

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

GIC PRIVATE LIMITED
(FORMERLY, GOVERNMENT
OF SINGAPORE INVESTMENT
CORPORATION PRIVATE
LIMITED),

Petitioner,

-versus-

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10017

Members:

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

Promulgated:

MAY 11 2022 2:20 pm

x-----x

DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review filed by petitioner GIC Private Limited (formerly, Government of Singapore Investment Corporation Private Limited) on January 30, 2019, claiming for refund of the amount of ₱26,501,812.50, representing the alleged final withholding taxes (FWT) erroneously withheld on its interest income derived from its investments in Philippine Treasury Bonds (T-Bonds) for the period January 2017 to October 2018.

THE PARTIES

Petitioner GIC Private Limited (formerly known as Government of Singapore Investment Corporation Private Limited) is a non-resident foreign corporation duly organized and existing under the laws of Singapore, with principal place of business at 168 Robinson Road, #37-01 Capital Tower, Singapore 068912.¹ It is wholly-owned by the Government of Singapore.² It is not registered as a corporation or

¹ Joint Stipulation of Facts and Issues (JSFI), Stipulated Facts, par. 3, CTA Docket Vol. I, p. 395.

² JSFI, Stipulated Facts, par. 5, CTA Docket, p. 395.



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partnership with the Philippines Securities and Exchange Commission (SEC), and it is not engaged in trade or business in the Philippines.³

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (CIR), vested with authority, among others, to act upon and approve claims for refund or tax credit of overpaid or erroneously paid internal revenue taxes, including final income tax withheld on interest income received by non-residents. He holds office at the 5th Floor, Bureau of Internal Revenue (BIR) National Office Building, Agham Road, Diliman, Quezon City, where he may be served with summons and other legal processes of the Court.⁴

THE FACTS

On May 20, 1999, petitioner entered into a Direct Custodial Services Agreement with Citibank, N.A., Subsidiaries and Affiliates,⁵ where the latter agreed to accept for custody property of the former, like securities, and cash in any currency for deposit.⁶

Petitioner had cash and other assets in the Philippines, including its investments in T-Bonds under the custody of Citibank, N.A.⁷ Part of Citibank's responsibilities was to collect and receive dividends and interest income arising from securities investments of petitioner.⁸ Anent petitioner's investments in T-Bonds, the yield was represented by "*coupons*" expressed as a percentage of the face value on a per annum basis, payable on a periodic basis.⁹

For the period January 2017 to October 2018, the gross coupon entitlement of petitioner from its T-Bonds was ₱132,509,062.50, and the FWT thereon was ₱26,501,812.50, and the net coupon entitlement of petitioner was ₱106,007,250.00.¹⁰ The FWT on the interest income derived by petitioner on its investments in T-Bonds for the said period was withheld and remitted to the BIR by the Bureau of Treasury (BTr).¹¹

³ JSFI, Stipulated Facts, par. 7, CTA Docket Vol. I, p. 395.

⁴ JSFI, Stipulated Facts, par. 2, CTA Docket Vol. I, p. 395.

⁵ Exhibit "P-8-a"; CTA Docket Vol. II, pp. 650-670.

⁶ *Id.*, at p. 654.

⁷ JSFI, Stipulated Facts, par. 8, CTA Docket Vol. I, p. 395.

⁸ Sworn Statement of Ms. Rachel Oliveros to Questions Propounded by Atty. Patricia Nicole Y. Acido, Exhibit "P-17", CTA Docket Vol. I, pp. 241-263, 242.

⁹ *Id.*, at p. 244.

¹⁰ *Id.*, at p. 250.

¹¹ JSFI, Stipulated Facts, par. 10, CTA Docket Vol. I, p. 396.



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Claiming exemption from income tax on income derived from its investments in T-Bonds pursuant to Section 32(B)(7)(a) of the National Internal Revenue Code (NIRC) of 1997, as amended, petitioner filed on December 28, 2018 two applications for refund (*administrative claims*) with the BIR claiming for refund in the amounts of ₱9,330,375.00 and ₱17,171,437.50, representing FWT on the interest income derived on its investments in T-Bonds for the periods of January 2017 to October 2017, and January 2018 to October 2018, respectively,¹² or a total [claimed] refundable amount of ₱26,501,812.50.¹³

Due to the alleged inaction by respondent on its administrative claims, and in order to preserve its right to judicially claim a refund,¹⁴ petitioner filed the present Petition for Review on January 30, 2019.¹⁵

Within the extended period,¹⁶ respondent filed his Answer on June 3, 2019,¹⁷ interposing the following Special and Affirmative Defenses:

1. A claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund;
2. Tax refunds, like tax exemptions, are construed strictly against the taxpayer and liberally in favor of the government; and,
3. As tax refunds involve a return of revenue from the government, the claimant must show indubitably the specific provision of law from which her right arises; it cannot be allowed to exist upon a mere vague implication or inference nor can it be extended beyond the ordinary and reasonable intendment of the language actually used by the legislature in granting the refund.

Respondent's Pre-Trial Brief was filed on July 23, 2019,¹⁸ while Petitioner's Pre-Trial Brief was filed on September 9, 2019.¹⁹

¹² JSFI, Stipulated Facts, par. 11, CTA Docket Vol. I, p. 396; Exhibits "P-13-a" and "P-13-b", CTA Docket Vol. II, pp. 719-725, and 726-732.

¹³ JSFI, Stipulated Facts, par. 12, CTA Docket Vol. I, p. 396.

¹⁴ Par. 15, Petition for Review, CTA Docket Vol. I, p. 14.

¹⁵ Petition for Review, CTA Docket Vol. I, pp. 10-19.

¹⁶ April 12, 2019 Order and May 14, 2019 Resolution; CTA Docket Vol. I, pp. 103 and 110.

¹⁷ CTA Docket, Vol. I, pp. 111-113.

¹⁸ CTA Docket, Vol. I, pp. 131-133.

¹⁹ CTA Docket, Vol. I, pp. 146-161.

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The Pre-trial proceeded on October 24, 2019 where both parties agreed to submit their Joint Stipulation of Facts and Issues (JSFI),²⁰ which they submitted on November 13, 2019.²¹ The said JSFI was approved in the Resolution dated November 21, 2019.²² The Pre-Trial Order was issued on January 20, 2020.²³

During trial, only petitioner presented its documentary and testimonial evidence. It presented as witnesses Ms. Rachel Oliveros, Manager of the Securities Services Operations of Citibank N.A., Philippine Branch,²⁴ and Atty. Khersien Y. Bautista, Associate at Salvador Llanillo & Bernardo.²⁵

Petitioner filed its Formal Offer of Evidence on December 11, 2020,²⁶ without respondent's comment per Records Verification dated January 12, 2021.²⁷ Petitioner's offered exhibits were admitted in the Resolution dated February 23, 2021,²⁸ except Exhibit "P-7" which was denied for petitioner's failure to have it identified. In the same Resolution, the parties were ordered to submit their respective memoranda.

Petitioner filed its Memorandum on June 14, 2021,²⁹ while respondent failed to file his memorandum as per Records Verification dated June 18, 2021.³⁰

The present case was submitted for decision on July 7, 2021.³¹

²⁰ CTA Docket, Vol. I, pp. 386-392.

²¹ CTA Docket, Vol. I, pp. 394-407.

²² CTA Docket, Vol. I, p. 410.

²³ CTA Docket, Vol. I, pp. 421-429.

²⁴ Sworn Statement of Ms. Rachel Oliveros to Questions Propounded by Atty. Patricia Nicole Y. Acido, dated October 22, 2019, Exhibit "P-17", CTA Docket, Vol. I, pp. 241-263; Minutes of hearing and Order dated February 4, 2020, CTA Docket Vol. I, pp. 458-461;

²⁵ Sworn Statement of Atty. Khersien Y. Bautista to Questions Propounded by Atty. Patricia Nicole Y. Acido dated October 17, 2019, Exhibit "P-16", CTA Docket, Vol. I, pp. 169-176; Minutes of hearing and Order dated November 3, 2020, CTA Docket Vol. I, pp. 509-514.

²⁶ CTA Docket, Vol. I, pp. 527-555.

²⁷ CTA Docket, Vol. II, p. 746.

²⁸ CTA Docket, Vol. II, pp. 752-753.

²⁹ CTA Docket, Vol. II, pp. 754-779.

³⁰ CTA Docket, Vol. II, p. 781.

³¹ CTA Docket, Vol. II, p. 783.

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THE ISSUE

The main issue to be resolved in this case is whether or not petitioner is entitled to a refund in the amount of ₱26,501,812.50, representing the FWT withheld on the interest income derived by petitioner during the period January 2017 to October 2018 from its investments in T-Bonds.³²

PARTIES' ARGUMENTS

Petitioner advances the following arguments:

1. The interest income received by petitioner from its investment in Philippine T-Bonds is exempt from income tax and from FWT;
2. Petitioner derived interest income in the gross amount of ₱132,509,062.50 from its investments in Philippine T-Bonds for the period January 2017 to October 2018;
3. The interest income derived by petitioner from its investments in Philippine T-Bonds for the period January 2017 to October 2018 was subjected to FWT at the rate of 20%;
4. The FWT on petitioner's interest income from Philippine T-Bonds for the period January 2017 to October 2018, amounting to ₱26,501,812.50 was remitted and paid to the BIR; and,
5. Petitioner's administrative and judicial claims for refund or issuance of a Tax Credit Certificate (TCC) were filed within the two (2)-year prescriptive period provided under Sections 204(C) and 229 of the NIRC of 1997, as amended.³³

Respondent counter-argues that:

1. A claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund;
2. Tax refunds, like tax exemptions, are construed strictly against the taxpayer and liberally in favor of the government; and,
3. As tax refunds involve a return of revenue from the government, the claimant must show indubitably the specific provision of law from which her right arises; it cannot be allowed to exist upon a mere vague implication or inference nor can it be extended beyond the ordinary and reasonable intendment of the language actually used by the legislature in granting the refund.³⁴

³² JSFI, Stipulated Issue, par. 13, CTA Docket, Vol. I, p. 396.

³³ Petitioner's Memorandum, CTA Docket, Vol. II, pp. 754-779.

³⁴ Respondent's Answer, CTA Docket, Vol. I, pp. 111-113.

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THE RULING OF THE COURT

***Court has jurisdiction
over the case***

The present Petition for Review was filed by petitioner on January 30, 2019 due to the alleged inaction of respondent on its administrative claims for refund filed on December 28, 2018 and to preserve its right to judicially claim a refund. Clearly, this case falls within the exclusive appellate jurisdiction of this Court pursuant to Section 7(a)(2)³⁵ of Republic Act (R.A.) No. 1125,³⁶ as amended by R.A. No. 9282,³⁷ in relation to Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended,³⁸ as this case involves the review of the inaction of respondent on petitioner's

³⁵Sec. 7. Jurisdiction. - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxx

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial[.]

³⁶ An Act Creating the Court of Tax Appeals.

³⁷ An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court With Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes.

³⁸ SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following: xxx
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; Provided, further, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and Provided, still further, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code[.]

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claims for refund. Thus, the Court has jurisdiction to take cognizance of the present case.

***Legal bases of
petitioner's exemption
from income tax, and
consequently, from FWT***

Petitioner anchors its claim on Section 32(B)(7)(a) of the NIRC of 1997, as amended, which grants income tax exemption on income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities by (a) foreign governments; (b) financing institutions owned, controlled, or enjoying refinancing or regional financial institutions established by foreign governments; and, (c) international or regional financial institutions established by foreign governments.

Petitioner contends that it is a financial institution wholly-owned and controlled by the Government of Singapore whose principal objective is to preserve and enhance the international purchasing power of the Republic of Singapore's reserves, and to open and operate custody and current accounts as may be necessary for the safekeeping of assets and cash under its management.³⁹

As a financing institution wholly-owned and controlled by the Government of Singapore, petitioner asserts exemption from the payment of Philippine income taxes on any income derived from investments in Philippine T-bonds, pursuant to Section 32(B)(7)(a) of the NIRC of 1997, as amended, and as implemented by Section 2.57.5 of Revenue Regulations (RR) No. 2-98.⁴⁰

Moreover, petitioner argues that since its interest income is exempt from income tax under Section 32(B)(7)(a) of the NIRC of 1997, as amended, the income received from its investments in T-bonds is likewise exempt from FWT pursuant to Section 2.57.5 of RR No. 2-98.

The Court grants the petition.

³⁹ Par. 2, Petition for Review, p. 11.

⁴⁰ Pars. 10-12, Petition for Review, pp. 13-14.



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Section 32(B)(7)(a) of the NIRC of 1997, as amended, provides:

“Sec. 32. *Gross Income.* –

xxx

xxx

xxx

(B) *Exclusions from Gross Income.* – The following items shall not be included in gross income and shall be exempt from taxation under this Title:

xxx

xxx

xxx

(7) *Miscellaneous Items.* –

(a) *Income Derived by Foreign Government.* – Income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by (i) foreign governments, (ii) **financing institutions owned, controlled, or enjoying refinancing or regional financial institutions established by foreign governments**, and (iii) international or regional financial institutions established by foreign governments.” (*Boldfacing supplied*)

In relation thereto, Section 2.57.5 of RR No. 2-98, as amended, 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:

xxx

xxx

xxx

(B) Persons enjoying exemption from payment of income taxes pursuant to the provision of any law, general or special, such as but not limited to the following:

xxx

xxx

xxx”

To be exempt from income tax and consequently, from FWT, on income received from investments in T-Bonds, petitioner must establish that it is a (1) foreign government, or (2) a financing institution owned, controlled, or enjoying refinancing or regional financial institutions established by foreign governments, or (3) an international or regional financial institution established by foreign governments.

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To prove that it is a financial institution wholly-owned by the Government of Singapore, petitioner submitted the following documents:

1. Memorandum and Articles of Association of GIC Private Limited (Formerly known as Government of Singapore Investment Corporation Private Limited) authenticated by Philippine Vice Consul to Singapore Laarni Zorayda S. Gandarosa;⁴¹
2. Certificate Confirming Incorporation of Company Under the New Name issued by Linda Lee, Assistant Registrar, Accounting and Corporate Regulatory Authority of Singapore, and authenticated by Vice Consul Laarni Zorayda S. Gandarosa;⁴²
3. Certification that petitioner is wholly-owned by the Government of the Republic of Singapore issued by Lim Zhi Jian, Director (Reserves and Investment), Singapore Ministry of Finance, and authenticated by Vice Consul Laarni Zorayda S. Gandarosa;⁴³
4. Certification of Non-Registration of Company issued by the SEC certifying that there is no registration of GIC Private Limited as a corporation or partnership in the Philippines;⁴⁴ and,
5. Certification of Non-Registration of Company issued by the SEC certifying that there is no registration of Government of Singapore Investment Corporation Private Limited as a corporation, partnership or one person corporation in the Philippines.⁴⁵

With these pieces of evidence, petitioner established the fact that it is a financial institution wholly-owned and controlled by the Government of the Republic of Singapore. Petitioner is therefore exempt from the payment of income tax, and consequently, the FWT on the interest income it derived from its investments in Philippine T-bonds pursuant to the provision of Section 32(B)(7)(a) of the NIRC of 1997, as amended, and as implemented by Section 2.57.5 of RR No. 2-98, as amended.

⁴¹ Exhibit "P-1", CTA Docket, Vol. II, pp. 556-587.

⁴² Exhibit "P-1-a", CTA Docket, Vol. II, pp. 588-591.

⁴³ Exhibit "P-2", CTA Docket, Vol. II, pp. 592-594.

⁴⁴ Exhibit "P-3", CTA Docket, Vol. II, p. 595.

⁴⁵ Exhibit "P-3-a", CTA Docket, Vol. II, p. 596.



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***Petitioner's entitlement
for refund or issuance
of TCC***

To be entitled to a refund of erroneously paid taxes, petitioner must comply with the requisites provided by law. In this regard, Sections 204(C) and 229 of the NIRC of 1997, as amended, provides:

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

(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.

x x x

x x x

x x x

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 therefor, 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."

Based on the afore-quoted provisions, a taxpayer must prove the following requisites to be entitled to a refund: (1) that 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; and (2) the claim for refund or credit must have been filed within two (2) years from the date of payment of tax, or



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penalty, regardless of any supervening cause that may arise after payment.

First Requisite: The tax has been erroneously or illegally collected

As aforesaid, pursuant to Section 32(B)(7)(a) of the NIRC of 1997, as amended, the interest income earned by petitioner from its investments in Philippine T-Bonds are exempt from income tax. Accordingly, the 20% final tax withheld from the interest income earned was erroneously or illegally collected by respondent.

To prove that petitioner erroneously paid the FWT on its interest income from Philippine T-Bonds, petitioner presented the following documents:

1. BTr's Statements of Taxes Withheld on the Coupon Due on the T-Bond Holdings of Citibank as Custodian for the periods January 01, 2017 to December 31, 2017 and January 01, 2018 to December 31, 2018;⁴⁶
2. BTr's Journal Entry Vouchers (JEVs) covering the withholding of final tax on coupons and the remittance of the FWTs to the BIR;⁴⁷
3. Certificates of Final Tax Withheld (BIR Forms No. 2306) issued by BTr in favor of Citibank covering FWT for the periods January 1, 2017 to December 31, 2017 and January 1, 2018 to December 31, 2018;⁴⁸
4. BIR Revenue Accounting Division Certification confirming the receipt of the FWTs on BTr's coupon payments to Citibank's ROSS Custodian Account specifically applicable to GIC for the period January 2017 to October 2018;⁴⁹ and,
5. Citibank's Entitlement Report for Petitioner for the period January 2017 to October 2018.⁵⁰

⁴⁶ Exhibits "P-4-a" to "P-4-c", inclusive of sub-markings, CTA Docket, Vol. II, pp. 597-609.

⁴⁷ Exhibits "P-5-a" to "P-5-l", inclusive of sub-markings, CTA Docket, Vol. II, pp. 610-645.

⁴⁸ Exhibits "P-6-a" to "P-6-b", CTA Docket, Vol. II, pp. 646-647.

⁴⁹ Exhibits "P-14", CTA Docket, Vol. II, pp. 733-734.

⁵⁰ As described in petitioner's Formal Offer of Evidence (CTA Docket, Vol. I, p. 542), while the actual document indicates the period January 2017 to November 2018 (Exhibit "P-9", CTA Docket, Vol. II, p. 683).

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The Statements of Taxes Withheld show the amounts of FWT on the interest due on the government securities recorded under the bank's custody accounts in the total amount of ₱1,067,505,441.61, broken down below:

ACCOUNT	PERIOD	EXHIBIT	FWT
CITIBANK, N.A., AS CUSTODIAN (Sub-Registry)	January 1, 2017 to December 31, 2017	P-4-a	₱239,081,140.41
CITIBANK, N.A., AS CUSTODIAN (RoSS)	January 1, 2017 to December 31, 2017	P-4-a	141,576,378.97
CITIBANK, N.A., AS CUSTODIAN (RoSS)	January 1, 2018 to August 27, 2018	P-4-b	23,255,538.47
CITIBANK, N.A., AS CUSTODIAN (Sub-Registry)	January 1, 2018 to August 27, 2018	P-4-b	444,460,776.75
CITIBANK N.A. AS CUSTODIAN	August 28, 2018 to December 31, 2018	P-4-c	219,131,607.01
Total FWT			₱1,067,505,441.61

Moreover, the Certificates of Final Tax Withheld (BIR Forms No. 2306) show the same amount of ₱1,067,505,441.61 as the total final taxes withheld on the interest payments made by the BTr to Citibank, as shown below:

ACCOUNT	PERIOD	EXHIBIT	FWT
CITIBANK, N.A., AS CUSTODIAN (Sub-Registry)	January 1, 2017 to December 31, 2017	P-6-a	₱239,081,140.41
CITIBANK, N.A., AS CUSTODIAN (RoSS)	January 1, 2017 to December 31, 2017	P-6-a	141,576,378.97
CITIBANK, N.A., AS CUSTODIAN (RoSS)	January 1, 2018 to December 31, 2018	P-6-b	23,255,538.47
CITIBANK, N.A., AS CUSTODIAN (Sub-Registry)	January 1, 2018 to December 31, 2018	P-6-b	444,460,776.75
CITIBANK N.A. AS CUSTODIAN (NRoSS)	January 1, 2018 to December 31, 2018	P-6-b	219,131,607.01
Total FWT			₱1,067,505,441.61

The foregoing withheld and remitted taxes amounting to a total of ₱1,067,505,441.61 pertain to all T-Bond Holdings of Citibank as custodian for its various clients, including petitioner's holdings.

Perusal of the Statements of Taxes Withheld reveals that all the withholding taxes in the amount of ₱1,067,505,441.61 were made on the T-Bond Holdings of Citibank. Upon closer scrutiny of the Statements, however, it is observed that there are numerous accounts with various International Security Identification Numbers (ISIN). Based on the GIC Entitlement Report, petitioner held only four (4) types of T-Bonds with the following ISINs and Security IDs during the period January 2017 to October 2018:

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	ISIN	SECURITY ID
1	PHY6972FFF28	PIBD1018A451
2	PHY6972FPV67	PIBD2031G171
3	PHY6972FSD33	PIBD2032B183
4	PHY6972FXZ89	PIBD0724D595

The amounts of coupons and final taxes shown in the BTr's Statements of Taxes Withheld are higher than the amounts shown in the GIC Entitlement Report because the amounts of coupons and taxes reported in the former are inclusive of all the T-Bond holdings of Citibank's clients under Citibank's ROSS Custody Account, while the amounts stated in the latter pertain exclusively to the coupon entitlements of petitioner.

Out of the ₱1,067,505,441.61, petitioner identified a total of ₱124,141,463.24 withholding taxes pertaining to the four ISINs. Out of the ₱124,141,463.24, only the amount of ₱26,501,812.50, broken down below, is claimed as pertaining to the final taxes erroneously withheld on the interests earned by petitioner:

ISIN	SECURITY ID	COUPON DATE	GROSS AMOUNT	WITHHOLDING TAX	NET AMOUNT
PHY6972FFF28	PIBD1018A451	31-Jan-17	₱ 2,482,187.50	₱ 496,437.50	₱ 1,985,750.00
PHY6972FFF28	PIBD1018A451	31-Jul-17	2,482,187.50	496,437.50	1,985,750.00
PHY6972FPV67	PIBD2031G171	19-Jul-17	32,000,000.00	6,400,000.00	25,600,000.00
PHY6972FSD33	PIBD2032B183	2-Aug-17	2,937,500.00	587,500.00	2,350,000.00
PHY6972FXZ89	PIBD0724D595	20-Oct-17	6,750,000.00	1,350,000.00	5,400,000.00
PHY6972FFF28	PIBD1018A451	31-Jan-18	2,482,187.50	496,437.50	1,985,750.00
PHY6972FPV67	PIBD2031G171	19-Jan-18	32,000,000.00	6,400,000.00	25,600,000.00
PHY6972FSD33	PIBD2032B183	2-Feb-18	2,937,500.00	587,500.00	2,350,000.00
PHY6972FXZ89	PIBD0724D595	20-Apr-18	6,750,000.00	1,350,000.00	5,400,000.00
PHY6972FPV67	PIBD2031G171	19-Jul-18	32,000,000.00	6,400,000.00	25,600,000.00
PHY6972FSD33	PIBD2032B183	2-Aug-18	2,937,500.00	587,500.00	2,350,000.00
PHY6972FXZ89	PIBD0724D595	22-Oct-18	6,750,000.00	1,350,000.00	5,400,000.00
Total			₱132,509,062.50	₱ 26,501,812.50	₱106,007,250.00

The ISINs of petitioner's investments in T-Bonds under the custody account of Citibank were included in the list of securities from which the BTr withheld the said FWTs. The withheld taxes from these ISINs were recorded by the BTr and eventually by the BIR in their respective books as evidenced by the following Journal Entry Vouchers:

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ISIN	BTr JEV NO.	DATE	BIR JEV NO.	DATE
PIBD1018A451	17-01-00902	1/31/17	2017-01-000235	1/31/17
PIBD1018A451	01-2017-07-0880	7/31/17	2017-07-001631	7/31/17
PIBD1018A451	01-2018-01-00761	1/31/18	2018-02-000299	2/26/18
PIBD2031G171	01-2017-07-526	7/20/17	2017-07-001631	7/31/17
PIBD2031G171	01-2018-01-00495	1/22/18	2018-02-000299	2/26/18
PIBD2031G171	01-2018-07-05354	7/20/18	2018-08-001590	8/14/18
PIBD2032B183	01-2017-08-07164	8/18/17	2017-08-001862	8/31/17
PIBD2032B183	01-2018-08-06035	8/10/18	2018-09-002102	9/28/18
PIBD2032B183	01-2018-02-01056	2/9/18	2018-03-000475	3/28/18
PIBD0724D595	01-2017-10-08802	10/20/17	2017-11-002504	11/29/17
PIBD0724D595	01-2018-04-02790	4/20/18	2018-05-000898	5/28/18
PIBD0724D595	01-2018-10-08451	10/31/18	2018-11-002535	11/16/18

The Citibank Entitlement Report for January 2017 to October 2018,⁵¹ together with the twelve (12) MT566 Confirmation Advice⁵² which represent the electronic SWIFT notice that petitioner received from Citibank after the interest payments were credited into petitioner's cash account,⁵³ shows that Citibank withheld the total amount of ₱26,501,812.50 from the interest payments due to petitioner.

To claim a refund, petitioner needs only to prove that taxes were withheld, which are deemed to be the full and final payment of the income tax due from the income earner or payee.⁵⁴

Proof of actual remittance of the withheld amount is not a condition to claim for refund of unutilized tax credits. As held in the case of *Commissioner of Internal Revenue vs. Philippine National Bank*.⁵⁵

"x x x Proof of actual remittance is not a condition to claim for a refund of unutilized tax credits. Under Sections 57 and 58 of the 1997 National Internal Revenue Code, as amended, it is the payor-withholding agent, and not the payee-refund claimant such as respondent, who is vested with the responsibility of withholding and remitting income taxes.

⁵¹ Exhibit "P-9", CTA Docket, Vol. II, p. 683.

⁵² Exhibits "P-11-a-1" to "P-11-a-12", CTA Docket, Vol. II, pp. 694-717.

⁵³ Sworn Statement of Ms. Rachel Oliveros, Exhibit "P-17", CTA Docket, Vol. I, p. 261.

⁵⁴ *Philippine Airlines, Inc. (PAL) vs. Commissioner of Internal Revenue*, G.R. No. 206079, January 17, 2018.

⁵⁵ G.R. No. 180290, September 29, 2014.

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This court's ruling in *Commissioner of Internal Revenue v. Asian Transmission Corporation*, citing the Court of Tax Appeals' explanation, is instructive:

. . . proof of actual remittance by the respondent is not needed in order to prove withholding and remittance of taxes to petitioner. Section 2.58.3 (B) of Revenue Regulation No. 2-98 clearly provides that proof of remittance is the responsibility of the withholding agent and not of the taxpayer-refund claimant. It should be borne in mind by the petitioner that payors of withholding taxes are by themselves constituted as withholding agents of the BIR. The taxes they withhold are held in trust for the government. In the event that the withholding agents commit fraud against the government by not remitting the taxes so withheld, such act should not prejudice herein respondent who has been duly withheld taxes by the withholding agents acting under government authority. Moreover, pursuant to Section 57 and 58 of the NIRC of 1997, as amended, **the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee.** Therefore, respondent . . . has no control over the remittance of the taxes withheld from its income by the withholding agent or payor who is the agent of the petitioner. **The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents.** (Boldfacing supplied)

The Certificates of Final Tax Withheld (BIR Forms No. 2306) issued by BTr in favor of Citibank covering FWT, taken together with the Citibank Entitlement Report for January 2017 to October 2018 and the twelve (12) MT566 Confirmation Advice, sufficiently prove that the amount of ₱26,501,812.50 was withheld from petitioner.

Second Requisite: The claim for refund was filed within two (2) years from date of payment of tax

Sections 204(C) and 229 of the NIRC of 1997, as amended, provide for the prescriptive period for the filing of the administrative and judicial claims for refund or recovery of tax erroneously or illegally collected. Section 204(C) of the NIRC of 1997, as amended, applies to

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administrative claims for refund while Section 229 of the same Code pertains to judicial claims.⁵⁶

A claimant for refund must first file an administrative claim for refund before respondent, prior to filing a judicial claim before the Court. Notably, both the administrative and judicial claims for refund should be filed within the two (2)-year prescriptive period indicated therein, and that the claimant is allowed to file the latter even without waiting for the resolution of the former in order to prevent the forfeiture of its claim through prescription. The primary purpose of filing an administrative claim is to serve as a notice of warning to the CIR that court action would follow unless the tax or penalty alleged to have been collected erroneously or illegally is refunded.⁵⁷

Based on the records of the case, BTr remitted and paid to the BIR the withholding taxes on the first coupon payment on January 31, 2017⁵⁸ (*relating to the earliest coupon involved in this case*). Counting two (2) years from such date, petitioner had until January 31, 2019 within which to file its refund claim both in the administrative and judicial levels. Thus, petitioner's administrative claims with the BIR filed on December 28, 2018⁵⁹ and judicial claim filed before the Court on January 30, 2019, covering FWT remittances from the period January 2017 to October 2018, were well within the two (2)-year period prescribed by law.

It is a rule that in cases of tax refunds, the burden of proof lies with the taxpayer to show that it has strictly complied with the conditions for the grant of such refund.⁶⁰ Nonetheless, claims for refund are civil in nature and as such, petitioner, as claimant, though having a heavy burden of showing entitlement, need only prove preponderance of evidence in order to recover excess credit in cold cash.⁶¹ Verily, with petitioner having offered both testimonial and documentary evidence to prove its entitlement for refund, *sans* any contrary evidence offered by the respondent, the burden of proof to

⁵⁶ *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

⁵⁷ *Metropolitan Bank & Trust Company vs. Commissioner of Internal Revenue*, G.R. No. 182582, April 17, 2017.

⁵⁸ Exhibit "P-5-a-1" to "P-5-a-3", CTA Docket, Vol. II, pp. 610-612.

⁵⁹ Exhibits "P-13-a" and "P-13-b", CTA Docket, Vol. II, pp. 719-732.

⁶⁰ *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

⁶¹ *Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015.



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establish the propriety of the claim for refund has been sufficiently discharged. Hence, the grant of refund is proper.

WHEREFORE, premises considered, the present Petition for Review filed by petitioner GIC Private Limited (formerly known as Government of Singapore Investment Corporation Private Limited) is **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** in favor of petitioner GIC Private Limited the amount of **₱26,501,812.50**, representing the final withholding taxes erroneously withheld by the Bureau of Treasury on petitioner's interest income from its investments in Philippine Treasury Bonds during the period January 2017 to October 2018.

SO ORDERED.

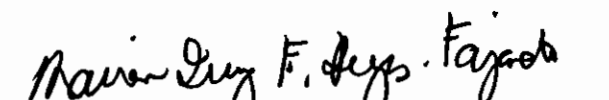


ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:



CATHERINE T. MANAHAN
Associate Justice



MARIAN IVY F. REYES-FAJARDO
Associate Justice

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 case was assigned to the writer of the opinion of the Court.



ROMAN G. DEL ROSARIO
Presiding Justice