

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

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

CTA CASE NO. 10274

- versus -

Members:

BACORRO-VILLENA, Acting Chairperson,
and
CUI-DAVID, II.

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

NOV 07 2023

x ----- x

4:20 p.m.

DECISION

BACORRO-VILLENA, J.:

Before this Court is a Petition for Review¹ filed by petitioner Watsons Personal Care Stores (Philippines), Inc. (**petitioner/Watson**s) against respondent Commissioner of Internal Revenue (**respondent/CIR**) pursuant to Section 3(a)², Rule 8 in relation to

¹ Filed on 08 April 2020, Division Docket, Volume I, pp. 12-25.

² **SEC. 3. Who may appeal; period to file petition. —**

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

Section 3(a)(1)³, Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA). It prays that judgment be rendered ordering respondent to refund to petitioner the amount of ₱299,013,140.47, representing the latter's excess and unutilized creditable withholding taxes (CWTs) for taxable year (TY) 2017.⁴

PARTIES OF THE CASE

Petitioner is a corporation duly organized and registered under the laws of the Republic of the Philippines with Securities and Exchange Commission (SEC) Registration No. A200117405 dated 22 November 2001.⁵ It holds its principal office at Unit 211, 2nd Floor, The Podium, ADB Avenue, Ortigas Center, Wack-Wack Greenhills, City of Mandaluyong, NCR, Second District Philippines, 1550. It is primarily engaged in the business of trading of goods, on wholesale and retail basis, such as, but not limited to, all kinds of drugs, medicines, chemicals, hospital equipment, physician's supplies, cosmetics, beauty and health products, perfumes, toilet articles, and other related products. For the said purposes, petitioner operates drugstores and health and beauty stores and imports, acquires, holds, owns, sells, assigns, transfers, invests, trades, deals in or deals with any and all kinds of products or merchandise.⁶ It is also a value-added tax (VAT)-registered entity with Bureau of Internal Revenue (BIR) Certificate of Registration No. 8RC0000907897E and Tax Identification Number (TIN) 214-706-591-00000.⁷

Respondent, on the other hand, is the duly appointed CIR tasked to perform the duties of his or her office, including, *inter alia*, the power to decide claims for tax refund or tax credit subject to the exclusive appellate jurisdiction of this Court, pursuant to Section 4⁸ of the

³ SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

⁴ Petition for Review, par. 1, Division Docket, Volume I, p. 12.

⁵ Exhibit "P-1", id., Volume II, pp. 890-891.

⁶ Exhibit "P-2", id., p. 893.

⁷ Exhibit "P-4", id., pp. 907-908.

⁸ SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

National Internal Revenue Code (NIRC) of 1997, as amended, and Section 7⁹ of Republic Act (RA) No. 1125¹⁰, as amended by RA 9282.¹¹ He or she holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

FACTS OF THE CASE

On 13 April 2018, petitioner filed its annual Income Tax Return¹² (ITR) for TY 2017 which reflected an overpayment of ₱719,058,506.00, computed as follows:

Total Income Tax Due		₱110,267,355.00
Less: Total tax credits/payments		
Prior year's excess tax credits other than MCIT	₱530,312,721.00	
CWT for taxable year 2017	<u>299,013,140.00</u>	<u>829,325,861.00</u>
 Total Amount Payable (Refundable)		 (₱719,058,506.00)

Before the BIR, petitioner manifested its option to refund the said amount by checking the appropriate box in its annual ITR for TY 2017.¹³

Out of the ₱530,312,721.00¹⁴ from the prior year's unutilized excess tax credits, only ₱420,045,366.00 remained after applying against the same the income tax (IT) due of ₱110,267,355.00 for TY 2017. Petitioner also carried over the amount of ₱420,045,366.00 from the prior year's

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

⁹ **Sec. 7. Jurisdiction.** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
 (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue[.]

¹⁰ AN ACT CREATING THE COURT OF TAX APPEALS.

¹¹ 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

¹² Exhibit "P-6", Division Docket, Volume II, pp. 917-924.

¹³ Exhibit "P-6-1", id., p. 917.

¹⁴ Exhibit "P-5", id., p. 909.

unutilized excess tax credits in its quarterly¹⁵ and annual ITRs¹⁶ for TY 2018.

Later, petitioner likewise opted to refund the CWTs that it withheld from its customers for TY 2017. Thus, on 27 December 2019, it filed with the BIR-Large Taxpayers Service (**BIR-LTS**) an administrative claim for refund¹⁷ of the unutilized CWTs for TY 2017 in the amount of ₱299,013,140.47.¹⁸ The BIR, however, did not act on petitioner's claim. Due to the BIR's inaction, it filed the present petition on 08 April 2020.

On 28 July 2020, the Court issued Summons¹⁹ on respondent. On 18 August 2020, within an extended period that the Court granted, respondent filed his or her Answer.²⁰

Thereafter, on 30 October 2020, petitioner filed its Pre-Trial Brief²¹ while respondent filed his or her Pre-Trial Brief²² on 04 November 2020. The Pre-Trial Conference followed on 09 November 2020.²³ On 27 November 2020, the parties also filed their Joint Stipulation of Facts and Issues²⁴ (**JSFI**). On 21 December 2020, the Court issued the Pre-Trial Order²⁵ approving and adopting the parties' JSFI.

Upon petitioner's motion, the Court commissioned Madonna Mia S. Dayego (**Dayego**) as Independent Certified Public Accountant (**ICPA**) on 07 June 2021.²⁶

During the trial proper, petitioner presented the testimonies of the following witnesses: (1) Mark Jayson Añonuevo²⁷ (**Añonuevo**),

¹⁵ Exhibit "P-7", id., pp. 925-926; Exhibit "P-8", id., pp. 927-928; Exhibit "P-9", id., pp. 929-930.

¹⁶ Exhibit "P-10", id., pp. 931-938; Exhibit "P-10-1", id., p. 936.

¹⁷ Exhibit "P-12", id., pp. 944-951.

¹⁸ Exhibit "P-13", id., p. 952.

¹⁹ Id., Volume I, p. 100.

²⁰ Id., pp. 113-124.

²¹ Id., pp. 129-139.

²² Id., pp. 227-230.

²³ Id., p. 232.

²⁴ Id., pp. 241-246.

²⁵ Id., pp. 281-285.

²⁶ See Order, id., pp. 309-312.


²⁷ Exhibit "P-14, Judicial Affidavit of Mark Jayson Añonuevo, id., pp. 146-163.

petitioner's Tax Manager; and, (2) Dayego²⁸, the Court-commissioned ICPA who both testified through their respective Judicial Affidavits.

In his Judicial Affidavit, Añonuevo testified to the authenticity of petitioner's pertinent documents as well as the latter's filing of its annual ITR for TY 2017. According to the witness, petitioner's annual ITR reflected an overpayment of ₱719,058,506.00, which included the unutilized creditable withholding taxes in the amount of ₱299,013,140.47. The witness also testified on the circumstances leading to the filing of petitioner's administrative claim for refund and the BIR's subsequent inaction on the said application (which, in turn, led to the filing of the present judicial claim).

The ICPA, Dayego, also testified about the result of her examination of petitioner's documents which she confirmed to have been based on genuine documents. According to her, among petitioner's claim of excess unutilized CWTs amounting to ₱299,013,140.47, petitioner was only able to substantiate the amount of ₱264,860,719.05.

With no other witnesses to present, the Court later ordered²⁹ petitioner to file its Formal Offer of Evidence (FOE). On 13 June 2022, petitioner filed its FOE³⁰ offering, among others, various financial documents. Respondent filed his or her Comment³¹ thereto on 04 July 2022.

In a Resolution³² dated 13 September 2022, and after respondent interposed no objection to petitioner's FOE, the Court admitted all of petitioner's exhibits, subject to the Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in the case. In the same Resolution, respondent was deemed to have rested his or her case following a previous manifestation that it had no witnesses to present. 

²⁸ Exhibit "P-116", Judicial Affidavit of Madonna Mia S. Dayego, id., pp. 344-402; Exhibit "P-178", Supplemental Judicial Affidavit of Madonna Mia S. Dayego, id., Volume II, pp. 425-566.

²⁹ See Order dated 23 May 2022, id., Volume II, p. 576.

³⁰ Id., pp. 577-889.

³¹ Id., pp. 954-957.

³² Id., pp. 960-961.


On 21 October 2022, petitioner filed its Memorandum.³³ Respondent, on the other hand, opted to adopt the arguments raised in the Answer dated 17 August 2020³⁴ as his or her Memorandum. On 07 November 2022, the case was submitted for decision.³⁵

ISSUE

As *per* the Pre-Trial Order, the parties stipulated the following issue for the Court's resolution:

WHETHER PETITIONER WATSONS PERSONAL CARE STORES (PHILIPPINES), INC. IS ENTITLED TO ITS CLAIM FOR REFUND OF ITS UNUTILIZED CREDITABLE WITHHOLDING TAXES (CWTs) FOR TAXABLE YEAR (TY) 2017 IN THE AMOUNT OF ₱299,013,140.47³⁶

ARGUMENTS

In support of its petition, petitioner forwards the arguments that it complied with all the requirements under the law for a successful administrative claim of its unutilized excess tax credits. *First*, it filed its claim for refund within the two (2)-year prescriptive period.³⁷ *Second*, the income upon which the unutilized CWTs were withheld were declared as part of its gross income for TY 2017.³⁸ According to petitioner, the ICPA verified and reported this matter in her original ICPA Report dated 27 October 2021.³⁹ *Third*, petitioner insists that the withholding of the unutilized CWTs for TY 2017 was duly established⁴⁰ and that the ICPA also verified its unutilized excess tax credits to be duly supported by BIR Forms 2307 (issued by petitioner's customers).⁴¹ *Fourth*, contrary to respondent's allegations, it exhausted the available administrative remedies and respondent had almost four (4) months to decide on its claim yet he or she failed to do so.⁴² As the records show, petitioner filed 

³³ Id., pp. 962-984.

³⁴ See Manifestation, id., pp. 985-987.

³⁵ See Resolution dated 07 November 2022, id., p. 990.

³⁶ See Joint Stipulation of Facts and Issues (JSFI), id., Volume I, p. 242.

³⁷ See Memorandum of petitioner, pars. 32-45, id., Volume II, pp. 971-974.

³⁸ Pars. 46-50, id., pp. 974-975.

³⁹ Par. 48, id., p. 975.

⁴⁰ Pars. 51-65, id., pp. 975-981.

⁴¹ Par. 59, id., p. 978.

⁴² Par. 45, id., p. 974.

its administrative claim for refund with the BIR on 27 December 2019, while the Petition for Review was only filed on 08 April 2020.⁴³ Petitioner adds that nothing in our laws and jurisprudence support respondent's position that the BIR must first act upon the administrative claim for refund before a judicial claim for refund may be filed.⁴⁴ Finally, petitioner argues that BIR Form 2307 is the *prima facie* proof to establish the fact that taxes are withheld.⁴⁵ This renders it unnecessary for payors to prove that the CWTs indicated in the BIR Forms 2307 were remitted.⁴⁶ Moreover, there is nothing in Revenue Memorandum Order (RMO) No. 53-98⁴⁷ which requires the submission of all the documents specified therein before a taxpayer may be entitled to a refund.⁴⁸ With respect to Revenue Regulations (RR) No. 2-2006⁴⁹, petitioner submits that it merely imposes, among others, a penalty of fine for non-submission of the information or statement required therein, but it does not give ground for an outright denial of a claim for tax refund or credit of excess and unutilized CWTs.⁵⁰

Respondent, on the other hand, argues that petitioner is not entitled to a refund. *First*, the petition should be denied for petitioner's failure to exhaust administrative remedies.⁵¹ Respondent adds that pending the closure of his or her investigation, no grant of refund may be given to petitioner based on the filed claim.⁵² *Second*, petitioner failed to substantiate the CWTs sought to be refunded. According to respondent, petitioner did not provide supporting documents to show that the income (from which the CWTs were claimed) was declared in the annual ITR.⁵³ There is also no direct linkage between the CWTs and the income as reflected in the annual ITR.⁵⁴ Moreover, in addition to the submission

⁴³ Par. 41, *id.*, p. 973.

⁴⁴ Par. 44, *id.*, p. 974.

⁴⁵ Par. 57, *id.*, p. 977.

⁴⁶ Par. 58, *id.*, p. 977.

⁴⁷ Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which Comprise a Complete Tax Docket.

⁴⁸ See Memorandum of petitioner, par. 55, Division Docket, Volume II, p. 976 citing *Pilipinas Total Gas, Inc. v Commissioner of Internal Revenue*, G.R. No. 207112, 08 December 2015.

⁴⁹ Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT) to Tax Returns With Claimed Tax Credits due to Creditable Tax Withheld At Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments.

⁵⁰ See Memorandum of petitioner, par. 56, Division Docket, Volume II, p. 977 citing *Philippine National Bank v Commissioner of Internal Revenue*, G.R. Nos. 242647 & 243814, 15 March 2022.

See Answer, pars. 5-10, *id.*, Volume I, pp. 114-115.

⁵¹ Par. 7, *id.*, p. 114.

⁵² Par. 13, *id.*, p. 116.

⁵³ *Id.*

⁵⁴ *Id.*

of BIR Form 2307, petitioner must have likewise complied with RMO No. 53-98⁵⁵ and RR No. 2-2006⁵⁶, particularly with the submission of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax (SAWT) and the Monthly Alphalist of Payees (MAP).⁵⁷ There is also no record of petitioner ever submitting complete documents to substantiate its administrative claim for refund.⁵⁸ Respondent further states that it is incumbent upon petitioner to prove the actual remittance of the alleged withholding taxes to the BIR.⁵⁹ Hence, petitioner should have presented evidence to prove actual remittance of the alleged taxes to the BIR.⁶⁰

RULING OF THE COURT

After a careful review of the records and the parties' contrasting arguments, We find merit in the present petition.

Petitioner's claim for refund of its excess and unutilized CWTs is anchored on Section 76 of the NIRC of 1997, as amended, which provides:

...

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-

⁵⁵ Supra at note 47.

⁵⁶ Supra at note 49.

⁵⁷ See Answer, pars. 16-28, Division Docket, Volume I, pp. 117-120.

⁵⁸ Par. 27, id., p. 120.

⁵⁹ Par. 19, id., p. 118.

⁶⁰ Par. 21, id., p. 118.


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.⁶¹

...

Based on the foregoing provision, two (2) options are available to a corporation that overpays its IT for the TY: (1) to carry over and apply the overpayment as tax credit against the estimated quarterly IT liabilities of the succeeding TYs (also known as automatic tax credit) until fully utilized (meaning, there is no prescriptive period); and, (2) to apply for a cash refund or issuance of a tax credit certificate (TCC) within the prescribed period.⁶²

In the case of *University Physicians Services, Inc.-Management, Inc. v. Commissioner of Internal Revenue*⁶³, the Supreme Court provides the irrevocability rule. Interpreting the last sentence of above-quoted Section 76 of the NIRC of 1997, as amended, it held that the provision applies only when the option to carryover is elected and there is nothing therein that suggests that the other choice, *i.e.*, cash refund or TCC, is also irrevocable.

In the case at bar, petitioner opted to refund the unutilized CWTs by marking the option "To be refunded" in its BIR-received annual ITR for TY 2017.⁶⁴

A perusal of petitioner's annual ITR for TY 2017 reveals that it had a minimum corporate income tax (MCIT) due of ₱110,267,355.00, higher than its regular corporate income tax (RCIT) due of ₱87,133,707.00. The entire amount was paid using its tax credits from the prior year's excess tax credits; thus, leaving a balance of the prior year's excess credits in the amount of ₱420,045,366.00, and CWTs during TY 2017 in the amount of ₱299,013,140.00, totaling to ₱719,058,506.00 excess tax credits as of 31 December 2017, as shown below: 

⁶¹ Emphasis supplied.

⁶² *University Physicians Services, Inc.-Management, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205955, 07 March 2018.

⁶³ *Supra*.

⁶⁴ Exhibit "P-51-11", USB.

Prior Year's Excess Credit		₱530,312,721.00
Less: MCIT Due		(110,267,355.00)
Balance of Prior Year Excess Credit		420,045,366.00
Add: Creditable Tax Withheld during TY 2017		
From previous quarters	203,376,153.00	
For the fourth quarter	95,636,987.00	299,013,140.00 ⁶⁵
Excess Tax Credits as of 31 December 2017		₱719,058,506.00

The balance of ₱420,045,366.00 was subsequently carried over and reflected as "Prior Year's Excess Credits" in petitioner's First (1st) Quarter of TY 2018 Quarterly Income Tax Return⁶⁶ and in its annual ITR for TY 2018.⁶⁷ Thus, the CWTs for TY 2017 in the amount of ₱299,013,140.00, which is the subject of petitioner's claim for refund, may be the proper subject of a claim for refund under Section 76 of the NIRC of 1997, as amended.

As long settled by and in jurisprudence⁶⁸, in order for a corporate taxpayer to successfully claim for a refund or issuance of a TCC involving excess creditable withholding taxes, the following requirements must be satisfied:

1. The claim must be filed with the [CIR] within the two (2)-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.

Anent the *first requisite*, Sections 204(C) and 229 of the NIRC of 1997, as amended, provide that claims for refund must be filed within two (2) years after the payment of the tax: ✓

⁶⁵ Rounded-off difference.

⁶⁶ Exhibit "P-7", Division Docket, Volume I, p. 199.

⁶⁷ Exhibit "P-51-12", USB.

⁶⁸ See *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. No. 211348, 23 February 2022.

...
Sec. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —

...
(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 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.⁶⁹

...
As shown above, both the administrative and judicial claims must be filed within two (2) years from the date of payment of the tax. Significantly, it must be emphasized that the two-year prescriptive period within which to claim a refund commences to run, at the earliest, on the date of the filing of the adjusted final tax return.⁷⁰ This must be

⁶⁹ Emphasis supplied.

⁷⁰ *ACCRA Investments Corporation v. The Honorable Court of Appeals, et al.*, G.R. No. 96322, 20 December 1991, citing *Commissioner of Internal Revenue v. Asia Australia Express, Ltd.*, G.R. No. 85956, 10 April 1989.

so since it is only on such date when it can be finally ascertained if a taxpayer still has to pay additional IT or if the latter is entitled to a refund of overpaid income tax.⁷¹

As the records show, the present claim for refund pertains to TY 2017 for which petitioner electronically filed its annual ITR on 13 April 2018. Counting two (2) years from this date, petitioner had until 13 April 2020 within which to file a claim for refund of its excess CWTs both in the administrative and judicial levels. Petitioner filed its administrative claim on 27 December 2019⁷² and its judicial claim, through the instant Petition for Review, on 08 April 2020.⁷³ Evidently, petitioner complied with the *first requisite*.

As for the *second and third requisites*, Section 2.58.3(B) of RR No. 2-98⁷⁴, as amended, is instructive, *viz*:


...

SEC. 2.58.3. *Claim for Tax Credit or Refund.* —

...

(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.**⁷⁵

...

Thus, as regards the *second requisite*, the Supreme Court, in *Commissioner of Internal Revenue v. Philippine National Bank*⁷⁶, affirmed that a certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld and that proof of actual remittance is not a condition to claim for a refund of unutilized tax credits, to wit: 

⁷¹ *Commissioner of Internal Revenue v. TMX Sales, Inc., et al.*, G.R. No. 83736, 15 January 1992.

⁷² Exhibits “P-12” and “P-13”, Division Docket, Volume I, pp. 218-225 and 226, respectively.

⁷³ Petition for Review, *supra* at note 1.

⁷⁴ Implementing Republic Act No. 8424, “An Act Amending the National Internal Revenue Code, as Amended” Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.

⁷⁵ Emphasis supplied.

⁷⁶ G.R. No. 180290, 29 September 2014; Citations omitted, emphasis and italics in the original text.

...

The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates.

...

Thus, upon presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly.

Petitioner's posture that respondent is required to establish actual remittance to the Bureau of Internal Revenue deserves scant consideration. **Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits.** Under Sections 57 and 58 of the 1997 National Internal Revenue Code, as amended, it 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.

This court's ruling in *Commissioner of Internal Revenue v. Asian Transmission Corporation*, citing the Court of Tax Appeals' explanation, is instructive:

...

...The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents.

...

Based on the foregoing, it is undeniable that the fact of withholding may be established by presenting the pertinent certificates of creditable tax withheld at source where the amount paid and the amount of tax withheld therefrom are reflected.

To prove its compliance with the *second requisite*, petitioner submitted the Certificates of Creditable Tax Withheld at Source (BIR Form No 2307)⁷⁷ and the Schedule of Creditable Withholding Taxes for

⁷⁷ Exhibits "P-53-1" to "P-53-1821"; "P-54-1" to "P-54-124"; and "P-55-1 to "P-55-7", USB.

TY 2017.⁷⁸ The ICPA examined the Certificates and presented the results of her verification in the ICPA Report⁷⁹ dated 27 October 2021, as follows:

Particular	Exhibit No.	Income Payment	Amount of CWTs
Per Schedule of 2017 CWTs	P-52	₱23,450,470,479.65	₱299,013,140.47
Less:			
Supported by Original CWTs <u>not in petitioner's registered name</u>	P-54	8,869,835.74	115,350.85
Supported by Original CWTs <u>not in petitioner's TIN</u>	P-55	1,420,441.74	67,074.42
<i>Disallowed CWT credits</i>		<i>₱10,290,277.48</i>	<i>₱182,425.27</i>
Supported by Original CWTs in petitioner's registered name and TIN	P-53	₱23,440,180,202.17	₱298,830,715.20

Notwithstanding, the Court is inclined to deviate from the ICPA's findings and recommendation, and is constrained to make a disallowance. Out of the ₱298,830,715.20 that the ICPA proved to be duly supported by original BIR Form No. 2307, the amount of ₱54,589.78 should be disallowed for reasons stated below:

Particular	Exhibit No.	Payor	Income Payment	Amount of CWTs	Reason for Disallowance
Revenue from Vendor Support Income	P-53-85	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	₱313,658.21	₱6,273.16	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-86	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	86,772.85	1,735.46	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-87	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	119,147.86	2,382.96	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from	P-53-88	ALLIED EXPRESS INTERNATIONAL	94,390.88	1,887.82	The CWT certificate contains alterations

⁷⁸ Exhibit "P-52", id.

⁷⁹ Exhibit "P-53", id.

Vendor Support Income		IMPORT EXPORT INC			without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-89	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	21,000.00	420.00	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-90	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	42,000.00	840.00	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-91	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	620,276.38	12,405.53	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-92	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	222,726.96	4,454.54	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-93	ALLIED EXPRESS INTERNATIONAL IMPORT EXPORT INC	209,471.72	4,189.43	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-178	CROMA MEDIC INC	50,420.03	1,008.40	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-179	CROMA MEDIC INC	25,996.04	519.92	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Institutional Services Sales	P-53-1803	PROSER HEALTH SERVICES INC	15,756.00	157.56	The CWT certificate contains alterations without corresponding explanation and authorized counter-signature therefor.
Revenue from Vendor Support Income	P-53-307	KANEFIL GLOBE ENTERPRISES CORPORATION	122,100.00	6,105.00	The counter-signature is not the same with the signature of the payor or issuer of the certificate.

Revenue from Vendor Support Income	P-53-308	KANEFIL GLOBE ENTERPRISES CORPORATION	244,200.00	12,210.00	
Total			₱2,187,916.93	₱54,589.78	

In sum, only ₱298,776,125.42 of the CWTs subject of the claim for refund complies with the *second requisite*, as shown below:

CWTs per claim		₱299,013,140.47
Less: Disallowances Per ICPA		
Disallowed BIR Form No. 2307	₱182,425.27	
Per this Court's independent verification:		
Disallowed BIR Form No. 2307	54,589.78	237,015.05
Properly Substantiated CWTs		₱298,776,125.42

Lastly, as to the *third requisite*, petitioner must prove that the income payments related to the substantiated CWTs of ₱298,776,125.42 were declared as part of its gross income subject to IT in TY 2017. Petitioner's annual ITR for TY 2017 reported the following:

Line 6 "Net Sales/Revenues/Receipts/Fees" of "Schedule 1 - Sales/Revenues/Receipts/Fees" ⁸⁰	₱27,479,722,728.00
Line 4 "Total Other Taxable Income Not Subjected to Final Tax" of "Schedule 3 - Other Taxable Income Not Subjected to Final Tax" ⁸¹	2,424,861,394.00
Total Revenues	₱29,904,584,122.00

An examination of petitioner's Schedule of Creditable Withholding Taxes for TY 2017⁸² will show that the subject claim amounting to ₱299,013,140.47 taxes withheld corresponds to the total income payments of ₱23,450,470,479.65.

To ascertain whether the income payments related to the CWTs being claimed for refund were reported as part of its gross income subject to IT in TY 2017, petitioner submitted its statement of accounts

⁸⁰ Exhibit "P-51-11", USB.

⁸¹ Id.

⁸² Exhibit "P-52", id.

(SOA)⁸³, sales invoices⁸⁴, official receipts⁸⁵ (ORs), credit memos⁸⁶ and journal vouchers⁸⁷ for the said period.

Per the ICPA Report and the Supplemental ICPA Report, ICPA Dayego was able to trace the CWT amount of ₱264,860,719.05 to petitioner's GL and ITR, as shown below⁸⁸:

Item No./Table No.	Exhibit No.	Particular	Per ICPA Verification	
			Amount of Income Payments	Equivalent Tax Withheld
<i>Per Original Report</i> ⁸⁹ :				
5, Table 7	P-52	Amount of CWT per Schedule of Creditable Withholding Taxes Withheld – per Petitioner's Claim (a)	₱23,450,470,479.65	₱299,013,140.47
<i>Less exceptions noted:</i>				
6, Table 8/9	P-54	(a) Invalid CWT – issued not under petitioner's registered name	8,869,835.74	115,350.85
6, Table 8/9	P-55	(b) Invalid CWT – issued not under petitioner's TIN	1,420,441.74	67,074.42
7b, Table 10	P-58	(c) Supported by SIs but dated TY 2016 (out-of-period) and undated SI	91,363,782.35	913,637.82
7b, Table 10	P-58	(d) Supported by SOAs dated TY 2018 (out-of-period)	94,451,554.38	8,365,264.43
7b, Table 10	P-58	(e) No supporting documents (SI/CM/SOA/ORs/Acknowledgement Receipt/DM/Payment File)	2,708,389,180.20	26,350,465.67
<i>Total exceptions noted</i>		(b)	₱2,904,494,794.41	₱35,811,793.19
7e and 7d, Table 11 and 12	-	(f) Related revenue not yet traced to JVs and GLs (c)	5,030,025,682.14	62,860,003.92
<i>Amounts of income payments and equivalent tax withheld per Original Report</i>		(d) = (a-b-c)	₱15,515,950,003.10	₱200,341,343.36

⁸³ Exhibits "P-61-1" to "P-61-55", id.

⁸⁴ Exhibits "P-58-1" to "P-58-19309"; and "P-63-1" to "P-63-630", id.

⁸⁵ Exhibits "P-61-56" to "P-61-69"; "P-66-1" to "P-66-57"; and "P-67-1" to "P-67-551", id.

⁸⁶ Exhibits "P-58-19310" to "P-58-19320", id.

⁸⁷ Exhibit "P-62-1" to "P-62-4"; "P-71-1" to "P-71-38"; "P-71-39" to "P-71-76"; "P-72-1" to "P-72-38"; "P-72-39" to "P-72-76"; "P-75-1" to "P-75-271"; "P-75-272" to "P-75-542"; "P-75-543" to "P-75-813"; "P-75-814" to "P-75-1084"; "P-77-1" to "P-77-57"; "P-77-58" to "P-77-114"; "P-78-1" to "P-78-57"; "P-78-58" to "P-78-114"; "P-79-1" to "P-79-359"; "P-79-360" to "P-79-718"; "P-79-719" to "P-79-1077"; "P-79-1078" to "P-79-1436"; "P-81-1" to "P-81-109"; "P-81-110" to "P-81-218"; "P-82-1" to "P-82-80"; "P-82-81" to "P-82-110"; "P-111-1" to "P-111-3373"; "P-111-3403" to "P-111-7836"; "P-111-7838" to "P-111-7866"; "P-112-1" to "P-112-6656"; "P-112-6777" to "P-112-11936"; "P-112-11939" to "P-112-14462"; "P-112-14465" to "P-112-15614"; "P-113-1" to "P-113-430"; "P-113-435" to "P-113-494"; "P-113-525" to "P-113-1089"; and "P-114-1" to "P-114-18", id.

⁸⁸ Exhibit "P-177", Supplemental Report to the Court of Tax Appeals, p. 8.

⁸⁹ Exhibit "P-115", Report to the Court of Tax Appeals, p. 30.

Add: Additional CWTs per Supplemental Report:				
Tables 25, 26	P-155/ P-156	(g) Revenues from FHBC properly recorded in TY 2017	₱94,451,554.38	₱8,365,264.43
Tables 27, 28	P-117 to P-154, P-162 to P-165	(h) Revenues from Department Stores further traced to JVs and GLs	3,726,715,240.93	37,267,152.40
Table 27, 29	P-158 to P-160	(i) Revenue from Vendor Support further traced to JVs and GLs	825,316,959.79	18,886,958.86
<i>Amount of income payments and equivalent tax withheld per Supplemental Report</i>		(e)	₱4,646,483,755.10	₱64,519,375.69
Total amount of income payments and equivalent tax withheld		(f) = (d + e)	₱20,162,433,758.20	₱264,860,719.05

In sum, out of the total claim of ₱299,013,140.47, petitioner has sufficiently proven its entitlement to the refund or issuance of a TCC representing unutilized excess CWTs for TY 2017 in the reduced amount of ₱264,857,930.73, computed as follows:

CWTs per claim		₱299,013,140.47
Less: Disallowances		
CWT certificate issued <i>not</i> under petitioner's registered name CWT -	115,350.85	
CWT certificate issued not under petitioner's TIN	67,074.42	
Supported by SIs but dated TY 2016 (out-of-period) and undated SI. <i>Not traced to petitioner's TY 2017 GL</i>	913,637.82	
Supported by SOAs dated TY 2018 (out-of-period). <i>Not traced to petitioner's TY 2017 GL</i>	8,365,264.43 ⁹⁰	
No supporting documents (SI/CM/SOA/ORs/Acknowledgement Receipt/DM/Payment File). <i>Not traced to petitioner's TY 2017 GL</i>	24,691,093.90 ⁹¹	

⁹⁰ Includes the disallowance of ₱51,801.46 due to alterations in the CWT certificates without authorized counter-signature.

⁹¹ *Computed as follows:*

Previously disallowed CWTs in the Original ICPA Report:

Item (e) No supporting documents	₱26,350,465.67	
Item (f) Related revenue not yet traced to JVs and GLs	62,860,003.92	₱89,210,469.59
Less: Additional traced CWTs per Supplemental Report		64,519,375.69
Adjusted amount of CWTs with no supporting documents and not traced to GL		₱24,691,093.90

CWT certificate contains alterations without authorized counter-signature	2,788.32 ⁹²	34,155,209.74
Total Amount of Refundable CWTs		₱264,857,930.73

WHEREFORE, the foregoing premises considered, the Petition for Review filed by Watsons Personal Care Stores (Philippines), Inc. on 08 April 2020 is **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED TO REFUND TO OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Watsons Personal Care Stores (Philippines), Inc. in the reduced amount of **₱264,857,930.73**, representing unutilized creditable withholding taxes for taxable year 2017.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
 Associate Justice

I CONCUR:

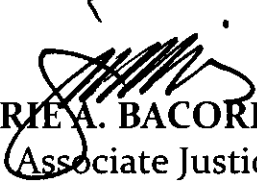

LANEE S. CUI-DAVID
 Associate Justice

⁹² Remaining items *per* Supplemental ICPA Report that should further be disallowed due to alterations in the CWT certificates without authorized counter-signature:

Exhibit No.	Payor	Income Payment	Amount of CWTs
P-53-89	ALLIED EXPRESS INTERNATIONAL	₱21,000.00	₱420.00
P-53-90	IMPORT EXPORT INC	42,000.00	840.00
P-53-178	CROMA MEDIC INC.	50,420.03	1,008.40
P-53-179		25,996.04	519.92
Total			₱2,788.32

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.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Special 2nd Division Acting 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