



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated June 28, 2021, which reads as follows:

“G.R. No. 244428 (*Marionnaud Philippines Inc., v. Commissioner of Internal Revenue*). - Before the Court is a Petition for Review on *Certiorari*¹ assailing the Decision² dated August 1, 2018 and the Resolution³ dated January 24, 2019 by the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 1602 (CTA Case No. 8807). The CTA *En Banc* affirmed the CTA First Division (CTA Division) ruling that denied the claim for refund of the petitioner, Marionnaud Philippines, Inc., (Marionnaud).

The Antecedents

Marionnaud is a domestic corporation engaged in the business of trading high-end or luxury goods such as, but not limited to, jewelry, branded or designer clothing and footwear, wearing apparel, leisure and sporting goods, electronics, perfumes, cosmetics, and other personal effects on wholesale and/or retail basis.⁴

With respect to the calendar year (CY) 2011, Marionnaud filed with the Bureau of Internal Revenue (BIR): (1) its annual Income Tax Return (ITR)⁵ *via* manual filing on April 30, 2012 and; (2) its Enhanced Annual Income Tax Return (BIR Form No. 1702)⁶ *via* electronic mail on July 30, 2012. It reported total unutilized excess tax credits as of December 31, 2011 in the amount of ₱31,929,216.03 computed as follows:

¹ *Rollo*, Vol. I, pp. 3-40.

² *Id.* at 41-53; penned by Associate Justice Catherine T. Manahan with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban concurring.

³ *Id.* at 54-57; penned by Associate Justice Catherine T. Manahan with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban, concurring.

⁴ *Id.* at 6.

⁵ *Id.* at 270-274.

⁶ *Id.* at 282-284.q

Prior year's excess credits other than MCIT		₱ 42,631,744.00 ⁷
Less: Income tax due per ITR		<u>37,503,008.90⁸</u>
Balance of prior year's excess credits		₱ 5,128,735.10
Add: 2011 creditable withholding taxes (CWT)		
From first three quarters	₱ 24,353,317.47 ⁹	
From fourth quarter	<u>2,447,163.46¹⁰</u>	<u>26,800,480.93</u>
Total overpayment		₱ 31,929,216.03 ¹¹

Subsequently, on May 16, 2013, Marionnaud filed an *administrative claim* before the BIR Large Taxpayers Service asserting that it was entitled to a refund of its unutilized CWT from 2011 amounting to ₱26,800,481.00.¹²

Alleging that the CIR failed to act on its administrative claim, Marionnaud filed a *judicial claim*¹³ on April 14, 2014 before the CTA pursuant to Section 229 of the National Internal Revenue Code of the Philippines (Tax Code).

Ruling of the CTA Division

In its Decision¹⁴ dated September 14, 2016, the CTA Division denied Marionnaud's claim for refund in view of its failure to substantiate its excess credits for the entire prior year (₱42,631,744.00). Furthermore, it ruled that the amount of CWT claimed (₱26,800,481.00) was insufficient to cover its income tax due for CY 2011 (₱37,503,008.90). Consequently, Marionnaud's income tax liability still amounted to ₱10,702,527.83 and had no excess CWT available for refund.¹⁵

Aggrieved, Marionnaud moved for reconsideration or, alternatively, for new trial. However, the CTA First Division denied the said motion.¹⁶

Thereafter, Marionnaud elevated the case to the CTA *En Banc*.

⁷ *Id.* at 283.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 284.

¹² Rounded off from ₱26,800,480.93; *id.* at 278-280.

¹³ *Id.* at 198-205.

¹⁴ *Id.* at 168-186; penned by Associate Justice Erlinda P. Uy with Presiding Justice Roman G. Del Rosario and Associate Justice Cielito N. Mindaro-Grulla, concurring.

¹⁵ *Id.* at 185.

¹⁶ In a Resolution dated February 8, 2017; *id.* at 189-197; penned by Associate Justice Erlinda P. Uy with Presiding Justice Roman G. Del Rosario and Associate Justice Cielito N. Mindaro-Grulla, concurring.

Ruling of the CTA En Banc

In its assailed Decision¹⁷ dated August 1, 2018, the CTA *En Banc* found no reason to deviate from the CTA Division's ruling.¹⁸

The court *a quo* explained that to prove its entitlement to a refund, the claimant must establish the following: *first*, it filed its claim within the two-year prescriptive period provided by the Tax Code; *second*, the fact of withholding, through a copy of a statement duly issued by the withholding agent to the payee (Marionnaud), showing the amount paid and the amount of tax withheld therefrom; and *third*, the income upon which the taxes were withheld had been declared as part of the recipient (Marionnaud)'s gross income.¹⁹

It agreed with the CTA Division's finding that while Marionnaud timely filed its claim (*first requisite*) and had substantiated the amount of CWT claimed (*second requisite*) to the extent of ₱26,300,775.03,²⁰ it nonetheless failed to show that it declared the amounts from which the taxes were withheld as part of its CY 2011 gross income (*third requisite*). In particular, Marionnaud failed "to reconcile the discrepancy between the income per its income tax return and the income in its CWT Certificates or SAWT," which is "fatal to its claim."²¹

Furthermore, as found by the CTA Division, Marionnaud failed to present sufficient evidence showing that it had excess and unutilized CWT.²²

The CTA *En Banc* also denied²³ the subsequent motion for reconsideration. Hence, Marionnaud filed the present petition.

Petitioner's Arguments

According to Marionnaud, the CTA *En Banc* erred as follows: *first*, in concluding that Marionnaud failed to establish that the income received was declared as part of gross income; *second*, in holding that proof of Marionnaud's prior years' excess CWT must be established; and *third*, in assessing Marionnaud for deficiency tax amounting to ₱10,702,527.83.²⁴

¹⁷ *Id.* at 41-53.

¹⁸ *Id.* at 52.

¹⁹ *Id.* at 45.

²⁰ *Id.* at 46.

²¹ *Id.* at 48.

²² *Id.* at 49-50.

²³ In a Resolution dated January 24, 2019; *id.* at 54-57; penned by Associate Justice Catherine T. Manahan with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban, concurring.

²⁴ *Id.* at 18-19.

Respondent's Arguments

On the other hand, the CIR, through the Office of the Solicitor General (OSG), insists that the CTA *En Banc* correctly denied the claim due to Marionnaud's failure to comply with the requisites for entitlement to a refund.²⁵ Moreover, the court *a quo's* statement on Marionnaud's deficiency tax is not an assessment. It was only a finding in the course of its determination of whether Marionnaud still had excess CWT available for refund.²⁶

The Issue

The only question for the Court's resolution: Is Marionnaud entitled to a tax refund for its excess and unutilized CWT for CY 2011?

The Ruling of the Court

The petition has no merit.

Marionnaud insists that it has sufficiently established its entitlement to a tax refund because it had presented its ITR, as well as the SAWT and CWT Certificates for CY 2011.²⁷

The arguments are *redundant*.

The basic rule is that the Court's review under Rule 45 is purely discretionary. *We do not entertain Rule 45 petitions as a matter of right, especially in the absence of "special and important reasons" justifying our review.*²⁸ That Marionnaud'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 justification to warrant favorable action.

Furthermore, the issue of whether it presented sufficient evidence to prove compliance with the requisites for a valid claim for refund/credit is a *factual question*. Marionnaud is essentially asking the Court to reassess and reweigh the evidence on record (*i.e.*, CWT certificates and ITR) to determine if the facts and supporting evidence of the case warrant the denial of its claim. This is not allowed in Rule 45 petitions where only questions of law may be raised.²⁹ Verily, there are exceptions to this rule. However, the present petition does not allege any circumstance that makes the case fall in any one of them.

Notably, the CTA, both sitting in Division and *En Banc*,

²⁵ *Rollo*, Vol. II, pp. 700-701.

²⁶ *Id.* at 705-706.

²⁷ *Rollo*, Vol. I, p. 43-44.

²⁸ Rule 45, Section 6, Rules of Court.

²⁹ *Co v. Vargas*, 676 Phil. 463, 470 (2011); *Amor-Catalan v. Court of Appeals*, 543 Phil. 568, 574 (2007).

consistently found Marionnaud's evidence *insufficient* in establishing that: (1) it declared the income upon which the taxes were withheld as part of its CY 2011 gross income and; (2) it had excess and unutilized creditable withholding taxes in the same year.³⁰

The Court is bound by the findings of fact by the CTA. It is well settled that the CTA's factual findings are accorded great respect, if not finality, because the Court recognizes that the CTA has necessarily developed an expertise on tax matters. The 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.³¹

Still, 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.³² The claimant's burden in case of tax refund/credit claims involving excess and unutilized CWT consists of establishing his compliance with the above-enumerated requisites.

In *United International Pictures AB v. Commissioner of Internal Revenue*,³³ the Court agreed with the CIR that the amount of income payments in the ITR must correspond and tally with the amount indicated in the CWT "*since there is no possible and efficacious way by which the BIR can verify the precise identity of the income payments as reflected in the income tax return.*"³⁴ Claims for refund of excess and unutilized CWT must be denied if the taxpayer does not sufficiently explain any such discrepancy.

In the present case, both findings of the CTA Division and the CTA *En Banc* show that there is a discrepancy between Marionnaud's reported income declared in the CWT certificates/SAWT (₱2,675,070,728.00) as against that reflected on its ITR (₱2,642,980,052.08).³⁵ Thus, the tax court was justified in striking down the claim in view of Marionnaud's failure to justify, or explain the discrepancy.

Lastly, Marionnaud avers that it was outside of the CTA's jurisdiction to assess the applicant-claimant in a tax refund case with

³⁰ *Rollo*, Vol. I, p. 46-52.

³¹ *Rep. of the Phils. v. Team (Philis.) Energy Corp.*, 750 Phil. 700, 717 (2015).

³² See *CIR v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, 802 Phil. 636, 659 (2016).

³³ 697 Phil. 313, 321 (2012).

³⁴ *Id.*

³⁵ *Rollo*, Vol. I, p. 46.

deficiency income tax.³⁶

The argument is misplaced.

That the CTA Division mentioned that Marionnaud “still has income tax liability of ₱10,702,527.83”³⁷ did not amount to the issuance of a tax assessment against the latter. As the CIR correctly pointed out, this was only a finding in the course of the CTA’s determination of tax credits available for refund.³⁸ The present refund case’s focal point is Marionnaud’s alleged unutilized CWT amounting to ₱26,800,481.00. That this balance was not even sufficient to answer for its 2011 income tax liability amounting to ₱37,503,008.90 only serves to strengthen the conclusion that there was nothing left to be refunded to Marionnaud.

WHEREFORE, the petition is **DENIED**. The Decision dated August 1, 2018 and the Resolution dated January 24, 2019 by the Court of Tax Appeals *En Banc* in CTA EB No. 1602 (CTA Case No. 8807) are **AFFIRMED**.

SO ORDERED.”

By authority of the Court:

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Division Clerk of Court

By:


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Deputy Division Clerk of Court

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³⁶ *Id.* at 31-34.

³⁷ *Id.* at 185.

³⁸ *Rollo*, Vol. II, pp. 705-706.