REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

CAMARA STEEL INDUSTRIES, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 5469

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAR 08 1999

x - x

DECISION

This is a petition seeking for the refund or issuance of a tax credit certificate amounting to One Million Nine Hundred Ninety One Thousand Sixty Nine Pesos (P1,991,069.00), representing alleged overpaid income taxes for the year 1995.

The facts of the case are as follows:

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines. It is a manufacturer of steel containers for various industrial and household purposes.

On April 15, 1996, Petitioner filed its annual income tax return for the calendar year ended December 31, 1995, declaring a taxable income of P11,381,630.00 and an income tax due of P3,983,570.00. During the year, however, Petitioner had already made three quarterly payments totalling P3,347,721.00, detailed as follows:

First quarter	-	P1,708,099.18	(Exh. A-5)
Second quarter	-	997,403.31	(Exh. A-5-a)
Third quarter	-	642,218.81	(Exh. A-5-b)
Total		P3,347,721.30	

Likewise, for the same year 1995, industrial users of Petitioner's products belonging to the top 5,000 corporations withheld the required 1% tax on their purchases to Petitioner in compliance with Revenue Memorandum Circular No. 28-94, to wit:

> "(n) Income payments by top 5,000 corporations.-Income payments made by any of the top five thousand (5,000) corporations, as determined by the Commissioner of Internal Revenue, to their local suppliers of goods one percent (1%)."

These corporations withheld the total amount of ₱2,626,918.00, broken down as follows:

Withholding Agent	Tax Withheld	Annex
3M Philippines Inc.	9,718.33	B, B-1, B-2, B-3
Alyson's Chemical Ent.	1,902.17	C, C-1, C-2, C-3
Atom Chemicals Co. Inc.	1,812.77	D, D-1
AustralAsia Cyl. Corp.	295.45	E
BASF Coating + Ink Phils.	33,187.19	F, F-1, F-2, F-3
Bayer Philippines, Inc.	84.09	G
Borden Int'l Philippines	112,373.98	H, H-1, H-2, H-3, H-4 H-5, H-6, H-7, H-8, H-9 H-10, H-11, H-12, H-13, H-14, H-15, H-16, H-17, H-18, H-19, H-20, H-21, H-22, H-23, H-24, H-25, H-26, H-27, H-28, H-29, H-30, H-31, H-32, H-33, H-34, H-35, & H-36
Bush-Boake Allen Phils. Inc.	1,767.50	I
California Manufacturing Co.	934.55	J
Caltex Phils. Inc.	125,959.15	K, K-1, K-2, K-3
Coca Cola Export Corp.	15,407.40	L, L-1
Dow-Elanco	2,032.22	M, M-1, M-2, M-3
El Inventor Body	245.80	N
Exxon Chemicals, Inc.	22,041.52	O, O-1
Goodyear Phils. Inc.	654.55	P
Himmel Industries	1,412.73	Q
Hoechst Phils. Inc.	586.36	R
Inkote Phils. Inc.	5,415.26	S, S-1, S-2, S-3, S-4
Intel Phils. Inc.	1,841.78	T
Jacinto Press Coat Corp.	1,500.00	U

Mallinckroot Vet. Clinic	3,573.62	V, V-1, V-2
NCH Phils. Inc.	3,460.07	W, W-1, W-2, W-3, W-4
Nippon Paint Phils. Inc.	18,433.50	X, X-1, X-2
Northern Foods Corp.	61,295.46	Y, Y-1, Y-2
Pacific Products, Inc.	8,419.35	Z, Z-1, Z-2
Pacific Rare Metal Ind.	10,298.82	AA, AA-1
Philip Morris Phils.	7,878.80	AB
Philippine Electric Co.	15,191.53	AC, AC-1, AC-2
Pilipinas Shell	1,669,679.23	AD, AD-1
Sakamoto Orient Chemical	6,366.99	AE, AE-1, AE-2, AE-3, AE-4, AE-5, AE-6, AE-7
S.C. Johnson	2,740.83	AF, AF-1, AF-2
Scientific Industries	114.55	AG
Shell Phil. Petroleum Corp.	255,097.53	AH, AH-1, AH-2
Sime Darby Phils.	670.90	AI, AI-1
Stedrra Adhesives	1,628.37	AJ, AJ-1, AJ-2, AJ-3 AJ-4
Unilever Philippines	48,153.31	AK, AK-1, AK-2, AK-3
Unilox Industrial Corp.	128.82	AL
United Coconut Chemicals	174,613.90	AM
TOTAL	PhP 2,626,918.38	

Thus, after applying the quarterly payments made by Petitioner amounting to ₱3,347,721.00 and the taxes withheld by its purchasers in the amount of ₱2,626,918.00 to its tax liability of ₱3,983,570.00, there resulted an overpayment of ₱1,991,069.00.

For the first quarter of 1996, Petitioner's quarterly income tax return reflected a taxable income of ₱2,356,668.61 and a tax due thereon of ₱824,834.01. The creditable taxes withheld for the quarter totalled ₱777,245.55 leaving a balance of ₱47,588.46 which Petitioner paid on May 29, 1996 (Exhibit "AN"). For the second and third quarters, however, no payment was made by Petitioner since the total of its creditable taxes withheld for these quarters plus the payment made during the first quarter far exceeded its income tax liability (see Exhibits "AO" and "AP").

On May 29, 1996, Petitioner filed with the Appellate Division of the Bureau of Internal Revenue a request to apply its overpaid income tax for the year 1995 to its monthly value-added tax liabilities (Annex AP-2, Petition for Review). No action was undertaken by Respondent on this request.

On February 13, 1997, Petitioner again filed with Revenue District No. 43 of Pasig City a letter-claim for the refund of the unused creditable taxes withheld (Exh. AQ) for 1995 in the amount of ₱1,991,069.00. As there was no immediate action on the part of herein Respondent, the instant petition was filed on March 11, 1997.

Respondent, in her Answer, raised the following Special and Affirmative Defenses:

> 5. Taxes are presumed to have been collected in accordance with law. Thus, petitioner must prove that the taxes sought to be refunded were erroneously or illegally collected.
>
> 6. Taxes allegedly withheld must be shown to have been remitted to the government.
>
> 7. Petitioner must show that it has complied with the provisions of Sections 204(3) and 230 of the Tax Code.
>
> 8. Claims for refund of taxes are construed strictly against claimants, the same being in the nature of an exemption from taxation (Manila Electric Co. vs. Commissioner of Internal Revenue, 67 SCRA 351).

The lone issue We are tasked to resolve is whether or not Petitioner has fully substantiated its claim to be entitled to the relief sought.

Petitioner, in support of its case, presented the following evidence:

Exhibits	Description	Purpose
A - A-4	Annual Income Tax Return (1995)	To prove that petitioner filed for the year 1995 its annual income tax return
A-5 -A-5-b	Quarterly income tax returns (1st-3rd) for 1995	To prove that petitioner filed its quarterly income tax for the first three quarters of 1995 and paid the corresponding taxes for the said quarters
B to B-3; C to C-3; D, D-1; E; F to F-3; G; H to H-36; I; J; K to K-3; L, L 1; M to M-3; N, O, O-1; P; Q; R; S to S-4; T; U; V to V-2; W to W-4; X to X-2; Y to Y-2; Z to Z-2; AA, AA-1, AC to AC-2; AD, AD-1; AE to AE-7;	Creditable Withholding Tax Certificates	To prove the fact of withholding

AF to AF-2; AG; AH to AH-2; AI, AI-1; AJ to AJ-4; AK to AK-3; AN,AN-1; AO,AO-1; AP, AP-1	Quarterly Income Tax Returns (1st-3rd) for 1996	To prove that petitioner filed its quarterly income tax returns for the first three quarters of 1996 which fact confirming that it was unable to use the excess creditable tax from 1995
AQ	Formal request for issuance of tax refund or tax credit dated February 13, 1997	To prove that petitioner formally requested that it be issued a tax credit or refund of the excess or overpaid tax.

Respondent, on her part, offered no controverting evidence and submitted the case for decision on the basis of the pleadings and BIR record.

After an examination of the facts and evidence attendant to the case at bar, this Court finds that, indeed, Petitioner is entitled to refund for excess or overpaid income yax for the year in question.

Section 69 of the 1995 National Internal Revenue Code provides:

> **Sec. 69.** ***Final adjustment return.***—Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total taxable 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 income of that year the corporation shall either:
>
> (a) Pay the excess tax still due; or
> (b) <u>Be refunded the excess amount paid, as the case may be</u>;
>
> 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 quarter of the succeeding taxable year. (Underscoring supplied)

Clearly then, from the above-quoted provision, Petitioner may legally claim for the refund of the taxes withheld and remitted during the year 1995. Petitioner has likewise complied with the requirements set forth under Revenue Regulations 6-85 in claiming for the refund of excess creditable withholding taxes:

First, Petitioner filed the claim for refund within the two-year period prescribed under Sec. 230 of the National Internal Revenue Code.

Second, it was shown on the return that the income payments received has been declared as part of the gross income; and

Lastly, the fact of withholding was established by copies of the Withholding Tax Statements duly issued by the payors to the payees showing the amount paid and the amount of tax withheld therefrom.

Petitioner's entitlement to the refund sought was even bolstered by Revenue Officer Lailo G. Viernes who recommended to the Revenue District Officer of Revenue District No. 43 (Pasig City) that the amount of ₱1,991,069.00 be refunded to herein Petitioner (pp. 26-27, BIR records).

In view, however, of the denial of Exhibits AB, AL and AM which are nowhere to be found from among the exhibits presented in Our Resolution, dated December 17, 1997, We can only grant such amount that has been duly proven which in this case is ₱1,808,447.48, computed as follows:

Total amount of claim		₱1,991,069.00
Less: Exh. AB-Philip Morris Phils.	₱ 7,878.80	
Exh. AL-Unilox Industrial Corp.	₱ 128.82	
Exh. AM-United Coconut Chemicals	₱174,613.90	182,621.52
Total amount refundable		₱1,808,447.48

WHEREFORE, in the light of the foregoing, Respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** to Petitioner the sum of ₱1,808,447.48 representing overpaid income tax for the year 1995.

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 consutation 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