

¹ Division Docket – Vol. IV, pp. 1788-1806.

DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 2 of 22

x-----x

dated April 24, 2025 (assailed *Decision*), and the *Resolution*² dated September 12, 2025 (assailed *Resolution*), rendered by the Court's Third Division (Court in Division) in CTA Case No. 10807, entitled *Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue*.

The dispositive portions of the assailed *Decision* and *Resolution* read:

Assailed Decision of April 24, 2025:

ACCORDINGLY, the present *Petition for Review* filed on March 11, 2022, is **PARTIALLY GRANTED**. Respondent CIR is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** for the amount of ₱93,813,631.87 in favor of petitioner.

SO ORDERED.

Assailed Resolution of September 12, 2025:

ACCORDINGLY, [CIR] *Motion for Reconsideration RE: Decision dated 24 April 2025* and [Melco] *Motion for Partial Reconsideration [of Decision dated April 24, 2025]* are both **DENIED** for lack of merit.

SO ORDERED.

In his *Petition for Review*³ filed on September 29, 2025, docketed as CTA EB No. 3228, the CIR prays that the assailed *Decision* and *Resolution* be reversed and set aside, and that a new judgment be rendered denying Melco's claim for refund in its entirety.

On the other hand, claiming entitlement to its entire refund claim of ₱102,337,628.70, Melco filed its *Petition for Review*⁴ on October 1, 2025, docketed as CTA EB No. 3232, asking the Court *En Banc* to reconsider the denial of its claim in the amount of ₱8,523,996.84 and accordingly declare that the same has not prescribed with respect to the month of January 2020.



² *Id.* at 1853-1860.

³ *En Banc (EB) Docket* (CTA EB No. 3228), pp. 1-8.

⁴ *EB Docket* (CTA EB No. 3232), pp. 1-19.

DECISION

CTA *EB* Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 3 of 22

x-----x

THE PARTIES⁵

Melco is a corporation organized and existing under the laws of the Philippines, with principal address at Asean cor. Roxas Boulevard, Barangay Tambo, Parañaque City. It is registered with the Bureau of Internal Revenue (**BIR**) under Taxpayer Identification No. 008-362-871-00000.

The CIR, on the other hand, is the duly appointed Commissioner of the BIR. He holds office at the BIR National Office Building located at BIR Road, Diliman, Quezon City.

THE FACTS AND THE PROCEEDINGS

The relevant facts and antecedent proceedings, as culled from the records, are as follows:

On October 25, 2012, Melco and Belle Corporation (**Belle**) executed a *Contract of Lease*,⁶ wherein Melco leased land and building structures from Belle for its gaming and non-gaming activities. As lessee, Melco paid the monthly rent stipulated in the *Contract of Lease*.

For the months of January to March 2020, Melco paid the total amount of ₱583,681,791.28, inclusive of value-added tax (**VAT**) and net of the 5% withholding tax.⁷ However, due to the disruptions brought about by the COVID-19 pandemic sometime in March 2020, Melco and Belle discussed rent modification or reduction for the year 2020.⁸

While the negotiations were ongoing, Belle continued to bill Melco for the rent due from April to December 2020. Consequently, Melco accrued the corresponding rental billings in the aggregate amount of ₱1,744,580,209.34, but it withheld payment of the accrued rent in view of the ongoing negotiation. Nevertheless, having accrued the rentals in its books, Melco remitted the corresponding expanded withholding tax (**EWT**) amounting to ₱87,229,010.45.⁹



⁵ Division Docket – Vol. IV, p. 1788, Decision dated April 24, 2025, The Parties.

⁶ Division Docket – Vol. III, pp. 1097-1198, Exhibit “P-5”.

⁷ *Id.* at 1344-1355, Exhibits “P-30” to “P-35” and “P-30-1” to “P-35-1”.

⁸ Division Docket – Vol. I, p. 10, *Petition for Review* dated March 10, 2022, par. 15.

⁹ *Id.*, *Petition for Review* dated March 10, 2022, par. 16-17.

DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 4 of 22

x-----x

On March 22, 2021, Melco and Belle executed a *Supplemental Agreement to Contract of Lease*¹⁰ which adjusted the total annual rent for taxable year (TY) 2020 to ₱265,046,236.00, exclusive of VAT and net of the 5% withholding tax, or an aggregate gross rental of ₱278,996,038.00. Since Melco had already paid Belle the total amount of ₱583,681,791.28, net of the 5% EWT, the *Supplemental Agreement to Contract of Lease* also provided that a total amount of ₱318,635,462.00 would be returned by Belle to Melco.¹¹

As a result of the reduced rent, the EWT due on the final rent for 2020 of ₱278,996,038.00 should have been only ₱13,949,801.89. Since Melco had already remitted the total EWT of ₱116,287,430.62 on both the paid and accrued rentals in 2020, it allegedly overpaid or over-remitted EWT in the total amount of ₱102,337,628.70.

Thus, on March 3, 2022, Melco amended its Quarterly Remittance Returns¹² (BIR Form No. 1601-EQ) for the 1st, 2nd, 3rd and 4th quarters of TY 2020, to reflect the alleged over-remittance of ₱102,337,628.70. Also, in its amended BIR Form No. 1601-EQ for the 4th quarter of TY 2020, Melco checked the option "To be refunded."

Then, on March 8, 2022, Melco filed with the Large Taxpayers Service of the BIR a letter dated March 7, 2022,¹³ together with an Application for Tax Credits/Refunds (BIR Form No. 1914)¹⁴ and supporting documents, for the refund or issuance of a tax credit certificate for its alleged erroneous or excessive EWT payments for TY 2020 in the amount of ₱102,337,628.70.

Claiming inaction on the part of the BIR, and considering that the two-year prescriptive period for filing a judicial claim for the recovery of erroneously paid taxes was about to expire, Melco was constrained to elevate its claim before the Court in Division *via a Petition for Review*¹⁵ filed on March 11, 2022.



¹⁰ Division Docket – Vol. III, pp. 1356-1379, Exhibits "P-36" and "P-36-1".

¹¹ Division Docket – Vol. I, p. 11, *Petition for Review* dated March 10, 2022, par. 19.

¹² Division Docket – Vol. III, pp. 1502-1509, Exhibits "P-53" to "P-56".

¹³ Division Docket – Vol. IV, pp. 1593-1601, Exhibit "P-60".

¹⁴ *Id.* at 1602, Exhibit "P-61".

¹⁵ Division Docket – Vol. I, pp. 6-32.

DECISION

CTA EB Nos. 3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 5 of 22

x-----x

In his *Answer*¹⁶ filed on June 6, 2022, the CIR argued that Melco failed to exhaust administrative remedies before elevating its claim to the Court in Division. He likewise contended that Melco failed to substantiate its claim at the administrative level. Consequently, the CIR maintained that Melco's judicial claim for refund should be denied.

During trial, only Melco presented evidence in support of its claim. Despite being afforded the opportunity to do so, the CIR opted not to present any evidence.¹⁷

On April 24, 2025, the Court in Division rendered the assailed *Decision* partially granting Melco's *Petition for Review*. The Court in Division held that Melco's claim stems from its alleged overpayment or over-remittance of EWTs for TY 2020. According to the Court in Division, following the parties' covenant in the *Supplemental Agreement to Contract of Lease* that Melco should pay the rent monthly, the corresponding withholding taxes should likewise be recognized monthly.

Since the EWT return for January 2020 was filed, and the corresponding tax paid, on February 12, 2020, Melco had two years, or until February 14, 2022, within which to file its claim for refund, given that February 12, 2022 fell on a Saturday. However, Melco filed its administrative claim only on **March 8, 2022**, and its judicial claim on **March 11, 2022**, both beyond the two-year prescriptive period. Consequently, Melco's claim for refund of the alleged overpayment of EWT for January 2020, amounting to ₱8,523,996.84, has prescribed. Accordingly, only the remaining amount of ₱93,813,631.87 may properly be the subject of its refund claim.

Dissatisfied with the ruling, both parties sought reconsideration. Melco filed its *Motion for Partial Reconsideration [of Decision dated April 24, 2025]*¹⁸ on May 19, 2025, while the CIR filed his *Motion for Reconsideration RE: Decision dated 24 April 2025*¹⁹ also on May 19, 2025.

On September 12, 2025, the Court in Division issued the assailed *Resolution* denying both motions for lack of merit.

¹⁶ Division Docket – Vol. II, pp. 671-678.

¹⁷ Transcript of Stenographic Notes, March 8, 2023, p. 15.

¹⁸ Division Docket – Vol. IV, pp. 1821-1830.

¹⁹ *Id.* at 1808-1818.

DECISION

CTA EB Nos. 3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 6 of 22

x-----x

Hence, the two (2) *Petitions for Review* were separately filed by Melco and the CIR, docketed as CTA EB No. 3232 and CTA EB No. 3228, respectively.

On October 2, 2025, the Court *En Banc* ordered the consolidation of the two *Petitions for Review* pursuant to Section 1, Rule 31 of the Revised Rules of Court.²⁰

Thereafter, the parties were directed to file their respective comments on each other's *Petitions for Review* within ten (10) days from notice.²¹

In compliance therewith, Melco filed its *Comment/Opposition [To Petitioner's Petition for Review dated September 29, 2025]*²² on February 6, 2026. The CIR, however, failed to file any comment/opposition to Melco's *Petition for Review* despite the directive.²³ As such, on April 8, 2026, the instant consolidated *Petitions for Review* were deemed submitted for decision.²⁴

Hence, this Decision.

THE ISSUES

CTA EB No. 3228 (CIR's Petition for Review):

The CIR assigns the following error:

WHETHER THE THIRD DIVISION OF THE HONORABLE COURT ERRED IN PARTIALLY GRANTING RESPONDENT'S [MELCO'S] CLAIM FOR REFUND REPRESENTING ALLEGED ERRONEOUSLY OR EXCESSIVELY PAID WITHHOLDING TAX RELATED TO ITS RENTAL PAYMENT TO BELLE CORPORATION FOR THE TAXABLE YEAR 2020 IN THE AMOUNT OF ₱93,813,631.87.

CTA EB No. 3232 (Melco's Petition for Review):

Melco, on the other hand, raises the following assigned errors:



²⁰ EB Docket (CTA EB No. 3228), p. 48.

²¹ *Id.* at 49, Resolution dated November 19, 2025; 61, Resolution dated January 14, 2026.

²² *Id.* at 64-71.

²³ *Id.* at 74, Records Verification dated March 2, 2026.

²⁴ *Id.* at 75, Minute Resolution dated April 8, 2026.

DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 7 of 22

x-----x

- A. WHETHER OR NOT THE HONORABLE CTA THIRD DIVISION ERRED IN RULING THAT A PORTION OF [MELCO'S] CLAIM FOR REFUND OR ISSUANCE TCC ARISING FROM THE EWT REMITTANCE FOR THE MONTH OF JANUARY 2020 OF ₱8,523,996.84, HAS PRESCRIBED.
- B. WHETHER OR NOT THE HONORABLE CTA THIRD DIVISION ERRED IN RULING THAT [MELCO] IS NOT ENTITLED TO THE FULL REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE ("TCC") OR ERRONEOUSLY OR EXCESSIVELY PAID EWT FOR TAXABLE YEAR 2020 AMOUNTING TO ₱102,337,628.70, AS PROVIDED UNDER SECTION 229 OF THE NIRC, AS AMENDED.

The CIR's Arguments

The CIR submits that, to be entitled to a refund of EWT, it is incumbent upon Melco to prove its entitlement to the claimed refund with sufficient evidence. In the present case, however, the CIR argues that there is no showing that all the supporting documents necessary to substantiate Melco's claim were submitted to the BIR. Hence, for failure to substantiate its administrative claim, Melco's judicial claim for refund should be dismissed for lack of merit.

Moreover, the CIR emphasizes that the law and BIR issuances provide that for any claim for refund to prosper, it is incumbent upon the claimant to prove actual remittance of the withheld taxes to the BIR. For the CIR, the fact of withholding of taxes is one thing; the actual remittance of the same is another. Hence, for the CIR, Melco should have presented evidence of the actual remittance of the withheld taxes to the BIR.

Finally, the CIR submits that the taxpayer-claimant bears the burden of proving the factual basis of his claim for tax credit or refund. For after all, tax refunds, like tax exemptions, are construed *strictissimi juris* against the taxpayer.

In its *Comment/Opposition [To Petitioner's Petition for Review dated September 29, 2025]*, Melco submits that the CIR's *Petition for Review* should be denied outright for lack of merit. According to Melco, the CIR's *Petition for Review* is a mere rehash of his previous arguments raised in his *Answer and Motion for Reconsideration Re: Decision dated 24 April 2025*, all

DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 8 of 22

x-----x

of which were exhaustively addressed and discussed in the assailed *Decision* and *Resolution* of the Court in Division.

Melco likewise submits that, contrary to the CIR's protestation, the Court in Division exhaustively and sufficiently explained in the assailed *Decision* Melco's entitlement to the refund or issuance of TCC for the amount of ₱93,813,631.87, representing erroneously or excessively paid withholding tax attributable to its rental payments for TY 2020.

Melco's Arguments

In support of its *Petition for Review*, Melco avers that, in the assailed *Decision*, the Court in Division used the reduced annual rental amount of ₱265,046,236.00, net of withholding tax, and amortized the same over twelve (12) months to compute the monthly rental. The Court in Division explained that, since Melco should pay the rent on a monthly basis, the withholding tax thereon should also be recognized monthly. Hence, the Court in Division computed the prescriptive period on a monthly basis.

Melco further avers that, in the assailed *Resolution*, the Court in Division maintained that the computation of the overpaid EWT was "*consistent with the rule that the obligation to deduct and withhold the tax arises 'at the time an income is paid or payable, whichever comes first'. Once withheld, it is deemed to be full and final payment of the income tax due, hence, a claim for its refund on the ground that it is erroneously or excessively paid must be instituted within two (2) years therefrom.*"

Melco, however, disagrees with the foregoing conclusion.

According to Melco, the computation may have been accurate prior to the effectivity of Republic Act (**RA**) No. 10963 (**TRAIN Law**) in 2018. Melco notes that prior to 2018, the remittance returns for creditable taxes withheld or EWT were filed monthly using BIR Form No. 1601-E. However, beginning 2018, EWT remittances for the first two (2) months of the quarter are only considered as advance payments, but the actual EWT for the quarter is actually due at the time of filing of the quarterly remittance return of BIR Form No. 1601-EQ



DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 9 of 22

x-----x

pursuant to Revenue Regulations (**RR**) No. 11-18.²⁵ These advance payments, according to Melco, are then consolidated and applied against the final EWT due at the end of the taxable quarter as summarized in BIR Form No. 1601-EQ. In other words, the final EWT due shall be computed only upon the filing of BIR Form No. 1601-EQ.

Thus, Melco asserts that its claim for refund for the month of January has not prescribed. It argues that the remittances made for January and February 2020 constituted mere advance collections by the government, which remained subject to adjustment upon the filing of the quarterly return.

Finally, Melco submits that, under the principle of *solutio indebiti*, the Government must restore to it the sums representing erroneous tax payments. According to Melco, the principle of *solutio indebiti* applies equally to claims for refund of erroneously paid taxes, citing the case of *Filinvest Development Corporation v. Commissioner of Internal Revenue*.²⁶

THE COURT *EN BANC*'S RULING

Before delving into the substantive issues raised in these consolidated *Petitions for Review*, the Court *En Banc* must first determine whether the *Petitions* were timely filed.

The Petitions for Review were seasonably filed.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

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

...

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before



²⁵ SUBJECT: Amending Certain Provisions of Revenue Regulations No. 2-98, as Amended, to Implement Further Amendments Introduced by Republic Act No. 10963, Otherwise Known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law." Relative to Withholding of Income Tax.

²⁶ G.R. No. 146941, August 9, 2007 [Per J. Nachura, Third Division].

DECISION

CTA EB Nos. 3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 10 of 22

x-----x

the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Emphasis supplied)

The records show that the CIR received the assailed *Resolution* through electronic mail (email) on September 16, 2025. Accordingly, he had fifteen (15) days therefrom, or until October 1, 2025, within which to file a *Petition for Review* before the Court *En Banc*.

The CIR filed his *Petition for Review* on September 29, 2025, well within the reglementary period. Hence, the Court *En Banc* validly acquired jurisdiction over his appeal.

Similarly, Melco received the assailed *Resolution via* email on September 16, 2025. Counting fifteen (15) days therefrom, it had until October 1, 2025, to file its *Petition for Review* before the Court *En Banc*.

The records reveal that Melco filed its *Petition for Review* on October 1, 2025. Hence, the same was likewise filed on time.

Having established its jurisdiction over the parties' respective appeals, the Court *En Banc* now proceeds to resolve the issues raised therein.

CTA EB No. 3228

The CIR's Petition for Review

At the outset, the Court notes that the CIR's *Petition for Review* suffers from a procedural infirmity.

It is well-settled that the authority to represent the State in appeals before the Court is vested in the Office of the Solicitor General (OSG), which is the principal law officer and legal defender of the government.²⁷ Book IV, Title III, Chapter 12 of Executive Order No. 292 or the Administrative Code of 1987, specifies the authority of the OSG to represent the government and all its agencies and instrumentalities in cases pending in

²⁷ Sec. 2 of Executive Order No. 300 dated July 26, 1987 states:

SEC. 2. **The Office of the Solicitor General shall be headed by the Solicitor General, who is the principal law Officer and legal defender of the Government.** He shall have the authority and responsibility for the exercise of the Office's mandate and for the discharge of its duties and functions, and shall have supervision and control over the Office of its constituent units. The Solicitor General, who shall be appointed by the President, shall have the same qualifications for appointment, rank, prerogatives, and privileges as those of the Presiding Justice of the Court of Appeals. (Emphasis supplied)

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DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 11 of 22

x-----x

courts in all civil actions in which the Government or any officer thereof in his official capacity is a party, and to deputize legal officers of legal departments, bureaus, agencies and offices to assist it in representing the government, *viz.*:

SEC. 35. *Powers and Functions.* — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of lawyers. It shall have the following specific powers and functions:

(1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; **represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.**

. . . .

(8) **Deputize legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts, and exercise supervision and control over such legal Officers with respect to such cases.** (Emphasis supplied)

In the cases of *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*²⁸ and *LG Electronics Philippines, Inc. v. Commissioner of Internal Revenue*,²⁹ the Supreme Court recognized the long-established procedure in requiring the OSG to represent the interest of the government, the OSG having the primary responsibility to appear for the government in appellate proceedings.

While the legal officers of the BIR timely filed the CIR's *Petition for Review*, no deputation order or written authority from the OSG was attached/presented to prove their authority to institute the present appeal before the Court *En Banc*.

²⁸ G.R. No. 144942, July 4, 2002 [Per J. Vitug, *En Banc*].

²⁹ G.R. No. 165451, December 3, 2014 [Per J. Leonen, Second Division].



Thus, in the absence of such deputation, the CIR’s *Petition for Review* is procedurally dismissible for lack of authority of the legal officers of the BIR to institute the same. This is consistent with established jurisprudence recognizing the OSG as the statutory counsel of the CIR before the CTA.³⁰

At any rate, even assuming for the sake of argument, that the foregoing procedural defect may be disregarded in the higher interest of substantial justice, the Court *En Banc* still finds the *Petition* bereft of merit.

A careful perusal of the arguments raised by the CIR in his *Petition for Review* reveals that they were the very same flawed arguments which had been thoroughly discussed and passed upon by the Court in Division in both the assailed *Decision* dated April 24, 2025 and the assailed *Resolution* dated September 12, 2025. Thus, the Court *En Banc* finds no compelling reason to depart from the Court in Division’s conclusion that Melco was able to substantiate its claim for refund of erroneously or excessively remitted EWT. This affirmation, however, is without prejudice to the Court *En Banc*’s determination of the issue of prescription raised in Melco’s *Petition for Review* in CTA EB No. 3232, which is discussed below.

As found by the Court in Division, the documentary evidence presented by Melco established that it remitted EWTs for taxable year 2020 in the aggregate amount of **₱183,860,885.34**, to wit:

PERIOD	EXHIBIT REFERENCE	DATE OF PAYMENT	RETURN	AMOUNT PAID
Jan. 2020	“P-39” to “P-39-1”	Feb. 12, 2020	0619E	₱20,550,652.35
Feb. 2020	“P-40” to “P-40-1”	Mar. 12, 2020	0619E	19,075,402.30
Mar. 2020	“P-41” to “P-41-1”	Apr. 27, 2020	1601EQ	20,148,202.45
Apr. 2020	“P-42” to “P-42-1”	May 22, 2020	0619E	14,753,986.75
May 2020	“P-43” to “P-43-1”	Jun. 15, 2020	0619E	13,624,024.56
Jun. 2020	“P-44” to “P-44-1”	Jul. 29, 2020	1601EQ	11,213,373.66
Jul. 2020	“P-45” to “P-45-1”	Aug. 12, 2020	0619E	14,844,490.90
Aug. 2020	“P-46” to “P-46-1”	Sep. 15, 2020	0619E	13,362,974.22
Sep. 2020	“P-47” to “P-47-1”	Oct. 29, 2020	1601EQ	15,465,714.13
Oct. 2020	“P-48” to “P-48-1”	Nov. 12, 2020	0619E	13,450,393.93
Nov. 2020	“P-49” to “P-49-1”	Dec. 14, 2020	0619E	13,370,375.69
Dec. 2020	“P-50” to “P-50-1”	Jan. 28, 2021	1601EQ	14, 001,294.40
TOTAL:				₱183,860,885.34

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³⁰ *Commissioner of Internal Revenue v. Second Division of the Hon. Court of Tax Appeals*, G.R. No. 280165, August 4, 2025 [Per J. Inting, Third Division], citing ADM. CODE (1987), Book IV, Title III, Chapter 12, sec. 35(1).

DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 13 of 22

x-----x

Upon examination of the Quarterly Remittance Returns of Creditable Income Taxes Withheld (Expanded) (BIR Form No. 1601-EQ) and the corresponding alphalists, the Court in Division found that **₱117,384,358.65** of the total EWT remitted pertained to withholding taxes on rental payments under Alphanumeric Tax Code (ATC) WC100. More importantly, the monthly *alphalists* submitted by Melco showed that **₱116,287,430.60** of such EWT remittances related specifically to rental payments made or accrued in favor of Belle Corporation, *viz.*:

	1 st QUARTER	2 nd QUARTER	3 rd QUARTER	4 th QUARTER	
ATC	EXHIBIT "P-41"	EXHIBIT "P-44"	EXHIBIT "P-47"	EXHIBIT "P-50"	TOTAL
WC011	₱2,076,434.69	₱1,021,357.31	₱678,101.10	₱668,262.23	₱4,444,155.33
WC051	309,449.88	0.00	0.00	32,142.92	341,592.80
WC100	29,423,528.98	29,062,682.65	29,540,619.35	29,357,527.67	117,384,358.65
WC120	3,624,258.05	2,131,219.99	2,815,226.79	3,126,490.42	11,697,195.25
WC140	92,470.61	44,021.38	8,891.13	65,435.98	210,819.10
WC158	5,318,540.02	698,541.08	1,674,416.01	2,511,207.88	10,202,704.99
WC160	17,420,398.91	6,162,601.43	6,332,940.52	4,254,951.08	34,170,891.94
WC516	33,600.00	0.00	0.00	0.00	33,600.00
WI010	0.00	0.00	3,675.00	0.00	3,675.00
WI011	1,475,575.96	470,961.13	2,619,309.35	806,045.84	5,371,892.28
TOTAL	59,774,257.10	39,591,384.97	43,673,179.25	40,822,064.02	183,860,885.34

These findings were not based on mere allegations but were supported by the documentary exhibits formally identified, offered, and admitted in evidence. Significantly, despite being afforded ample opportunity during trial, the CIR opted not to present any evidence to controvert the factual and documentary evidence adduced by Melco.

The Court *En Banc* likewise finds unpersuasive the CIR's argument that Melco failed to substantiate its claim because there was allegedly no showing that all supporting documents had been submitted during the administrative proceedings before the BIR.

The argument ignores the settled principle that proceedings before the Court of Tax Appeals (CTA) are conducted *de novo*. In tax refund cases, a claimant's entitlement is ultimately determined on the basis of the evidence formally presented before the CTA, and not solely on the documents previously submitted to the BIR during the administrative stage.

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DECISION

CTA EB Nos. 3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 14 of 22

x-----x

In *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*,³¹ the Supreme Court held that refund claims are litigated anew before the CTA. Thus, the CTA may consider all evidence formally offered during the judicial proceedings, regardless of whether such evidence had been submitted to the BIR during the administrative phase, *viz.*:

The power of the Court of Tax Appeals to exercise its appellate jurisdiction does not preclude it from considering evidence that was not presented in the administrative claim in the Bureau of Internal Revenue. Republic Act No. 1125 states that the Court of Tax Appeals is a court of record:

Section 8. Court of record; seal; proceedings. — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. ...

As such, parties are expected to litigate and prove every aspect of their case anew and formally offer all their evidence. No value is given to documentary evidence submitted in the Bureau of Internal Revenue unless it is formally offered in the Court of Tax Appeals. ... As evidence is considered and evaluated again, the scope of the Court of Tax Appeals' review covers factual findings. (Citations omitted)

Thus, the decisive consideration is not whether all relevant documents were submitted before the BIR, but whether the taxpayer was able to establish before the CTA, through competent and admissible evidence, its entitlement to the refund sought.

Here, the records unquestionably show that Melco discharged such burden. Indeed, the Court in Division itself recognized the sufficiency of Melco's evidence when it granted the refund claim in the amount of **₱93,813,631.87**. As will be discussed in connection with Melco's appeal, the Court *En Banc* further finds that the amount of **₱8,523,996.84**, previously excluded on the ground of prescription, should likewise be refunded.

Accordingly, the Court *En Banc* finds no merit in the CIR's contention that Melco failed to substantiate its claim for refund. The same is directly contradicted by the evidence of record and

³¹ G.R. Nos. 206079-80 & 206309, January 17, 2018 [Per J. Leonen, Third Division].

the findings of the Court in Division, which the Court *En Banc* finds fully supported by the evidence and applicable law.

CTA EB No. 3232
Melco’s Petition for Review

The two (2) issues raised by Melco in its *Petition for Review* may be reduced to a single issue: ***whether Melco’s claim for refund corresponding to the EWT remitted for January 2020, in the amount of ₱8,523,996.84, has prescribed.***

The Court *En Banc* answers in the negative.

In the assailed *Decision*, the Court in Division held that the claim relating to January 2020 EWT remittance had already prescribed. Citing Sections 204(C) and 229 of the NIRC of 1997, as amended, it ruled that both the administrative and judicial claims for refund must be filed within two (2) years from the date of payment of the tax sought to be refunded, regardless of any supervening cause that may arise after payment.

The Court in Division likewise observed that, under the parties' lease agreement, rental payments were due and payable monthly. Consequently, it held that the corresponding withholding taxes should likewise be recognized monthly. Proceeding from this premise, the Court in Division computed the applicable two-year prescriptive periods as follows:

PERIOD COVERED	DATE OF PAYMENT	TWO-YEAR PRESCRIPTIVE PERIOD
Jan. 2020	Feb. 12, 2020	Feb. 14, 2022
Feb. 2020	Mar. 12, 2020	Mar. 14, 2022
1 st quarter 2020	April 27, 2020	April 27, 2022
Apr. 2020	May 22, 2020	May 23, 2022
May 2020	Jun. 15, 2020	Jun. 15, 2022
2 nd quarter 2020	Jul. 29, 2020	Jul. 29, 2022
Jul. 2020	Aug. 12, 2020	Aug. 12, 2022
Aug. 2020	Sep. 15, 2020	Sep. 15, 2022
3 rd quarter 2020	Oct. 29, 2020	Oct. 31, 2022 ³²
Oct. 2020	Nov. 12, 2020	Nov. 14, 2022
Nov. 2020	Dec. 14, 2020	Dec. 14, 2022
4 th quarter 2020	Jan. 28, 2021	Jan. 30, 2023 ³³

³² October 29, 2022 fell on Saturday.
³³ January 28, 2023 fell on Saturday.

DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 16 of 22

x-----x

Based on the foregoing, the Court in Division concluded that Melco's administrative claim filed on **March 8, 2022** and its judicial claim filed on **March 11, 2022** were timely only with respect to the EWT remittances covering February to December 2020. As to the January 2020 remittance, however, the Court in Division held that the claim had already prescribed because the two-year period allegedly expired on **February 14, 2022**.

Consequently, the Court in Division excluded the amount of **P8,523,996.84**, representing the alleged over-remitted EWT attributable to January 2020, from the refundable amount awarded to Melco.

The Court *En Banc* does not agree.

As correctly pointed out by Melco, the Court in Division's computation of the two-year prescriptive period may have been appropriate under the withholding tax system that existed prior to the effectivity of Republic Act No. 10963, or the Tax Reform for Acceleration and Inclusion (**TRAIN**) Law. However, the amendments introduced by the TRAIN Law, together with its implementing regulations, substantially altered the manner by which creditable withholding taxes are reported and remitted.

To implement the TRAIN Law, the Department of Finance (**DOF**) issued Revenue Regulations (**RR**) No. 11-2018,³⁴ which amended certain provisions of RR No. 2-98, as amended, relative to withholding of income tax.

Under Section 2.58 of RR No. 2-98, as amended by RR No. 11-2018, while withholding agents continue to remit taxes monthly through BIR Form No. 0619-E, the filing of the withholding tax return and the determination of the withholding agent's liability are now made on a quarterly basis through BIR Form No. 1601-EQ.

Section 5 of RR No. 11-2018 provides:

SECTION 5. Section 2.58 of RR No. 2-98, as amended, is hereby further amended to read as follows:

"SECTION 2.58. *Returns and Payment of Taxes Withheld at Source.* —

³⁴ SUBJECT: Amending Certain Provisions of Revenue Regulations No. 2-98, as Amended, to Implement Further Amendments Introduced by Republic Act No. 10963, Otherwise Known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law," Relative to Withholding of Income Tax.



DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 17 of 22

x-----x

- (A) *Manner, Venue and Time of Filing of Withholding Tax Returns and Payment of Taxes Withheld at Source* — **The filing of the withholding tax returns** (BIR Form No. 1601EQ for creditable withholding tax ...) **and payment** of the taxes withheld at source **shall be made not later than the last day of the month following the close of the quarter during which the withholding was made.** (Emphasis supplied)

For this purpose, the quarter shall follow the calendar quarter, e.g., **for taxes withheld during the quarter ending March 31, the same shall be remitted by the withholding agent on or before April 30.** The return filed shall be accompanied by the Quarterly Alphabetical List of Payees (QAP), reflecting the name of income payees, Taxpayer Identification Number (TIN), the amount of income paid segregated per month with total for the quarter ..., and the total amount of taxes withheld, if any.

Considering that **taxes withheld** by the withholding agents are held in trust for the government and its availability is an imperious necessity to **ensure sufficient cash inflow to the National Treasury**, withholding agents shall file BIR Monthly Remittance Form (BIR Form No. 0619E and/or 0619F) every tenth (10th) day of the following month when the withholding is made, regardless of the amount withheld. (Emphasis supplied)

Before the effectivity of **RR No. 11-2018**, creditable withholding taxes were both reported and remitted **monthly** through **BIR Form No. 1601-E**. The filing of the return and payment of the tax therefore occurred simultaneously each month.³⁵

The foregoing procedure, however, was substantially modified by the TRAIN Law, which took effect on January 1, 2018. Under the present system, while withholding agents are

³⁵ Section 2.58 of RR No. 2-98, as amended by Section 5 of **RR No. 17-2003** provides:
Sec. 2.58. RETURNS AND PAYMENT OF TAXES WITHHELD AT SOURCE. —

(A) *Monthly return and payment of taxes withheld at source.* —

...
(2) *WHEN TO FILE* —

(a) For both large and non-large taxpayers, **the withholding tax return**, whether creditable or final (including final withholding taxes on interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements) **shall be filed and payments should be made, within ten (10) days after the end of each month**, except for taxes withheld for the month of December of each year, which shall be filed on or before January 15 of the following year[.] (Emphasis supplied)

DECISION

CTA EB Nos. 3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 18 of 22

x-----x

still required to remit the taxes withheld every month through **BIR Form No. 0619-E**, such remittances function merely as advance payments designed to ensure a steady flow of revenue to the National Treasury. The actual EWT remittance is due at the time of filing of the quarterly remittance return or BIR Form No. 1601-EQ pursuant to RR No. 11-18.

Thus, upon the filing of the BIR Form No. 1601-EQ, the monthly payments remitted in advance are consolidated and applied against the EWT due at the end of the taxable quarter as summarized in BIR Form No. 1601-EQ. In other words, the EWT due shall be computed only upon the filing of the quarterly remittance return or BIR Form No. 1601-EQ.

This distinction is crucial in determining the proper reckoning point of the two-year prescriptive period under Sections 204(C) and 229 of the National Internal Revenue Code.

In *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.) [Univation Motor]*,³⁶ the Supreme Court held that, although Section 229 refers to "payment of the tax," the two-year period may, depending upon the nature of the tax involved, commence from the filing of the **adjusted final tax return**, because it is only upon the filing of such return that the taxpayer's correct tax liability can finally be determined. Thus:

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. (Emphasis supplied, citations omitted)

More recently, in *Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue (Melco Resorts)*,³⁷ the Supreme Court reaffirmed the foregoing doctrine. While

³⁶ 851 Phil. 1078 (2019) [Per J. Reyes, J., Jr., Second Division].

³⁷ G.R. No. 271261, April 2, 2025 [Per J. Hernando, First Division].

DECISION

CTA EB Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 19 of 22

x-----x

reiterating the general rule that refund claims under Sections 204(C) and 229 must be filed within two years from the payment of the tax sought to be refunded, the Supreme Court likewise recognized that jurisprudence reckons the commencement of the prescriptive period from the filing of the return that finally determines the taxpayer's liability where the applicable tax regime so requires:

We emphasize that the two-year prescriptive period under Section 229 of the Tax Code is reckoned from the actual payment of tax or penalty sought to be refunded, regardless of the existence of any supervening cause after payment. Thus, the Court declared and emphasized in *Manila Peninsula Hotel, Inc.* that both administrative and judicial claims must be filed within the two year period commencing on payment of the tax:

. . . .

In addition to such interpretation, the Court has also ruled that the reckoning point of the two-year prescriptive period is the date of the filing of the adjusted final tax return.

. . . .

In the case of *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*, this Court settled the proper interpretation of the phrase "payment of taxes" under Section 229 to mean the date of the filing of the adjusted final tax return. ...

Thus, based on jurisprudence, the phrase "payment of taxes" under Section 204 (C) in relation to Section 229 of the Tax Code has been interpreted in two ways: (1) the actual payment of tax or penalty sought to be refunded, regardless of the existence of any supervening cause after payment; as well as (2) **the date of the filing of the adjusted final tax return.** (Emphasis supplied, citations omitted)

The rationale underlying *Univation Motor*, as reaffirmed in *Melco Resorts*, is equally applicable here.

Under RR No. 11-2018, the monthly remittances through BIR Form No. 0619-E are merely advance remittances. The withholding agent's actual quarterly liability is determined only upon the filing of BIR Form No. 1601-EQ, where all monthly remittances are consolidated, reconciled, and credited against the final quarterly tax due. Until such quarterly return is filed, the correct amount of creditable withholding tax cannot yet be definitively ascertained.

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DECISION

CTA EB Nos. 3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 20 of 22

x-----x

Accordingly, the two-year prescriptive period under Sections 204(C) and 229 of the NIRC of 1997, as amended, should be reckoned from the filing of the applicable quarterly withholding tax return (BIR Form No. 1601-EQ).

Thus, considering that the Quarterly Remittance Return of Creditable Income Taxes Withheld (Expanded) (BIR Form No. 1601-EQ) covering the first quarter of taxable year 2020, which included the January 2020 withholding taxes, was filed on **April 27, 2020**. Consequently, Melco had until **April 27, 2022** within which to file both its administrative and judicial claims for refund with respect to the January 2020 EWT remittance.

Since Melco filed its administrative claim on **March 8, 2022** and its Petition for Review before the Court of Tax Appeals on **March 11, 2022**, both claims were seasonably filed.

Considering the foregoing, Melco is entitled to the refund of its January 2020 EWT remittance in the amount of **₱8,523,996.84**, in addition to the amount already found refundable by the Court in Division.

WHEREFORE, premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue in CTA EB No. 3228 is **DENIED**, for lack of merit.

On the other hand, the *Petition for Review* filed by Melco Resorts Leisure (PHP) Corporation in CTA EB No. 3232, is **GRANTED**. Accordingly, the assailed *Decision* dated April 24, 2025 is hereby **AMENDED** to read, as follows:

ACCORDINGLY, the present *Petition for Review* filed on March 11, 2022, is **GRANTED**. Respondent CIR is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** for the amount of **₱102,337,628.70** in favor of petitioner.

SO ORDERED.

SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

DECISION

CTA *EB* Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco

Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 21 of 22

x-----x

WE CONCUR:



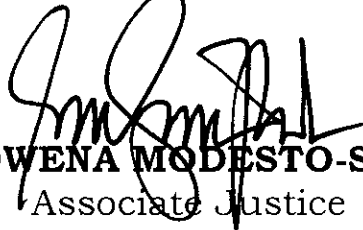
MA. BELEN M. RINGPIS-LIBAN

Presiding Justice



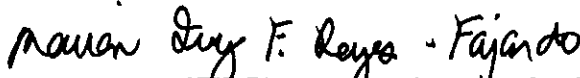
JEAN MARIE A. BACORRO-VILLENA

Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice



MARIAN IVY F. REYES-FAJARDO

Associate Justice



CORAZON G. FERRER-FLORES

Associate Justice



HENRY S. ANGELES

Associate Justice



PAOLO S. TESTON

Associate Justice



DEBBIE JEAN I. CENTENO-DIJAMCO

Associate Justice

DECISION

CTA *EB* Nos.3228 & 3232 (CTA Case No. 10807)

Commissioner of Internal Revenue v. Melco Resorts Leisure (PHP) Corporation / Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue

Page 22 of 22

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the consolidated cases were assigned to the writer of the opinion of the Court.

By, Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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