REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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

- versus -

C.T.A. CASE NO. 3492

THE COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

x - - - - - - - - - - - - - - - - - x

2/10/88

D E C I S I O N

This case involves a claim for the refund of the amount of P915,627.00, representing erroneously paid or overpaid advance sales tax, based on 100% tax exemption (exempt income tax) granted by the Board of Investments to petitioner under the provisions of Section 8('a) of Republic Act No. 5186 for the periods from April 1, 1980 to March 31, 1981 and April 1, 1981 to March 31, 1982, subject to the provisions of P.D. 1359.

For the period from June 17, 1980 to May 29, 1981, petitioner paid advance sales tax totalling

P915,627.00 on various importation of watthour meter parts, electric parts, electric equipment, materials, etc., as follows:

O.R. NO.	AMOUNT	EXHIBITS
923333	P 316,716.00	C, C-1
923925	34,627.00	D, D-1
1004458	37,058.00	E, E-1
997210	9,084.00	F, F-1
1024511	17,110.00	G, G-1
1010781	133,385.00	H, H-1
1004817	115,402.00	I, I-1
1004875	65,019.00	J, J-1
1042925	24,618.00	K, K-1
1042906	19,231.00	L, L-1
1043133	55,210.00	M, M-1
1024672	13,567.00	N, N-1
1043419	16,428.00	O, O-1
1043674	30,792.00	P, P-1
1057380	10,217.00	Q, Q-1
1057403	11,905.00	R, R-1
1057440	4,981.00) 277.00)	S, S-1, S-2
	P 915,627.00	

Under date of February 24, 1981 the Acting Board Secretary of the Board of Investments issued a Certification addressed to the Ministry of Finance, attention of the Tax-Exempt Division, certifying that the Board of Governors of the Board of Investments, at its meeting on December 19, 1980 resolved to grant petitioner 100% tax exemption under Section 8(a) of Republic Act 5186 as amended, for a period of one (1) year from April 1, 1980 to March 31, 1981. (Exh. A).

Then under date of May 15, 1981 the Acting Board Secretary of the Board of Investments issued a certification addressed to the Ministry of Finance, attention of the Tax-Exempt Division, certifying that the Board of Governors of the Board of Investments, at its meeting on May 7, 1981, resolved to grant petitioner 100% tax exemption under Section 8(a) of Republic Act 5186 as amended for a period of one (1) year from April 1, 1981 to March 31, 1982, subject to the provisions of P.D. 1395 (Exh. B).

On February 16, 1982, petitioner through its auditors Sycip, Gorres, Velayo & Co., filed with respondent's Bureau's Appellate Division a written claim for refund of P915,627.00. (Annex C, Petition for Review; admitted par. 4, Answer).

To date, respondent has neither granted nor acted upon petitioner's claim for refund. (par. 8, Petition for Review; admitted par. 5, Answer).

Counsel for the government manifested that he is submitting the case based on the records and the pleadings.

The sole issue in this case is whether or not petitioner General Electric Philippines Meter and Instrument Co., Inc., is entitled to refund of erroneously paid or overpaid advance sales tax.

Petitioner contend that it is entitled to the refund of the reduced amount of P900,638.00. Respondent has not submitted its memorandum in this case.

We are in full agreement with petitioner that it is entitled to the refund, but of a reduced amount of P900,638.00.

The 5% advance sales tax rate provided for under P.D. 1395 is applied on the entire landed cost since the BOI has granted its taxpayer a 100% tax exemption subject to the provision of P.D. 1395.

Based on the foregoing, the claim for refund filed by petitioner should be reduced to P410,446.00 if P.D. 1395 is applicable to the 100% exemption granted by BOI for the two periods:

April 1, 1980 to March 31, 1981 (Exh. A)

April 1, 1981 to March 31, 1982 (Exh. B)

However, since the qualification "<u>subject to the provision of P.D. 1395</u>" is imposed only in the second extension <u>April 1, 1981 to March 31, 1982</u> (Exh. B), accordingly, the amount claimed may be recomputed as follows:

Refundable under the BOI 100% tax-exemption granted per Exhibit A (4/1/80 - 3/31/81)			P888,247
Refundable under the BOI 100% exemption subject to P.D. 1395, per Exhibit B. (4/1/81 - 3/31/82)			
Adv. Sales <u>tax paid</u>	<u>Tax Due</u>	<u>Overpaid</u>	
P 10,217	P 5,645	P 4,572	
11,905	6,577	5,328	
5,258	2,767	2,491	12,391
Total Refundable			P900,638

WHEREFORE, it is hereby ordered that respondent Commissioner of Internal Revenue grant to petitioner General Electric Philippines Meter and Instrument Co., Inc., the refund of the sum of P900,638.00.

No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, February 10, 1988.

CONSTANTE C. ROAQUIN
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge

C E R T I F I C A T I O N

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.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals