

FIRST DIVISION

CTA CASE NO. 10251

Members:

- versus -

**DEL ROSARIO, P.J., Chairperson,
MANAHAN, and
REYES-FAJARDO, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

MAY 16 2022 11:14 am

X-----X

DECISION

DEL ROSARIO, P.J.:

Before the Court is a Petition for Review¹ filed by petitioner Premier Central, Inc. on January 30, 2020, seeking the refund of the amount of One Hundred Million Four Hundred Thirty-Nine Thousand Eight Hundred Five Pesos and Forty-Seven Centavos (P100,439,805.47), representing creditable withholding tax, interest, surcharge and compromise penalty remitted by petitioner Premier Central, Inc. to the Bureau of Internal Revenue on January 31, 2018 and March 16, 2018, in connection with its purchase of the Hilaga Property from the Tourism Infrastructure and Enterprise Zone Authority.

THE PARTIES

Petitioner Premier Central, Inc. is a domestic corporation organized and existing under Philippine laws, with principal office address at 10/F Mall of Asia Arena Annex Building, Coral Way corner J.W. Diokno Boulevard, Mall of Asia Complex, 1300 Pasay City.²

¹ CTA Docket Vol. I, pp. 6-98 (inclusive of annexes).

² I. Stipulation of Facts, par. 1, Joint Stipulation of Facts and Issues, CTA Docket Vol. II, p. 662; III. Admitted Facts and Stipulations of Facts, par. 1, Pre-Trial Order dated May 26, 2021, CTA Docket Vol. II, p. 686.

DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 2 of 15

Petitioner is engaged in the business of operating and maintaining shopping center spaces, amusement centers, movie and cinema theatres within the premises of shopping centers, as well as the management and operation of buildings for mixed-use purposes.³

Respondent Commissioner of Internal Revenue (CIR) is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), authorized to perform the duties of his office including, among others, the power to decide claims for refund of internal revenue taxes, fees or other charges, and penalties imposed in relation thereto, pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.⁴ Respondent holds office at the BIR National Office Building, Diliman, Quezon City, where he may be served with notices and legal processes.⁵

THE FACTS

The Tourism Infrastructure and Enterprise Zone Authority (TIEZA) is a body corporate that is under the supervision of the Secretary of the Department of Tourism (DOT). It is attached to the DOT for purposes of program and policy coordination.⁶

TIEZA is mandated to, among others, designate, regulate and supervise the Tourism Enterprise Zones (TEZs) established under Republic Act (R.A.) No. 9593 or The Tourism Act of 2009 as well as to develop, manage and supervise tourism infrastructure projects in the Philippines. It shall supervise and regulate the cultural, economic and environmentally sustainable development of TEZs toward the primary objective of encouraging investments therein.⁷

In 2014, TIEZA embarked on an Asset Privatization Program (APP) involving certain properties/lots owned by TIEZA. Based on the October 31, 2014 Terms of Reference for Interested Bidders (Terms of Reference),⁸ the APP was being undertaken by TIEZA to: (a) spur the re-development and optimize the value of its portfolio of assets; (b)

³ Parties, Petition for Review, CTA Docket Vol. I, p. 6.

⁴ I. Stipulation of Facts, par. 3, Joint Stipulation of Facts, CTA Docket Vol. II, p. 662; III. Admitted Facts and Stipulation of Facts, par. 3, Joint Stipulation of Facts, CTA Docket Vol. II, p. 686.

⁵ *Id.*

⁶ Section 63 of R.A. No. 9593.

⁷ Section 64 of R.A. No. 9593.

⁸ Exhibit "P-3", CTA Docket Vol. I, pp. 302 to 342.

DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 3 of 15

generate more economic activities, income and employment within the localities where the assets are located; and, (c) raise additional funds for TIEZA's plans, programs, and projects.⁹

On December 17, 2014, TIEZA conducted a public bidding of the following properties listed in the Terms of Reference:

- a) Agoo Playa Hotel Property located within the Agoo Tourism Complex, Barrio San Nicolas West, Municipality of Agoo, La Union;
- b) Hilaga Property situated in San Jose, San Fernando City, Pampanga;
- c) Matabungkay Property located near the Matabungkay beach area in the town of Lian, Batangas; and,
- d) Talisay Property situated in Barangays of Buco, Sampaloc, and Caloocan in Talisay City, Batangas.¹⁰

During the bidding, petitioner submitted a bid for the Hilaga Property which was covered by Transfer Certificate of Title (TCT) Nos. 297231-R and 376323-R.¹¹

After the completion of the procedures under the Terms of Reference, TIEZA declared petitioner as the winning bidder; and, the Hilaga Property was awarded to petitioner as confirmed by the Board of Directors of TIEZA in its Resolution No. R-06-03-15 dated March 6, 2015.¹²

Petitioner paid TIEZA the winning bid of ₱939,656,848, net of value-added tax, for the Hilaga Property. Thereafter, TIEZA executed a Deed of Absolute Sale dated May 4, 2015 in favor of petitioner.¹³

⁹ Page 10 of Exhibit "P-3", CTA Docket Vol. I, p. 313.

¹⁰ Pages 22 to 25 of Exhibit "P-3", CTA Docket Vol. I, pp. 325 to 328.

¹¹ Par. 6, Petition for Review, CTA Docket Vol. I, p. 9.

¹² Par. 7, Petition for Review, CTA Docket Vol. I, p. 10; Exhibits "P-4" and "P-4-a", CTA Docket Vol. I, pp. 343 to 346.

¹³ Par. 8, Petition for Review, CTA Docket Vol. I, p. 11; Exhibit "P-5", CTA Docket Vol. I, pp. 347 to 351.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 4 of 15

On 5 June 2015, petitioner paid the documentary stamp tax due on its purchase of the Hilaga Property amounting to ₱14,094,855.00.¹⁴

Petitioner did not subject to creditable withholding tax the purchase price of the Hilaga Property as petitioner believed that TIEZA is exempt from payment of corporate income tax under Section 74 of R.A. No. 9593.¹⁵

When petitioner applied for the issuance of the Certificates Authorizing Registration (CARs), the BIR directed petitioner to withhold and remit the creditable withholding tax equivalent to 6% of the ₱939,656,848.00 purchase price or a total basic creditable withholding tax of ₱56,379,410.88, plus interest, surcharge and compromise penalty.¹⁶

In view of the BIR's directive, and to avoid undue delay in the issuance of the CARs and transfer of title over the Hilaga Property to petitioner, petitioner was allegedly constrained to remit to the BIR the total amount of ₱100,439,805.47, as follows:

- (i) ₱71,875,824.82 – remitted on January 31, 2018, consisting of creditable withholding tax, interest and compromise penalty;¹⁷ and,
- (ii) ₱28,563,980.65 – remitted on March 16, 2018, consisting of creditable withholding tax, interest, surcharge and compromise penalty.¹⁸

After remitting to the BIR the total amount of ₱100,439,805.47 in compliance with the BIR's directive, petitioner was issued the corresponding CARs on its purchase of the Hilaga Property from TIEZA¹⁹ and Transfer Certificate of Title Nos. 042-2019010364²⁰ and 042-2019010365²¹ were consequently issued in its name.

Claiming that the BIR's directive to remit the 6% creditable withholding tax was erroneous and illegal, as TIEZA is exempt from

¹⁴ Exhibits "P-6" and "P-6-a", CTA Docket Vol. I, pp. 352 to 353.

¹⁵ Par. 10, Petition for Review, CTA Docket Vol. I, p. 11.

¹⁶ Par. 11, Petition for Review, CTA Docket Vol. I, p. 11.

¹⁷ Exhibits "P-7", "P-7-a" and "P-9", CTA Docket Vol. I, pp. 354 to 355, 358.

¹⁸ Exhibits "P-8", "P-8-a" and "P-9", CTA Docket Vol. I, pp. 356 to 358.

¹⁹ Exhibits "P-10" and "P-11", CTA Docket, Vol. I, pp. 359 to 360.

²⁰ Exhibit "P-12", CTA Docket Vol. I, pp. 361 to 364.

²¹ Exhibit "P-13", CTA Docket Vol. I, pp. 365 to 368.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 5 of 15

payment of corporate income tax, petitioner filed with the BIR Revenue District Office No. 21 B an administrative claim for refund on July 2, 2019, praying for the refund of the amount of ₱100,439,805.47.²²

As respondent has not rendered a decision on petitioner's administrative claim for refund and considering that the two (2)-year prescriptive period under Section 209, in relation to Section 204, of the NIRC of 1997, as amended, was about to lapse, petitioner was constrained to file the present Petition for Review on January 30, 2020.²³

Summonses were served upon respondent on February 18, 2020 and the Office of the Solicitor General on February 17, 2020.²⁴

On March 3, 2020, respondent filed a Motion for Additional Time to File Answer²⁵ praying for an additional period of thirty (30) days from March 4, 2020, or until April 3, 2020, within which to file his Answer. Respondent's Motion for Additional Time to File Answer was granted by the Court in the Order dated March 6, 2020.²⁶

On July 24, 2020, the Court's Judicial Records Division issued a Records Verification stating that respondent failed to file his Answer per Order dated March 6, 2020.²⁷

On September 1, 2020, the Court issued a Resolution giving petitioner a period of five (5) days from receipt thereof to indicate its interest to continue with the case and to file the appropriate motion.²⁸

On September 10, 2020, petitioner filed a Motion to Declare Respondent in Default.²⁹

On September 14, 2020, respondent filed a Motion for Leave to Admit Attached Answer, attaching thereto his Answer dated September 14, 2020.³⁰

²² Exhibit "P-14", CTA Docket Vol. I, pp. 369 to 374.

²³ Par. 17, Petition for Review, CTA Docket Vol. I, p. 12.

²⁴ CTA Docket Vol. I, pp. 99, 105.

²⁵ CTA Docket Vol. I, pp. 101 to 104.

²⁶ CTA Docket Vol. I, p. 106.

²⁷ CTA Docket Vol. I, p. 107.

²⁸ CTA Docket Vol. I, pp. 110 to 111.

²⁹ CTA Docket Vol. I, pp. 112 to 116.

³⁰ CTA Docket Vol. I, pp. 117 to 127.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 10251
Page 6 of 15

In the Resolution dated September 28, 2020, the Court denied petitioner's Motion to Declare Respondent in Default, and granted respondent's Motion for Leave to Admit Attached Answer.³¹

In his Answer, respondent raised the following Special and Affirmative Defenses: (i) petitioner failed to comply with the requirements for refund of creditable withholding tax; (ii) petitioner is not exempt from payment of withholding tax under Section 74 of R.A. No. 9593; and, (iii) claims for refund are construed strictly against the taxpayer and in favor of the government.³²

On October 12, 2020, the Court issued a Notice of Pre-Trial Conference and set the Pre-Trial on December 3, 2020 at 9:00 a.m.³³ For lack of quorum, the Pre-Trial set on December 3, 2020 was cancelled and reset to March 4, 2021 at 9:00 a.m.³⁴

On November 27, 2020, petitioner's Pre-Trial Brief³⁵ and respondent's Pre-Trial Brief³⁶ were filed.

During the March 4, 2021 Pre-Trial, the parties were directed to submit their Joint Stipulation of Facts and Issues within twenty (20) days from March 4, 2021 or until March 24, 2021.³⁷ The parties submitted their Joint Stipulation of Facts and Issues on March 24, 2021.³⁸

On April 29, 2021, the Court issued a Resolution approving the parties' Joint Stipulation of Facts and Issues, terminating Pre-Trial and setting the initial presentation of petitioner's evidence on May 6, 2021 at 9:00 a.m.³⁹

On May 26, 2021, the Court issued a Pre-Trial Order.⁴⁰

³¹ CTA Docket Vol. I, pp. 130 to 132.

³² Answer, CTA Docket Vol. I, pp. 123 to 126.

³³ CTA Docket Vol. I, pp. 133 to 138.

³⁴ Order dated December 2, 2020, CTA Docket Vol. II, pp. 647 to 648.

³⁵ CTA Docket Vol. I, pp. 397 to 406.

³⁶ CTA Docket Vol. I, pp. 643 to 646.

³⁷ Order dated March 4, 2021, CTA Docket Vol. II, pp. 651 to 652.

³⁸ CTA Docket Vol. II, pp. 661 to 665.

³⁹ CTA Docket Vol. II, p. 672.

⁴⁰ CTA Docket Vol. II, pp. 683 to 689.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 10251
Page 7 of 15

Meanwhile, during the May 6, 2021 hearing, petitioner presented its sole witness, Atty. David P. Tan, Jr. who testified by way of Judicial Affidavit.⁴¹ Atty. Tan also identified and authenticated petitioner's exhibits, consisting of Exhibits "P-1" to "P-15".⁴²

On June 17, 2021, petitioner filed its Formal Offer of Documentary Evidence.⁴³ In the Resolution dated November 3, 2021,⁴⁴ the Court admitted in evidence petitioner's Exhibits "P-1" to "P-16-a", *sans* respondent's comment despite due notice. Since respondent failed to notify the Court on whether he would be presenting evidence, the Court directed the parties to submit their respective memoranda within thirty (30) days from receipt of the November 3, 2021 Resolution.⁴⁵

On December 21, 2021, petitioner filed its Memorandum.⁴⁶

The case was submitted for decision in the Resolution dated February 28, 2022, taking into consideration petitioner's Memorandum, *sans* respondent's Memorandum as per Records Verification dated February 9, 2022.⁴⁷

Hence, this decision.

THE ISSUE

The issue for consideration of the Court, as stipulated by the parties, is:

"Whether petitioner is entitled to the refund of ₱100,439,805.47 creditable withholding taxes including interest, surcharge and compromise penalty, erroneously assessed and collected by respondent."⁴⁸

⁴¹ Exhibit "P-16", CTA Docket Vol. I, pp. 147 to 160.

⁴² Order dated May 6, 2021, CTA Docket Vol. I, pp. 673 to 674.

⁴³ CTA Docket Vol. II, pp. 915 to 930.

⁴⁴ CTA Docket Vol. II, pp. 940 to 941.

⁴⁵ *Id.*

⁴⁶ CTA Docket Vol. II, pp. 942 to 960.

⁴⁷ CTA Docket Vol. II, p. 963.

⁴⁸ Petition for Review, CTA Docket Vol. I, p. 12.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 10251
Page 8 of 15

THE PARTIES' ARGUMENTS

Petitioner avers that it has shown compliance with all the requisites to be entitled to its claim for refund. Petitioner posits that its administrative and judicial claims for refund were filed within the two (2)-year period prescribed under Sections 204 and 229 of the NIRC of 1997, as amended. Further, petitioner argues that since TIEZA is exempt from income tax under Section 74 of R.A. No. 9593, it was erroneous for respondent to have assessed and collected from petitioner creditable withholding tax, interest, surcharge and compromise penalty on petitioner's acquisition of the Hilaga Property from TIEZA.⁴⁹

In arguing that petitioner is not entitled to the refund sought, respondent contends that petitioner failed to comply with the requirements for refund of creditable withholding tax; petitioner is not exempt from payment of withholding tax under Section 74 of R.A. No. 9593; and, claims for refund are construed strictly against the taxpayer and in favor of the government.⁵⁰

THE COURT'S RULING

Timeliness of the administrative and judicial claim for refund

Before delving into the merits of petitioner's claim for refund, the Court shall determine the timeliness of the filing of petitioner's administrative and judicial claims.

Sections 204(C) and 229 of the NIRC of 1997, as amended, provide for the period within which a claim for refund of internal revenue taxes which are erroneously, illegally and wrongfully collected must be filed. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund,⁵¹ viz.:

"SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. – The Commissioner may-

⁴⁹ Memorandum, CTA Docket Vol. II, pp. 950 to 959.

⁵⁰ Answer, CTA Docket Vol. I, pp. 123 to 126.

⁵¹ Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.), G.R. No. 231581, April 10, 2019. 

DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 9 of 15

xxx xxx xxx

(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, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.*** (Boldfacing supplied)

"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, **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, That the Commissioner may, even without a written claim therefore, 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.* (Boldfacing supplied)

Pursuant to the aforequoted provisions, to be entitled to a refund of erroneously or illegally collected tax, the following requisites must be complied with:

1. The administrative and judicial claims for refund or credit has been filed within two (2) years from the date of payment of tax, or penalty, regardless of any supervening cause that may arise after payment; and,
2. The tax has been erroneously or illegally collected, or the penalty has been collected without authority, and/or any sum has been excessively or in any manner wrongfully collected.

The Supreme Court has consistently ruled that a claim for refund or credit with the BIR and the subsequent appeal to this Court must be



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 10 of 15

filed within two (2) years from the date of payment of the tax⁵² and that the judicial claim may not be maintained until a claim for refund or credit has been duly filed with the CIR.⁵³

In the present case, petitioner remitted to the BIR the total amount of ₱100,439,805.47, as follows:

- (iii) ₱71,875,824.82 – remitted on January 31, 2018, consisting of creditable withholding tax, interest and compromise penalty;⁵⁴ and,
- (iv) ₱28,563,980.65 – remitted on March 16, 2018, consisting of creditable withholding tax, interest, surcharge and compromise penalty.⁵⁵

Clearly, the filing of its administrative claim for refund on July 2, 2019⁵⁶ and the present Petition for Review on January 30, 2020⁵⁷ were both done within the two (2)-year prescriptive period, reckoned from the dates when the creditable withholding tax, interest, surcharge and compromise penalty were remitted to the BIR. The first requisite having been complied with, the Court has accordingly acquired jurisdiction to take cognizance of the present case.

The creditable withholding tax, interest, surcharge and compromise penalty were erroneously or illegally remitted to the BIR

Petitioner anchored its claim for refund of creditable withholding tax, interest, surcharge and compromise penalty arising from its acquisition of the Hilaga Property from TIEZA on Section 74 of R.A. No. 9593.

⁵² CBK Power Company Limited vs. Commissioner of Internal Revenue, G.R. Nos. 193383-84, January 14, 2015 and Commissioner of Internal Revenue vs. CBK Power Company Limited, G.R. Nos. 193407-08, January 14, 2015.

⁵³ Commissioner of Internal Revenue vs. Goodyear Philippines, Inc., G.R. No. 216130, August 3, 2016.

⁵⁴ Exhibits "P-7", "P-7-a" and "P-9", CTA Docket Vol. I, pp. 354 to 355, 358.

⁵⁵ Exhibits "P-8", "P-8-a" and "P-9", CTA Docket Vol. I, pp. 356 to 358.

⁵⁶ Exhibit "P-14", CTA Docket Vol. I, pp. 369 to 374.

⁵⁷ Par. 17, Petition for Review, CTA Docket Vol. I, p. 12.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 10251
Page 11 of 15

On the other hand, respondent asserts that Section 74 of R.A. No. 9593 does not preclude petitioner from withholding and remitting creditable withholding tax in relation to the sale by TIEZA of its Hilaga Property.

Section 74 of R.A. No. 9593 explicitly provides:

“SECTION 74. Exemption from Payment of Corporate Income Tax. — Notwithstanding any provision of existing laws, decrees, executive orders to the contrary, the **TIEZA shall be exempt from the payment of corporate income tax, as provided under the NIRC.**”
(*Boldfacing supplied*)

Relatedly, Section 67, Chapter IV, Rule IV of the Implementing Rules and Regulations (IRR) of R.A. No. 9593 states:

“SECTION 67. Exemption from Payment of Corporate Income Tax and Other Taxes. —

Notwithstanding any provisions of existing laws, decrees, or executive orders to the contrary, the TIEZA shall be exempt from the payment of corporate income tax as provided under the National Internal Revenue Code (NIRC).”

Clearly, petitioner is not obliged to pay corporate income tax under Section 74 of RA No. 9593, as implemented by Section 67, Chapter IV, Rule IV of the Implementing Rules and Regulations (IRR).

In granting corporate income tax exemption to TIEZA, the law and its IRR make no distinction as to whether TIEZA's income was derived from governmental or proprietary activities. Thus, all income derived by TIEZA, including the income derived from the sale of the Hilaga Property, is exempt from corporate income.

Ubi lex non distinguit nec nos distinguere debemus. Basic is the rule in statutory construction that where the law does not distinguish, the courts should not distinguish.⁵⁸ Where the law is free from ambiguity, the court may not introduce exceptions or conditions where none is provided from considerations of convenience, public welfare, or for any laudable purpose; neither may it engraft into the law qualifications not contemplated.⁵⁹

⁵⁸ La Suerte Cigar and Cigarette Factory et al. vs. Court of Tax Appeals et al., G.R. No. L-36130, January 17, 1985.

⁵⁹ Rey Nathaniel C. Ifurung vs. Hon. Conchita C. Carpio Morales in her capacity as the Ombudsman, et al., G.R. No. 232131, April 24, 2018.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 12 of 15

Considering that TIEZA is exempt from corporate income tax, petitioner, as the buyer of the Hilaga Property, is not obliged to withhold creditable withholding tax on the purchase price of the Hilaga Property, pursuant to Section 2.57.5 of Revenue Regulations (RR) No. 2-98, as amended, which provides:

“SECTION 2.57.5. *Exemption from Withholding.* — The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following:

(A) National government and its instrumentalities, including provincial, city or municipal governments;

(B) Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, xxx:

Xxx xxx xxx.”

It was, therefore, erroneous and illegal for the BIR to have required petitioner to withhold and remit creditable withholding tax equivalent to 6% of the purchase price of the Hilaga Property, plus interest, surcharge and compromise penalty. Thus, the claimed amount of ₱100,439,805.47 constitutes erroneously or illegally withheld and remitted creditable withholding tax, interest, surcharge and compromise penalty, which is refundable under Sections 204 and 229 of the NIRC of 1997, as amended.

Petitioner's claim for refund was duly substantiated

To prove the remittance to the BIR of the erroneously or illegally collected creditable withholding tax, interest, surcharge and compromise penalty, petitioner offered in evidence the following documents:

1. Withholding Tax Remittance Return dated January 31, 2018 and its corresponding bank payment slip,⁶⁰ evidencing remittance to the BIR of the total amount of ₱71,875.824.82, broken down as follows: (i) creditable withholding tax in the amount of ₱46,982,842.40; (ii) interest of ₱24,842,982.42; and, (iii) compromise penalty of ₱50,000.00;

⁶⁰ Exhibits “P-7” and “P-7-a”, CTA Docket Vol. I, pp. 354 to 355.



DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

CTA Case No. 10251

Page 13 of 15

2. Withholding Tax Remittance Return dated March 16, 2018 and its corresponding bank payment slip,⁶¹ evidencing additional remittance to the BIR of the total amount of ₱28,563,980.65, consisting of creditable withholding tax, surcharge, interest and compromise penalty; and,
3. BIR's Certification dated February 13, 2020,⁶² certifying that petitioner have "filed the tax return/s and paid the corresponding tax due/s for taxable year 2018," to wit:

Tax Type	BCS Number	Amount
WO	A-00115	₱ 71,875,824.82
WO	A-00112	₱ 28,563,890.65
TOTAL		₱ 100,439,805.47

Evidently, petitioner has sufficiently proven that it is entitled to a refund in the total amount of ₱100,439,805.47 representing the erroneously or illegally withheld and remitted creditable withholding tax, interest, surcharge and compromise penalty, on January 31, 2018 and March 16, 2018, in connection with its purchase from TIEZA of the Hilaga Property as evidenced by the Deed of Absolute Sale dated May 4, 2015⁶³ issued by TIEZA in favor of petitioner.

Anent respondent's contention that petitioner must prove its compliance with the following requisites: (i) the income from which the tax was withheld was included as part of the gross income; and, (ii) the fact of withholding must be evidenced by a copy of the statement duly issued by the payor to the payee, the Court finds the same inapplicable in this case.

The foregoing requirements are vital only for claims for refund of excess income tax payments or excess creditable withholding tax under Section 76 of the NIRC of 1997, as amended, and not to a claim for refund of creditable withholding tax which should not have been remitted to the BIR in the first place.

Taxes are the lifeblood of the government. Yet, if the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess/erroneous payments. When it is undisputed that a taxpayer is

⁶¹ Exhibits "P-8" and "P-8-a", CTA Docket Vol. II, pp. 356 to 357.

⁶² Exhibit "P-9", CTA Docket Vol. I, p. 358.

⁶³ Exhibit "P-5", CTA Docket Vol. I, pp. 357 to 351.

DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 10251
Page 14 of 15

entitled to a refund, the State should not invoke technicalities to keep money not belonging to it. No one, not even the State, should enrich oneself at the expense of another.⁶⁴

Having established the legal basis for the grant of the refund sought and having duly substantiated the remittance to the BIR of the amount of ₱100,439,805.47, representing creditable withholding tax, interest, surcharge and compromise penalty in connection with its purchase of the Hilaga Property from the Tourism Infrastructure and Enterprise Zone Authority, petitioner is entitled to the grant of its claim for refund.

WHEREFORE, premises considered, the present Petition for Review is **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** to petitioner Premier Central, Inc. the total amount of One Hundred Million Four Hundred Thirty-Nine Thousand Eight Hundred Five Pesos and Forty-Seven Centavos (₱100,439,805.47), representing creditable withholding tax, interest, surcharge and compromise penalty remitted by petitioner Premier Central, Inc. to the Bureau of Internal Revenue on January 31, 2018 and March 16, 2018, in connection with its purchase of the Hilaga Property from the Tourism Infrastructure and Enterprise Zone Authority.

SO ORDERED.


ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:


CATHERINE T. MANAHAN
Associate Justice

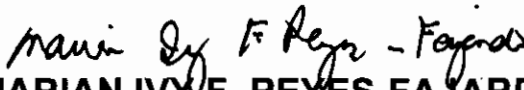
⁶⁴ BPI-Family Savings Bank, Inc. vs. Court of Appeals, G.R. No. 122480, April 12, 2000, 330 SCRA 507.

DECISION

Premier Central, Inc. vs. Commissioner of Internal Revenue

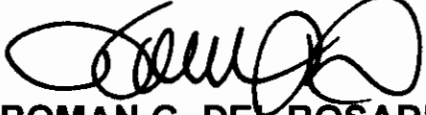
CTA Case No. 10251

Page 15 of 15


MARIAN IVY F. REYES-FAJARDO
Associate Justice

CERTIFICATION

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


ROMAN G. DEL ROSARIO
Presiding Justice