REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

A. SORIANO CORPORATION
(OTHERWISE KNOWN AS ANSCOR)
Petitioner,

- versus - C.T.A. CASE NO. 3694

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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D E C I S I O N

In its letter of May 9, 1983 to respondent Commissioner of Internal Revenue filing its claim for tax credit of the sum of ₱1,190,861.95 representing alleged excess income tax payments made to settle income tax liabilities for 1981, petitioner A. Soriano Corporation, ANSCOR for short, through counsel, states:

In 1981, ANSCOR filed its first quarter income tax return on June 1, 1981, showing a tax of ₱876,561.00. ANSCOR settled this as follows:

Tax due	₱876,561.00
Withholding taxes on rental and others	₱ 12,172.93
Company check	864,388.07
Total amount paid	₱876,561.00

It filed its second quarter income tax return on August 25, 1981 showing a refundable income tax of ₱981,326.12 because operations for said quarter resulted in a net loss of ₱342,042.00. Breakdown of the refundable income tax is as follows:

First quarter payment	₱864,388.07
Withholding taxes on rental and others	116,938.05
Refundable income tax	₱981,326.12

In the third quarter, 1981, ANSCOR filed its quarterly income tax return on November 27, 1981 showing a refundable income tax of ₱1,000,979.63 because operations for said quarter resulted again in a net loss of ₱2,057,983.00.

Breakdown of the refundable income tax is as follows:

First quarter payment	₱864,388.07
Withholding taxes on rental and others	136,591.56
Refundable income tax to date	₱1,000,979.63

On April 15, 1982, ANSCOR filed its final income tax return for the year 1981, showing a net loss of ₱15,390,276.00. Since the operations in 1981 resulted in a zero income tax liability and ANSCOR actually paid to your Office the total amount of ₱1,190,861.95 (consisting of actual payment in company check of ₱864,388.07 and cumulative withholding taxes of ₱326,473.88), it is entitled to a tax credit in 1981 in the said sum of ₱1,190,861.95.

Thus, in its petition for review filed with this Court on October 26, 1983 for the issuance of a tax credit memorandum for the sum of ₱1,190,861.95 involved herein, petitioner alleges:

1. That it is a domestic corporation engaged in the business of managing other corporations, as

well as in the business of making investments in property, personal and real. It has its offices at the ANSCOR Building, 8776 Paseo de Roxas, Makati, Metro Manila where it may be served with writs, notices, processes and other legal papers;

2. That respondent is the head of the Bureau of Internal Revenue with offices at the National Office Building, BIR, Diliman, Quezon City, where he may be served with summons, notices, writs, processes and other legal papers;

3. That petitioner filed on time the required quarterly and annual income tax returns for the taxable year 1981, in all of which it reflected net loss except for the first quarter when it computed a tax due of ₱876,561, which amount it paid in full on June 1, 1981 in cash, ₱864,388.07 and in withheld taxes of ₱12,172.93 on rentals and other income;

4. That the return for the second quarter of 1981 filed on August 25, 1981, showed a net operating loss, resulting in an accumulated refundable amount of ₱981,326.12 consisting of the cash payment of ₱864,388.07 mentioned in paragraph 3 above and an accumulated withholding tax in the sum of ₱116,938.05 on rentals

and other income;

5. That the return for the third quarter of 1981 filed on November 27, 1981, showed a net loss in operations resulting in an accumulated refundable amount of ₱1,000,979 consisting of an accumulated withholding tax of ₱136,591.56 on rentals and other income and the cash payment of ₱864,388.07 mentioned in paragraph 3 above;

6. That on April 15, 1982, it filed its annual income tax return showing net loss and an accumulated refundable amount of ₱1,190,861.95 consisting of the cash payment of ₱864,388.07 mentioned in paragraph 3 above and accumulated withholding tax of ₱326,473.88 on rentals and other income;

7. That petitioner filed with the respondent its claim for tax credit of the total amount of ₱1,190,861.95 on May 10, 1983, but respondent has not acted thereon until now.

Hence, this appeal.

After petitioner has presented its evidence consisting of Exhibits "A" to "G" inclusive, in support of its claim for tax credit, and the same were all admitted by the Court, this case was submitted for decision based on the pleadings and the CTA records.

The records reveal that petitioner filed its first quarter income tax return for 1981 on June 1, 1981 showing a tax due thereon of ₱876,561.00, which amount petitioner paid in full on June 1, 1981 in check of ₱864,388.07 and in withheld taxes of ₱12,172.93. (Exhs. A, A-1, B & C; pp. 15-17, CTA records.) Petitioner filed its second quarter income tax return on August 25, 1981 reflecting a net operating loss of ₱342,042.00 resulting in a refundable amount of ₱981,326.12 consisting of cash payment of ₱864,388.07 and withholding taxes on rental and other income of ₱116,938.05. (Exh . D; p. 18, CTA records.) In the third quarter of 1981, petitioner's income tax return filed on November 27, 1981 again showed a net loss of ₱2,057,983.00 effecting in an accumulated refundable amount of ₱1,000,979.63 consisting of the first quarter payment of ₱864,388.07 and withholding taxes on rental and other income of ₱136,591.56. (Exh. E; p. 19, CTA records.) And the final income tax return filed by petitioner on April 15, 1982 for the year 1981 reflected a net loss of ₱15,390,276.00. (Exh. F; p. 20, CTA records.) Since it appears that petitioner here paid the amount of ₱864,388.07 and cumulative withholding taxes of ₱326,473.88, petitioner would be entitled to a tax credit in 1981 of ₱1,190,861.95.

Respondent Commissioner of Internal Revenue does not question or dispute the correctness of the above-stated material facts; neither has he presented any evidence controverting the same. Against this back-drop, respondent posed no objection in having this case submitted for decision on the basis of the pleadings and the evidence presented by petitioner.

In the light of the facts stated above and the evidence presented, has petitioner A. Soriano Corporation established a valid claim to the tax credit of excess income tax payments for the taxable year in question?

Petitioner's position calls to mind Commonwealth Management and Service Corporation vs. Commissioner of Internal Revenue, CTA Cases Nos. 3383 and 3578, June 30, 1987, the factual setting of which is identical with that of the case at bar, and where this Court, speaking through Judge Alex Z. Reyes, disposed of the same question in clear and unequivocal terms, in the following wise:

The cases before Us hardly present a gripping question or require a tortured ratiocination. As thus shown the basis for the claims are not short of specific support in terms of tractable data openly laid and fully disclosed. Going by the records, petitioner's income tax returns for the subject taxable years have shown losses and excess income tax payments. Respondent points to no factual errors nor superfluities which need be abridged. Neither were there any deficiency assessments issued.
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We see no reason and none is vouchsafed why these simple cases where fact and fabrication are no longer indistinguishable, should remain curiously unperturbed. It may be necessary to repeat what this Court said in what so plainly apply to the cases at bar that, "But as should be expected, the action could be maintained on the basis of the pleadings, admission and affidavit of the parties which neither provokes any unsettling questions nor involves material factual issues genuinely in dispute. The administrative machinery or process employed on the right to the claim seems to have moved barely at idling speed. To be relatively quiescent for some four (4) years on a claim of such a simple nature and not so considerable a stake which no longer incites controversy nor excites a queasy sense of expectation, creates but an unwarranted bureaucratic inertia of inaction. Readily a legal conclusion can be safely reached. Petitioner or any similarly circumstanced taxpayer for that matter deserves a measure of fair dealing in a more expeditious and competently responsive action. (Commonwealth

> Pacific Consultants, Ltd., v. Commissioner of Internal Revenue, CTA Case No. 2953, May 15, 1982)," cited in Dataprep (Phils.) Inc. v. Commissioner of Internal Revenue, CTA Case No. 3600, March 30, 1984; appeal withdrawn, G.R. L-67735, September 12, 1984.

We find no cogent reason to depart from the conclusion reached in Commonwealth Management and Service Corporation, as expressed in the above-quoted opinion of the Court there, and the same should resolve the similar problem now brought before Us in this proceeding.

WHEREFORE, respondent is hereby ordered to issue a tax credit memorandum to petitioner for the sum of ₱1,190,861.95 to be used as payment for its internal revenue taxes.

SO ORDERED.

Quezon City, Metro Manila, November 2, 1987.

AMANTE FILLER
Presiding Judge

WE CONCUR:

(on official leave)
CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge