REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

JOSE M. SORIANO AND THE TRUST FOR JOSE M. SORIANO, JR., THE TRUST FOR CARMEN PAZ SORIANO, AND THE TRUST FOR PETER FERNANDO SORIANO, ALL MINORS AND REPRESENTED BY MRS. CARMEN M. SORIANO,
Petitioners,

4/15/87

- versus - C.T.A. CASE NO. 3365

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

This is a judicial claim for refund in the grand total amount of ₱1,681,771.25, consisting of ₱1,270,565.21 allegedly due to Jose M. Soriano (hereinafter referred to as JMS for brevity), and ₱137,068.68 to each of three living trusts, namely, Jose Soriano, Jr., Carmen Paz Soriano and Peter Fernando Soriano, all minor children of JMS, or a total sum of ₱411,206.04.

In this judicial claim for refund only petitioners presented their exhibits and memorandum. On the part of respondent Commissioner of Internal Revenue, during the trial of this case, he presented only Exh. 1, which is the computation of the allowable income tax refundability of petitioner JMS and his three trusts prepared by respondent's representatives, Arturo S.P. Guevarra, Chief of the Sector Audit Review Division (hereinafter referred to as SARD for short) of the Sector Operations Office of said respondent, as his sole evidence interposed against the full grant of the claim for refund, and thereafter submitted the case for decision generally based, in addition, on the records and the pleadings. He had not, in effect, submitted a memorandum in this case since the memorandum previously submitted thru counsel in this case was withdrawn.

It appears that JMS is a U.S. citizen, or a nonresident alien of the Philippines. He had his home in the United States since during World War II or since 1941, where his wife and family lived. He never maintained a home in the Philippines.

Prior to January 1, 1980, he filed his income tax return as a nonresident alien engaged in trade and business in the Philippines. (Deposition, New York, JMS, pp. 13 and 14.) Also, before said date and year, he came to attend the meetings of the board of directors and stockholders of several corporations of which he was an officer and leaving immediately thereafter. He averaged ten trips a year; and his stay here is no more than 167 days a year. He left the Philippines for the last time in December, 1979 and since then he has not visited nor even stepped on Philippine soil. (Deposition, ibid, pp. 3, 9, 13-14.) Neither did he maintain an office nor conducted any business after December, 1979 in the Philippines.

As early as 1978, JMS had been expressing the desire to retire from the Philippines. (Exh. B, p. 26, BIR rec.) Effective January 1, 1980, he sent circular letters to the several corporations of which he was a director/officer announcing his resignation. (Deposition, op. cit., p. 3; Exhs. A, A-1 to A-13.)

JMS had been recording and returning his income and expenses on the cash basis of accounting.

On December 10, 1969, JMS created three indenture or living trust for each one of his three minor children, herein petitioners, namely, Jose Soriano, Jr., Peter Fernando Soriano and Carmen Paz Soriano. (Exhs. G, H, H-6, H-7, H-8 & O; Deposition, op. cit.) Among the appointed trustees in each one of these trusts of his minor children was the mother of JMS, Doña Carmen M.

Soriano and Anthony M. Macleod, both aliens and non-residents in the Philippines in 1980. Neither did these minor children or trusts, and their aforesaid trustees, have any office nor conducted any trade or business in the Philippines. The trusts were created under the laws of the United States.

In January, 1980, JMS on his own behalf and those of his children, the said living trusts, sold a number class B common shares in Andres Soriano Corporation. /See Exhs. A, A-1 to A-4, F, F-1, G, G-1, H, I, I-1, I-2, J (back portion), K (see column Balance, Deposition, op. cit., pp. 3-4, 9-100); Exhs. G, G-1 to G-4, H, H-1 to H-9, P, Q, BIR rec., pp. 29-37, 81-89, 94/ as follows:

	Shares of stock Owned by JMS	Shares of stock Owned by 3 trustees	Total Shares
Acquired before: Nov./1970	1,736,800 shs.	490,400 shs.	2,227,200 shs.
Acquired after Nov./1970	16,493,131 shs.	4,464,269 shs.	20,057,400 shs.
	18,229,931 shs.	4,954,669 shs.	23,184,600 shs.

The sale took place abroad and each share was sold for $0.54347826086 U.S. dollars. Waylong, N.H. Ltd. New Hebrides bought 14,490,000 shares; and Wardley (Vila) Ltd., New Hebrides, bought 8,694,000 shares. (Exhs. A, A-1 to A-4; Deposition, op. cit.; Exhs. G, G-1, to G-4, H, H-1 to H-9.) The exchange rate used by respondent and petitioner was $1: ₱7.40999985617 (Deposition, op. cit., pp. 4-7, Exhs. B, C, D, D-1.)

In view of the sale of the aforesaid shares, JMS and the three trusts, through their representatives in the Philippines, requested the office of respondent to compute the income tax, ¼% stock transaction tax and documentary stamp tax that may be due from such transaction. The request was made on January 21, 1980. (Deposition, op. cit., pp. 6-8; Exh. E.) The respondent obliged and computation of the taxes due were made in January 22, 1980 (Deposition, op. cit.; Exh. E-1) which shows the taxes which petitioners must pay and which was actually and in fact paid by them, itemized below as follows:

	Income Tax on pre-Nov./70 shs.	¼% stock transaction tax on post Nov./70 shs.	Doc. Stamp Tax on all shs. sold pre and post Nov./70
JMS	₱2,664,269.00	₱ 206,054.38	₱ 28,980.00
3 Trusts	₱ 691,426.00		

The income tax due on the sale of the pre-November, 1970 shares in the amounts of ₱2,664,269.00 and ₱691,426.00, were paid under Official Receipts Nos. A 3158751 (Exh. L;

see also L-1) and A 3158752 (Exh. L-2; see also L-3), both dated January 23, 1980.

The ¼% transaction tax on post November, 1970 shares in the amount of ₱206,054.38 was paid under O.R. No. A3158752 dated January 23, 1980 and the documentary stamp tax was likewise paid.

Petitioner do not question in this case the correctness of the ¼% stock transaction tax and the documentary stamp tax paid.

Only the overpayment of the income tax due is involved in this case and which was the proper subject of this judicial claim for refund.

This claim for refund basically arose from the fact that there was error in reporting the number of shares sold by petitioner to respondent who was requested to compute the tax to be paid by them in that, instead of reporting only 2,227,200 shares sold, the number of shares computed and given to respondent as sold was 2,717,600 shares, which is over and above the correct number of shares sold by 490,000 shares. This arose because 490,000 shares sold were reported twice and this error by petitioner was relayed to respondent. (Deposition, op. cit., Exhs. K and K-1; see also Exhs.

F, F-1 to F-2; Deposition, op. cit., pp. 8-9.) Secondarily, these claims for refund arose from respondent's application of Section 21 of the Tax Code, which is applicable to non-resident alien engaged in business in the Philippines instead of Section 22(b) thereof wherein the entire income is subject to a flat rate of 30% because petitioners are non-resident aliens not engaged in business in the Philippines.

JMS and the 3 trust filed their 1980 income tax returns on January 23, 1980 to comply with the Central Bank request. JMS showed an income tax due of ₱2,664,269 and that for the 3 trusts showed income tax due of ₱691,426. (Deposition, op. cit., pp. 5-6, Exh. B & C.) As earlier stated, these taxes were paid at the time of filing of the returns on January 23, 1980. (Deposition, op. cit., pp. 5-6; Exhs. B, B-1, B-2, C, C-1, C-2.)

These income tax returns were amended on March 25, 1981, to show the following refundable amounts due each of the petitioners. (Deposition, op. cit., pp. 11-12, Exhs. I, J, J-1, J-4), viz:

JMS	₱1,270,565.21
JMS, Jr.	137,068.68
Peter Fernando S.	137,068.68
Carmen Paz S.	137,068.68
	₱1,681,771.25

On the basis of their amended returns filed on March 25, 1981 aforesaid, showing the said refundable amounts, petitioners filed written claims for their refund dated July 22, 1981. (Deposition, op. cit., p. 12; Exhs. K and K-1.) without waiting for the decision of respondent on the claims for refund, petitioners, on August 14, 1981, filed their judicial claim with this Court.

During the hearing of this case the BIR records were withdrawn from the Court, and which was placed under the charge of the Sector Operating Office (SOO) and which accordingly instructed its Sector Audit Review Division (SARD), to act on the claims for refund. SARD submitted a memorandum to said Sector Operations Office (SOO) dated January 23, 1985, which was submitted as Exhibit 1 (pp. 107-109, CTA rec., see pp. 104-105, CTA rec. for clearer typewritten copy or reproduction; see also Exh. M, pp. 308-310, BIR rec.) for respondent Commissioner of Internal Revenue in this case as stated earlier in this decision. Said Exhibit 1 is the sole and only evidence presented by respondent. Exhibit 1 (see Exh. M, ibid.) of respondent is hereunder reproduced in this decision in full:

LUNGSOD NG QUEZON

January 23, 1985

Memorandum for:
The Acting Commissioner
re: JOSE M. SORIANO, et al
Claim for Tax Refund, etc.

This case refers to the claims for tax refund filed by Mr. Jose M. Soriano and the trusts created for his three (3) minor children for alleged overpayment of income tax for the year 1980.

The report of examination submitted by our revenue examiner revealed the following:

	Income Tax	Deficiency Stock Transaction Tax
Jose M. Soriano	(₱1,261,193.97)	₱6,050.24
Trust for Jose Soriano, Jr.	(131,044.40)	485.28
Trust for Carmen Paz Soriano	(131,044.41)	485.28
Trust for Peter Fernando Soriano	(131,044.41)	485.28
T o t a l	(₱1,654,325.19)	₱7,506.08

The taxpayers being non-residents were taxed on their gross income at the rate of thirty percent (30%). The overpayment of income tax resulted from the classification of the shares of stock according to its acquisition date. Those stocks acquired before November 05, 1970 when sold were subjected to tax to the extent of 50% thereof. While those acquired after November 05, 1970 were subjected to tax at the rate of ¼ of 1% of the gross selling price.

The taxpayer's counsel requested that the deficiency stock transaction tax be deducted from their claim.

However, before we act on the claim, a final review on the items declared an income was made.

Mr. Jose M. Soriano's 1980 income tax return, (Exhibit 1, page 25 of the docket revealed the following income and withheld were:

		Interest	Tax Withheld
Schedule 4	Dividends	₱1,067,565.29	₱173,667.76
	Interest, Misc.	180,741.66	-
	T o t a l	₱1,248,306.95	₱173,667.76
Schedule 6	Bonus	₱1,794,688.79	-
	Director's fee	-	₱363,045.79
	T o t a l	₱1,794,688.79	₱363,045.79
Schedule 7	Capital Gains (50%)	₱3,403,434.51	-

The tax on the dividends is in the nature of a final tax and not creditable, hence dividends should not be part of the gross income. A recomputation of the tax due from the parties are as follows:

JOSE M. SORIANO

Net income per investigation - - - - -	₱6,457,505.48
Less: Dividends subject to final tax - -	1,067,565.29
B a l a n c e	₱5,389,940.19
Add: 50% capital gains - Central Azucarera de Don Pedro - - - - -	235.05
50% capital gains - Sale of equipment - - - - - - - - - -	12,499.50
T o t a l	₱5,352,674.74
Less: 50% Capital Losses	
Picop Debenture Bonds sold - - -	(31,750.00)
Picop shares sold - - - - - - - -	(56,444.53)
Net income per review - - - - - - - - -	₱5,314,480.21

30% tax due - - - - - - - - - - - - - - - -		₱1,594,344.00
Less: Withholding tax credits claimed		
1. W-2 Bonus - - - - - -	₱ 264,000.00	
2. F1743 - Director's fee	99,045.79	
3. Withholding tax on PICOP Debenture Bold sold	3,513.66	
4. Prepaid income tax -	2,664,269.00	3,030,828.45
Excess Payment - - - - - - - - - - - - - - -		(₱1,436,484.45)
Less: Stock Transaction tax		6,050.24
Delinquency tax on Dividends:		
Dividends received	₱2,067,565.29	
30% tax due thereon	₱ 320,269.58	
Less: Withheld - -	173,667.76	
Delinquency tax	₱ 146,601.82	
Interest (1-01-81 to 1-02-84) - - -	87,961.09	
10% surcharge - - -	14,660.18	
Compromise - - - -	300.00	249,523.09
		₱ 255,573.33
NET INCOME TAX REFUNDABLE - - - - - - - - -		(₱1,180,911.12)

	Jose Jr.	Carmen Paz	Peter Fernando	Total
Net income per Investigation	₱377,424.99	₱377,425.00	₱377,424.00	₱1,132,275.99
Less: Dividends (final tax)	46,217.57	46,217.57	46,217.57	138,652.72
	₱331,207.42	₱331,207.43	₱331,207.42	₱ 993,623.27
30% tax due thereon	₱ 99,362.00	₱ 99,362.90	₱ 99,362.00	₱ 298,086.00
Less: Withholding tax credits				
1. Interest	416.08	416.08	416.08	1,248.24
2. Prepaid tax	230,475.33	230,475.34	230,475.34	691,426.00
T o t a l	₱230,891.41	₱230,891.41	₱230,891.41	₱ 692,674.24
Income Tax Refundable	₱131,529.41	₱131,529.42	₱131.529.42	₱ 394,588.24
Less: Stock transaction tax	485.28	485.28	485.28	1,455.84
Net Income Tax Refundable	₱131,044.13	₱131,044.14	₱131,044.14	₱ 393,132.40

The amount of income tax refundable is as follows:

Jose M. Soriano - - - - -	₱1,180,911.12
Jose Soriano, Jr. - - - - -	131,044.13
Carmen Paz Soriano - - - -	131,044.14
Peter Fernando Soriano - -	131,044.14
T o t a l	₱1,574,043.53

It is respectfully recommended that the total claim for refund in the amount of ₱1,654,325.19 which was reduced to ₱1,574,043.53 after the deduction of the additional stock transaction tax in the amount of ₱7,506.08 be given to the taxpayers.

ARTURO S.P. GUEVARA
Chief, Sector Audit Review Division

Recommending Approval:

VICTOR A. DEOFERIO, JR.
Chief, Sector Operations Office

Approved:

RUBEN B. ANCHETA
Acting Commissioner

Exhibit 1 shows that, based on a computation of the Chief, Sector Audit Review Division (SARD) concurred in by the Chief, Sector Operations Office (SOO), petitioners had, out of their total alleged claim of ₱1,681,771.25, shows a total refundable income tax due them in the sum of ₱1,574,043.53, as computed by respondent's representative, which is quoted, for emphasis as follows:

Jose M. Soriano - - - - -	₱1,180,911.12
Jose Soriano, Jr. - - - -	131,044.13
Carmen Paz Soriano - - -	131,044.14
Peter Fernando - - - - -	131,044.14
T o t a l - - - -	₱1,574,043.53

According to petitioners, and assailing the computation made by respondent's representative in said

Exhibit 1, of the refundable amount of income tax paid and claimed by petitioners, there are blatant errors committed in the application of the law and in the mathematical addition and subtraction in Exhibit 1. Exhibit 1 had, in the view of petitioners, resulted in the following adverse effects on the claims for refund of petitioners:

1. Reduced the refundable amount due JMS by the interest imposed on the alleged late payment of the capital gains deficiency income tax in the sum of ₱87,961.09; surcharge of ₱14,660.18; and ₱300.00 compromise penalty, or a total of ₱102,921.27;

2. Erroneous finding of the existence of an alleged deficiency ½ stock transaction tax in the total sum of ₱7,506.08; and

3. Mathematical errors committed in adding items of capital loss deduction resulting in inflated net taxable income and income tax due or petitioners, thereby reducing their claims for refund.

We examined said Exhibit 1 taking as basis the grounds adduced by petitioners and found these not only legally correct and impeccably sound but highly dependable, reliable and unassailable as well. Consequently, there being substantial errors committed by the representative of respondent therein, the said computation of petitioners' refundable claims in Exhibit 1 becomes illegal and unreliable. We shall minutely discuss those errors previously pointed out by petitioners, which shall not render Exhibit 1, as a true and correct basis for the determination of the amount of income tax due for refunds to petitioners.

On the first alleged error, petitioners assert that this total amount of ₱102,921.27 should be added back to the refundable amount claimed by petitioners. Petitioners contend that the SARD in their computation, in Exhibit 1 (see also Exh. M, pp. 308-310, BIR rec.) excluded from gross income the dividends received by JMS in the amount of ₱1,067,565.29 from the net income per investigation in the sum of ₱6,457,505.48 in 1980. Thereupon, the SARD, as a consequence, determined a delinquency interests of ₱87,961.09, 10% surcharge of ₱14,660.18, and compromise penalty of ₱300.00 or a total of ₱102,921.27 (Exh. M-2, p. 309, BIR rec.) which said total amount and to this extent reduces the refund claim of petitioners.

It was error on the part of SARD to deduct the dividends received by JMS in the amount of ₱1,067,565.29. The amount of dividends received by JMS, as dividend under Section 22(b) of the National Internal Revenue Code, is part of his income as a non-resident alien not engaged in business in the Philippines and which was subject to a tax at a flat rate of 30% and the 30% tax due of ₱173,667.76 on the dividends of ₱1,067,565.29 having been withheld (see Schedule 4, 1980 Income Tax Return of JMS, Annex E, p. 17, CTA rec.) such withholding of the tax on the dividends and payment thereof is in accordance with the law (Sec. 22(b) of the Tax Code), which provides that from"non-resident alien not engaged in trade or business in the Philippines, there shall be levied, collected and paid for each taxable year upon the entire income received from all sources within the Philippines xxx as interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical or casual gains, profits, and income, and capital gains (except capital gains realized by non-resident investors from buying and/or selling shares of stock of Philippine corporations listed in the dollar or any acceptable foreign currency board of any stock exchange), a tax equal to thirty per centum of such income" (Underscoring ours.) And it is also in accord with general accounting practices and procedures to add the amount of dividends received as part of gross income in the computation of the claim for refund, and after arriving at the total gross income, it will then be subject to a flat rate of 30% as aforesaid to arrive at the tax due, and from which the amount of tax withheld shall be deducted. Consequently, there was neither an apparent nor actual or real deficiency withholding tax, per the evidence before Us, since the amount of ₱173,667.76 was previously withheld from the dividends from the Andres Soriano Corporation, San Miguel Corporation, and Cental Azucarera de Don Pedro and we rightly presume had been paid over by them to the Bureau of Internal Revenue (Annex A, p. 19, CTA rec.), and the liability to do so, or to otherwise finally remit the same being in these corporations which has control, receipt, custody, disposal or payment thereof. There being no deficiency tax that is due on the dividends received by JMS, it naturally follows that there could not be validly imposed delinquency interest due on the tax on dividends in the amount of ₱87,961.09, 10% surcharge of ₱14,660.18 thereon, and a compromise penalty of ₱300.00. With respect to the compromise penalty charge of ₱300.00, it cannot particularly be legally imposed without the agreement or consent of the taxpayer, like petitioners in this case. (Luzaite Products, Inc. vs. Comm., CTA No. 1922, Sept. 30, 1971; Coll. vs. UST, GR L-12250 & L-12259, May 27, 1959; Phil. Int. Fair vs. Coll., GR L-12928 & L-12932, March 31, 1962; Rizal Motors, Inc. vs. Comm., CTA Case No. 1985, Dec. 27, 1972.)

On the second alleged error, petitioners contend that respondent's representative, in finding a deficiency in the payment of the ½% stock transaction tax in Exhibit 1, had unduly reduced the refundable claim by stock transfer tax of ₱6,050.24 for JMS and ₱1,455.84 due from the three trusts, or a total of ₱7,506.08 (see 2nd par., Exh. M & 1, pp. 310, BIR rec. & pp. 107-109, CTA rec., respectively). They argue and points out that in unilaterally offsetting their refundable income taxes by ₱7,506.08, this would be a procedural error because in order that this amount can be deducted it should have been set out first in an assessment. Petitioners insist that the offsetting in Exhibit 1 by respondent's representative in the SARD is an unconscionable abuse of power and this act is not valid or legal.

Petitioners assertion is correct. The act of the SARD is not in accordance with due process and the tax law and, hence, the deduction of this alleged deficiency of ¼ stock transaction tax in Exhibit 1, in the sum of ₱7,506.08 against the amount of income tax refundable to petitioner is invalid and illegal. It is quite fundamental that the first or preliminary step to find a taxpayer a liability for a tax is for the Commissioner of Internal Revenue or any of his deputies, or any duly authorized representatives, to make and issue an assessment in a regular manner against a taxpayer notifying him in writing that a tax is due in a definite or specific amount and containing a demand for the payment of said tax or deficiency therein. (Secs. 3 & 16, Tax Code; Alhambra Cigar & Cigarette Mfg. Co. vs. Coll., 105 Phil. 1337; Estate of Maria Lim Vda. de Uy vs. Pacita Uy, 50 OG 5261; Coll. vs. Benipayo, 4 SCRA 182, cited in Epifanio Gonzales & Celestina Robledo-Gonzales, National Internal Revenue Code of 1977, Annotated, 1979 Rev. Ed., pp. 10-11; Cochingyan vs. Comm., CTA (Res.) 2339, Jan. 15, 1972, citing Comm. vs. CTA, GR L-21483, April 28, 1968.)

When this assessment of a revenue tax is issued, then the taxpayer shall be afforded proper due process by giving to said taxpayer the right and privilege to dispute the assessment and wherein shall be given the right to an administrative hearing where he can then present his evidence against said assessment. After the administrative hearing is closed, then the Commissioner will render a decision on the disputed assessment, and which decision will become final, executory and demandable if adverse to the taxpayer and the latter did not appeal for final judicial determination in the Court of Tax Appeals. (Republic vs. Manila Port Service, GR L-18208, Nov. 27, 1964; Sections 7 and 11, Rep. Act No. 1125; Gonzales & Gonzales, National Internal Revenue Code of 1977, Annotated, op. cit.) Only under this circumstance of finality can a tax be collected, as finally determined by the Commissioner of Internal Revenue or by the courts of justice, and the said tax be deducted from, or be used to offset a refund favorably due to the taxpayer. But even so, the courts of justice cannot presume a taxpayer's liability for a tax simply because of the existence of an assessment against him, without more, since an assessment not based on actual facts established by evidence presented by respondent Commissioner cannot stand the searching test of judicial scrutiny. (Benipayo vs. Coll., GR 13656, Jan. 31, 1962;Liberty Ins. Corp. vs. Comm., CTA 3551 & 3599, Oct. 15, 1986.)

Coming finally to the third error put forward by petitioners allegedly committed by SARD in Exhibit 1 (Exh. M, op. cit.) this alleged error refers to the item of capital loss arising from the sale of PICOP debenture bonds and shares of ₱31,750.00 and ₱56,444.53, respectively, or in the total sum of ₱88,194.53. It was pointed out by petitioners that when this total amount of capital loss of ₱88,194.53 (see Exh. 1 & M-1, p. 309, BIR rec.)was deducted from the amount of ₱5,352,674.74 as petitioners' alleged gross income, the resultant sum in the computation arrived at by SARD was ₱5,314,480.21 (Exh. M-1, ibid.) which is mathematically erroneous, and the correct result should have been ₱5,264,480.21. The difference or error being in the sum of ₱50,000.00, petitioners then strongly contended, which to our mind is correct, that the alleged income tax due for JHS was unduly inflated and correspondingly reduces his claim for refund by ₱15,000.00 in excess tax, since at 30% tax flat rate imposed on the gross income of petitioners, the tax due on the erroneous amount of ₱50,000.00 would be ₱15,000.00 which is indeed an excess tax. And, as observed by petitioners, to which we fully concur, this is inexcusable or irreversible error on the part of the Chief of the SARD in computing the petitioners claims for income tax refund as found in Exhibit 1 for respondent.

Consequently, since the judicial claims for refund were based upon incontrovertible evidence, we shall then entirely rely upon the computation of petitioners which is not only based upon the correct application of the provisions of the Tax Code but upon actual facts long presented to the respondent, among which are the amended income tax returns of petitioners, which were not debunked by the latter except only as regards those he found in Exhibit 1, which was aforesaid successfully and satisfactorily assailed and brought clearly to the attention of this Court. We are reproducing in this decision, in its entirety, the computation which was not debunked by respondent's representative, with the exception only of those found in Exh. 1, which was, aforesaid, successfully and satisfactorily assailed by petitioners. We are therefore, reproducing in our decision, the computation of petitioners of the income tax due to them as refund, found on page 7 of their memorandum (p. 118, CTA rec.), and which we substantially adopt as part of our own:

Petitioners - Dpn-NYC-Exhs. 1 to J-2(a)

ITEMS		JMS		3 TRUSTS (Total)
Gross Income				
Bonus		₱1,794,688.79		₱ -
Dividends		1,067,565.29		138,652.72
Interest & Misc. Income		180,741.66		7,859.61
Capital Gains 50%				
Sale of Anscor shares	₱3,478,894.49			930,371.16
Central Azucarera	235.05			
Sale of Equipment	12,499.50			
	₱3,491,629.04			
Less: Capital Loss 50%				
PICOP Debenture Bonds	(31,750.00)			
PICOP shares	(56,446.53)			
	(₱ 88,194.53)	3,403,434.51		
Net Income Taxable		₱6,446,430.25		₱1,076,883.49
Tax Due - 30%		₱1,933,929.00		₱ 323,064.00
Less: Tax Credits				
BIR Form W-2	₱ 264,000.00			
" " 1743	272,713.55			
W/tax-PICOP Debenture bonds	3,513.66		1,248.24	
BIR Form 1743 div.	173,667.76		41,595.82	
Prepaid income tax on capital gains-Anscor shs.	2,664,269.00	(3,204,496.21)	691,426.00	(734,427.06)
Income Tax Refundable -		(₱1,270,567.21)		(₱ 411,206.06)

WHEREFORE, respondent is hereby ordered to refund to petitioners the total sum of ₱1,681,771.27 as income tax erroneously paid in 1980, itemized and computed as follows:

JOSE M. SORIANO	₱1,270,565.21
THE TRUSTS FOR JOSE M. SORIANO, JR., CARMEN PAZ SORIANO, AND PETER FERNANDO SORIANO	411,206.06
T O T A L	₱1,681,771.27

No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, April 15, 1987.

CONSTANTE C. ROAQUIN
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge