

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		<u>P3,347,721.30</u>	

Likewise, for the same year 1995, industrial users of Petitioner's products belonging to the top 5,000

DECISION
C.T.A. CASE NO. 5469

- 2 -

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 P2,626,918.00, broken down as follows:

Withholding Agent	Tax Withheld	Annex
3M Philippines Inc.	3,718.33	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

DECISION

C.T.A. CASE NO. 5469

- 3 -

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
Stedra 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 P3,347,721.00 and the taxes withheld by its purchasers in the amount of P2,626,918.00 to its tax liability of P3,983,570.00, there resulted an overpayment of P1,991,069.00.

For the first quarter of 1990, Petitioner's quarterly income tax return reflected a taxable income of P8,356,668.61 and a tax due thereon of P824,834.01. The creditable taxes withheld for the quarter totalled P777,245.55 leaving a balance of P47,588.46 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

DECISION

C.T.A. CASE NO. 5469

- 4 -

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 P1,991,069.00. 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).

DECISION
C.T.A. CASE NO. 5469

- 5 -

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

DECISION
C.T.A. CASE NO. 5469

- 6 -

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

AO

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 tax 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

DECISION

C.T.A. CASE NO. 5469

- 7 -

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) 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 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.

DECISION
C.T.A. CASE NO. 5469

- 8 -

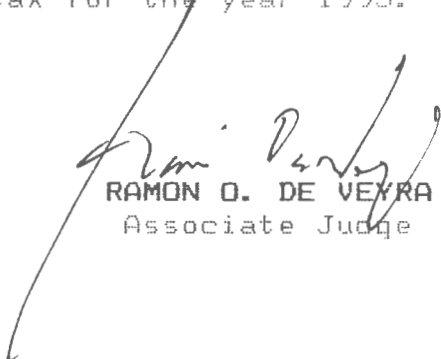
Petitioner's entitlement to the refund sought was even bolstered by Revenue Officer Lailo G. Viernes who recommended to the Revenue District Officer of Revenue District No. 43 (Pasig City) that the amount of P1,991,069.00 be refunded to herein Petitioner (pp. 26-27, BIR records).

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 P1,808,447.48, computed as follows:

Total amount of claim	P1,991,069.00
Less: Exh. AB-Philip Morris	
Phils.	P 7,878.80
Exh. AL-Unilox	
Industrial Corp.	P 128.82
Exh. AM-United Coconut	
Chemicals	P174,613.90
Total amount refundable	<u>182,621.52</u> <u>P1,808,447.48</u>

WHEREFORE, in the light of the foregoing, Respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** to Petitioner the sum of P1,808,447.48 representing overpaid income tax for the year 1995.

SO ORDERED.

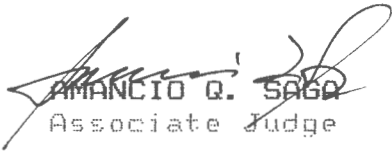

RAMON O. DE VEYRA
Associate Judge

DECISION
C.T.A. CASE NO. 5469

- 9 -

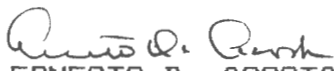
WE CONCUR:


ERNESTO D. ACOSTA
Presiding Judge


AMANCIO Q. SABA
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