REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

IBM PHILIPPINES, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 2855

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

2/27/81

D E C I S I O N

Petitioner, a domestic corporation organized and existing under Philippine laws, 99% of the capital stock of which is owned by IBM World Trade Corporation, a non-resident foreign corporation not engaged in trade or business in the Philippines, organized and existing under the laws of the State of Delaware, United States, seeks the recovery of an overpaid withholding income tax at source on dividend received by the latter, consequenced by respondent's Ruling No. 76-004 dated July 19, 1976 in implementation of Section 24(b)(1) of the National Internal Revenue Code as amended by Presidential Decree No. 369 which took effect on January 1, 1974, imposing a reduced rate of 15% instead of the 35% withholding tax under certain conditions on inter-company dividends of non-resident foreign corporations domiciled in the United States.

Petitioner applied on January 21, 1977 with respondent for a tax credit aggregating a total amount of ₱3,961,756.08 as overpayments of withholding income tax at source on dividends remitted to the parent company in the United States, IBM World Trade Corporation, shown thus -

Date of Payment	Tax Overpaid
January 25, 1974	₱1,053,106.00
January 27, 1975	1,184,250.08
January 26, 1976	1,724,408.00
Total Tax Credit Claimed . .	₱3,961,764.08

On January 26, 1977 petitioner filed with this Court a petition for review.

In a letter dated April 5, 1978 respondent granted petitioner a tax credit in the aggregate sum of ₱2,908,658.08 but disallowed the amount of ₱1,053,106.00 representing the January 25, 1974 overpayment as the right to recover the same had already prescribed by mandate of Section 309 (now Sec. 295) of the National Internal Revenue Code, insofar as pertinent, provides, "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 payment of the tax or penalty." More than two years from the date of payment of January 25, 1974 to the filing of the claim on January 21, 1977 had elapsed.

Accordingly, an amended petition for review was filed on May 4, 1978, followed by respondent's amended answer on September 14, 1978, invoking the lack of jurisdiction of this Court, as both petitioner's claim for credit as well as petition for review were filed beyond the specified statutory limitations prescribed in Section 306 (now Sec. 292) of the National Internal Revenue Code, thus, "In any case, no such suit or proceeding shall be begun after the expiration of the two years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment."

The simple issue is whether the statutory period of prescription fixed in Section 306 and 309 of the National Internal Revenue Code applies in this case.

Petitioner has taken exceptive allegations, asserting, first, the sufficiency of the applicability of Section 306, supra, which only refers to taxes erroneously or illegally collected and the overpaid withholding tax for which credit is presently claimed was legally collected from the beginning, hence, the two-year statute of limitations for filing a suit in court should not be counted from the date of payment of the tax but from the time the right to claim the tax refund or credit arose or accrued on July 19, 1976 or the issuance of the BIR Ruling No. 76-004, and second, on equitable grounds, as right to a tax credit came after the statute of limitations had set in.

Petitioner's claim had been barred by the statute of limitations. As so determined, respondent did not err.

Prior to the amendment under Presidential Decree No. 69 which incorporated the phrase, "regardless of the supervening cause that may arise after payment," as integral part of the provision of Section 306, the Supreme Court in a number of cases made exception to the application of the statutory period of limitations, such that, "when the tax sought to be refunded is illegally or erroneously collected, the period of prescription starts from the date the tax was paid, but when the tax is legally collected, the prescriptive period commences to run from the date of the occurrence of the supervening cause which gave rise to the right to refund." (Commissioner of Internal Revenue v. Central Azucarera Don Pedro, 49 SCRA 474; Commissioner of Internal Revenue v. Insular Lumber Co., 21 SCRA 1237; Commissioner of Internal Revenue v. National Power Corporation, 31 SCRA 113; Litton v. Commissioner of Internal Revenue, CTA Case No. 2180, April 4, 1977). Apparently, the supervening cause which gave rise to the right to the tax credit was the issuance of BIR Ruling No. 76-004 dated July 19, 1976 and petitioner's claim was filed on January 21, 1977 well within the two-year period.

Were we not confronted with the amended provision of Section 306, supra, the precise question raised by petitioner could have been easily and readily decided and disposed on the strength of the broad concensus of the decisions in the above-mentioned cases, which, in most respects come closely hewed with the circumstances of the case at bar. But the proper solution of the question must necessarily depend upon the construction to be placed on Section 306, as amended. As must be expected in order to confer jurisdiction upon the court, it is necessary that in all cases the suit must be brought within the statutory period of two years from date of payment of the tax and the requirements provided in Section 306 must be complied with. (Manila Electric Co. v. Collector of Internal Revenue, CTA Case No. 83, March 30, 1955, cited in Collector of Internal Revenue v. CTA and Hume Pipe and Asbestos Co., Inc. 1 SCRA 90; Paracale-Gamaus Co. v. Blaquera, CTA Case No. 211, August 22, 1956). Moreover, the provision is mandatory and is not subject to any qualification, hence, it applies regardless of the conditions under which payment may have been made. (Guagua Electric Light Plant Co., Inc., v. Collector of Internal Revenue, 1 SCRA 1221).

We shall not attempt to belabor the authorities relied upon by petitioner more than to say that the animating principles enunciated in the cases of Central Azucarera Don Pedro, Insular Lumber Co., National Power Corporation and Litton, supra, could no longer portray the true meaning or intent of the amended Section 306 of the Tax Code which expressly excepted any condition, event or circumstance arising after payment. The prevailing pronouncements in said cases, then controlling, have been eviscerated by the PD 69 amendment and are largely nostalgic illusions. And we do not think that the amendment was intended as a mere bargaining ploy to further discombobulate the effective tolling of the specified statutory period of limitations.

Be that as it may, it now appears settled, "Under Section 306 of the Revenue Code as amended by PD 69 the claim for refund must be filed and court action instituted within the two-year period from date of payment despite any supervening cause that may arise after payment of the tax. Undoubtedly, the amendment is intended to overrule the decision of the Supreme Court." (Morales v. Commissioner of Internal Revenue and University of the East, CTA Case No. 2838, January 24, 1978). If, in so holding, we have misread the statutory provision and misconceived its intendment there would utterly be no reason and justification for the amendment of PD 69. Hoc quidem perquam durum est, sed ita lex scripta est.

As to whether respondent in an equitable action might have been held to be estopped from invoking the benefit of the statute of limitations had it appeared that he had prevented the petitioner from filing its claim for tax credit until after the petitioner's cause of action had been barred by lapse of time, it is not necessary for us to consider here. Suffice it to state, we are confirmed in the conclusion that petitioner has no way of enforcing its right after having been barred by the statute of limitations and this Court can do little in leading petitioner out of what could be a legal cul de sac.

WHEREFORE, the petition for review is hereby dismissed at petitioner's costs.

SO ORDERED.

Quezon City, February 27, 1981.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge