REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

STAGES PRODUCTION SPECIALISTS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9817

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:
JUN 17 2022 10:00 a

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RESOLUTION

MANAHAN, J.:

For this Court's resolution is petitioner's *Motion for Reconsideration* filed on October 27, 2021 with respondent's *Comment/Opposition (on Petitioner's Motion for Reconsideration)* posted on February 21, 2022[1] and petitioner's *Reply* filed on March 4, 2022.

On August 31, 2021, the Court promulgated a Decision denying petitioner's claim for refund of excess income tax payments for taxable year (TY) ending December 31, 2015, the dispositive portion of which reads as follows:

> "**WHEREFORE**, in view of the foregoing, the instant *Petition for Review* filed by petitioner on April 16, 2018 is **DENIED** for lack of merit."
>
> **SO ORDERED**."

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[1] Received by the Court on March 9, 2022.

Petitioner contends that the Court erred in denying its claim for refund of excess creditable withholding taxes (CWT) for TY 2015 because it satisfactorily complied with all the requirements prescribed by law and jurisprudence as follows:

1. The claim for refund was filed within the two-year reglementary period pursuant to Section 229 of the 1997 NIRC, as amended;
2. It was shown in its Income Tax Return (ITR) that the income payments received has been declared as part of its gross income; and
3. The fact of withholding is established by a copy of the withholding tax statement, duly issued by the payor to the payee, showing the amount paid and income tax withheld from said amount.

Petitioner assails the conclusion of the Court that the claim for refund should be denied because it failed to present any evidence to prove its Prior Year's Excess Credits in the amount of Php8,488,552.00 as declared in its amended Annual Income Tax Return (ITR) for TY 2015. According to petitioner, such requirement is not prescribed by the 1997 NIRC, as amended, nor by jurisprudence and believes that it is no longer necessary because the amount claimed for refund (Php3,585,949.00) is no longer included the total amount of prior year's excess credit as can be seen from Item No. 21 of its Annual ITR for 2015 showing a total overpayment of Php10,152,147.00) as the difference of Php6,566,198.00 (Php10,152,147.00 less Php3,585,949.00) was already carried over to the succeeding taxable year 2016.

In his *Comment/Opposition*, respondent echoes the ruling of the Court and maintains that the latter has no excess tax credits for TY 2015 which may be refunded. He maintains that only the amount of Php1,663,595.00 was not carried over to the succeeding taxable period and such amount after applying it to the tax due for TY 2015 of Php1,922,354 would still result to an income tax payable of Php258,759.00, thus there is no excess taxes that may be refunded to petitioner.

Respondent likewise adopts the finding of the Court that petitioner is not entitled to the claimed refundable amount of Php3,585,949.00 (for TY 2015) for failure to present any evidence to prove its prior year's excess credit in the amount of Php8,488,552.00.

Lastly, respondent cites the oft repeated doctrine that a claim for tax refund is strictly construed against the taxpayer because the same partakes of the nature of a tax exemption. In this case, respondent avers that petitioner failed to sufficiently establish its entitlement to the refund claimed for TY 2015.

In its Reply to respondent's Comment/Opposition, petitioner counters that it had successfully proven compliance with all the requirements for entitlement to the refund of excess withholding taxes. It particularly challenges the contention of respondent that it still had a tax due of Php258,759.00 for TY 2015 after applying the amount of Php1,663,595.00 to the tax due of Php1,922,354. This, according to the petitioner stems from an alleged erroneous premise that the amount of Php1,922,354 out of the Php3,585,949.00 excess CWT in 2015 was carried over to the succeeding taxable quarters. On the contrary, petitioner claims that said Ph3,585,949.00 excess CWT in 2015 was not carried over to TY 2016 as shown by its intention to take the "refund" option in its 2015 Annual ITR. Petitioner recalls that the Court in the assailed Decision, computed the amount of Php1,663,595.00 CWT for TY 2015 as not having been carried over to the succeeding taxable periods, and cites the Court's computation as follows:

Total Tax Overpayment for 2015[2] (**including** the subject claimed amount of ₱3,585,949.00 CWT for 2015)	₱10,152,147.00
Less: Prior Year's Excess Credits carried over in the succeeding taxable period/s[3]	8,488,552.00
CWT for 2015 not carried over in the succeeding taxable period/s	**₱1,663,595.00**

In spite of the above computation, petitioner attempts to persuade the Court by showing that item 46 of its Annual ITR for TY 2015 indicates a total tax overpayment of Php10,152,147.00 which already includes the Php3,585,949.00 excess CWT for CY 2015 and which is already less of the income tax liability of Php1,922,354.00. To further deduct the income tax liability of Php1,922,354.00 from Php1,663,595.00 will constitute a double deduction of income tax liability illustrated as follows:

CWT for CY 2015	3,585,949.00
Less: Income Tax Due. For CY 2015	1,922,354.00

[2] Exhibit "P-1", Docket – Vol. II, p. 1054
[3] Exhibits "P-6-a" and "P-8-a", Docket – Vol. II, pp. 1100 and 1112, respectively.

Balance of Tax Credits/Overpayments	1,663,595.00
Less: Income Tax Due for CY 2015	1,922,354.00
Income Tax Due	(258,759.00)

From the above computation, petitioner attempts to show the Court its erroneous finding that it still has an income tax due for TY 2015 of Php258,759.00.

RULING OF THE COURT

The Court is not persuaded by the arguments of petitioner.

Petitioner submits that there is no need to submit evidence to prove its prior year's excess credits because this is neither prescribed by law nor jurisprudence in claims for refund of excess CWT.

In arguing thus, petitioner loses sight of the fact that there are several components involved in a claim for refund of alleged excess CWT such as the prior year's excess credit, the current year's tax payments and the creditable taxes withheld as well as the income tax due for the current year. In the case of *Commissioner of Internal Revenue vs. Nissan Motors Philippines; Nissan Motors Philippines vs. Commissioner of Internal Revenue,*[4], the CTA *En Banc* explained the necessity of proving the prior year's credit as such is an intrinsic element in the taxpayer's claim that it had overpaid taxes for a particular taxable year, and we quote:

> "xxx xxx A component of the refundable amount reflected on its final adjustment return is its prior year's excess credit of Php478,645.00. The other components are Nissan Motor's Minimum Corporate Income Tax (MCIT) amounting to Php3,958,694.00 and the total amount withheld taxes for taxable year 20000 amounting to P8,656,236.00. xxx. xxx
>
> It is undeniable that Nissan Motor's prior year's excess credit formed part of the Total Tax Credits/Payments amounting to P9,134,881.00 that was used or applied to cover its MCIT liability for the taxable year 2000 and that the Tax Overpayment of Php5,176,187.00 resulted from its Total Credits/Payments less its MCIT liability. **Clearly, its prior year's excess credits is a part of Nissan Motor's Tax Overpayment reflected on its Annual Income Tax Return."** (emphasis supplied)

[4] CTA EB Nos. 137 & 139 (CTA Case No. 6622), October 6, 2006. *om*

As succinctly stated in the assailed Decision, a "tax overpayment" is composed of the taxpayer's prior year's credits; current year's tax payments; creditable taxes withheld for the current year; and even foreign tax credits (if applicable)." To state therefore that it is no longer necessary to prove the prior year's excess credit is to ignore an important component of its claim for refund.

Notwithstanding, the disquisitions of both parties in support of their respective contentions, this Court finds it relevant to analyze the provisions of Section 76 of the 1997 NIRC, as amended, to determine petitioner's entitlement to the claim for refund.

Section 76 of the 1997 NIRC, as amended, states:

> "SEC. 76. *Final Adjustment Return.* – Every corporation liable to tax under Section 27 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 balance of tax still due; or
>
> (B) Carry-over the excess credit; or
>
> (C) Be credited or refunded with the excess amount paid, as the case may be.
>
> In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. **Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.**" *(Emphasis supplied)*

Based on the foregoing provision, a corporation that is entitled to a tax refund or a tax credit for excess payment of quarterly income taxes may carry over and credit the excess income taxes paid in a given taxable year against the estimated income tax liabilities of the succeeding quarters. Once chosen, the carry-over option shall be considered irrevocable for that taxable period, and no application for a tax refund or issuance of a tax credit certificate shall then be allowed.[5]

It can be recalled that in its amended Annual ITR for TY 2015, petitioner reflected an overpayment of Php10,152,147.00 which was marked as **"To be refunded."** The over payment is shown as follows:

Income Tax Due other than MCIT			₱ 1,922,354.00
Less: Tax Credits/Payments[6]			
Prior Year's Excess Credits Other Than MCIT		₱ 8,488,552.00	
Creditable Tax Withheld from Previous Quarter/s	₱ 2,540,234.00		
Creditable Tax Withheld for the 4th Quarter	1,045,715.00	3,585,949.00	12,074,501.00
Total Tax Overpayment			**₱ 10,152,147.00**

Petitioner claims that in 2015, it had a prior year's excess credits of Php8,488,552.00, a part of which was used to pay the tax due for TY 2015 in the amount of Php1,922,354.00 leaving a balance of Php6,566,198.00 prior years excess credits which together with the amount of Php3,585,949.00 pertaining to CWT of 2015 represents the income tax over payment of Php10,152,147.00 as shown below:

Prior Year's Excess Credits Other Than MCIT	₱8,488,552.00	
Less: Income Tax Due for TY 2015	1,922,354.00	
Balance of Prior Year's Excess Credits		₱6,566,198.00
Add: Creditable Tax Withheld from Previous Quarter/s	₱2,540,234.00	
Creditable Tax Withheld for the 4th Quarter	1,045,715.00	
Tax Credits for 2015		3,585,949.00
Total Tax Overpayment		₱10,152,147.00

Petitioner now claims that it is entitled to the amount of Php3,585,949.00 for refund because it alleges that it already carried over the amount of Php6,566,198.00 to TY 2016.

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[5] *Philam Asset Management, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 156637/162004, December 14, 2005; CIR vs. Perf Realty Corporation, G.R. No163345, July 4, 2008

[6] As reflected in Schedule 7 of the amended Annual ITR for 2015, Exhibit "P-1", Docket – Vol. II, p. 1059.

However, the original 2016 Annual ITR reveals that instead of the Php6,566,198.00 alleged to have been carried over, petitioner actually carried over the amount of Php8,488,552.00. This shows that a portion of the claimed 2015 CWT of Php3,585,949.00 was also carried over to TY 2016 in the amount of Php1,922,354.00.

From this discussion it can be clearly seen that petitioner exercised the option of "carry over" instead of "refund" even if the latter option was the one indicated in its 2015 Annual ITR. The Supreme Court has ruled that in case a taxpayer exercised the carry over option, "it is deemed to have effectively negated its previous intention to claim a refund."[7]

In the case of *University Physicians Services Inc. – Management, Inc. vs. Commissioner of Internal Revenue,*[8] the Supreme Court elucidated the irrevocability rule in this manner, to wit:

> "Under the law, there are two options available to the corporation whenever it overpays its income tax for the taxable year: 1) to carry over and apply the overpayment as tax credit against the estimated quarterly income tax liabilities for the succeeding taxable years (also known as automatic tax credit) until fully utilized xxx xxx and (2) to apply for a cash refund or issuance of a tax credit certificate within the prescribed period.
>
> xxx xxx xxx
>
> **Law and jurisprudence unequivocally support the view that only the option of carry-over is irrevocable."** (emphasis supplied)

Having carried over the overpaid taxes of TY 2015 to TY 2016 as described above, petitioner is now precluded from claiming the same as refund. The choice of one precludes the other.[9]

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* filed on October 27, 2021, is **DENIED** for lack of merit.

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[7] *Winebrenner and Iñigo Insurance Brokers Inc, vs. CIR*, G.R. No 206526, January 28, 2015.
[8] G.R. No. 205955, March 7, 2018.
[9] *Philam Asset Management, Inc, vs. CIR*, G.R. No. 156637/162004, December 15, 2005.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice