Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

ESTATE OF MA. ROSARIO S. CABRERA (also known as Rosario S. Cabrera and Maria Rosario S. Cabrera) REPRESENTED BY CO-EXECUTORS EDUARDO JULIAN C. PASCUAL AND ANDRES ELIGIO C. PASCUAL,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8785

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

MAY 04 2016
3:25 p.m.

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DECISION

CASANOVA, *J.*:

This is a Petition for Review filed by petitioner on March 21, 2014, seeking the refund of the amount of Seven Hundred Thirteen Thousand ₱713,430.00, allegedly representing petitioner's erroneously paid estate tax.[1]

Petitioner is the Estate of the late Ma. Rosario S. Cabrera (also known as Rosario S. Cabrera and Maria Rosario S. Cabrera) who passed away on September 22, 2011[2], and is represented by the co-executors Eduardo Julian C. Pascual and Andres Eligio C. Pascual who were appointed as joint executors by the Regional Trial Court (RTC) Branch 92 of Quezon City in an Order[3] dated February 21, 2013. The

[1] Summary of the Case, Pre-Trial Order, Docket (Volume II), p. 646.
[2] Exhibit "P-2".
[3] Exhibit "P-1".

Estate is registered with Revenue District Office No. 39 with Tax Identification No. (TIN) 418-524-583[4].

On the other hand, respondent Commissioner of Internal Revenue (CIR) is the officer vested by law with authority to refund overpaid as well as erroneously or illegally collected internal revenue taxes.[5]

When Ms. Rosario S. Cabrera died on September 22, 2011, she left behind several real and personal properties. In her holographic will, she named Mr. Eduardo Julian C. Pascual and Mr. Andres Eligio C. Pascual as the joint executors of her properties.

On March 22, 2012, petitioner filed the estate tax return and paid the tax due thereon in the amount of ₱15,444,178.18[6], computed as follows:

Real Properties	₱	63,079,710.00
Personal Properties		19,735,200.68
Gross Estate		82, 814, 910.68
Less: Deductions		169,017.77
Estate after Deductions		82,645,890.91
Less: Standard Deduction		1,000,000.00
Medical Expenses		500,000.00
Net Taxable Estate		81,145,890.91
Estate Tax Payable	**₱**	**15,444,178.18**

Out of the amount paid, petitioner seeks the refund of ₱713,430.00, representing erroneously paid estate tax. The overpayment arose on account of the difference in the valuation of the real properties covered by Transfer Certificate of Title (CTC) No. 27569-R[7] and TCT No. 27568-R[8]. Accordingly, instead of dividing the value of the properties covered by said certificates among the four registered owners thereof, petitioner erroneously divided the same by three, which resulted to an overstatement of the value of said properties.[9] a

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[4] Exhibit "P-3".
[5] Par. 2, Facts Admitted in Respondent's Answer, Joint Stipulation of Facts and Issues (JSFI), Docket (Vol. II), p. 641.
[6] Exhibits "P-5" and "P-5-2".
[7] Exhibit "P-13".
[8] Exhibit "P-16".
[9] Pars. 6-7, Petitioner's Memorandum, Docket (Vol. IV), p. 1321.

By such reason, petitioner filed before the Office of the CIR, Revenue Region No. 7 and Revenue District Office No. 39, its administrative claim for refund[10] on March 14, 2014.

In view of respondent's inaction, petitioner filed the instant Petition for Review[11] on March 21, 2014.

Within the extension of time granted by the Court, respondent filed her Answer[12] on May 12, 2014, stating the following defenses:

> "4. Petitioner's alleged claim for tax refund/credit is subject to administrative investigation/examination by the respondent's Bureau.
>
> 5. Petitioner failed to demonstrate that the tax subject of this case was erroneously or illegally collected.
>
> 6. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable.
>
> 7. Petitioner failed to prove compliance with the governing rules relative to tax recovery or refund as provided for under Sections 204(C) and 229 of the National Internal Revenue Code of 1997, as amended.
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> 8. In an action for tax refund/credit, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund/credit and failure to adduce sufficient proof is fatal to the action for tax refund/credit (*Commissioner of Internal Revenue vs. Tokyo Shipping Co. Ltd., 244 SCRA 336*).
>
> 9. Basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same (*Philippine Geothermal, Inc. vs. Commissioner of Internal Revenue, G.R. No. 154028, July 27, 2005*). Moreover, statutes in derogation of sovereignty such as those containing exemption from taxation should be *strictly*

[10] Exhibit "P-36".
[11] Docket (Vol. I), pp. 14-26.
[12] Docket (Vol. I), pp. 162-164.

construed in favor of the State (*PLDT vs. City of Davao, 399 SCRA 442*)."

Thereafter, respondent's Pre-Trial Brief[13] was filed on May 27, 2014, while petitioner's Pre-Trial Brief[14] was filed on June 16, 2014. The Parties[15] filed their Joint Stipulation of Facts and Issues[16] on July 21, 2014 and a Pre-Trial Order[17] was, thereafter, issued on July 31, 2014, thereby terminating the Pre-Trial.

During the trial, petitioner presented its witnesses, **Mr. Genesis S. Ocsan**[18] and **Mr. Eduardo Julian C. Pascual**[19], the joint executors of the properties of the deceased. Subsequently, petitioner filed its Formal Offer of Evidence[20] on September 30, 2014, praying for the admission of Exhibits **"P-1"** to **"P-41"**.

In a Resolution[21] dated November 14, 2014, all of petitioner's Exhibits were admitted by the Court except for Exhibit **"P-18"** which was denied admission by the Court for failure of the description of the document actually marked to correspond to its description in the Formal Offer of Evidence. Hence, petitioner filed a Motion for Partial Reconsideration (Re: Resolution dated 14 November 2014) With Motion to Defer Submission of Memorandum and with Leave of Court to Present Clarificatory Evidence[22] on December 9, 2014. In a Resolution[23] dated February 23, 2015, petitioner was directed to submit its amended Formal Offer of Evidence to reflect the correct description of its Exhibit **"P-18"**.

For her part, respondent manifested in the September 1, 2014 hearing that she will no longer present any evidence.[24]

Petitioner submitted its Compliance[25] on April 7, 2015, attaching therein its Amended Formal Offer of Evidence[26] which was

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[13] Docket (Vol. I), pp. 166-168.
[14] Docket (Vol. II), pp. 586-609.
[15] Court Order, Docket (Vol. II), p. 639.
[16] Docket (Vol. II), pp. 640-645.
[17] Docket (Vol. II), pp. 646-656.
[18] Exhibit "P-38".
[19] Exhibits "P-39" and "P-42".
[20] Docket (Vol. III), pp. 682-728.
[21] Docket (Vol. III), pp. 1030-1031.
[22] Docket (Vol. III), pp. 1032-1047.
[23] Docket (Vol. III), pp. 1054-1057.
[24] Minutes of the Hearing, Docket (Vol. II), p. 662.
[25] Docket (Vol. III), pp. 1058-1063.
[26] Docket (Vol. III), pp. 1135-1182.

admitted by the Court in the hearing[27] held on April 8, 2015. Likewise, the parties were granted a period of thirty (30) days from the said date within which to file their respective memoranda.

Taking into consideration petitioner's Memorandum[28] filed on May 14, 2015 and respondent's Memorandum[29] filed on July 7, 2015, the case was submitted for decision on July 10, 2015[30].

As stipulated by the parties, the sole issue to be resolved in this case is whether or not petitioner is entitled to the claim for refund in the aggregate amount of ₱713,430.00, representing its erroneously paid estate tax.[31]

Petitioner claims that its claim for refund arose from erroneous valuation of real properties covered by TCT Nos. 27569-R and 27568-R. Accordingly, instead of dividing the value of the property among the four registered owners, petitioner erroneously divided same by three, which resulted to an overstatement of the value of the said properties.[32]

For her part, respondent argues that the findings of the Revenue District Office that there was a mathematical error in the computation of the estate tax that resulted in overpayment is not yet conclusive or final, as the same should still be reviewed by the Review and Evaluation Section of the Assessment Division.[33]

In Schedule 1[34] of the Estate Tax Return, the real properties of petitioner were valued at ₱63,079,710.00. The pertinent details are as follows:

Ref.	Property	TCT No.	Area (sq. m.)	BIR Zonal Value		Assessor's Fair Market Value	% of Ownership	Estate Value
				Per sq. m.	Zonal Value per Title			
1	Land	116019	500.00	₱ 40,000.00	₱20,000,000.00	₱ 6,000,000.00	100%	₱20,549,100.00

[27] Minutes of Hearing dated April 8, 2015, Docket, (Vol. IV), p. 1184.
[28] Docket (Vol. IV), pp. 1319-1341.
[29] Docket (Vol. IV), pp. 1345-1349.
[30] Court Resolution dated July 10, 2015, Docket (Vol. IV), p. 1350.
[31] Joint Stipulation of Issue, JSFI, Docket (Vol. II), p. 641.
[32] Par. 44, Petitioner's Memorandum, Docket (Vol. IV), p. 1331.
[33] Respondent's Memorandum, Docket (Vol. IV), pp. 1346-1347.
[34] Docket (Vol. III), p. 756.

	House					549,100.00		
2	Land	44206	690.00	40,000.00	27,600,000.00	8,280,000.00	100%	28,100,010.00
	House					500,010.00		
3	Fishpond	27569-R	50,520.00	100.00	5,052,000.00	202,080.00	25%	1,684,000.00
4	Fishpond	27568-R (Lot 1)	377,538.00	100.00	37,753,800.00	1,510,152.00	25%	12,584,600.00
5	Land	14283	162.00	1,000.00	162,000.00	48,600.00	100%	162,000.00
Total								**₱63,079,710.00**

An examination of TCT Nos. 27569-R[35] and 27568-R[36] show that the subject properties are registered in the names of Lourdes, Concesa, Rosario, and Paz, all surnamed Cabrera. That being the case, petitioner's interest, with respect to the fishponds, is limited only to ¼ or 25% of the value of the property. Thus, the correct valuation of the real properties should be ₱59,512,560.00, computed as follows:

Ref.	Property	TCT No.	Area (sq. m.)	BIR Zonal Value		Assessor's Fair Market Value	% of Owner-ship	Estate Value
				Per sq. m.	Zonal Value per Title			
1	Land	116019	500.00	₱ 40,000.00	₱20,000,000.00	₱ 6,000,000.00	100%	₱ 20,549,100.00
	House					549,100.00		
2	Land	44206	690.00	40,000.00	27,600,000.00	8,280,000.00	100%	28,100,010.00
	House					500,010.00		
3	Fishpond	27569-R	50,520.00	100.00	5,052,000.00	202,080.00	25%	1,263,000.00
4	Fishpond	27568-R (Lot 1)	377,538.00	100.00	37,753,800.00	1,510,152.00	25%	9,438,450.00
5	Land	14283	162.00	1,000.00	162,000.00	48,600.00	100%	162,000.00
Total								**₱ 59,512,560.00**

Effecting the adjustment, petitioner, indeed, erroneously paid estate tax amounting to ₱713,429.60, on the overvaluation of the real properties, as determined below:

35 Exhibit "P-13".
36 Exhibit "P-16".

Real Properties	₱	59,512,560.00
Personal Properties		19,735,200.68
Gross Estate		79,247,760.68
Less: Deductions		169,017.77
Estate after Deductions		79,078,742.91
Less: Standard Deduction		1,000,000.00
Medical Expenses		500,000.00
Net Taxable Estate	₱	77,578,742.91
Estate Tax Payable	₱	14,730,748.58
Less: Payment		15,444,178.18
Estate Tax Overpayment	**₱**	**713,429.60**

It is a generally accepted principle in taxation that in a claim for tax refund or tax credit certificate, the claimant has the burden of proof to establish the factual basis of such refund claim.[37] Tax refunds are in the nature of tax exemptions, and thus they are to be construed *strictissimi juris* against the person or entity claiming the refund.[38]

Therefore, to be entitled to a refund, petitioner must comply with the requirements provided under Sections 204(C) and 229 of the NIRC of 1997, to wit:

> "**Section 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* - The Commissioner may –

xxx xxx xxx

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[37] Citibank, N.A. vs. Court of Appeals and Commissioner of Internal Revenue, G.R. No. 107434, October 10, 1997.

[38] Commissioner of Internal Revenue vs. S.C. Johnson & Son, Inc., *et. al.*, G.R. No. 127105, June 25, 1999.

C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. 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 (2) years after the payment of the tax or penalty: xxx."

Section 229. *Recovery of Tax Erroneously or Illegally Collected.* - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid."

Based on the above-mentioned provision, both the administrative and judicial claim for refund must be filed within two (2) years from the payment of tax.

In the present case, petitioner filed its Estate Tax Return and paid the tax due thereon on March 22, 2012. Counting from such date, petitioner had until March 22, 2014 within which to file its administrative and judicial claims for refund. Clearly, petitioner's administrative and judicial claims for refund filed on March 14, 2013[39] and March 21, 2014[40], respectively, were both filed within the two-year prescriptive period.

Considering the foregoing, the Court finds that petitioner has sufficiently established its entitlement to a refund of its erroneously paid estate tax

WHEREFORE, the instant Petition for Review is hereby **GRANTED**. Accordingly, respondent is **ORDERED** to **REFUND** to petitioner the amount of **₱713,429.60**, representing its overpaid estate tax.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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[39] Exhibit "P-36", Docket, Vol. III, p. 899.
[40] Docket, Vol. I, p. 14.

CERTIFICATION

Pursuant to Article VIII, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Acting Presiding Justice