REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

STANDARD CHARTERED BANK – PHILIPPINE BRANCHES,
Petitioner,

- versus -

C.T.A. CASE NO. 5785

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JAN 22 2001 Margareth

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DECISION

The instant petition seeks the refund or issuance of a tax credit certificate amounting to P11,898,416.00, allegedly representing overpaid income tax for the calendar year ended December 31, 1996.

The facts of the case are as follows:

Petitioner is a resident foreign banking institution duly organized and registered under the laws of England and is authorized by the Secu ities and Exchange Commission to engage in business in the Philippines, with office address at 6756 Ayala Avenue, Makati City.

On April 15, 1997, Petitioner filed with the Bureau of Internal Revenue (BIR) its Corporate Annual Income Tax Return for the calendar year ending December 31, 1996 reflecting a taxable income of P46,190,105.00 and the tax due thereon amounting to P16,166,537.00 (Exh. A).

Since its tax liability for the said year amounted only to P16,166,537.00 and Petitioner paid a total of P28,064,953.00, the latter still had unutilized tax payments in the amount of P11,898,416.00 which it opted to carry over to the succeeding taxable year 1997.

Petitioner, however, failed to do so as it ended up in a net loss position in 1997 allegedly due to its expansion program and investment in computers (p. 95, CTA Records). Thus, on May 6, 1998, Petitioner filed with RDO No. 47, Revenue Region No. 8 of the Bureau of Internal Revenue, a letter claim for the refund of its unutilized tax credit in the amount of P11,898,416.00 (Exh. H), on the basis of the following provisions of the Tax Code:

> "**Section 69. Final Adjustment Return.** – Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total net income for the preceding calendar 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 excess 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.
>
> **Section 204. Authority of the Commissioner to compromise, abate and refund/credit taxes.** – The Commissioner may-
>
> x x x
>
> (3) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of the 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 years after the payment of the tax or penalty.

SEC. 230. 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 any sum alleged to have been excessive 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 begun after the expiration of two 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."

As there was no action on the part of herein Respondent and the two-year prescriptive period was about to lapse, the instant Petition was filed on April 14, 1999.

In his Answer, Respondent claimed by way of Special and Affirmative Defenses that:

"4. The amount claimed by Petitioner has been applied as tax credit to the next succeeding year, hence, not refundable;

5. The petition states no cause of action as it does not allege the date/s when the taxes sought to be refunded were actually paid;

6. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to the refund and failure to sustain the burden is fatal to the action for tax refund;

7. Taxes paid and collected are presumed to have been made in accordance with law and regulations, hence, not refundable; and

8. Well-settled is the rule that claims for refund are construed strictly against the claimants since it partakes of the nature of an exemption from taxation. (*Resins, Inv. vs. Auditor General, 75 SCRA 754, 1968*).

The issues we are tasked to resolve have been stipulated by the parties to be as follows:

"**Main Issue**

Whether or not the Petitioner is entitled to the refund of the amount of P11,898,416.00 representing overpaid income tax for calendar year ended 31 December 1996.

Sub-Issues

1. Whether or not Petitioner overpaid its income tax in the amount of P11,898,416.00 for calendar year ended December 31, 1996.

2. Whether or not Petitioner filed its claim for refund in the amount of P11,898,416.00 for overpaid income tax for calendar year ended December 31, 1996 within the two year prescriptive period.

3. Whether or not Petitioner applied the excess tax payments for calendar year December 31, 1996 as credit against its income tax liability for the succeeding calendar year ended December 31, 1997."

Petitioner, to support its case, offered the following documents as evidence:

Exhibits	Description
A	BIR Form 1702: Corporate Annual Income Tax Return of Petitioner for calendar year ended December 31, 1996
B	BIR Form 1702: Corporate Annual Income Tax Return of Petitioner for calendar year ended December 31, 1997
C to E	BIR Form 1702 Q: Quarterly Income Tax Returns of Petitioner for the first three quarters of 1997

F	Tax Debit Memo No. SN 017853 issued to Petitioner on May 23, 1996
G	Tax Debit Memo No. SN 017854 issued to Petitioner on May 23, 1996
H	Administrative claim for refund of overpaid income taxes dated May 4, 1998 in the amount of P11,898,416.00 filed by SGV on behalf of Petitioner
I to K	BIR Form No. 1702 Q: Quarterly Income Tax Returns of Petitioner for the first three quarters of 1996
L	Certification dated January 5, 2000 issued by Carmelita SJ. Pascual, Chief of the Revenue Accounting Division of the BIR

Respondent's counsel, on his part, submitted this case for decision based on the pleadings on the ground that the records were not forwarded to him despite repeated follow-ups.

After a careful examination of the evidence adduced solely by Petitioner, this Court rules in its favor.

The right of a taxpayer to recover from the BIR any excess income tax paid is provided for under Section 69 of the Tax Code, hereinbefore quoted.

As to whether or not Petitioner was able to prove that there was an overpayment, its 1996 Corporate Annual Income Tax Return clearly shows that while it was liable to pay only P16,166,537.00, which is 35% of its taxable income of P46,190,105.00, it paid a total of P28,064,953.00 resulting to an overpayment of P11,898,416.00. Moreover, in the said return, Petitioner signified its intention to apply its overpaid income tax against its income tax liabilities in the succeeding year. Unfortunately, though, it was unable to do so as shown by its 1997 income tax returns, both quarterly and annual, on account of its ending up in a net loss position, the reason why Petitioner is now claiming for a tax credit certificate for the said amount.

With reference to the second sub-issue, this Court finds Petitioner's claim for refund, both in the administrative and judicial level, as timely filed. The Corporate Annual Income Tax Return of Petitioner for the calendar year ended December 31, 1996 was filed on April 15, 1997. Verily, the claim for refund filed with the BIR on May 6, 1998 as well as the instant petition for review filed on April 14, 1999 fall within the two-year prescriptive period.

Finally, it bears stressing that Respondent offered no evidence to counter Petitioner's claim. And since the latter has shown sufficient evidence to support its entitlement to the relief sought, this Court has no recourse but to grant the same.

WHEREFORE, in view of all the foregoing, this Court finds the instant Petition meritorious and in accordance with law. Respondent is hereby **ORDERED** to **ISSUE A TAX CREDIT CERTIFICATE** to Petitioner in the amount of P11,898,416.00, representing overpaid income tax for the calendar year ended December 31, 1996.

Respondent counsel is also hereby **ordered** to inform the Revenue District Officer of RDO No. 47, Revenue Region No. 8 of the BIR of this decision so they will not act anymore on the claim filed with their office.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

AMANCIO Q. SAGA
Associate 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