REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MAITLAND-SMITH CEBU, INC.
(formerly MAITLAND-SMITH
LIMITED PHILIPPINE BRANCH),
Petitioner,

- versus -

C.T.A. CASE NO. 5425

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:
NOV 06 1998

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DECISION

This is a petition seeking for the refund or issuance of a tax credit certificate in the amount of P554,102.48 representing alleged excess creditable VAT input taxes paid during the 3rd quarter of 1994.

Petitioner is a domestic corporation organized and existing under and by virtue of Philippine laws, with principal office at Mactan Export Processing Zone, Lapu-lapu City. It is registered with the Bureau of Internal Revenue as a VAT taxpayer, effective August 1, 1988, evidenced by its VAT Registration Certificate No. 096145 with Registration No. 59-9-000993 (Exh. "A"). Petitioner likewise alleged that it is registered with the Export Processing Zone Authority, pursuant to the provisions of the Omnibus Investments Code of 1987.

On August 28, 1996, petitioner filed its amended VAT return for the third quarter of 1994, reflecting a total VAT output tax of P72,187.41 and a total VAT input tax from domestic purchases of goods/services amounting to P554,102.48 (Exh. "B").

On September 26, 1996, petitioner filed its application for tax credit/refund of the alleged excess input taxes with the Tax and Revenue Group of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance (Exh. "D"). Four days later, the instant Petition for Review was filed before Us.

Petitioner, to support its case, presented the following:

	EXHIBIT	PARTICULARS
1.	Exhibit "A"	Value-Added Tax Registration Certificate No. 096145 issued by the Bureau of Internal Revenue to Petitioner
2.	Exhibit "B"	Amended Value-Added Tax (VAT) Return of Petitioner for the Third Quarter of 1994
3.	Exhibit "C"	Schedule of VAT Input-Tax Credit of Petitioner for the Third Quarter of 1994
4.	Exhibit "D"	Application For Tax Credit/Refund of Value-Added Tax Paid of Petitioner for the Quarter ended September 30, 1994 in the amount of P554,102.48.

On the other hand, respondent submitted its case for decision without presenting any evidence as Petitioner has filed an application for tax credit with the Department of Finance and the records are with the said agency.

The sole issue left for determination is whether or not Petitioner is entitled to the refund sought.

After a careful examination of the evidence presented by Petitioner, We are left with no recourse but to deny this claim.

> "Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the exemption. The burden of proof is upon him who claims the exemption in his favor and he must be able to justify his claim by the clearest grant of organic or statute law and cannot be permitted to exist upon vague implications (Asiatic Petroleum Co. v. Llanes, 49 Phil. 466; Northern Phil. Tobacco Corp. v. Mun. of Agoo, La Union, 31 SCRA 304; Reagan v. Commissioner, 30 SCRA 968; Asturias Sugar Central, Inc. v. Commissioner of Customs, 29 SCRA 617; Davao Light and Power Co. Inc. v. Commissioner of Customs, 44 SCRA 122).

It is to be noted that the "Schedule of VAT Input Tax Credit of Petitioner for the Third Quarter of 1994 "(Exhibit "C") was denied admission by this Court "due to failure of the petitioner to comply with the requirements of CTA Circular No. 1-95, pertinent portions of which are quoted hereunder for emphasis:

> "1. The party who desires to introduce as evidence such voluminous documents must present: (a) Summary containing the total amount/s of the tax account or tax paid for the period involved and a chronological or numerical list of the numbers, dates, and amounts covered by the invoices or receipts; and (b) a Certification of an independent Certified Public Accountant attesting to the correctness of the contents of the summary after making an examination and

> evaluation of the voluminous receipts and invoices. Such summary and certification must be properly identified by a competent witness from the accounting firm.
>
> 2. xxx. It is enough that the receipts, invoices and other documents covering the said accounts or payments must be pre-marked by the party concerned and submitted to the Court in order to be made accessible to the adverse party whenever she/he desires to check and verify the correctness of the summary and CPA certification. xxx."

Without this schedule and its supporting invoices and receipts, there is no way by which we can check on the accuracy of the amount being claimed by petitioner as refund or tax credit.

It is a well-settled rule that he who claims for a refund should show convincing proof of his entitlement thereto. Petitioner herein failed to prove and substantiate the amount of its input tax claim hence it merely presented its Amended VAT Return for the subject period and the schedule of its VAT Input Tax Credit. It did not submit and offer as evidence the invoices, official receipts or other documents evidencing the input taxes claimed which would have served as basis for the refund/credit.

WHEREFORE, in the light of the foregoing, Petitioner's claim for issuance of tax credit certificate or refund in the amount of P554,102.48, representing excess creditable VAT input taxes paid for the third quarter of 1994, is hereby **DENIED** for insufficiency of evidence. No pronouncement as to costs.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

AMANCIO Q. SAGA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals