

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SONOMA SERVICES, INC.,
Petitioner,

C.T.A. CASE NO. 8639

Members:

-versus-

BAUTISTA, *Chairperson*;
FABON-VICTORINO, and
RINGPIS LIBAN, JJ.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

OF Promulgated:

APR 15 2013

x-----x

DECISION

FABON-VICTORINO, J.:

This Petition for Review involves a claim for refund in the amount of ₱3,911,850.00, of allegedly excess and unutilized creditable withholding taxes (CWT) for the calendar year (CY) ended December 31, 2010 filed by petitioner Sonoma Services, Inc.

Petitioner is a duly organized domestic corporation, with principal office located at 35th Floor, Tower One and Exchange Plaza, Ayala Triangle, Ayala Avenue, Makati City. It was incorporated for the primary purpose of carrying on and conducting general services business with any party, including the rendering of management and allied services within the limits allowed by law, including office and clerical support services of any kind, or otherwise, to engage in any preservation, maintenance or repair work upon any and

every kind of property, to enter into and execute contracts or relating thereto¹.

Petitioner is a registered taxpayer of Bureau of Internal Revenue (BIR) Revenue Region No. 8, Revenue District Office (RDO) No. 50 with Taxpayer Identification No. 220-868-954-000.²

On the other hand, respondent is the Commissioner of the Bureau of Internal Revenue (BIR), with authority, among others, to decide, approve and grant refunds or tax credits of overpaid and erroneously paid or collected internal revenue taxes, with office at the BIR National Office Building, Diliman, Quezon City.

On April 15, 2011, petitioner filed its Annual Income Tax Return (ITR) for CY 2010³ with the BIR through the Electronic Filing and Payment System (EFPS), indicating therein its choice for refund of its excess and unutilized CWT for CY 2010⁴.

On December 6, 2011, petitioner filed with the BIR RDO No. 50 an administrative claim for refund of the excess and unutilized CWT for CY 2010 in the amount of ₱3,911,850.00⁵.

On April 12, 2013, petitioner filed the instant Petition for Review anchored on alleged inaction of respondent.

On June 11, 2013, respondent filed her Answer⁶, praying for the dismissal of the instant Petition for lack of basis. As special and affirmative defenses, respondent avers that petitioner's administrative claim for refund is still pending with BIR which should be given the opportunity to investigate and confirm the veracity of subject claim, before it grants the refund. Moreover, it does not appear from petitioner's documents that the tax subject of refund was

¹ Par. 2, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), docket, vol. I, p. 198.

² Par. 3, *Ibid.*

³ Exhibit "P-1".

⁴ Exhibit "P-1-c".

⁵ Exhibit "P-18".

⁶ Docket, pp. 57-61.

erroneously or illegally collected. Likewise, petitioner must establish that it did not carry-over its 2010 alleged unutilized creditable withholding taxes to the succeeding taxable quarters/years, lest it is precluded from claiming a cash refund/tax credit of its alleged excess tax credit for taxable year 2010. Respondent also invokes the presumption that taxes paid and collected are made in accordance with the law and regulations, and that claim for refund partakes the nature of an exemption, hence, must be construed strictly against the claimant. Finally, the burden of proof rest upon petitioner to establish its entitlement to the relief sought.

After the pre-trial conference, the parties submitted their Joint Stipulation of Facts and Issues⁷ on August 28, 2013.

During the trial, petitioner presented two witnesses, namely, its Financial Accountant Vanessa Maturana-Besas and Independent Certified Public Accountant (ICPA) Katherine O. Constantino.

In her Judicial Affidavit⁸, **Vanessa Maturana-Besas** declared that as petitioner's Financial Accountant, she handles petitioner's tax compliance, including the preparation of its tax returns and other financial reports since 2003.

She confirmed that petitioner was incorporated for the primary purpose of carrying on and conducting general services business with any party, including the rendering of management and allied services within the limits allowed by law, including office and clerical support services of any kind, or otherwise, to engage in any preservation, maintenance or repair work upon any and every kind of property, to enter into and execute contracts or relating thereto.

For CY 2010, petitioner had gross revenues of ₱45,500,000.00 and non-operating and taxable other income of ₱1,865,163.15, or a total gross income of

⁷ Docket, vol. 1, pp. 197-200.

⁸ Exhibits "P-19" to "P-19-a".

₱47,365,163.15, as shown in its electronically-filed Annual ITR⁹. In view thereof, petitioner is liable for Minimum Corporate Income Tax (MCIT) of ₱178,931.38. However, since petitioner had total tax credits in the sum of ₱5,178,381.50 in 2010, even after petitioner deducted its MCIT of ₱178,931.38, there were still excess income tax credits of ₱4,999,450.12 as of December 31, 2010. The excess tax credits consisted of creditable taxes withheld during the four (4) quarters of 2010 amounting to ₱3,911,850.00 and the remainder of prior year's excess credits in the amount of ₱1,087,600.12.

She added that petitioner opted to claim for refund of its accumulated CWTs for the four quarters of CY 2010 in the amount of ₱3,911,850.00, while the remainder of prior year's excess credits that were carried over from CY 2009 amounting to ₱1,087,600.12, were carried over to the succeeding taxable year 2011. To signify its intention to claim for refund, petitioner placed a tick mark on the box next to the words "to be refunded" in its Annual ITR for CY 2010. To pursue the chosen option, petitioner filed a letter with the BIR RDO No. 50, requesting for refund of ₱3,911,850.00, representing its excess and unutilized CWT for CY 2010¹⁰.

As for petitioner's "prior years credits", she explained that the same can be traced back as early as 2003 and have been carried over and used to pay for petitioner's income tax liability from CY 2003 up to CY 2010. Thus, petitioner's prior years excess credits as of December 31, 2010 amounted to ₱1,087,600.12, which was then carried over in petitioner's Annual¹¹ and Quarterly ITRs¹² for CY 2011.

She further testified that the accumulated CWTs in the total amount of ₱3,911,850.00 were duly supported by Certificates of Creditable Tax Withheld at Source (BIR Form 2307) issued to petitioner by its income payors/withholding agents for the four quarters of CY 2010. ✓

⁹ Exhibit "P-1".

¹⁰ Exhibit P-18".

¹¹ Exhibit "P-6".

¹² Exhibits "P-7" to "P-10".

On cross-examination, the witness clarified that petitioner has more or less 20 clients, to which it has management contracts to provide accounting services and property maintenance services, which includes payment of real property taxes and payment of association dues.

ICPA **Katherine O. Constantino**, also executed a Judicial Affidavit,¹³ stating that based on her audit, petitioner's total excess and unutilized CWT for CY 2010 amounted to ₱3,911,850.00.

She explained that based on the Annual ITR for CY 2010, petitioner's MCIT amounted to ₱178,931.38, its prior years excess credits amounted to ₱1,266,531.50 and the Creditable Tax Withheld for the four quarters of CY 2010 amounted to ₱3,911,850.00. In fine, petitioner's prior years excess credits were sufficient to cover its income tax due, resulting to an overpayment of ₱4,999,450.12.

She corroborated the testimony of petitioner's lone witness that petitioner chose the option to be refunded for its excess creditable withholding taxes for CY 2010 in the amount of ₱3,911,850.00 and that it did not carry over and applied to the succeeding taxable year 2011 the said amount.

Based on her audit, all the expanded withholding taxes claimed by petitioner in the amount of ₱3,911,850.00 were properly documented and represent revenues that were claimed, reported in the ITRs for 2010 and were not carried over in the succeeding periods now was used in the income tax payments for said year.

On December 3, 2013,¹⁴ petitioner formally offered its evidence and rested. On March 13, 2014,¹⁵ respondent opted not to present any evidence in support of its defense.

On May 19, 2014, the case was considered submitted for Decision after petitioner filed its Memorandum¹⁶ on May

¹³ Exhibits "P-20-a" to "P-20-b".

¹⁴ Docket, vol. II, pp. 495-529.

¹⁵ Minutes of the Hearing, docket, vol. II, p. 635.

¹⁶ Memorandum, docket, vol. II, pp. 648-665.

2, 2014 and respondent filed her Memorandum¹⁷ on May 9, 2014.

THE ISSUES

The issues¹⁸ for the Court's resolution are as follows:

1. Whether or not petitioner's excess and unutilized CWT for CY 2010 in the amount of ₱3,911,850.00 are duly substantiated by documentary evidence.
2. Whether or not the income from which the CWTs being claimed for refund were withheld and was reported as part of the revenues declared in petitioner's Annual ITR.
3. Whether or not petitioner carried over its excess and unutilized CWT for CY 2010 to the succeeding taxable periods.
4. Whether or not petitioner filed its administrative and judicial claims for refund of excess and unutilized CWT for CY 2010 within the two-year prescription period provided under Sections 204(C) and 229, National Internal Revenue Code of 1997.

The foregoing issues may however be simplified into one main issue of whether petitioner is entitled to its claim for refund or issuance of tax credit certificate for its alleged excess and unutilized CWT for CY 2010 in the total amount of ₱3,911,850.00.

THE COURT'S RULING

Pertinent to the resolution of the case is Section 76 of the National Internal Revenue Code (NIRC) of 1997, which provides, as follows:

¹⁷ Memorandum, docket, vol. II, pp. 666-670.

¹⁸ Issues, JSFI, docket, vol. I, p. 199.


"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."

Pursuant to Section 76 of the NIRC, as amended, there are only two alternative options available to a corporate taxpayer whose quarterly income tax payments exceed its tax liability — it may either apply for a refund/tax credit within the prescribed period, or carry over and apply the same to its tax liabilities for the succeeding quarters of the succeeding taxable years.

In exercising its option, the corporation must signify in its annual corporate adjustment return, by marking the option box provided in the BIR form, its intention either to carry over the excess credit or to claim a refund. These remedies are in the alternative and the choice of one precludes the other. This is known as the *irrevocability rule* embodied in the last sentence of Section 76 of the Tax Code.



In *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*,¹⁹ the Supreme Court elucidates on these two mutually exclusive options, in this wise:

"The first option is relatively simple. Any tax on income that is paid in excess of the amount due the government may be refunded, provided that a taxpayer properly applies for the refund.

The second option works by applying the refundable amount, as shown on the FAR of a given taxable year, against the estimated quarterly income tax liabilities of the succeeding taxable year.

These two options under Section 76 are alternative in nature. The choice of one precludes the other. Indeed, in *Philippine Bank of Communications v. Commissioner of Internal Revenue*, the Court ruled that a corporation must signify its intention — whether to request a tax refund or claim a tax credit — by marking the corresponding option box provided in the FAR. While a taxpayer is required to mark its choice in the form provided by the BIR, this requirement is only for the purpose of facilitating tax collection."

One cannot get a tax refund and a tax credit at the same time for the same excess income taxes paid . . . (*Emphases supplied*)

It is thus clear that a corporate taxpayer is not legally allowed a change of heart once it has chosen an option from the two alternative remedies for the choice of one precludes the other.

This is evident in the Annual Income Tax Return (BIR Form 1702) under line 31, which states, thus: ✓

¹⁹ 514 Phil. 147,157 (2005).

“If overpayment, mark one box only:
(once the choice is made, the same is
irrevocable)”

In the instant case, petitioner unequivocally indicated its intention to be refunded by placing a tick mark on the box next to the words “to be refunded”, in its Annual ITR for CY 2010.

An examination of Petitioner's Annual ITR²⁰ for the year 2010 shows that petitioner had income tax credits in the total amount of ₱5,178,381.50²¹, computed as follows:

Prior Year's Excess Credits other than MCIT ²²		₱ 1,266,531.50
Add: Creditable Taxes Withheld for the first three quarters ²³	₱3,896,850.00	
Creditable Taxes Withheld for the fourth quarter ²⁴	15,000.00	3,911,850.00
Total Tax Credits		₱5,178,381.50

Petitioner's prior year's excess credits of ₱1,266,531.50 indicated in its 2010 Annual ITR were duly supported by Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307)²⁵ after deducting therefrom the income tax due for years 2007, 2008, and 2009, as shown below:

Exhibit	Taxable Year	Income Tax Due (a)	Prior Year's Excess Credits (b)	(Income Tax Still Due) / Balance of Prior Year's Excess Credits (c) = (b) - (a)	CWT for the Year	Excess CWT at the End of the Year
P-828	2003	₱ 289,502.00	₱ -	(₱ 289,502.00)	₱2,506,600.00	₱2,217,098.00
"P-829"	2004	550,220.00	2,217,098.00	1,666,878.00	5,188,970.00	6,855,848.00
"P-830"	2005	1,029,302.00	1,666,878.00	637,576.00	5,070,932.00	5,708,508.00
"P-831"	2006	434,043.00	637,576.00	203,533.00	3,991,800.00	4,195,333.00
"P-832"	2007	756,740.00	203,533.00	(553,207.00)	3,643,050.00	3,089,843.00
"P-833"	2008	827,408.00	3,089,843.00	2,262,435.00	3,683,100.00	5,945,535.00
"P-834"	2009	995,903.10	2,262,434.60	1,266,531.90	4,045,410.00	5,311,941.50

²⁰ Exhibit "P-820".
²¹ Exhibit "P-820", box 30H.
²² Exhibit "P-820", box 30A.
²³ Exhibit "P-820", box 30C.
²⁴ Exhibit "P-820", box 30D.
²⁵ Exhibits "P-246" to "P-268", as summarized in Exhibit "P-245".



Petitioner's MCIT due for the year 2010 amounting to ₱178,931.38²⁶ was offset against the prior year's excess credits of ₱1,266,531.50, leaving a balance of ₱1,087,600.12 for prior year's excess credits and creditable taxes withheld in the amount of ₱3,911,850.00, or a total amount of ₱4,999,450.12²⁷ unutilized as of December 31, 2010, detailed as follows:

Prior Year's Excess Credits	₱ 1,266,531.50
Less: Income Tax Due	178,931.38
Balance of Prior Year's Excess Credits	₱ 1,087,600.12
Add: Creditable Taxes Withheld During the Year	3,911,850.00
Unutilized Excess Tax Credits as of December 31, 2010	₱4,999,450.12

However, to be entitled to the refund sought in the amount of ₱3,911,850.00, petitioner must prove compliance with requirements of the law. Petitioner must satisfy the following requisites:

- 1) The claim must be filed with the CIR within the two-year period from the date of payment of the tax;
- 2) The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld; and
- 3) It must be shown on the return that the income received was declared as part of the gross income.²⁸

Anent the first requisite, Sections 204(C) and 229 of the NIRC of 1997, as amended, relevantly provide:

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

²⁶ Exhibit "P-820", box 29.

²⁷ Exhibit "P-820", box 33.

²⁸ *Commissioner of Internal Revenue vs. Mirant (Philippines) Operations Corporation*, G.R. No. 171742, June 15, 2011 and *Mirant (Philippines) Operations Corporation (Formerly: Southern Energy Asia-Pacific Operations (Phils.), Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 176165.

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(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."

"SEC. 229. Recovery of Tax Erroneously or Illegally Collected. – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." (Emphasis supplied) ✓

Pursuant to the above provisions, the two-year prescriptive period for claiming a refund commences to run from the date of filing of the Final Adjustment Return (FAR).²⁹ It is only when the FAR 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.³⁰

Petitioner filed its Annual ITR for CY 2010 through EFPS on April 15, 2011.³¹ Petitioner has two years from the filing of the FAR within which to file a claim for refund of excess CWT, both in the administrative and judicial levels. Counting from April 15, 2011, petitioner had until April 15, 2013 within which to file both its administrative and judicial claims. Hence, the administrative claim filed on December 6, 2011³² and the Petition for Review filed on April 12, 2013, were seasonably filed.

Anent the second and third requisites, Section 2.58.3(B) of Revenue Regulations (RR) No. 02-98, as amended, states:

"SECTION 2.58.3. *Claim for Tax Credit or Refund.* –

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(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.**"(Emphasis supplied)

²⁹ *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991.

³⁰ *Commissioner of Internal Revenue vs. TMX Sales, Inc., et al.*, G.R. No. 83736, January 15, 1992.

³¹ Exhibit "P-1".

³² Exhibit "P-18".

Petitioner submitted Certificates of Creditable Tax Withheld at Source duly issued to it by various withholding agents showing that creditable taxes in the aggregate amount of ₱3,911,850.00 were withheld on professional fees it received in the year 2010, detailed as follows:

Withholding Agent	Income Payments	Income Tax Withheld	Exhibit
<i>January to March 2010</i>			
Corullon Holdings, Inc.	₱ 1,570,800.00	₱ 235,620.00	"P-23"
Elija Holdings, Inc.	1,570,800.00	235,620.00	"P-24"
FBC Holdings, Inc.	1,570,800.00	235,620.00	"P-25"
Fercat Holdings, Inc.	1,570,800.00	235,620.00	"P-26"
Gilmon Holidngs, Inc.	1,570,800.00	235,620.00	"P-27"
Mermac, Inc.	1,842,588.00	276,388.20	"P-28"
Reinosa Holdings, Inc.	1,570,800.00	235,620.00	"P-29"
San Puente Holdings, Inc.	1,570,800.00	235,620.00	"P-30"
Steps Dance Studio	150,000.00	15,000.00	"P-31"
<i>April to June 2010</i>			
Steps Dance Studio	150,000.00	15,000.00	"P-32"
<i>July to September 2010</i>			
Corullon Holdings, Inc.	1,571,200.00	235,680.00	"P-33"
Elija Holdings, Inc.	1,571,200.00	235,680.00	"P-34"
FBC Holdings, Inc.	1,571,200.00	235,680.00	"P-35"
Fercat Holdings, Inc.	1,571,200.00	235,680.00	"P-36"
Gilmon Holidngs, Inc.	1,571,200.00	235,680.00	"P-37"
Mermac, Inc.	1,842,412.00	276,361.80	"P-38"
Reinosa Holdings, Inc.	1,571,200.00	235,680.00	"P-39"
San Puente Holdings, Inc.	1,571,200.00	235,680.00	"P-40"
Steps Dance Studio	150,000.00	15,000.00	"P-41"
<i>October to December 2010</i>			
Steps Dance Studio	150,000.00	15,000.00	"P-42"
Total	₱26,279,000.00	₱3,911,850.00	

It is worth to note that the creditable taxes of ₱3,911,850.00 were withheld on income payments for professional fees of ₱26,279,000.00. However, petitioner's reported sales of services in its Annual ITR for 2010 amounted to ₱45,500,000.00³³, which is higher by ₱19,221,000.00 as compared with the income payments per certificates of ₱26,279,000.00. ✓

³³ Exhibit "P-820", box 17C.

Petitioner presented a breakdown of revenues³⁴ for the year 2010, as follows:

	PER BIR FORM NO. 2307	PER ITR
Administration Fee		
Withholding Agents	₱ 25,451,000.00	₱ 25,451,000.00
Non-withholding Agents (Individuals)	-	19,221,000.00
Recovery on Cost	828,000.00	828,000.00
	26,279,000.00	45,500,000.00
Interest Income (Not subjected to final tax)	-	1,496,723.00
Gain on Sale of Property and Equipment	-	180,773.00
Miscellaneous	-	187,667.00
Total	₱ 26,279,000.00	₱ 47,365,163.00

The difference, as explained by the ICPA, represented administration fee generated from clients who were individuals and whose remittances were not subjected to withholding taxes.³⁵ Various official receipts issued by petitioner to individual clients showed that no tax was withheld on the income payments of ₱19,221,000.00. The said individual clients and the income generated from them are enumerated below:

CLIENT	O.R. NO.	AMOUNT	EXHIBIT
Sofia Zobel Elizalde	648	₱ 500,000.00	"P-65"
	678	1,000,000.00	"P-94"
Georgina Padilla MacCohon	649	1,124,000.00	"P-66"
	679	1,124,000.00	"P-95"
Alejandro Zobel Padilla	655	862,500.00	"P-72"
	676	862,500.00	"P-92"
Jaime Augusto Zobel de Ayala II	653	1,250,000.00	"P-70"
	671	850,000.00	"P-87"
Alfonso Zobel de Ayala Jr.	681	1,986,000.00	"P-97"
Beatriz Zobel de Ayala	646	1,200,000.00	"P-63"
	673	600,000.00	"P-89"
Cristina Zobel de Ayala	650	450,000.00	"P-67"
	674	450,000.00	"P-90"
Fernando Zobel de Ayala	654	1,250,000.00	"P-71"
	672	450,000.00	"P-88"
Jaime Zobel de Ayala	647	1,774,000.00	"P-64"
	680	1,638,000.00	"P-96"
Monica Zobel de Ayala	651	450,000.00	"P-68"

³⁴ Exhibit "P-43".


³⁵ Exhibit "P-21".

	675	450,000.00	"P-91"
Patricia Zobel de Ayala	652	450,000.00	"P-69"
	677	500,000.00	"P-93"
Total administration fees to individuals		P19,221,000.00	

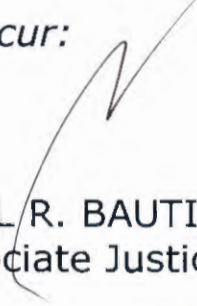
In fine, petitioner likewise satisfied the second and third requisites for entitlement for refund in the amount of ₱3,911,850.00.

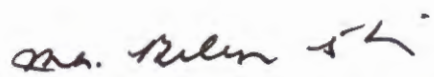
WHEREFORE, the instant Petition for Review filed by petitioner Sonoma Services, Inc. on April 12, 2013, is hereby **GRANTED**. Accordingly, respondent is hereby **DIRECTED TO REFUND** in favor of petitioner the amount of ₱3,911,850.00, representing its excess and unutilized creditable withholding taxes for the calendar year ended December 31, 2010.

SO ORDERED.


ESPERANZA R. FABON-VICTORINO
Associate Justice


We Concur:


LOVELL R. BAUTISTA
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

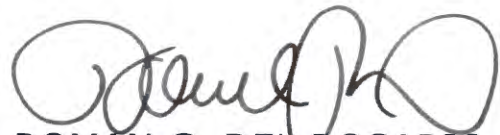
I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

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



ROMAN G. DEL ROSARIO
Presiding Justice