REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BASES CONVERSION AND DEVELOPMENT AUTHORITY,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1467
(CTA Case No. 8757)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:

DEC 06 2017 3:58 p.m.

x- x

DECISION

Fabon-Victorino, J.:

In this Petition for Review[1] filed on June 10, 2016, petitioner Bases Conversion and Development Authority (BCDA) seeks to partially reverse and set aside the March 15, 2016 Decision[2] and May 23, 2016 Resolution[3], both rendered by the Court in Division in CTA Case No. 8757.

The assailed Decision denied petitioner's claim for refund of the amount of ₱19,982,485.76, allegedly representing creditable withholding tax (CWT) it paid from January 16, 2012 to December 31, 2012 in connection with

---

[1] *En Banc* docket, pp. 1-15.
[2] *En Banc* docket, pp. 21-38.
[3] *En Banc* docket, pp. 39-40.

the sale or disposition of its allocated units or share in the "Serendra Project" located in Fort Bonifacio, Taguig City.

The equally assailed Resolution of May 23, 2016, on the other hand, denied petitioner's Motion for Reconsideration/Clarification.

The following are facts established during the trial.

Petitioner BCDA is a government instrumentality vested with corporate powers, organized and existing under and by virtue of Republic Act (RA) No. 7227[4], as amended by RA No. 7917, with office address at BCDA Corporate Center, 2nd Floor, Bonifacio Technology Center, 31st Street, Crescent Park West, Bonifacio Global City, Taguig City. It was created primarily for the following purposes:

1. Convert into alternative productive uses the military reservations in the country and their extensions; and for this purpose, raise funds by the sale of portions of Metro Manila military camps transferred to it by the President; and

2. Apply said funds to the development and conversion to productive civilian use of the specified former United States (US) bases.[5]

Respondent, on the other hand, is the Commissioner of the Bureau of Internal Revenue (BIR), vested with authority to act on and approve claims for refund or tax credit of overpaid or erroneously paid internal revenue taxes. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

On April 15, 2003, petitioner executed a Joint Development Agreement[6] (JDA) with Ayala Land, Inc. (ALI) by virtue of which it contributed a parcel of land located in

---

[4] Also known as the "Bases Conversion and Development Act of 1992"
[5] Section 2 of Republic Act No. 7227.
[6] Exhibits P-1 and P-1-A to P-1-B.

Fort Bonifacio to an unincorporated Joint Venture, while ALI contributed capital and expertise to undertake and complete the implementation of the project known as the Serendra Project. In return, the parties would receive proceeds from the sale of their respective allocated condominium units in the Serendra Project.

For the purpose of implementing the JDA, petitioner executed a Trust Agreement[7] with the Development Bank of the Philippines (DBP) on February 13, 2004. Under the Trust Agreement, and with the consent of ALI, DBP was appointed as petitioner's trustee. As such, petitioner's allocated condominium units shall be registered under the name of DBP which shall hold them in trust for petitioner's benefit.

In a letter[8] dated May 19, 2006, BIR Revenue District Office (RDO) No. 44 for Taguig and Pateros informed DBP that petitioner was registered as a taxpayer of the district under the account name of "BCDA Trust Account 11336" for "Serendra Project" and assigned with "Tax Identification Number 245-320-096-000".

In its letter[9] dated July 3, 2007 to respondent, petitioner requested for confirmation of its exemption from all taxes and fees, including CWT, on the proceeds from the sale of its allocated condominium units in the Serendra Project.

There being no reply or action from respondent, petitioner sent two more letters dated October 1, 2007[10] and November 20, 2007[11]. Again, no reply was received by petitioner from respondent.

From January 16, 2012 to December 31, 2012, due to alleged respondent's refusal to facilitate the transfer of the Condominium Certificates of Title to its fully paid buyers,

---

[7] Exhibits P-2, P-2-A, P-2-B, and P-2-C.
[8] Exhibit P-4.
[9] Exhibit P-5.
[10] Exhibit P-6.
[11] Exhibit P-7.

petitioner paid under protest the total amount of ₱19,982,485.76, representing CWT on the sale of its allocated condominium units.

On June 19, 2013, petitioner filed its administrative claim[12] for refund in the amount of ₱19,982,485.76, allegedly representing erroneously paid or illegally collected CWT.

Due to respondent's inaction and in order to toll the running the two-year prescriptive period mandated under Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, petitioner elevated its claim *via* a Petition for Review[13] before the Court in Division on January 10, 2014.

In his Answer[14], respondent admitted that the sale by petitioner of parcels of land located in identified areas within Fort Bonifacio and Villamor Air Base under RA No. 7227, as amended, are exempt from CWT, capital gains tax, and documentary stamp tax. However, in this case, the subject of exemption from internal revenue taxes, including CWT, are the condominium units of petitioner in the Serendra Project. Per respondent, there is nothing in Section 8 of RA No. 7227, as amended, that expressly or even impliedly exempts petitioner's sale of condominium units from internal revenue taxes. Besides, petitioner failed to show that the amount of ₱19,982,485.76, subject of the claim for refund/tax credit, has not been utilized. Hence, respondent pleads for the denial of petitioner's claim for lack of merit.

During the trial, only petitioner presented evidence in support of its claim. On the other hand, respondent's right to present evidence was deemed waived for his counsel's failure to appear in his initial presentation of evidence, despite due notice.

---

[12] Exhibits P-23 to P-23-I.
[13] *Rollo*, pp. 6-21.
[14] *Rollo*, pp. 402-406.

On March 15, 2016, the Court in Division rendered the assailed Decision, disposing the case as follows:

> **WHEREFORE**, premises considered, the instant Petition of Review is **DENIED** for lack of merit.
>
> **SO ORDERED**.

The Court in Division, in the assailed Decision, agreed that petitioner is exempt from payment of CWT for the sale of its allocated condominium units in the Serendra Project as the proceeds thereof are for its capital funding and was appropriated for the purposes enumerated in Section 8(d) of RA No. 7227, as amended. Nonetheless, petitioner's claim for refund should be denied for its failure to show that the amount of ₱19,982,485.76 claimed for refund has not been utilized.

Unconvinced, petitioner filed a *Motion for Reconsideration/Clarification (Re:15 March 2016 Decision)*[15] on March 31, 2016, praying for the modification of the assailed Decision or issuance of a clarification on the March 15, 2016 Decision to expressly include in the dispositive portion that BCDA is exempt from payment of CWT on the proceeds from sale of its allocated units in the Serendra Project.

Despite notice, respondent failed to file any Comment/Opposition to petitioner's *Motion*.

On May 23, 2016, the Court in Division rendered the equally assailed Resolution denying petitioner's *Motion for Reconsideration/Clarification* finding no reason to modify the dispositive portion of the assailed March 15, 2016 Decision.

Hence, this Petition for Review before the Court *En Banc* raising the lone issue of:

---

[15] *Rollo*, pp. 2838-2846.

> WHETHER THE CTA 2ND DIVISION ERRED IN NOT INCLUDING IN THE DISPOSITIVE PORTION OF THE ASSAILED DECISION ITS RULING IN THE BODY THEREOF THAT BCDA IS LEGALLY EXEMPT FROM THE PAYMENT OF THE CWT ON THE SALES PROCEEDS OF ITS CONDOMINIUM UNITS IN THE SERENDRA PROJECT.

Petitioner submits that the error is self-evident. In the Joint Stipulation of Facts and Issues dated June 11, 2014, the parties submitted two (2) threshold issues for resolution, to wit:

1. Whether petitioner BCDA is exempt from payment of CWT for the sale of its allocated condominium units in the Serendra Project; and

2. Whether petitioner BCDA is legally entitled to a refund of ₱19,982,485.76, allegedly representing the total amount of CWT paid under protest from January 16, 2012 to December 31, 2012.

Petitioner asserts that these issues were covered by the respective pleadings, submissions and evidence of the parties. The first, being the legal issue of the case and constitutes the very foundation of its cause of action; and the second, embodies the factual issue of the case and relates merely to the amount to be refunded, if any. While the body of the assailed Decision extensively and resolutely discussed its exemption from the payment of CWT on the sales proceeds of its condominium units in the Serendra Project, the said ruling was left out in the *fallo* or dispositive portion of the assailed Decision. According to petitioner, such silence in the *fallo* of the assailed Decision, creates the impression that the Court in Division's declaration of petitioner's exemption is merely an opinion or *obiter dictum*, which is not.

The instant Petition for Review was deemed submitted for decision on December 7, 2016, after petitioner filed its

Memorandum[16] on November 9, 2016, and with the Records Verification Report[17] of the Judicial Records Division, dated November 10, 2016, that respondent failed to file his Memorandum.

RULING OF THE COURT *EN BANC*

The instant Petition for Review must fail.

A judicious examination of the arguments set forth by petitioner in its Petition for Review readily reveals that they are a mere rehash, if not a *replica* of its arguments in its *Motion for Reconsideration/Clarification (Re: 15 March 2016 Decision)*, which the Court in Division already considered and passed upon in the assailed Resolution of May 23, 2016. In any event, petitioner's argument shall be discussed briefly to reinforce the ruling of the Court in Division.

Petitioner mainly argues that the absence in the *fallo* of the assailed Decision of the declaration that petitioner is exempt from payment of CWT for the sale of its allocated condominium units in the Serendra Project creates an impression that the said ruling is merely an opinion or an *obiter dictum.*

The Court *En Banc* does not agree.

An *obiter dictum* is defined as an opinion expressed by the court upon some question of law that is *not necessary* in the determination of the case before the court. It is a remark made, or opinion expressed by a judge, in his decision upon a cause *by the way*, that is, *incidentally* or *collaterally*, and not directly upon the question before him, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument.[18] It does not embody the resolution or determination of the court, and is made without argument,

---

[16] *En Banc* docket, pp. 64-75.
[17] *En Banc* docket, p. 76.
[18] *Delta Motors Corporation v. CA*, G. R. No. 121075, July 24, 1997.

or full consideration of the point.[19] It lacks the force of adjudication, being a mere expression of an opinion with no binding force for purposes of *res judicata*.[20]

Note that the Petition for Review filed with the Court in Division is a claim for refund of CWT paid in protest by petitioner on the ground that it is exempt from the payment of all forms of taxes, inclusive of CWT, by virtue of RA No. 7227, as amended by RA No. 7917. Therefore, petitioner's main object is the refund of what it paid in protest in the amount of Php 19,982,485.76.

To rule on petitioner's entitlement to a refund, the Court in Division first ascertained the basis of its claim. Thus, after a revisit of the invoked provision pertaining to the taxability of proceeds of the sale of the condominium units allotted to petitioner, the Court in Division found and declared that petitioner is indeed exempt from payment of CWT for the sale of its allocated condominium units in the Serendra Project. Clearly, the resolution of the issue of whether petitioner is exempt from payment of CWT for the sale of its allocated condominium units in the Serendra Project was **necessary in the determination of the case.** Thus, the said ruling is **not** an *obiter dictum* even if it is not included in the *fallo* of the assailed Decision.

It must however be stressed that the declaration about petitioner's exemption is subject to the condition that all the requirements for a grant of refund are satisfied. In this case however, petitioner failed to establish that the claimed amount has not been used or utilized, precisely, the petition was denied as indicated in the dispositive portion of the assailed Decision of March 15, 2016.

In addition, petitioner admits that the Court in Division extensively and resolutely discussed in the body of the assailed Decision the basis and rationale of its exemption from the payment of CWT on the sales proceeds of its allocated condominium units in the Serendra Project. Such admission completely dilutes petitioner's impression that the

---

[19] *Office of the Ombudsman v. CA*, G.R. No. 146486, March 4, 2005.
[20] *City of Manila v. Entote*, 57 SCRA 497, 508-509.

ruling on its exemption is merely an opinion or *obiter dictum* as it was left out in the *fallo* of the assailed Decision.

The Court *En Banc* cannot agree more with the Court in Division in ruling that the assailed Decision of March 15, 2016 fully disposed of the case by denying petitioner's claim for refund, to wit:

> However, the Court finds no reason to modify the dispositive portion of the assailed decision. The instant case involves a claim for refund of creditable withholding tax which petitioner paid under protest. **The issue on petitioner's exemption was merely raised for the determination of petitioner's entitlement to its claimed refund**.
>
> Thus, the **Court fully disposed of the instant case when the petition for review, and therefore the claim for refund, was denied.**[21] (*Boldfacing supplied*)

WHEREFORE, the *Petition for Review* filed by Bases Conversion and Development Authority (BCDA) on June 10, 2016 is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

(With Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

---

[21] Assailed Resolution of May 23, 2016.

JUANITO C. CASTANEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN RINGPIS-LIBAN
Associate Justice

(On Leave)
CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

BASES CONVERSION AND DEVELOPMENT AUTHORITY,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1467
(CTA Case No. 8757)

Present:

DEL ROSARIO, *P.J.*,
CASTANEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:
DEC 06 2017 3:58 p.m.

x---x

CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur in the denial of the Petition for Review filed by Bases Conversion and Development Authority (BCDA) ***solely*** for the reason discussed hereunder.

Records disclose that BCDA executed a Joint Development Agreement (JDA) with Ayala Land, Inc. (ALI) by virtue of which it contributed a parcel of land located in Fort Bonifacio to an unincorporated Joint Venture, while ALI contributed capital and expertise to undertake and complete the implementation of the Project called the Serendra Project.[1] In return, the parcel of land that BCDA contributed to the Serendra Project shall be conveyed and

[1] Par. 4.8, Petition for Review, *Rollo*, p. 5; Exhibits P-1, and P-1-A to P-1-B.

transferred to the Condominium Corporation to be established by the unit owners pursuant to the Condominium Act.[2]

For purposes of implementing the JDA, petitioner executed a Trust Agreement with the Development Bank of the Philippines (DBP) on February 13, 2004. With ALI's consent, DBP was appointed under the Trust Agreement as petitioner's trustee in whose name BCDA's allocated condominium units shall be registered, and shall hold them in trust for BCDA's benefit.[3]

The said condominium units were eventually sold by BCDA to third parties. The creditable withholding taxes (CWT) due on the said sales are the subject of BCDA's Petition for Review. BCDA is of the opinion that similar to the proceeds of its sale of Metro Manila military camps and portions of Fort Bonifacio, the proceeds derived by BCDA from the sale of the condominium units in the Serendra Project are exempt from income tax and consequently, from CWT.

I submit that BCDA's Petition for Review should be denied on the ground that the proceeds from the sale of BCDA's allocated condominium units or shares in the Serendra Project are not exempt from income tax and consequently, from CWT.

In a number of cases, the Court has ruled that when Congress created BCDA in 1992 by virtue of Republic Act (RA) No. 7227 (BCDA Charter), Congress did not deem it proper to exempt BCDA from payment of corporate income tax just like any other government instrumentality vested with corporate powers. Subsequently, RA No. 7227 was amended by RA No. 7917 **to specifically exempt the proceeds of the sale by BCDA of portions of Metro Manila military camps and portions of Fort Bonifacio from all kinds of taxes and fees**.

While Congress did not make BCDA a tax exempt entity, it clearly and unequivocally declared that the **proceeds** from the sale by BCDA of portions of Metro Manila military camps and portions of Fort Bonifacio are not taxable income as they are exempt from all forms of taxes. Otherwise stated, BCDA is obliged to pay corporate income tax on its taxable income only, albeit proceeds from the sale of portions of Metro Manila military camps and portions of Fort Bonifacio are exempt from income tax and consequently, from CWT.

---

[2] Par. 4.9, Petition for Review, *Rollo*, p. 5.
[3] Par. 4.11, Petition for Review, *Rollo*, p. 6.

To emphasize, the tax exemption of BCDA is limited to the proceeds on the sale and transfer of certain Metro Manila Camps, including lands covered by Proclamation No. 423, series of 1957. Section 8 of RA No. 7227 provides:

> "Section 8. Funding Scheme – The capital of the Conversion Authority shall come from **the sales proceeds and/or transfers of certain <u>Metro Manila Camps</u>**, including **all *<u>lands</u>* covered by Proclamation No. 423, Series of 1957, commonly known as Fort Bonifacio** and Villamor (Nichols) Air Base, namely:
>
> xxx xxx xxx
>
> The proceeds from any sale, after deducting all expenses related to the sale, of portions of Metro Manila military camps as authorized under this Act, shall be used for the following purposes with their corresponding percent shares of proceeds: xxx"

Moreover, RA 7917 No. provides:

> "SECTION 1. Paragraph (d), Section 8 of Republic Act No. 7227, otherwise known as the Bases Conversion Development Act of 1992, is hereby amended to read as follows:
>
> (d) A proposed 30.15 hectares as relocation site for families to be affected by circumferential road 5 and radial road 4 construction: *Provided, further*, That the boundaries and technical descriptions of these exempt areas shall be determined by an actual ground survey.
>
> **The President is hereby authorized to sell the above *<u>lands</u>*, in whole or in part, which are hereby declared alienable and disposable, pursuant to the provisions of existing laws and regulations governing sales of government properties**: *Provided,* That no sale or disposition of such ***<u>lands</u>*** will be undertaken until a development plan embodying projects for conversion shall be approved by the President in accordance with paragraph (b), Section 4, of this Act. However, six (6) months after approval of this Act, the President shall authorize the Conversion Authority to dispose of certain areas in Fort Bonifacio and Villamor as the latter so determines. The Conversion Authority shall provide the President a report on any such disposition or plan for disposition within one (1) month from such disposition or preparation of such plan. The proceeds from any sale, after deducting all expenses related to the sale of portions of Metro Manila military camps as authorized under this Act, shall be deemed appropriated for the purposes herein provided for the following purposes with their corresponding percent shares of proceeds: xxx The provisions of law to the contrary notwithstanding, **the proceeds of the sale thereof shall not be diminished and, therefor, exempt from all forms of taxes and fees**." (Emphases supplied)

mn

In *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*,[4] the Supreme Court confirmed that Section 8 of RA No. 7227, as amended by RA No. 7917, clearly exempted the proceeds from the sale of the **Fort Bonifacio land** from all forms of taxes.

The issue to be resolved therefore is whether or not BCDA's proceeds from the sale of **its condominium units** in the Serendra Project may be rightfully considered as proceeds from the **sale of the Fort Bonifacio land**.

It has been settled that tax exemptions cannot arise from vague inference as the exemption must be clear and unequivocal. A taxpayer claiming a tax exemption must point to a specific provision of law conferring on the taxpayer, in clear and plain terms, exemption from a common burden.[5] Laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power; that taxation is the rule and exemption is the exception; and that the law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.[6]

While the burden is on BCDA to prove that it is entitled to exemption from the proceeds of the sale of its **condominium units** in the Serendra Project, record is bereft of any evidence confirming such exemption.

Worse, a perusal of BCDA's Petition for Review filed before the Court in Division reveals that BCDA anchors its claim for tax exemption on the mistaken notion that BCDA is not a taxable entity and that BCDA is exempt from paying taxes in connection with its sale or disposition activities, viz.:

> "5.10 What is taxable is the subsequent sale of the units of the project to third parties. But the taxability of the subsequent sale by the joint venture partners to third parties finds application only if the seller is a taxable entity, such as BCDA's joint venture partner in this case, ALI. **It does not apply when the seller – such as BCDA**

---

[4] G.R. Nos. 164155 & 175543, February 25, 2013.
[5] Digital Telecommunications, Inc. v. City Government of Batangas, et al., G.R. No. 156040, December 11, 2008.
[6] Sea-Land Service, Inc. v. Court of Appeals, G.R. No. 122605, April 30, 2001.

OM

> **– is an entity the law specifically exempts from payment of all forms of taxes in connection with its sale/disposition activities**."[7] (Boldfacing supplied)

To reiterate, Congress did not make BCDA a tax exempt entity. At most, it provided a limited exemption from all forms of taxes of BCDA's specific income, that is - - "income" or "proceeds of the sale" of Metro Manila military camps and portions of Fort Bonifacio. Note that BCDA, as a corporate entity, is not precluded from deriving income from various **taxable transactions** as is evident from the powers vested in it by law, *viz.*:

> "**REPUBLIC ACT NO. 7227**
>
> SECTION 5. Powers of the Conversion Authority. — To carry out its objectives under this Act, the Conversion Authority is hereby vested with the following powers:
>
> (a) To succeed in its corporate name, to sue and be sued in such corporate name and to adopt, alter and use a corporate seal which shall be judicially noticed;
>
> (b) To adopt, amend and repeal its bylaws;
>
> (c) To enter into, make, perform and carry out contracts of every class, and description which are necessary or incidental to the realization of its purposes with any person, firm or corporation, private or public, and with foreign government entities;
>
> (d) To contract loans, indebtedness, credit and issue commercial papers and bonds, in any local or convertible foreign currency from any international financial institutions, foreign government entities, and local or foreign private commercial banks or similar institutions under terms and conditions prescribed by law, rules and regulations;
>
> (e) To execute any deed of guarantee, mortgage, pledge, trust or assignment of any property for the purpose of financing the programs and projects deemed vital for the early attainment of its goals and objectives, subject to the provisions of Article VII, Section 20, and Article XII, Section 2, paragraphs (4) and (5) of the Constitution;
>
> (f) To construct, own, lease, operate and maintain public utilities as well as infrastructure facilities;
>
> (g) To reclaim or undertake reclamation projects as it may deem necessary in areas adjacent or contiguous to the Conversion Authority's lands described in Section 7 of this Act either by itself or in collaboration with the Public Estates Authority (PEA) established under Presidential Decree No. 1084 as amended;

---

[7] Petition for Review, CTA Division Docket, p. 18.

(h) To acquire, own, hold, administer, and lease real and personal properties, including agricultural lands, property rights and interests and encumber, lease, mortgage, sell, alienate or otherwise dispose of the same at fair market value it may deem appropriate;

(i) To receive donations, grants, bequests and assistance of all kinds from local governments and private sectors and utilize the same;

(j) To invest its funds and other assets other than those of the Special Economic Zones under Section 12 and 15 of this Act in such areas it may deem wise;

(k) To exercise the right of eminent domain;

(l) To exercise oversight functions over the Special Economic Zones declared under this Act and by subsequent presidential proclamations within the framework of the declared policies of this Act;

(m) To promulgate all necessary rules and regulations; and

(n) To perform such other powers as may be necessary and proper to carry out the purposes of this Act."

Truth to tell, the proceeds of BCDA's transactions (other than those pertaining to the sale of portions of Metro Manila military camps and portions of Fort Bonifacio) remain taxable. **The proceeds from the disposition of its condominium units in the Serendra Project, not being covered by specific and clear grant of tax exemption, is taxable**. Accordingly, the CWT withheld and remitted to the BIR on account thereof were not erroneously remitted to, and collected by the BIR; consequently, the CWTs are not refundable under Sections 204 and 229 of the NIRC of 1997, as amended.

All told, I vote to DENY the Petition for Review filed by Bases Conversion and Development Authority for lack of merit.

ROMAN G. DEL ROSARIO
Presiding Justice