



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **28 July 2021** which reads as follows:

“G.R. No. 256539 (Commissioner of Internal Revenue v. Ayala Corporation). – After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM** the Decision² dated October 14, 2020 and the Resolution³ dated March 22, 2021 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 2118 for failure of petitioner Commissioner of Internal Revenue to show any reversible error committed by the CTA *En Banc* in holding that respondent Ayala Corporation (respondent) was entitled to the issuance of a tax credit certificate in the amount of ₱127,292,477.20, representing its excess or unutilized creditable withholding taxes for the calendar years 2012 and 2013.

As correctly ruled by the CTA *En Banc*, proof of actual remittance is not necessary for respondent’s claim for refund of excess or unutilized creditable withholding tax (CWT) to prosper. Notably, “[i]t 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.”⁴ In establishing its entitlement to a claim for refund for CWT, respondent need only prove the fact that taxes were actually withheld through the presentation of the certificates of withholding issued by the corresponding withholding agents,⁵ as it did so in this case. It is settled that ‘the CTA’s findings can only be disturbed on appeal if they are not supported by substantial evidence, or there is a showing of gross error or abuse on the part of the Tax Court,’⁶ which does not obtain in this case. Hence, the instant petition must be denied.

¹ See Petition for Review on *Certiorari* dated July 12, 2021; *rollo*, pp. 11-43.

² Id. at 54-63. Penned by Associate Justice Jean Marie A. Bacorro-Villena with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Maria Rowena Modesto-San Pedro, concurring. Associate Justice Erlinda P. Uy, On Leave.

³ Id. at 65-69. Penned by Associate Justice Jean Marie A. Bacorro-Villena with Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Maria Rowena Modesto-San Pedro, concurring. Presiding Justice Roman G. Del Rosario, On Leave.

⁴ *Commissioner of Internal Revenue v. Philippine National Bank*, 744 Phil. 299, 310-311 (2014); emphasis supplied.

⁵ *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*, 823 Phil. 1043, 1082 (2018).

⁶ *Commissioner of Internal Revenue v. Manila Electric Company*, 735 Phil. 547, 560-561 (2014).

M14

SO ORDERED." (Rosario, J., designated additional member per Special Order No. 2835 dated July 15, 2021).

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

14 SEP 2021

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

THE BUREAU OF INTERNAL REVENUE (reg)
BIR Litigation Division
BIR National Office Building
Rm. 703, Agham Road, Diliman, Quezon City

HERMOSURA NAVARRO SISON & ONGSIAKO (reg)
3/F, Tower One & Exchange Plaza
Ayala Triangle, Ayala Avenue
Makati City

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

COURT OF TAX APPEALS (reg)
National Government Center
Agham Road, 1104 Diliman
Quezon City
(CTA EB No. 2118)
(C.T.A Case No. 9024)

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

JUDGMENT DIVISION (x)
Supreme Court, Manila

Please notify the Court of any change in your address.
GR256539. 07/28/21(78)URES