L1B

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AMERICAN EXPRESS INTERNATIONAL INC. - PHILIPPINE BRANCH,
Petitioner,

- versus -

C.T.A. CASE NO. 5308

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
DEC 29 1997

x - x

DECISION

This is a judicial action for the refund of the sum of P1,980,102.28, representing value-added taxes paid on domestic purchases of taxable goods and services for the period January 1, 1994 to December 31, 1994.

The antecedent facts of the case are as follows:

Petitioner is a Philippine branch of American Express International, Inc., [AMEX, for brevity] (Hongkong Branch), a corporation duly organized and existing under and by virtue of the laws of Hongkong, with office address at Ground Floor, ACE Building, corner Rada and De La Rosa Streets, Legaspi Village, Makati City.[1] Its primary function is to facilitate collection of AMEX receivables from card members situated in the Philippines and payment to service establishments in the Philippines.

[1]Later petitioner stated in its memorandum that it is a Philippine branch of American Express International, Inc., a corporation duly organized and existing under and by virtue of the laws of State of Delaware, U.S.A..

Pursuant to Section 107 of the National Internal Revenue Code, as amended, petitioner registered itself as a value-added tax entity with VAT Registration No. 32A-3-004868 effective March 1988 (Exh. A, Petitioner, p. 51, CTA records). Later, on June 30, 1994, it re-registered itself as a VAT taxpayer with Tax Identification Number 047-000-106-198 V/@V (Exh. A-1, Petitioner, p. 52, CTA records).

For the period January 1, 1994 to December 31, 1994, petitioner alleges that it earned revenues in the amount of P61,341,088.62, which were paid for in acceptable foreign currency inwardly remitted to the Philippines in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (formerly Central Bank of the Philippines). Petitioner further avers that these revenues were zero-rated based on Section 102(a)(2) of the National Internal Revenue Code, as amended. Also, for the same period, petitioner further alleges that it incurred and paid VAT input taxes on its domestic purchases of taxable goods and services in the sum of P1,980,102.28 which were all directly attributable to its zero-rated revenues.

On December 8, 1995, petitioner filed an application for the refund of VAT input taxes with the Bureau of Internal Revenue in the amount of P1,980,102.28, representing unutilized input taxes for the year 1994 (Exhs. E and E-1, Petitioner, pp 66 - 69, CTA records).

Without waiting for an action from the respondent, petitioner filed the instant petition for review on December 27, 1995 in order to preserve its right to judicially claim the refund of unapplied input value-added tax.

The issue presented before Us is whether or not petitioner is entitled to the amount of ₱1,980,102.28 representing VAT input taxes paid for the period January 1, 1994 to December 31, 1994.

At this juncture, it is noteworthy to point out that parties herein are not in dispute that petitioner's sales of services during the year 1994 are zero-rated pursuant to Section 102(a)(b) of the National Internal Revenue Code, as amended, since the consideration received by petitioner from AMEX is paid for in acceptable foreign currency inwardly remitted to the Philippines in accordance with the rules and regulations of Bangko Sentral ng Pilipinas. Thus, what remains for Us to determine is the accuracy of the amount sought to be refunded.

In support of its claim for refund, petitioner presented various documentary exhibits which consist, among others, of:

1. Monthly VAT declarations (Exhs. C to C-7, Petitioner, pp. 54 - 61, CTA records);

2. Value-Added Tax (VAT) Returns (Exhs. D to D-3, Petitioner, pp. 62 - 65, CTA records);

3. Certification by Punongbayan & Araullo with respect to petitioner's Schedule of Input Taxes paid and Schedule of Zero-rated Revenues for the period January 1, 1994 to December 31, 1994 (Exhs. F and F-1, Petitioner, pp. 82 - 83, CTA records); and

4. Photocopy of supplier's sales invoices and/or official receipts for the subject period (Exhs. G to G-770, 4 separate folders).

On the other hand, respondent presented in evidence the following documents:

1. Letter of Authority No. 86190, dated February 1, 1996 (Exh. 1 to 1-b, Respondent, p. 127, CTA records); and

2. Memorandum report of investigation conducted by Revenue Officer, Andres J. Gabagat, Jr., dated January 6, 1997, recommending the amount of P1,002,582.47 as rightful refund for the petitioner together with the attachment of working paper for disallowed input taxes(Exhs. 2 to 2-j, Respondent, pp. 128 - 137, CTA records).

A scrutiny of the evidence presented by both parties, reveals that petitioner is entitled only to the reduced amount of P1,449,814.05, computed as follows:

Period Covered	VAT Input Taxes Per CPA Schedule (Exhs. F-1-1)	Disallowances (See Annex A)	Refundable Input Taxes
01-01-94 to 03-31-94	₱ 370,627.19	P118,021.40	₱ 252,605.79
04-01-94 to 06-30-94	723,427.04	54,351.40	669,075.64

07-01-94 to 09-30-94	339,501.17	54,316.57	285,184.60
10-01-94 to 12-31-94	361,621.12	118,673.10	242,948.02
T O T A L	P1,795,176.52	P345,362.47	P1,449,814.05

This amount was arrived at after individual examination of petitioner's pre-marked invoices in support of its claim for refund (Exhs. 6 to 6-76, inclusive) as well as the worksheet prepared by Mr. Gabagat, the revenue officer who examined petitioner's claim for refund (Exhs. 2-a to 2-j, inclusive). The schedule of Disallowed Input Taxes for the calendar year 1994 is hereto attached as Annex "A".

WHEREFORE, in view of the foregoing, respondent is hereby ORDERED TO REFUND in favor of petitioner the sum of P1,449,814.05, representing VAT input taxes paid on domestic purchases of goods and services for the period January 1, 1994 to December 31, 1994.

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 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

AMERICAN EXPRESS INTERNATIONAL, INC. - PHILIPPINE BRANCH
SCHEDULE OF DISALLOWED INPUT TAXES
ANNEX "A"
For the Year 1994

JANUARY 1, 1994 TO MARCH 31, 1994:

SUPPLIER	INVOICE/ O.R. NO.	Exh.	AMOUNT OF INPUT TAX CLAIMED	REMARKS
Asia Pacific Computer Tech. Center Inc.	23	G	P 4 075.00	No BIR permit to print
Chinese Telephone Directory	104	G-3	1,363.64	Statement of account
Collector of Customs	16174365		37,257.00	No document
D'Robe Security Agency, Inc.	6309	G-36	747.95	Not in the name of petitioner
GC Emery Sales, Inc.	61335		318.18	No document
JRS Business Corporation	180451	G-60	3.09	Charge service job order and not in the name of petitioner
JRS Business Corporation	223632	G-60	3.09	- do -
JRS Business Corporation	223651	G-61	3.09	- do -
JRS Business Corporation	180560	G-61	3.09	- do -
JRS Business Corporation	223672	G-62	3.09	- do -
JRS Business Corporation	223668	G-62	3.09	- do -
JRS Business Corporation	223682	G-63	3.09	- do -
JRS Business Corporation	223675	G-63	3.09	- do -
JRS Business Corporation	223701	G-64	3.09	- do -
JRS Business Corporation	223634	G-64	3.09	- do -
JRS Business Corporation	223764	G-65	3.09	- do -
JRS Business Corporation	223729	G-65	3.09	- do -
JRS Business Corporation	223762	G-66	3.09	- do -
JRS Business Corporation	223774	G-66	3.09	- do -
JRS Business Corporation	223802	G-67	3.09	- do -
JRS Business Corporation	223801	G-67	3.09	- do -
JRS Business Corporation	223814	G-68	3.09	- do -
JRS Business Corporation	180432	G-70	3.09	- do -
JRS Business Corporation	180416	G-70	3.09	- do -
JRS Business Corporation	180445	G-71	3.09	- do -
JRS Business Corporation	180456	G-71	3.09	- do -
JRS Business Corporation	223539	G-72	3.09	- do -
JRS Business Corporation	223523	G-72	3.09	- do -
JRS Business Corporation	223551	G-73	3.09	- do -
JRS Business Corporation	223541	G-73	3.09	- do -
JRS Business Corporation	223571	G-74	3.09	- do -
JRS Business Corporation	223561	G-74	3.09	- do -
JRS Business Corporation	223580	G-75	3.09	- do -
JRS Business Corporation	223573	G-75	3.09	- do -
JRS Business Corporation	223589	G-76	3.09	- do -
JRS Business Corporation	180358	G-77	2.73	- do -
JRS Business Corporation	180246	G-78	2.73	- do -

JRS Business Corporation	180237	G-78	2.73	- do -
JRS Business Corporation	180233	G-79	2.73	- do -
JRS Business Corporation	180232	G-79	2.73	- do -
JRS Business Corporation	180329	G-80	2.73	- do -
JRS Business Corporation	180328	G-80	2.73	- do -
JRS Business Corporation	180327	G-81	2.73	- do -
JRS Business Corporation	180314	G-81	2.73	- do -
JRS Business Corporation	180224	G-82	2.73	- do -
JRS Business Corporation	180221	G-82	2.73	- do -
JRS Business Corporation	180220	G-83	2.73	- do -
JRS Business Corporation	180216	G-83	2.73	- do -
JRS Business Corporation	180204	G-84	2.73	- do -
JRS Business Corporation	180202	G-84	2.73	- do -
JRS Business Corporation	180282	G-85	2.73	- do -
JRS Business Corporation	180281	G-85	2.73	- do -
JRS Business Corporation	180280	G-86	2.73	- do -
JRS Business Corporation	180275	G-86	2.73	- do -
JRS Business Corporation	180272	G-87	2.73	- do -
JRS Business Corporation	180267	G-87	2.73	- do -
JRS Business Corporation	180260	G-88	2.73	- do -
JRS Business Corporation	180161	G-88	2.73	- do -
JRS Business Corporation	180170	G-89	2.73	- do -
JRS Business Corporation	180169	G-89	2.73	- do -
JRS Business Corporation	180166	G-90	2.73	- do -
JRS Business Corporation	180145	G-90	2.73	- do -
JRS Business Corporation	180141	G-91	2.73	- do -
JRS Business Corporation	180129	G-91	2.73	- do -
JRS Business Corporation	180127	G-92	2.73	- do -
JRS Business Corporation	180124	G-92	2.73	- do -
JRS Business Corporation	180476		3.09	No document
JRS Business Corporation	180487		3.09	No document
Ogilvy & Mather	2605		3,115.64	No document
Ogilvy & Mather	2871		2,500.00	No document
Ogilvy & Mather	2605		65,614.54	No document
One-on-One	0078		1,986.14	No document
The Love Garden	30720	G-155	60.00	Order slip
T O T A L			P118,021.40	

FEBRUARY 1, 1994 TO JUNE 30, 1994:

SUPPLIER	INVOICE/ O.R. NO.	EXH.	AMOUNT OF INPUT TAX CLAIMED	REMARKS
Collector of Customs	3614374		P 40,477.00	No document
Delta Plumbing & Construction	86395	G-169	13.64	Pay to cash
DHL Philippines Construction	3850		57.84	No document
Equicom Computer Services, Inc.	8664		80.00	No document
Hanover Hardware	107997	G-224	571.91	Not in the name of petitioner
JC Carpenters Treasure House	326		727.27	No document

JRS Business Corporation	223833	G-244	3.09	Charge service job order and not in the name of petitioner
JRS Business Corporation	223832	G-244	3.09	- do -
JRS Business Corporation	223853	G-245	3.09	- do -
JRS Business Corporation	223852	G-245	3.09	- do -
JRS Business Corporation	223879	G-246	3.09	- do -
JRS Business Corporation	223859	G-246	3.09	- do -
JRS Business Corporation	223892	G-247	3.09	- do -
JRS Business Corporation	223908	G-247	3.09	- do -
JRS Business Corporation	223956	G-248	3.09	- do -
JRS Business Corporation	223910	G-248	3.09	- do -
JRS Business Corporation	223986	G-249	3.09	- do -
JRS Business Corporation	223940	G-249	3.09	- do -
JRS Business Corporation	314266	G-250	3.09	- do -
JRS Business Corporation	314053	G-251	3.09	- do -
JRS Business Corporation	314232	G-254	3.09	- do -
JRS Business Corporation	314231	G-254	3.09	- do -
JRS Business Corporation	331501	G-624	3.09	- do -
JRS Business Corporation	314472	G-624	3.09	- do -
JRS Business Corporation	314467	G-625	3.09	- do -
JRS Business Corporation	314367	G-625	3.09	- do -
JRS Business Corporation	331501	G-624	3.09	- do -
JRS Business Corporation	314472	G-624	3.09	- do -
JRS Business Corporation	314467	G-625	3.09	- do -
JRS Business Corporation	314366	G-626	3.09	- do -
JRS Business Corporation	314499	G-626	3.09	- do -
JRS Business Corporation	314309	G-627	3.09	- do -
JRS Business Corporation	314218	G-628	3.09	- do -
JRS Business Corporation	314135	G-628	3.09	- do -
JRS Business Corporation	314079	G-629	3.09	- do -
JRS Business Corporation	314078	G-629	3.09	- do -
JRS Business Corporation	314260	G-631	3.09	- do -
Kimberly Clark Philippines, Inc.	212780		99.49	No document
Organization Management and Dev.	65		1,050.00	No document
Rubicon Graphics and Printing Services	2572		77.27	No document
Sparks	995		6,754.55	No document
Tamaraw Reinforced Armored Car Ser. Inc.	8104	G-354	1,355.00	Statement of account
Tamaraw Reinforced Armored Car Ser. Inc.	8010	G-355	500.00	Statement of account
The Wyatt Company (Phils.) Inc.	8113		1,700.00	No document
Whalecard Enterprises	7431		196.64	Statement of account
T O T A L			P 54,351.40	

JULY 1, 1994 TO SEPTEMBER 30, 1994

SUPPLIER	INVOICE/ O.R. NO.	Exh.	AMOUNT OF INPUT TAX CLAIMED	REMARKS
Anchor Umbrella Industries	2193		P 45.03	No document
Collector of Customs	16174363		40,073.00	No document

Equicom Computer Services, Inc.	8822		76.00	No document
Equicom Computer Services, Inc.	8839		146.45	No document
Equicom Computer Services, Inc.	8892		347.73	No document
Equicom Computer Services, Inc.	8872		22.73	No document
Equicom Computer Services, Inc.	8610		75.00	No document
Equicom Computer Services, Inc.	8632		102.73	No document
Equicom Computer Services, Inc.	8662		80.00	No document
Equicom Computer Services, Inc.	0009543		1,773.09	No document
Equicom Computer Services, Inc.	8611		22.73	No document
Equicom Computer Services, Inc.	0009394		15.00	No document
Equicom Computer Services, Inc.	8643		22.73	No document
Equicom Computer Services, Inc.	0009515		1,395.45	No document
JRS Business Corporation	334624		3.09	No document not in the name of petitioner
JRS Business Corporation	331619		3.09	No document
JRS Business Corporation	446130	G-439	3.09	Charge service job order
JRS Business Corporation	446115	G-439	3.09	- do -
JRS Business Corporation	446181	G-440	3.09	- do -
JRS Business Corporation	446142	G-440	3.09	- do -
JRS Business Corporation	331726	G-441	3.09	- do -
JRS Business Corporation	331624	G-442	3.09	- do -
JRS Business Corporation	331619	G-442	3.09	- do -
JRS Business Corporation	331570	G-443	3.09	- do -
JRS Business Corporation	331516	G-443	3.09	- do -
JRS Business Corporation	331926	G-444	3.09	- do -
JRS Business Corporation	331958	G-445	3.09	- do -
JRS Business Corporation	331951	G-445	3.09	- do -
JRS Business Corporation	331930	G-446	3.09	- do -
JRS Business Corporation	331880	G-447	3.09	- do -
JRS Business Corporation	331800	G-447	3.09	- do -
JRS Business Corporation	331773	G-448	3.09	- do -
JRS Business Corporation	331768	G-448	3.09	- do -
Lane Moving & Storage	34145		467.60	No document
Modem Business Methods, Inc.	48012	G-658	568.91	The same item in Exh. 649
One-on-One	0115		339.90	No document
One-on-One	0112		688.52	No document
One-on-One	0114		55.64	No document
Robbie Stylographic	0165		1,045.45	No document
Robbie Stylographic	6704		1,932.73	No document
Tamaraw Reinforced Armored Car Ser. Inc.		G-757	1,516.00	Statement of account
Tamaraw Reinforced Armored Car Ser. Inc.	8529	G-533	500.00	Statement of account
Tamaraw Reinforced Armored Car Ser. Inc.	8443	G-534	500.00	Statement of account
Tamaraw Reinforced Armored Car Ser. Inc.	8530	G-535	500.00	Statement of account
U-Bix Corporation	100798	G-542	827.27	Debit/Credit memo
The Wyatt Company (Phils.) Inc.	6487		1,048.00	No document
T O T A L			P 54,316.67	

OCTOBER 1, 1994 TO DECEMBER 31, 1994

SUPPLIER	INVOICE/ O.R. NO.	Exh.	AMOUNT OF INPUT TAX CLAIMED	REMARKS
AD-Cubes, Inc.	3813		₱ 6,390.00	No document
Anhawan Company	010182		3,357.95	No document
BCD - Pinpoint	1385		450.00	No document
Collector of Customs	16174392		24,318.00	No document
Collector of Customs	16174392		22,621.00	No document
Computech	419		204.55	No document
Computer Systems	409		194.55	No document
JRS Business Corporation	446316	G-450	3.09	Charge service job order not in the name of petitioner
JRS Business Corporation	446208	G-450	3.09	- do -
JRS Business Corporation	446323	G-452	3.09	- do -
JRS Business Corporation	446461	G-452	3.09	- do -
JRS Business Corporation	446372	G-453	3.09	- do -
JRS Business Corporation	446356	G-453	3.09	- do -
Mode Matrix	[illegible]		[illegible]	No document
Mode Matrix	0650		7,424.30	No document
Ogilvy & Mather	4437		2,910.48	No document
Ogilvy & Mather	4466		3,181.14	No document
One-on-One	[illegible]		[illegible]	No document
Rapid Lithographics & Publishing Inc.	495		1,022.73	No document
Richie	2130		1,236.36	No document
Robbie Stylographic	5980		16,817.27	No document
Robbie Stylographic	6034		3,326.[illegible]	No document
Robbie Stylographic	6041		782.73	No document
Role Manufacturing	2328		1,272.73	No document
Santis Delicatessen	0132		5,275.64	No document
Sarabia Optical	43151		100.00	No document
Sarabia Optical	43072		72.27	No document
Tammaraw Reinforced Armored Car Ser. Inc.	10415	G-536	1,195.00	Statement of account
Tammaraw Reinforced Armored Car Ser. Inc.	8556	G-537	500.00	Statement of account
Time Globe, Inc.	255		4,100.00	No document
Time Globe, Inc.	351		4,100.00	No document
U-Bix Corporation	101618	G-538	827.27	Debit/Credit Memo
Wiley Multi Sales	1797		5,090.91	No document
T O T A L			P118,673.10	