that the taxes were not properly remitted, its action is against the withholding agent, and not against the taxpayer.* (Italics supplied; citations omitted.)

Hence, any such non-remittance should not be a ground for the disallowance of the income payee's refund application.

Here, to prove its compliance with the *second requirement*, petitioner submitted its Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) for TY 2020, which were examined by the Court-commissioned ICPA.

Based on ICPA Villaruz' examination of the BIR Form 2307, with total CWTs amounting to ₱453,359,523.65, the following were noted:

A.	**CWT duly supported by original copies of BIR Form 2307:**		
1	Correct information about Watsons such as registered name, TIN and registered address with MANUAL signatures	₱238,507,551.03	
2	Correct information about Watsons such as registered name, TIN and registered address with ELECTRONIC signatures	208,490,287.43	
	Sub total		**₱446,997,838.46**
B.	**CWT supported by original electronic copies of BIR Form 2307**		
1	Correct information about Watsons such as registered name, TIN and registered address with MANUAL signatures	₱2,334,557.72	
2	Correct information about Watsons such as registered name, TIN and registered address with ELECTRONIC signatures	4,027,127.47	
	Sub total		**6,361,685.19**
	Total CWT per BIR Form 2307 Claimed for Refund for the year 2020		**₱453,359,523.65**

In the ICPA Report, those supported by electronic copies of BIR Form 2307 were deemed as valid CWTs. ICPA Villaruz clarified and confirmed with petitioner that during the year 2020, due to the global outbreak of Coronavirus Disease 2019 (COVID-19), *Proclamation No. 922* was signed by the Philippine President, declaring the entire country under the state of Public Health Emergency. Thus, the Enhanced Community Quarantine, Modified

Enhanced Community Quarantine, and General Community Quarantine were implemented during the year.

Due to this condition, petitioner received original electronic copies of BIR Form 2307 with manual and electronic signature. For this purpose, petitioner invoked *RA No. 8792*, also known as *Electronic Commerce Act of 2000*,[82] which recognizes the legal effect and validity of electronic documents as any other document or legal writing, subject to certain conditions.

We are inclined to adapt ICPA Villaruz' recommendation as We find petitioner's arguments meritorious.

At the outset, the Court recognizes that the BIR has yet to issue rules and regulations which recognize the validity of electronic copies of BIR Form 2307 for purposes CWT refund, during the period covered by the instant claim (i.e. TY 2020). However, it is undeniable that the local statute, specifically *RA No. 8792*, already upholds the validity and enforceability of electronic documents.

RA No. 8792 defines "electronic document" as "information or the representation of information, data, figures, symbols or other modes of written expression, described, or however represented, by which a right is established or an obligation extinguished, or by which a fact may be prove and affirmed, which is *receive, recorded, transmitted, stored, processed, retrieved or produced electronically*."[83] In relation thereto, *Section 7* thereof states:

> **Section 7.** *Legal Recognition of Electronic Documents* - Electronic documents shall have the legal effect, validity or enforceability as any other document or legal writing, and –
>
> (a) Where the law requires a document to be in writing, that requirement is met by an electronic document if the said electronic document maintains its integrity and reliability and can be authenticated so as to be usable for subsequent reference, in that -
>
> i. The electronic document has remained complete and unaltered, apart from the addition of any endorsement and any authorized change, or any change which arises in the normal course of communication, storage and display; and
>
> ii. The electronic document is reliable in the light of the purpose for which it was generated and in the light of all relevant circumstances.

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[82] An Act Providing for the Recognition and Use of Electronic Commercial and Non-Commercial Transactions and Documents, Penalties for Unlawful Use Thereof, and for Other Purposes, dated June 14, 2000.

[83] Section 5(e) of RA No. 8792.

(b) Paragraph (a) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the document not being presented or retained in its original from.

(c) Where the law requires that a document be presented or retained in its original form, that requirement is met by an electronic document if -

i. There exists a reliable assurance as to the integrity of the document from the time when it was first generated in its final form; and

ii. That document is capable of being displayed to the person to whom it is to be presented: Provided, That no provision of this Act shall apply to vary any and all requirements of existing laws on formalities required in the execution of documents for their validity.

For evidentiary purposes, an electronic document shall be the functional equivalent of a written document under existing laws.

This Act does not modify any statutory rule relating to admissibility of electronic data massages or electronic documents, except the rules relating to authentication and best evidence.
(Italics supplied)

Moreover, *Sections 8 and 9 of RA No. 8792* provides for the recognition of electronic signatures on these electronic documents, as well as the presumptions relating to such signatures, to wit:

Section 8. *Legal Recognition of Electronic Signatures.* - An electronic signature on the electronic document shall be equivalent to the signature of a person on a written document if that signature is proved by showing that a prescribed procedure, not alterable by the parties interested in the electronic document, existed x x x

Section 9. *Presumption Relating to Electronic Signatures* - In any proceedings involving an electronic signature, it shall be presumed that -

(a) The electronic signature is the signature of the person to whom it correlates; and

(b) The electronic signature was affixed by that person with the intention of signing or approving the electronic document unless the person relying on the electronically signed electronic document knows or has noticed of defects in or unreliability of the signature or reliance on the electronic signature is not reasonable under the circumstances.

Consistent with the foregoing, the Supreme Court issued the *Rules on Electronic Evidence.*[84] *Rules 3 and 4* thereof states that electronic documents shall be deemed functional equivalents of paper-based documents, shall be

[84] A.M. No. 01-7-01-SC, dated July 17, 2001.

admissible in evidence, and shall be regarded as the equivalent of an original document under the best evidence rule, subject to certain conditions, to wit:

Rule 3
ELECTRONIC DOCUMENTS

Section 1. *Electronic documents as functional equivalent of paper-based documents.* – Whenever a rule of evidence refers to the term writing, document, record, instrument, memorandum or any other form of writing, such term shall be deemed to include an electronic document as defined in these Rules.

Section 2. *Admissibility.* – An electronic document is admissible in evidence if it complies with the rules on admissibility prescribed by the Rules of Court and related laws and is authenticated in the manner prescribed by these Rules.

. . .

Rule 4
BEST EVIDENCE RULE

Section 1. *Original of an electronic document.* – An electronic document shall be regarded as the equivalent of an original document under the Best Evidence Rule if it is a printout or output readable by sight or other means, shown to reflect the data accurately.

In the case at hand, a number of BIR Form 2307s submitted by petitioner, with CWT amounting to ₱6,361,685.19, were electronically generated, transmitted, and/or signed by its income payors. The same were duly examined by the Court-commissioned ICPA who performed the authentication of these documents. As these were duly examined, including the details and information therein, it is undeniable that these can be deemed readable by sight or other means and have shown to reflect the data accurately.

Moreover, the BIR later on clarified through *Revenue Memorandum Circular No. 014-2025*,[85] that transmission of BIR Form 2307 through digital means shall not result to the disallowance of the CWT, to wit:

Q1: In the list of mandatory requirements under Annexes "A.1" for those taxpayers of going-concern status and "A.2" for taxpayers undergoing cessation or dissolution of business of RMC No. 75-2024, Annex "A.1" required original copies of duly accomplished Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) whereas Annex "A.2" is silent whether the said documents should be original or copies only. ***Will this result in the disallowance of the CWT if the taxpayer submitted scanned,***

[85] Clarifies Certain Issues Pertaining to the Mandatory Requirements for Tax Credit or Refund of Excess/Unutilized Creditable Withholding Taxes (CWT) on Income Pursuant to Section 76©, in relation to Sections 204 (C) and 229 of the National Internal Revenue Code of 1997, as Amended (Tax Code), dated February 19, 2025.

facsimile, photocopy or a notarized or certified copy of the original or electronic document is considered duplicate only?

A1: ***No. In this digital era, transmission of documents such as the BIR Form No. 2307 is not limited only to the physical delivery of documents from the sender to the receiver, which could also be through digital means such as but not limited to electronic mails, facsimile, cellphones, or other emerging technologies. Hence, the copies produced and submitted by the recipient of BIR Form No. 2307 may not necessarily be the original copy.***

Included in the verification procedures of the processing office is the validation of the authenticity and veracity of the claimed BIR Form No. 2307 by comparing the CWT claimed per Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax at Source (SAWT) submitted by the taxpayer claimant with the annual or quarterly Alphalist of payees as attached in the BIR Form No. 1604E or 1601E submitted by the withholding agents of the taxpayer-claimant. *If the data matches, the BIR can already be assured that the BIR Form 2307 claimed by the taxpayer-claimant is valid and authentic which makes the question as to whether or not the submitted document is an original copy already moot and academic.*

In this regard and for consistency of application, the third item in Annex A.1 shall now read as: "Copies of duly accomplished Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) or Withholding Tax Remittance Return for Onerous Transfer of Real Property Other Than Capital Asset (BIR Form No. 1606), whichever is applicable, issued by the payor (withholding agent) to the payee.
(Emphasis and italics supplied)

While the foregoing circular was issued beyond the period subject of the instant claim and pursuant to the promulgation of the *RA No. 11976 or the Ease of Paying Taxes Act (EOPTA)*, We find no reason why the clarification and explanation provided by the BIR need not apply to petitioner's claim in 2020. The amendments to *Sections 76, 204, and 229 of the Tax Code*, relevant to CWT refund applications, did not introduce any changes on how electronic copies of BIR Form 2307 should be perceived.

Further, the data matching per Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax at Source (SAWT) submitted by the taxpayer claimant versus the annual or quarterly Alphalist of payees as attached in the BIR Form No. 1604E or 1601E submitted by the withholding agents of the taxpayer-claimant is a procedure equally available and performed by respondent even before the EOPTA amendments. Thus, even with the submission of electronic copies of BIR From 2307, the BIR can still verify the authenticity and veracity of these documents. In relation thereto, it is notable that respondent raised no issues on the authenticity of the BIR Form 2307 submitted by petitioner and examined by ICPA Villaruz.

Finally, the Court recognizes the limitations faced by taxpayers during the government's implementation of community quarantine at the height of COVID-19 pandemic. The circumstances at that time called for the optimal utilization of digital means of communication and transmittal of documents and records, thus giving more rationalization for invoking the advantages introduced by *RA No. 8792* or the *Electronic Commerce Act.*

All told, the Court is inclined to accept the electronic copies of BIR Form 2307 as valid support for the CWTs subject of the instant claim. Accordingly, We adapt ICPA Villaruz' finding that CWTs amounting to ₱453,359,523 were duly supported by valid withholding tax certificates.

3.) The income payments corresponding to CWTs claimed were reported as part of petitioner's gross income as declared in the ITR.

With respect to this *third requisite*, it is essential that the income payments corresponding to CWTs claimed for refund is included in petitioner's gross income and declared in its AITR for TY 2020.

In compliance thereto, petitioner submitted its Audited Financial Statements ("AFS") for TY 2020,[86] amended AITR for TY 2020,[87] general ledgers for both the sales revenues[88] and creditable withholding taxes,[89] BIR-registered statements of account ("SOA"),[90] sales invoices ("SI"),[91] and official receipts ("OR"),[92] debit memos ("DM"),[93] relevant vouchers[94] and cash receipts summary[95] extracted from petitioner's BIR-registered computerized accounting system ("CAS").

ICPA Villaruz was able to check and validate the recording of sales and CWT in petitioner's CAS, and confirmed that the CWT was recorded upon recognition of sales or revenue based on SOA, SI or DM. Subsequently, the income amounts declared in petitioner's AFS were reconciled with the AITR and were duly traced and accounted for by the ICPA to the corresponding

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[86] Exhibit "P-14", Docket – Vol. 1, pp. 468-519.s
[87] *Supra* note 8.
[88] Exhibit "P-36159".
[89] Exhibit "P-36169".
[90] Exhibits "P-2216" to "P-2251".
[91] Exhibits "P-2276" to "P-2643", "P-2644" to "P-3011", "P-3012" to "P-3245", "P-3246" to "P-3281", and "P-3282" to "P-24073".
[92] Exhibits "P-2252" to "P-2275", and "P-24074" to "P-24099"
[93] Exhibits "P-24130" to "P-29065".
[94] Exhibits "P-29066" to "P-32137".
[95] Exhibits "P-36055" to "P-36055-18", and "P-36056".

source documents (*i.e.* SOA, SI, OR, debit memos, journal entries, cash receipts summary), as discussed in Part III – B of the ICPA Report.[96]

However, the ICPA noted the following income items amounting to ₱384,677,734.19, which cannot be traced to petitioner's schedules or source documents,[97] as summarized below:

Result of examination of Sales and Other Operating Income:		**Amount of Sales**	**Amount of CWT**
1	CWT in 2020 for Non Trade Sales that were not supported by valid SI and cannot be traced in the AFS	14,502.42	145.02
2	CWT in 2020 for Department store sales that were not supported by valid SI and cannot be traced in the AFS	2,110,885.93	24,050.04
3	CWT in 2020 for Vendor Support Income that were pertaining to untraced transactions in the schedule provided by Watsons	21,617,972.00	4,196,457.12
4	CWT in 2020 for Bancard sales that were pertaining to untraced transactions and no support presented	357,491,895.42	1,853,370.54
5	CWT in 2020 for Institutional Sales that were not supported by valid SI and cannot be traced in the AFS	3,442,478.42	175,150.83
	TOTAL	**₱ 384,677,734.19**	**₱ 6,249,173.55**

Due to petitioner's failure to prove that the foregoing income payments were declared as part of its gross income in the AITR for TY 2020, the corresponding CWT in the amount of ₱6,249,173.55 shall be deducted from the alleged excess CWTs subject of the instant claim.

Thus, from the above findings of the ICPA, to which this Court agrees, only the CWTs amounting to ₱447,110,349.45, as calculated below, have adequately complied with all the *three requisites* for refund claim entitlement.

		Amount of CWT
Total Claim for Refund of Excess and Unutilized CWT for 2020 per CTA Petition		₱ 453,359,523.00
Less: Proposed Deductions from Claim for Refund:		
	CWT of sales and other operating income without supporting documents and are not traceable to the books	(6,249,173.55)
Adjusted Amount of Claim for Refund of Excess and Unutilized CWT duly supported by BIR Form 2307, for the period covered January 1, 2020 to December 31, 2020		₱ 447,110,349.45

[96] Exhibit "P-50".

[97] *Id.* at Annex A.

ACCORDINGLY, the *Petition for Review* is **PARTIALLY GRANTED**. Respondent is hereby **ORDERED TO REFUND** petitioner the amount of **₱447,110,349.45**, representing the latter's excess and unutilized CWTs for TY 2020.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice