REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

INVESTORS FINANCE CORPORATIONS
(FCNB Finance),
Petitioner,

-versus - C.T.A. CASE NO. 3780

COMMISSIONER OF INTERNAL
REVENUE,
Respondent. 10/22

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

D E C I S I O N

This case is a simple claim for refund involving overpaid income tax for taxable year 1982 in the amount of P1,660,184.32.

It appears from the records that for the taxable year ending December 20, 1982, petitioner Investors Finance Corporation, a domestic corporation duly organized under the Philippine laws, filed on April 7, 1983 its Corporate Annual Income Tax Return showing a refundable amount of P1,453,288.48. However, on April 23, 1984, it amended said return by deducting additional withholding tax credits of P206,895.84 to reflect an increase in the refundable tax in the total amount of P1,660,184.32, the subject of the claim for refund. Said refundable amount is comptuted as follows:

Tax due per return	P 179,987.00
Total creditable taxes withheld	(1,840,171.32)
Overpayment	P1,660,184.32

On April 23, 1984, petitioner, through its external auditor SGV & CO., filed a formal claim for refund. To date, the respondent, Commissioner of Internal Revenue, has not granted said claim for refund. Hence, this present Petition for Review.

The only issue presented in this case is whether or not petitioner has in fact overpaid its income tax for the taxable year 1982.

Petitioner, on his part, presented the corresponding Quarterly and Annual Corporation Income Tax Returns, Certificates of Tax Withheld at Source and Central Bank Confirmation Receipts to prove its claim for refund. Respondent on his part did not present any testimonial nor documentary evidences to disprove this claim but merely admitted, denied and objected to some documents either for lack of information, as mere opinion on the part of petitioner, hearsay and self-serving.

As can be shown by the documents and evidences presented during the hearing and admitted by this court, petitioner is trying to prove a total refundable amount of P1,660,184.32 which consist mainly of excess creditable withholding tax. However, petitioner merely produced exhibits evidencing withholding tax to a total of P927,892.46 with the following breakdown:

Exhibits	Type	Amount
G, G-1 to G-57; G-61 to G-67; H, H-1 to H-58	Statement or Certificate of Tax Withheld (BIR Form 1743)	P602,097.11
H-55-b to I-43	Central Bank Confirmation Receipts	287,547.96
M to U & W	Certification by Withholding Agent and other secondary evidence	38,247.39
Total		P927,892.46

An analysis of the exhibits shows that not all have probative value. The statement of withholding tax covered by Exhibits G-54, H-52, H-53 & H-54 in the total amount of P5,086.35 should be excluded as the recipient named in the statement is not the petitioner but, other entities. All the Central Bank confirmations receipts (Exhs. H-55 to I-43) should likewise be excluded as it failed to prove for what kind of tax payment those receipts were issued. Other evidences such as the BIR Tax payment order accompanying all CB Confirmation receipts or the corresponding withholding tax returns indicating the inclusion of the petitioner's withholding tax should have been presented. Furthermore, Exhibits Q & T covering certifications of withholding taxes in the total amount of P5,689.57 should also be excluded because they may have been included already as part of Exhs. H-51 and N, Certification of withholding taxes issued respectively by Group Developers, Inc. and Perla Compania de Seguros. So that, under the third type of exhibits only Exhibits M, N, O, P, S, U and W in the total amount of P32,557.82 have evidentiary value.

Thus, the allowable creditable withholding tax should only be P629,568.58, recomputed as follows:

Total amount of Exhs. presented			P927,892.46
Less:	Exhs. G-54, H-52, H-53 & H-54	P 5,086.35	
	H-55 to I-43	287,547.96	
	Q & T	5,689.57	298,323.88
Creditable withholding tax			P629,568.58

Accordingly, the refundable amount is likewise reduced as follows:

Tax Due Per Return		P179,987.00
Less:	Creditable Withholding Tax	629,568.58
Refundable Amount		P449,581.58

WHEREFORE, respondent is hereby ordered to refund or issue the corresponding tax credit certificate to petitioner in the amount of P449,581.58 pursuant to Section 292 (now Section 230) of the National Internal Revenue Code.

No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, October 22, 1991.

ERNESTO D. ACOSTA
Associate Judge

WE CONCUR:

ALEX Z. REYES
Presiding Judge

CONSTANTE C. ROAQUIN
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.

ALEX Z. REYES
Presiding Judge
Court of Tax Appeals