REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MARIONNAUD PHILIPPINES, INC., *Petitioner,*	**CTA *EB* NO. 1602** (CTA Case No. 8807)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 24 2019 3:50pm

x- x

RESOLUTION

MANAHAN, J.:

This resolves the *Motion for Reconsideration (of the Decision dated 01 August 2018)*[1] filed by petitioner on September 13, 2018.

Upon notice and within the extended period prayed for, respondent filed his *Opposition (To Petitioner's Motion for Reconsideration dated 13 September 2018)*, on October 23, 2018.

Petitioner assails the Court *En Banc*'s Decision[2] dated August 1, 2018, which disposed of petitioner's appeal and consequently dismissed its claim for refund of alleged excess and unutilized creditable withholding tax (CWT) for calendar year ending December 31, 2011 amounting to Php26,800,481.00, as follows:

---

[1] *Rollo*, Vol. 2, pp. 560-579.
[2] *Rollo*, Vol. 2, pp. 530-542.

WHEREFORE, the instant Petition for Review is hereby **DISMISSED** for lack of merit.

SO ORDERED.[3]

The Court *En Banc* found that petitioner failed to substantiate its allegation of timing difference to explain the discrepancy between the income reported in its annual income tax return, and the total income declared in its creditable withholding tax certificates. The Court *En Banc* also found that petitioner failed to establish that it has excess and unutilized creditable taxes when it failed to substantiate its prior year's excess credits which may be applied to offset its income tax liability. For the foregoing reason, petitioner's claim for refund of alleged excess and unutilized CWT was denied.

In its *Motion*, petitioner states that it was able to provide documentary and testimonial evidence to establish that the income, upon which its excess and unutilized CWT for calendar year ended December 31, 2011 were withheld, was declared as part of its gross income. Petitioner also questions the requirement to substantiate its prior years excess CWT, considering that the carried forward excess CWT enjoys the presumption of validity. Petitioner further alleges that the requirement to substantiate prior years excess credits runs counter to Paragraph (C), Section 2.58.3 of Revenue Regulations No. 2-98, which allows a taxpayer to automatically credit its excess withholding tax credits against its income tax due.

In his *Opposition*, respondent states that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer and that the taxpayer must present convincing evidence to substantiate a claim for refund. Respondent states that since petitioner failed to discharge the burden, the Court correctly denied the claim for refund. Further, respondent states that petitioner did not present any compelling ground to justify the reversal of the subject Decision.

After reviewing petitioner's arguments and the records, the Court finds no reason to reverse its findings that petitioner failed to reconcile the discrepancy between the income per its ITR and the income in its CWT certificates. The income based

---

[3] *Rollo*, Vol. 2, Decision dated August 1, 2018, p. 541.

on CWT certificates is higher than that reported in the ITR, which petitioner alleges is due to timing difference in reporting the income and receipt of the CWT certificates.

While the Court does not discount that timing differences and delay in the receipt of the CWT certificates can cause the discrepancy in the amounts reported in the ITR and in the CWT certificates, the Court reiterates that petitioner failed to reconcile the amounts allegedly caused by said timing difference.

With respect to the requirement to substantiate prior years excess CWT, the same stems from the principle that a taxpayer must prove every minute aspect of the case by presenting, formally offering and submitting its evidence to the CTA.[4]

WHEREFORE, petitioner's *Motion for Reconsideration (of the Decision dated 01 August 2018)* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

---

[4] *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007.

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice