



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **17 June 2020** which reads as follows:*

**“G.R No. 235330 (*Commissioner of Internal Revenue v. Honda Cars Makati, Inc.*)**. – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Court of Tax Appeals (CTA) *En Banc*'s Decision<sup>2</sup> dated May 18, 2017 and Resolution<sup>3</sup> dated October 19, 2017 (Assailed Issuances) in CTA EB No. 1432. In the assailed issuances, the CTA *En Banc* affirmed the CTA First Division's (CTA Division) Decision<sup>4</sup> dated September 17, 2015 and Resolution dated February 10, 2016, docketed as CTA Case No. 8466. The CTA Division granted herein respondent Honda Cars Makati, Inc. (Honda)'s claim for tax refund/credit amounting to ₱16,855,816.56, representing its excess and unutilized Creditable Withholding Tax (CWT) for the taxable year 2009.

*The Facts*

On April 15, 2010, Honda filed its Final Adjustment Return or Annual Income Tax Return (ITR)<sup>5</sup> for the taxable year 2009, reporting a total tax overpayment amounting to ₱52,484,088, computed as follows:

Aggregate income tax due	₱10,184,335.00
Less Tax credits/payments	

<sup>1</sup> *Rollo*, pp. 10-24.

<sup>2</sup> *Id.* at 28-39; penned by CTA Associate Justice Lovell R. Bautista with CTA Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan, concurring.

<sup>3</sup> *Id.* at 41-47.

<sup>4</sup> *Id.* at 105-121; penned by CTA Associate Justice Erlinda P. Uy with CTA Presiding Justice Roman G. Del Rosario and Associate Justice Cielito N. Mindaro-Grulla, concurring.

<sup>5</sup> *Id.* at 58-60.

Prior year's excess credits other than MCIT	₱40,604,540.00
Creditable tax withheld from the first three quarters	9,015,448.00
Creditable tax withheld xxx for the fourth quarter	13,048,436.00 (₱62,668,423.00)
Total overpayment	<u>₱52,484,088.00</u>

In its ITR, Honda expressed its choice to be issued a Tax Credit Certificate (TCC) in exchange of the above-computed overpayment. Despite this choice, Honda nonetheless claimed as unutilized excess tax credits a portion of the overpayment (amounting to ₱30,420,208) and applied this against its aggregate tax due the following year, as reported in its 2010 ITR.<sup>6</sup>

On December 14, 2011, Honda wrote the Bureau of Internal Revenue (BIR), through Atty. Antonio Jonathan G. Jaminola, Officer-in-Charge, Large Taxpayers Excise Audit Division II (LTEAD),<sup>7</sup> to apply for a tax credit/refund (Administrative Claim). It requested for the issuance of a TCC amounting to ₱22,063,884.00 computed as follows:

Total overpayment reported in 2009 ITR	₱52,484,088.00
Applied against tax due in 2010	30,420,204.00
<u>Amount claimed as refund/credit</u>	<u>₱22,063,884.00</u>

Alleging that the BIR did not act on its administrative claim, Honda filed a petition for review<sup>8</sup> before the CTA on April 13, 2012 to reiterate its claim for refund or issuance of TCC (Judicial Claim).<sup>9</sup>

#### *The CTA Division Ruling*

In the Decision<sup>10</sup> dated September 17, 2015, the CTA Division partially granted Honda's claim and ruled that the claim for refund of unutilized excess CWT complied with all the requisites for its grant, viz.:

*First*, Honda filed its administrative and judicial claims within the two-year prescriptive period provided under Section 229 of the<sup>11</sup>

<sup>6</sup> *Id.* at 82-84.

<sup>7</sup> *Id.* at 98-101.

<sup>8</sup> *Id.* at 123-134.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 105-122.

<sup>11</sup> 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

National Internal Revenue Code of 1997 (Tax Code).<sup>12</sup> *Second*, Honda proved the fact of withholding by presenting the CWT certificates “which are complete in their relevant details and with a written statement that they were made under the penalties of perjury.”<sup>13</sup> *Third*, Honda declared the income payments subject of the CWT certificates as part of its gross income in its 2009 ITR, pursuant to Section 2.58.3<sup>14</sup> of Revenue Regulations No. (RR) 2-98.

However, after verification, the court-commissioned independent certified public accountant (ICPA) found that a portion of the amount claimed as unutilized excess CWT was not properly substantiated. Thus, he disallowed these amounts as follows:<sup>15</sup>

Claimed CWT		₱22,063,883.00
Less: Disallowances per ICPA		
Supported by original BIR Form No. 2307 not in petitioner’s name	₱22,137.00	
Erroneous issuance of BIR Form No. 2307 by the payor	233,083.67	
CWTs the income payments of which cannot be traced from the General Ledger	4,771,739.60	5,026,960.27
Total		₱17,036,922.73
Less: Additional Disallowances per this Court’s Findings		<u>181,106.17</u>
<b>Valid Excess Creditable Taxes Withheld</b>		<b><u>₱16,855,816.56</u></b>

Relying on the ICPA’s findings, the CTA Division granted Honda’s claim to the extent of ₱16,855,816.56, as computed above.

Subsequently, the CTA Division also denied the CIR’s Motion for

---

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.

<sup>12</sup> *Rollo*, p. 113.

<sup>13</sup> *Id.* at 116.

<sup>14</sup> SECTION 2.58.3. Claim for Tax Credit or Refund. — (A) x x x. (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 x x x. (Emphasis Supplied)

<sup>15</sup> *Rollo*, p. 121.

Reconsideration, prompting an appeal to the CTA *En Banc*.<sup>16</sup>

### *The CTA En Banc Ruling*

In the assailed issuances, the court *a quo* denied the CIR's appeal and affirmed the CTA Division's rulings *in toto*. It emphasized that, contrary to the CIR's assertion, the taxpayer does not have to prove actual remittance, inasmuch as this is the withholding agent's responsibility.<sup>17</sup> CWT certificates complete in their relevant details and with statements that were made under the penalties of perjury, sufficiently aid the court in the evaluation of claims for refund/credit of excess unutilized CWT. The presentation of these certificates shifts the burden of evidence to the tax authorities to disprove the certificates' contents by showing that these are incomplete, false, or irregular.<sup>18</sup>

The CIR filed a motion for reconsideration, but the CTA *En Banc* denied the same.<sup>19</sup>

Hence, the CIR filed the present Petition<sup>20</sup>.

### *Issue*

The sole issue for the Court's resolution is: Did the CTA *En Banc* err in upholding the CTA Division's ruling, which granted Honda's claim for tax refund/credit?

### *Our Ruling*

The petition is unmeritorious.

The CIR mainly imputes error upon the CTA *En Banc* for granting Honda's claim for refund despite its failure to meet all the conditions required for the grant of a refund of excess unutilized CWT. Specifically,

<sup>16</sup> *Id.* at 31-32.

<sup>17</sup> *Id.* at 37 see Section 2.58.3, RR 2-98.

<sup>18</sup> *Id.* at 38.

<sup>19</sup> *Id.* at 41-47.

<sup>20</sup> *Rollo*, pp. 10-24.

Honda did not “make an entry in the “Creditable Tax Withheld” column of its Annual ITR for 2009 (BIR Form [No.] 1702) [or] Schedule 1 of the “Schedule of Sales/Revenues/Receipts/Fees.”<sup>21</sup> Without this entry, Honda could not have declared the income payments subject of the CWT certificates submitted as part of its gross income in its 2009 ITR, an essential requisite for the grant of its claim.<sup>22</sup>

The Court finds these arguments redundant.

The basic rule is that the Court’s review under Rule 45 is purely discretionary. The Court does not entertain Rule 45 petitions as a matter of right, especially in the absence of “special and important reasons” justifying the review.<sup>23</sup> That the CIR’s arguments are identical to those already passed upon by the CTA clearly demonstrates that the present petition is not supported by any such exempting justifications to warrant favorable action.

In addition, the CIR’s arguments raise mere questions of fact.

Whether or not Honda presented sufficient evidence to prove its compliance with the requisites for a valid claim for refund/credit is a factual question. The CIR is essentially asking the Court to reassess and reweigh the evidence on record (*e.g.*, CWT certificates and ITRs) to determine if the case’s facts and supporting evidence warrant the denial of Honda’s claim. This is not allowed in Rule 45 petitions where only questions of law may be raised.<sup>24</sup> Verily, there are exceptions to this rule. However, the present petition does not allege any circumstances that would make the case fall in any one of them.

Notably, the CTA, both sitting in division and *en banc*, consistently found that Honda complied with all the requisites for the grant of a tax refund/credit claim, and sufficiently substantiated its claim to the extent of ₱16,855,816.56.

---

<sup>21</sup> *Id.* at 18.

<sup>22</sup> *Id.* at 15.

<sup>23</sup> Section 6, Rule 45, Rules of Court.

<sup>24</sup> *Co v. Vargas*, 676 Phil. 463 (2011); *Catalan v. Court of Appeals*, 543 Phil. 568 (2007).

The Court is bound by these findings of fact. It is well-settled that the CTA's factual findings are accorded great respect, if not finality, because we recognize that the CTA has necessarily developed an expertise on tax matters. These findings cannot be disturbed absent grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.<sup>25</sup>

In any event, a reading of the case record reveals that the court *a quo*'s findings are supported by substantial evidence. There is no reason to deviate from the CTA's findings.

It is already established that refunds are in the nature of exemptions and, thus, strictly construed against the claimant. Therefore, a claimant has the burden of proof to establish the factual basis of his claim for tax credit or refund.<sup>26</sup>

The claimant's burden in case of tax refund/credit claims involving excess and unutilized CWT consists of establishing his compliance with three requisites, to wit: (a) the claim is filed with the CIR within the two-year period from the date of payment of the tax; (b) it is shown on the return of the recipient that the income payment received was declared as part of the gross income; and (c) the fact of withholding is 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 therefrom.<sup>27</sup>

The Court agrees with the CTA's findings that Honda sufficiently established its compliance with all three requisites.

Notably, the CIR only disputes Honda's compliance with the second requisite. However, as validated by the ICPA, Honda's CWT certificates establish that various payors withheld taxes amounting to ₱16,855,816.56 in taxable year 2009. Based on jurisprudence,<sup>28</sup> these

<sup>25</sup> *Republic v. Team (Phils.) Energy Corporation (Formerly Mirant (Phils.) Energy Corporation)*, 750 Phil. 700 (2015).

<sup>26</sup> See *CIR v. United Ccdiz Sugar Farmers Association Multi-Purpose Cooperative*, 802 Phil. 636-659 (2016).

<sup>27</sup> *CIR v. Team Philippines Operations Corporation*, 731 Phil. 141, 147-148 (2014).

<sup>28</sup> See *CIR v. Team Philippines Operations Corporation*, *supra*.

CWT certificates are sufficient proof of the fact of withholding.

In view of the foregoing, the CTA correctly granted Honda's judicial claim for tax credit/refund of excess and unutilized CWT.

**WHEREFORE**, the petition is **DENIED**. The Decision of the Court of Tax Appeals *En Banc* dated May 18, 2017 and Resolution dated October 19, 2017 in CTA EB No. 1432 are **AFFIRMED**.

**SO ORDERED.**" (GAERLAN, J., designated as additional member, per Special Order No. 2780 dated May 11, 2020).

Very truly yours,



TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *with 814*

05 AUG 2020

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

SALVADOR LLANILLO & BERNARDO (reg)  
Counsel for Respondent  
Units 815-816, Tower One & Exchange Plaza  
Ayala Triangle, Ayala Avenue  
1226 Makati City

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

JUDGMENT DIVISION (x)  
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
LIBRARY SERVICES (x)  
[For uploading pursuant to A.M. No. 12-7-1-SC]

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

COURT OF TAX APPEALS (reg)  
National Government Center  
Agham Road, 1104 Diliman  
Quezon City  
(CTA EB Case No. 1432) /  
(CTA Case No. 8466)

*Please notify the Court of any change in your address.*  
GR235330. 06/17/2020(242)URES