REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GENERAL ELECTRIC PHILIPPINES
METER AND INSTRUMENTS CO., INC.,
Petitioner,

-versus- C.T.A. CASE NO. 3766

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

5/28/91

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D E C I S I O N

This case involves a claim for the refund of the amount of P57,856.00, representing erroneously paid or overpaid advance sales tax paid by petitioner covering its various importations of nylon pellet, aluminum ingots, register, cover assembly and other materials necessary for the manufacture of electric meters from April 14, 1982 to June 16, 1982 covered by the following Central Bank official receipts as follows:

Official Receipt No.	Date	10% Advance Sales Tax Paid
1283187	4-15-82	P 61,962.00
1330438	5-19-82	11,123.00
1357270	6-02-82	8,727.00
1357269	6-02-82	9,668.00

1337448	6-15-82	17,034.00
1330788	6-16-82	7,198.00
Total payments		P 115,712.00

It appears from the records that the Bureau of Customs levied and collected on petitioner's importations the 10% advance sales tax based on the provisions of the National Internal Revenue Code. However, in a meeting held on May 25, 1982, the Board of Governors of the Board of Investments granted the request of General Electric Philippines Meter and Instruments Co., Inc. (GEPMICI) for extension of its 100% tax exemption benefits under Section 8(a) of R.A. 5186 (Article 46(a) of the Omnibus Investment Code) for another year to cover the period April 1, 1982 to March 31, 1983, subject to the provisions of P.D. 1395. Accordingly, in a letter dated April 13, 1984, petitioner, through its external auditor, Sycip, Gorres, Velayo & Co., filed a claim for refund with the Bureau of Internal Revenue which is the subject of the instant review. Petitioner alleged that on the basis of the BOI extension of its tax exemption privilege, its internal revenue tax liabilities for the importations in question should be computed only at 5% pursuant to P.D. 1352 as amended by P.D.

1395, and the overpayment is arrived at as follows:

Tax Base	10% Tax Paid	5% Tax Due	Overpayment
P619,624.05	P 61,962	P 30,981	P 30,981
111,225.01	11,123	5,562	5,561
87,270.29	8,727	4,363	4,364
96,678.16	9,668	4,834	4,834
170,335.34	17,034	8,517	8,517
71,977.85	7,198	3,599	3,599
	P115,712	P 57,856	P 57,856

To date, respondent has neither granted nor acted upon petitioner's claim for refund. Hence, this instant petition for review.

Counsels for the government in their answer denied for lack of knowledge or information the allegations made by the petitioner in its petition for review. As special and affirmative defenses, they alleged that it is up to the petitioner to show compliance with the provisions of Sections 292 and 295 of the National Internal Revenue Code of 1977; that the amount of P57,856 was collected pursuant to law and regulations, and that a claim for refund should be strictly construed against the claimant. At the end of the hearing, counsels for respondent did not file a memorandum to dispute the arguments of the petitioner in its memorandum dated July 20, 1990 but merely manifested that they are submitting the case for decision on the basis of the pleadings and CTA records.

The sole issue in this case is whether or not petitioner General Electric Philippines Meter and Instruments Co., Inc. has erroneously paid or overpaid the advance sales tax due on the aforementioned importations.

We are in full agreement with petitioner that it has erroneously paid the advance sales tax due and is therefore, entitled to the refund of the amount of ₱57,856.00.

The pleadings and the various documents forming part of the record show that petitioner has filed a valid claim for refund with the Commissioner of Internal Revenue and a timely petition for review within two years from payment of the internal revenue tax in question. As stated, the Commissioner of Internal Revenue has neither granted nor acted favorably on the claim for refund. To this end, the petitioner has sufficiently complied with the provisions of Sections 292 and 295 of the National Internal Revenue Code of 1977, as amended.

Likewise, petitioner was able to prove that during the period it made the subject importations from April 14, 1982 to June 16, 1982, it paid the total amount of P115,712.00 representing 10% advance sales tax pursuant to the National Internal Revenue Code. Consequently, when the Board of Investments in its meeting of May 25, 1982 extended the 100% tax exemption benefits of the petitioner under Sections 8(a) of R.A. 5186 (Article 46(a) of the Omnibus Investment Code) for another year to cover the period April 1, 1982 to March 31, 1983, subject to the provisions of P.D. No. 1395, the payment by petitioner of the 10% advance sales tax became erroneous. The sole limitation to the extension being the imposition of the 5% customs duty and 5% internal revenue tax under P.D. 1395.

Accordingly, this Court finds the aforementioned computation by petitioner of its claim for refund based on the 5% tax due as meritorious.

WHEREFORE, it is hereby ordered that respondent Commissioner of Internal Revenue grant to petitioner General Electric Philippines Meter and Instruments Co., Inc. the refund of the sum of P57,856.00.

No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, May 28, 1991.

ERNESTO D. ACOSTA
Associate Judge

WE CONCUR:

ALEX Z. REYES
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ALEX Z. REYES
Presiding Judge
Court of Tax Appeals