

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COMMISSIONER
INTERNAL REVENUE,

OF

G.R. No. 211348

Petitioner,

Present:

PERLAS-BERNABE, S.A.J.,

Chairperson,

HERNANDO,

ZALAMEDA,

ROSARIO, and

MARQUEZ, JJ.

- versus -

PHILIPPINE BANK OF
COMMUNICATIONS,

Respondent.

Promulgated:

FEB 23 2022

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DECISION

HERNANDO, J.:

This petition for review on *certiorari*¹ challenges the October 7, 2013 Decision² of the Court of Tax Appeals (CTA) *en banc* in CTA EB Case No. 933, and its February 10, 2014 Resolution,³ ordering petitioner Commissioner of Internal Revenue (CIR) to issue a tax credit certificate (TCC) in the amount of ₱4,624,554.63, to respondent Philippine Bank of Communications (PBCOM), representing the latter's unutilized creditable withholding tax (CWT) for taxable year 2006.

The facts of the case, as reiterated in the CTA *en banc* Decision and based on the parties' stipulation of facts, are as follows:

¹ *Rollo*, pp. 14-31.

² *Id.* at 39-54.

³ *Id.* at 55-63.

On April 16, 2007, PBCOM filed with the Bureau of Internal Revenue (BIR) its Annual Income Tax Return for the year 2006.⁴ Subsequently, on May 2, 2007, PBCOM filed an Amended Annual Income Tax Return for the same year, reflecting a net loss of ₱903,582,307.00, and a creditable tax withheld for the fourth quarter of 2006 in the amount of ₱24,716,655.00.⁵ PBCOM also indicated in the said income tax return its intention to apply for the issuance of a TCC for its excess/unutilized CWT for the year 2006 in the amount of ₱24,716,655.00.⁶

After almost two years, on April 3, 2009, PBCOM filed with the BIR its letter⁷ requesting the issuance of a TCC for the excess CWT covering the year 2006 in the amount of ₱24,716,655.00.⁸

On April 15, 2009, PBCOM filed a petition for review with the CTA, praying for the issuance of a TCC in the amount of ₱24,716,655.00, representing its excess/unutilized CWT for the year 2006.⁹ PBCOM also alleged that it was filing the said petition with the CTA due to the inaction of the CIR on the former's claim for a TCC.¹⁰

In its answer,¹¹ the CIR essentially argued that PBCOM's claim for the issuance of a TCC is in the nature of a refund and is thus subject to administrative examination by the BIR, and that PBCOM failed to fully comply with the requirements provided in Revenue Regulations 6-86 and jurisprudence.¹²

Ruling of the Court of Tax Appeals – Third Division:

After trial, the CTA, through its Third Division, partially granted PBCOM's petition in its Decision dated June 6, 2012,¹³ ordering the CIR to issue a TCC in the amount of ₱4,624,554.63, representing the excess/unutilized CWT of PBCOM for the taxable year 2006. The dispositive portion of the CTA Third Division reads:¹⁴

WHEREFORE, the instant Petition for Review is hereby PARTIALLY GRANTED. Accordingly, respondent is hereby ORDERED TO ISSUE A TAX CREDIT CERTIFICATE in the reduced amount of FOUR MILLION SIX HUNDRED TWENTY-FOUR THOUSAND FIVE HUNDRED FIFTY-FOUR

⁴ Id. at 66.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id. at 67.

¹⁰ Id.

¹¹ Records, pp. 51-54.

¹² *Rollo*, pp. 67-68.

¹³ Id. at 65-81.

¹⁴ Id. at 80-81.

AND 63/100 PESOS (P4,624,554.63), representing petitioner's unutilized creditable withholding tax for taxable year 2006.

SO ORDERED.¹⁵

The CTA Third Division ruled that PBCOM timely filed the claim for refund within the two-year prescriptive period, but the other requirements were only satisfied as to the amount of ₱4,624,554.63, to wit:¹⁶

Based on the above findings and the Court's ruling on strict compliance with the required Certificates of Creditable Tax Withheld at Source or BIR Form No. 2307 in claiming for CWT refund, petitioner was able to satisfy the second requirement in the amount of P7,738,179.01, as presented below:

x x x x

However, out of the amount of P7,738,179.01, which was supported with BIR Form No. 2307, only the amount of P4,624,554.63 CWT shall be granted considering that this is the amount which corresponds to the income payments in the aggregate amount of P100,231,922.69; which the Court verified to have been included in petitioner's General Ledger and Annual Income Tax Return for taxable year 2006, in compliance with the third requisite, to wit:¹⁷

Aside from ruling on the above issues, the CTA Third Division also held that the claimed CWT in the amount of ₱24,716,655.00 for the year 2006 was not carried over to the succeeding quarters or taxable year.¹⁸

Dissatisfied, both parties filed their respective partial motions for reconsideration, reiterating their claims and arguments, but were promptly denied by the CTA Third Division in its Resolution dated August 28, 2012.¹⁹

On October 1, 2012, the CIR filed a petition for review with the CTA *en banc*, challenging the CTA Third Division's Decision and praying that judgment be rendered denying PBCOM's claim in its entirety.²⁰

Ruling of the Court of Tax Appeals *en banc*:

On October 7, 2013, the CTA *en banc* rendered the assailed Decision,²¹ denying the CIR's petition for lack of merit and affirming the CTA Third Division's Decision and Resolution *in toto*. The dispositive portion of the CTA *en banc* Decision reads:²²

¹⁵ Id.

¹⁶ Id. at 71-79.

¹⁷ Id. at 75-76.

¹⁸ Id. at 80.

¹⁹ Id. at 82-86.

²⁰ Id. at 87-101.

²¹ Id. at 39-54.

²² Id. at 52.

WHEREFORE, the instant Petition for Review is hereby DENIED for lack of merit. The Assailed Decision dated June 6, 2012 and Assailed Resolution dated August 28, 2012 are both AFFIRMED *in toto*.

SO ORDERED.²³

Aggrieved, the CIR sought for reconsideration, but it was denied by the CTA *en banc* for lack of merit in a Resolution dated February 10, 2014.²⁴

Hence, the instant petition.

Issue:

Whether or not PBCOM's failure to submit the required documents under Revenue Memorandum Order No. 53-98 (RMO No. 53-98), and Revenue Regulation No. 2-2006 (RR No. 2-2006), to support its claim for the issuance of a TCC with the CIR, rendered its administrative claim for said benefit *pro forma*, and thus, the judicial claim with the CTA was premature.

Our Ruling

We deny the CIR's petition for lack of merit.

It must be stressed at the outset that in petitions for review on *certiorari*, as in this case, this Court addresses only questions of law. This Court's function is not to analyze or weigh the evidence (which tasks belong to the trial court as the trier of facts and to the appellate court as the reviewer of facts). This Court is confined to the review of errors of law that may have been committed in the judgment under review.

Fortune Tobacco Corporation v. Commissioner of Internal Revenue elucidates this rule in relation to tax refunds as follows:²⁵

Unlike in the proceeding had in G.R. Nos. 167274-75 and G.R. No. 180006, the denial of petitioner's claim for tax refund in this case is based on the ground that petitioner failed to provide sufficient evidence to prove its claim and the amount thereof. As a result, petitioner seeks that the Court re-examine the probative value of its evidence and determine whether it should be refunded the amount of excise taxes it allegedly overpaid.

This cannot be done.

The settled rule is that only questions of law may be raised in a petition under Rule 45 of the Rules of Court. It is not this Court's function to analyze or weigh all over again the evidence already considered in the proceedings below,

²³ Id.

²⁴ Id. at 55-63.

²⁵ 762 Phil. 450 (2015).

the Court's jurisdiction being limited to reviewing only errors of law that may have been committed by the lower court. The resolution of factual issues is the function of the lower courts, whose findings on these matters are received with respect. A question of law which the Court may pass upon must not involve an examination of the probative value of the evidence presented by the litigants. This is in accordance with Section 1, Rule 45 of the Rules of Court, as amended, which reads:

Section 1. *Filing of petition with Supreme Court.* – A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.²⁶ (Underscoring in the original; citation omitted)

In the instant petition, mixed questions of fact and law were raised. It is a question of fact insofar as the extent of PBCOM's compliance with the applicable tax regulations as regards its application for the issuance of a TCC. The question of law then reveals itself, *i.e.*, whether PBCOM's noncompliance with the requirements of the administrative claim for a TCC would render its judicial claim premature.

Given that the latter issue is a procedural one it is but proper to discuss it prior to the former, a mere question of fact that should need no further discussion.

The failure in proving an administrative claim for a CWT refund/credit does not preclude the judicial claim of the same.

We agree with the CTA *en banc*'s ruling that the failure of PBCOM to comply with the requirements of its administrative claim for CWT refund/credit does not preclude its judicial claim.

In the case of *Commissioner of Internal Revenue v. Manila Mining Corporation*,²⁷ this Court held that cases before the CTA are litigated *de novo* where party litigants should prove every minute aspect of their cases, to wit:

²⁶ Id. at 458-459.

²⁷ 505 Phil. 650, 664 (2005).

Under Section 8 of Republic Act No. 1125 (RA 1125), the CTA is described as a court of record. As cases filed before it are litigated *de novo*, party litigants should prove every minute aspect of their cases. No evidentiary value can be given the purchase invoices or receipts submitted to the BIR as the rules on documentary evidence require that these documents must be formally offered before the CTA. (Underscoring supplied)

As applied in the instant case, since the claim for tax refund/credit was litigated anew before the CTA, the latter's decision should be solely based on the evidence formally presented before it, notwithstanding any pieces of evidence that may have been submitted (or not submitted) to the CIR. Thus, what is vital in the determination of a judicial claim for a tax credit/refund of CWT is the evidence presented before the CTA, regardless of the body of evidence found in the administrative claim.

In *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*,²⁸ this Court has explained that the CTA is not limited by the evidence presented in the administrative claim, to wit:

The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.

Cases filed in the CTA are litigated *de novo* as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting x x x to the Court of Tax Appeals all evidence x x x required for the successful prosecution of its administrative claim." Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.²⁹ (Citations omitted)

In any event, the independence of the judicial claim for a tax credit/refund CWT from its administrative counterpart is implied in the National Internal Revenue Code (NIRC), which allows the filing of both claims contemporaneously within the two-year prescriptive period. Sections 204(C) and 229 of the NIRC provide:

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

x x x x

²⁸ G.R. No. 231581, April 10, 2019.

²⁹ *Id.*

(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, [t]hat a return filed showing an overpayment shall be considered as a written claim for credit or refund.

x x x x

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 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, [t]hat 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. (Underscoring supplied)

The above provisions require both administrative and judicial claims to be filed within the same two-year prescriptive period. With reference to Section 229 of the NIRC, the only requirement for a judicial claim of tax credit/refund to be maintained is that a claim of refund or credit has been filed before the CIR; there is no mention in the law that the claim before the CIR should be acted upon first before a judicial claim may be filed.

Clearly, the legislative intent is to treat the judicial claim as independent and separate action from the administrative claim; provided that the latter must be filed in order for the former to be maintained. While the CIR should be given opportunity to act on PBCOM's claim, PBCOM should not be faulted for lawfully filing a judicial claim before the expiration of the two-year prescriptive period, notwithstanding the alleged defects in its administrative claim. This is considering that, unlike administrative claims for Input Tax refund/credit before the CIR, which have a required specific period of action (the expiration of which shall be deemed as a denial),³⁰ there is no such period of action required in administrative claims for CWT refund/credit before the CIR.

³⁰ NATIONAL INTERNAL REVENUE CODE, Section 112 (C).

Indeed, the CIR's arguments regarding the prematurity of the judicial claims are untenable.

Now that the procedural issue has been ironed out, the more important substantive issue, *i.e.*, as to what extent did PBCOM comply with the legal requirements in its claim for tax credit certificate for CWT, can be discussed.

PBCOM is entitled to a tax credit/refund of its CWT in the amount of ₱4,624,554.63.

The requisites for claiming a tax credit or a refund of CWT are as follows:

- 1) The claim must be filed with the CIR within the two (2)-year period from the date of payment of the tax;
- 2) It must be shown on the return that the income received was declared as part of the gross income; and
- 3) 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.³¹

In applying the foregoing to the instant case, this Court must reiterate the settled rule that only questions of law may be raised in a petition under Rule 45 of the Rules of Court. It is not this Court's function to analyze or weigh all over again the evidence already considered in the proceedings below, the Court's jurisdiction being limited to reviewing only errors of law that may have been committed by the lower court.³²

This rule is especially relevant to the instant case as the findings of specialized courts, such as the CTA, are given not only great respect but even finality in certain instances, because these specialized courts have accordingly developed an expertise on the subject. As explained in *Fortune Tobacco Corporation v. Commissioner of Internal Revenue*:³³

In fact, the rule finds greater significance with respect to the findings of specialized courts such as the CTA, the conclusions of which are not lightly set aside because of the very nature of its functions which is dedicated exclusively to the resolution of tax problems and has accordingly developed an expertise on the subject, unless there has been an abuse or improvident exercise of authority.

Moreover, it has been said that the proper interpretation of the provisions on tax refund that *does not* call for an examination of the probative value of the evidence presented by the parties-litigants is a *question of law*. Conversely, it

³¹ *Commissioner of Internal Revenue v. Mirant (Philippines) Operations Corp.*, 667 Phil. 208, 223 (2011), citing *Commissioner of Internal Revenue v. Far East Bank & Trust Company (now Bank of the Philippine Islands)*, 629 Phil. 405, 412 (2010).

³² *Fortune Tobacco Corporation v. Commissioner of Internal Revenue*, supra note 25.

³³ *Id.*

may be said that if the appeal essentially calls for the re-examination of the probative value of the evidence presented by the appellant, the same raises a *question of fact*. Often repeated is the distinction that there is a question of law in a given case when doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when doubt or difference arises as to the truth or falsehood of alleged facts.

Verily, the sufficiency of a claimant's evidence and the determination of the amount of refund, as called for in this case, are questions of fact, which are for the judicious determination by the CTA of the evidence on record.³⁴
(Underscoring supplied; citations omitted)

After careful evaluation of the evidence on record, this Court finds no reversible error committed by the CTA *en banc* in its findings.

PBCOM filed the present claim within the two (2)-year prescriptive period, satisfying the first requirement.

As mentioned above, Sections 204(C) and 229 of the NIRC provide for a two (2)-year prescriptive period in claiming a tax credit/refund from the date of the filing of the final adjustment return.³⁵ *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)* elucidates:³⁶

Indeed, the two-year period in filing a claim for tax refund is crucial. While the law provides that the two-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that the two-year prescriptive period to claim a refund actually commences to run, at the earliest, on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have been audited and adjusted, reflective of the results of the operations of a business enterprise. Thus, it is only when the Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.³⁷ (Citations omitted)

As applied in this case, PBCOM's claim covers its Annual Income Tax Return for taxable year 2006, which it filed on April 16, 2007.³⁸ Thus, when PBCOM filed its administrative claim on April 3, 2009, and its judicial claim before the CTA on April 15, 2009, both of these were within the two-year prescriptive period.³⁹ Clearly, the first requirement has been satisfied.

PBCOM complied with the last two requirements as to the

³⁴ Id. at 459-460.

³⁵ *ACCRA Investments Corp. v. Court of Appeals*, 281 Phil. 1060, 1068-1069 (1991).

³⁶ Supra note 28.

³⁷ Id.

³⁸ *Rollo*, p. 66.

³⁹ Id. at 66-67.

amount of ₱4,624,554.63 which is the amount both verified by the CTA to have been included in the former's General Ledger and Annual Income Tax Return for taxable year 2006, and supported by the required Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307).

Upon perusal of the records, the findings of the CTA would reveal that PBCOM presented the required BIR Forms as to the amount of ₱7,738,179.01,⁴⁰ as seen below:

Findings	Supporting BIR Returns	Reference	Amount of Creditable Withholding Tax
<i>A. Lease of office space - PBCOM Tower</i>			
1. Creditable withholding tax payments supported by original BIR Form 2307	2307	Annex A2-1, Exhibit F-20	₱5,155,697.64
2. Creditable withholding tax payments supported by original BIR Form 2307 with erasure in the amount but with countersignature	2307	Annex A2-3, Exhibit F-20	1,378.13
<i>B. Interest Income on commercial loans</i>			
1. Creditable withholding tax payments supported by original BIR Form 2307	2307	Annex A3-1, Exhibit F-20	1,551,051.26
		Annex A2-1, Exhibit L	432,560.44
2. Creditable withholding tax payments supported by photocopies of BIR Form 2307	2307	Annex A2-5, Exhibit L	77,305.11
3. Creditable withholding tax payments supported	2307	Based on Annex A3-8, Exhibit F-20 in relation to	12,733.49

⁴⁰ Id. at 75.

by photocopies of BIR Form 2307 only.		Annex A2-1 to A2-6, Exhibit L	
<i>C. Lease of office space – Real and Other Properties Owned/Acquired (ROPOA)</i>			
1. Creditable withholding tax payments supported by original BIR Form 2307	2307	Annex A3-1, Exhibit L	53,857.24
2. Creditable withholding tax payments supported by photocopies of BIR Form 2307	2307	Based on Annex A3-2, Exhibit L	183,773.28
3. Creditable withholding tax payments supported by photocopies of BIR Form 2307 only.	[2307]	Based on Annex A4-2, Exhibit F-20 in relation to Annex A3-1, Exhibit L	269,822.86
Rounding-off difference			(0.44)
TOTAL			₱7,738,179.01

However, as discussed earlier, in determining the CWT amount to be credited, the same must not only be supported by the required BIR Forms but it must also correspond with the income included in the tax return of the claimant, upon which the taxes were withheld.

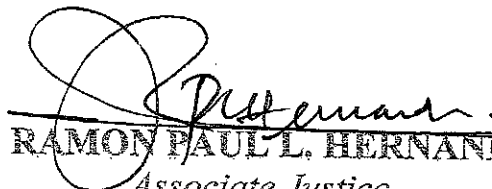
Thus, as appropriately found by the CTA, PBCOM is only entitled to ₱4,624,554.63 out of the ₱7,738,179.01 worth of CWT supported by the required BIR Forms, as the former is the amount that corresponds to the income payments in the aggregate amount of ₱100,231,922.69, which the CTA verified to have been included in PBCOM's General Ledger and Annual Income Tax Return for taxable year 2006.⁴¹

To put it simply, the amount of ₱4,624,554.63 is the only amount of CWT claimed by PBCOM that complied with all the requirements under the law. Therefore, given the above findings, this Court is constrained to deny the instant petition, and affirm the Decision and Resolution of the CTA *en banc*.

WHEREFORE, the petition is hereby **DENIED** for lack of merit. The assailed October 7, 2013 Decision and February 10, 2014 Resolution of the Court of Tax Appeals *en banc* in CTA EB Case No. 933, are **AFFIRMED**.

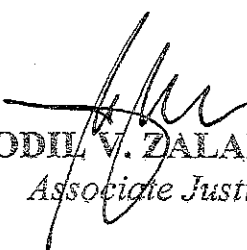
⁴¹ Id. at 76-79.

SO ORDERED.


RAMON PAUL L. HERNANDU
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

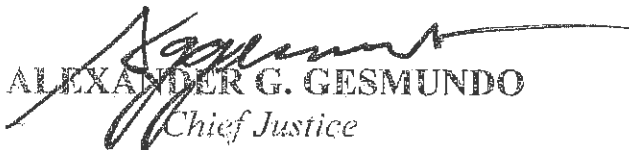
ATTESTATION

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


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

