REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SAP PHILIPPINE SYSTEMS APPLICATIONS AND PRODUCTS IN DATA PROCESSING, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5613

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
OCT 22 1999

x - x

DECISION

This is a judicial claim for refund of the amount of TWO MILLION THREE HUNDRED SEVENTY NINE THOUSAND AND FIFTY FOUR PESOS (P2,379,054.00) filed by the Petitioner on April 13, 1998, representing allegedly unutilized excess creditable income taxes withheld at source covering the taxable years 1995 and 1996.

The antecedent facts of this case are as follows:

Petitioner is a domestic corporation organized and existing under and by virtue of the laws of the Philippines with principal office located at 32nd Floor Citibank Tower, Citibank Plaza, 8741 Paseo de Roxas, Makati City.

On April 12, 1996, Petitioner filed with the Bureau of Internal Revenue its Annual Income Tax Return for the taxable year ended December 31, 1995 (Exh. B) showing an income tax due of P130,059.00 and an excess creditable tax payment of P518,982.00 computed as follows:

Gross Income	P 10,636,495.00
Less: Deductions	10,264,899.00
Taxable Income	P 371,596.00
Tax Due	P 130,059.00
Less: Tax Credits	715,041.00
Tax Refundable	P (518,982.00)

For taxable year 1996, Petitioner filed its annual income tax return on April 14, 1997 (Exh. D) declaring a net loss in the amount of P8,807,962.00 and excess creditable taxes withheld of P2,379,054.00, the latter amount representing the sum of the 1995 excess tax credits of P518,982.00 and 1996 creditable taxes withheld of P1,860,072.00, detailed as follows:

Net Loss		P8,807,962.00
Tax Due		- nil –
Less: Tax Credits		
Prior year's excess credits	P 518,982.00	
1996 Creditable taxes w/held	1,860,072.00	2,379,054.00
Tax Refundable		P2,379,054.00

Since Petitioner incurred net losses in 1996 and 1997 in the amounts of P8,807,962.00 and P41,274,302.00, respectively, the amount of P2,379,054.00 representing its alleged excess credits for taxable years 1995 and 1996, were not utilized by Petitioner. Subsequently, Petitioner amended its 1996 income tax return (Exh. K), indicating its option for a refund of the aforesaid excess tax credits and in addition thereto, Petitioner's 1997 amended tax return showed that Petitioner did not carry-over to taxable year 1997 the said excess tax credits (Exh. L).

On February 20, 1998, Petitioner filed its administrative claim for refund with the Bureau of Internal Revenue (Exh. F) involving the amount of P2,379,054.00. Since the

Respondent has not acted upon Petitioner's letter-request for refund, Petitioner elevated its case to this Court on April 13, 1998 via Petition for Review to toll the running of the prescriptive period provided under Section 230 of the Tax Code (now Section 229 of the NIRC of 1997).

In Answer to Petitioner's Petition for Review, the Respondent advances the following Special and Affirmative Defenses; to wit:

> 6) The petition states no cause of action as it does not alleged (sic) the dates when the taxes sought to be refunded were actually paid (Manufacturer's Bank and Trust Co., etc. vs. Commissioner of Internal Revenue, CTA Case No. 1659, November 29, 1965);
>
> 7) Petitioner's claim for refund is under the process of verification/investigation by the respondent considering that the same was filed on February 20, 1998;
>
> 8) Claims for refund are construed strictly against the claimant, the same being in the nature of exemption from taxes (Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95; Manila Electric Co. vs. Commissioner of Internal Revenue, 67 SCRA 35);
>
> 9) It is incumbent upon petitioner to show compliance with the provision of Section 230 of the Tax Code, as amended;
>
> 10) In an action for tax refund, the burden is upon the taxpayer to prove that he is entitled to the refund and failure to sustain the same is fatal to the action for refund;
>
> 11) The judicial action for the tax refund of the alleged overpaid income tax for the year ending December 31, 1995 has already prescribed.

On February 2, 1999, Petitioner filed its Formal Offer of Evidence consisting, among others, of the following relevant documents, to wit:

1) Exhs. B, B-1 to B-5 - Petitioner's Corporate Annual Income Tax Return for 1995;

2) Exhs. D, D-1 to D-5 - Petitioner's Corporate Annual Income Tax Return for1996;

3) Exh. G - Petitioner's Corporate Annual Income Tax Return for 1997;

4) Exh. F - Administrative claim for refund filed with the BIR; and

5) Various Certificates of Tax Withheld.

In a resolution promulgated on August 23, 1999, this case was considered submitted for decision sans the memorandum of the Respondent.

The vortex of the controversy posed for our consideration is whether or not the Petitioner was able to establish through presentation of testimonial and documentary evidence its entitlement to a refund of the amount of P2,379,054.00 representing excess creditable income taxes for taxable years 1995 and 1996.

In its memorandum, Petitioner cited the following provisions of the Tax Code to buttress its stance, viz:

> **Section 69.** ***Final Adjustment Return.*** - Every corporation liable to pay tax under Section 24 shall file a final adjustment return covering the total net income for the preceding calendar year or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable net income of that year the corporation shall either:
>
> (a) Pay the tax still due; or
> (b) Be refunded the excess amount paid, as the case may be.
>
> In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year.

Likewise, Petitioner relied on Our ruling in the case of **Benguet Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5323, August 25, 1997,** where We ruled that a refund claimant must comply with the following requirements, to wit:

> 1) That the claim for refund was filed within two years as prescribed under Section 230 of the Tax Code;
>
> 2) That the income upon which the taxes were withheld were included in the return of the recipient;
>
> 3) That the fact of withholding is established by a copy of statement (BIR Form 1743.1) duly issued by the payor (withholding agent) to the payee showing the amount paid and the amount of tax withheld therefrom.
>
> [Section 10, Rev. Regs. No. 6-85; see **Citytrust Finance Corporation vs. The Honorable Commissioner of Internal Revenue, CTA Case No. 4134, November 11, 1991; affirmed by the Court of Appeals in Citytrust Finance Corporation vs. Court of Tax Appeals and the Commissioner of Internal Revenue, C.A. G.R. SP No, 28239, March 14, 1994; and Citytrust Finance Corporation (formerly Investor's Finance Corporation/FNCB Finance) vs. Commissioner of Internal Revenue, CTA Case No. 4046, February 24, 1993; affirmed by the Court of Appeals in Commissioner of Internal Revenue vs. Citytrust Finance Corporation (formerly Investor's Finance Corp./FNCB Finance) and the Court of Tax Appeals, C.A. G.R. SP No. 31104, April 18, 1994**].

In support thereto and to prove that the declarations in the return must be given due credence by this Court, Petitioner relied on the doctrine laid down by the Supreme Court in the case of **Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue, G.R. No. 107434, promulgated on October 10, 1997,** where the High Court emphatically ruled, thus:

> "A refund claimant is required to prove the inclusion of the income payments which were the basis of the withholding taxes and the fact of withholding. However, detailed proof of the truthfulness of each and every item in the income tax return is not required. The function is lodged in the Commissioner of Internal Revenue by the NIRC which requires the

Commissioner to assess internal revenue taxes within three years after the last day prescribed by law for the filing of the return. In San Carlos Milling Co., Inc. vs. Commissioner of Internal Revenue, the Court held that the internal revenue branch of government must investigate and confirm the claims for tax refund and/or before taxpayers may avail themselves of this option. The grant of a refund is founded on the assumption that the tax return is valid: that is, the facts stated therein are true and correct. In fact, even without the petitioner's claim, the commissioner can proceed to examine the books, records of the petitioner-bank, or any data which may be relevant or material in accordance with Section 16 of the present NIRC."

Concededly, after a thorough scrutiny of the evidence on record, We conclude that Petitioner was able to substantiate its claims.

As stated earlier, the grant of refund is dependent upon compliance by the taxpayer with the following requirements, to wit:

1) That the claim for refund was filed within two years as prescribed under Section 230 of the Tax Code;

2) That the income upon which the taxes were withheld were included in the return of the recipient;

3) That the fact of withholding is established by a copy of statement (BIR Form 1743.1) duly issued by the payor (withholding agent) to the payee showing the amount paid and the amount of tax withheld therefrom.

[Section 10, Rev. Regs. No. 6-85; see **Citytrust Finance Corporation vs. The Honorable Commissioner of Internal Revenue, CTA Case No. 4134, November 11, 1991; affirmed by the Court of Appeals in Citytrust Finance Corporation vs. Court of Tax Appeals and the Commissioner of Internal Revenue, C.A. G.R. SP No, 28239, March 14, 1994; and Citytrust Finance Corporation (formerly Investor's Finance Corporation/FNCB Finance) vs. Commissioner of Internal Revenue, CTA Case No. 4046, February 24, 1993; affirmed by the Court of Appeals in Commissioner of Internal Revenue vs. Citytrust Finance Corporation (formerly Investor's Finance Corp./FNCB Finance) and the Court of Tax Appeals, C.A. G.R. SP No. 31104, April 18, 1994**].

These aforementioned requirements were affirmed by the Supreme Court in the case of **Citibank, N.A. vs. Court of Appeals and Commissioner of Internal Revenue, 280 SCRA 459.**

Conformably, We hold that Petitioner was able to comply with the aforementioned requisites.

First, Petitioner filed its administrative and judicial claims for refund on February 20, 1998 (Exh. F) and April 13, 1998, respectively – both dates are well within two years from the dates of filing of Petitioner's income tax returns on April 12, 1996 and April 14, 1997 for taxable years 1995 and 1996, respectively (Exhibits "B" and "D").

In compliance with the second requirement, Petitioner declared in its 1995 and 1996 annual income tax returns as part of its gross income from consultancy/training and miscellaneous income of P62,038,250.00 and P65,476,386.00 (Exhs. B-3 and D-3), respectively, the income payments of P14,462,929.80 and P39,052,643.34 from which the income taxes of P723,146.48 and P1,860,073.78 were withheld.

Thirdly, the fact of withholding was likewise established by the Petitioner through presentation of the following Certificates of Creditable Income Tax Withheld at Source issued by its various withholding agents for taxable years 1995 and 1996, to wit:

Exh.	Withholding Agent	Income Payment	Income Tax Withheld
1995			
C	San Miguel Corporation	P 14,462,929.80	P 723,146.48
1996			
E-1	San Miguel Corporation	P 18,341,857.00	P 917,092.85
E-2	San Miguel Corporation	1,221,284.80	61,064.24
E-3	Pilipinas Shell Petro. Corp.	322,500.00	16,125.00
E-4	San Miguel Brewing Group	225,271.38	11,263.57
E-5	Pilipinas Shell Petro. Corp.	3,168,580.50	158,429.02

E-6	Petron Corporation	65,000.00	3,250.00
E-7	San Miguel Brewing Group	1,587,438.74	317,487.75
E-8	Alsons Cement Corporation	3,379,218.36	168,960.92
E-9	Pilipinas Shell Petro. Corp.	2,247,112.56	112,355.63
E-10	Petron Corporation	227,500.00	11,375.00
E-11	San Miguel Corporation	7,694,520.00	76,945.20
E-12	San Miguel Corporation	559,360.00	5,593.60
E-13	The Online Advanced Sys.	13,000.00	130.00
		P 39,052,643.34	P 1,860,072.78

Thus, the refundable amount is computed as follows:

Net Loss		P8,807,962.00
Tax Due		- nil -
Less: Tax Credits		
Prior year's excess credits	P 518,982.00	
1996 Creditable taxes w/held	1,860,072.00	2,379,054.00
Tax Refundable		P2,379,054.00

WHEREFORE, in view of all the foregoing, Respondent is hereby **ORDERED** to **REFUND** or in the alternative **ISSUE** a Tax Credit Certificate for the amount of TWO MILLION THREE HUNDRED SEVENTY NINE THOUSAND AND FIFTY FOUR PESOS (P2,379,054.00) in favor of the Petitioner, representing overpaid creditable income taxes for the years 1995 and 1996.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that the above 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