REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

HITACHI COMPUTER PRODUCTS (ASIA) CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 5570

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 14 1999 Gmargareth

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DECISION

Before Us for consideration is Petitioner's Petition for Review filed on December 29, 1997, seeking for a refund of the sum of ONE MILLION SEVEN HUNDRED AND FORTY THREE THOUSAND FOUR HUNDRED SIXTY NINE AND $^{58}/_{100}$ PESOS (₱1,743,469.58) or in the alternative, the issuance of a Tax Credit Certificate for the said amount, representing alleged excess creditable Value-Added input taxes paid for the period October 1, 1995 to December 31, 1995.

The antecedent facts giving rise to the controversy at bar are as follows:

Petitioner is a domestic corporation primarily engaged in the business of manufacturing, assembling, processing and exporting of computer products and components. It is a Value-Added tax registered entity with VAT Registration No. 003-877-830-V (Exhibit A).

As culled from the records, Petitioner filed its quarterly VAT return with the Respondent on January 22, 1996 covering its taxable quarter ended December 31, 1995 showing, among others, the following details:

(Input Tax) Carried over from the previous quarter	₱ 8,649,521.98
(Input Tax) On domestic purchases of goods and services	1,743,469.58
Total	₱10,392,991.56

Believing, as it does, that as an exporter of goods it has the privilege to apply for a refund or tax credit of its excess input VAT payments insofar as they are attributable to its export sales pursuant to Section 106(A)(1) (formerly Section 100[a][1]) in relation to Section 112(A) (formerly Section 106[A]) of the Tax Code, Petitioner filed on December 22, 1997 with the Tax and Revenue Group of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance, an administrative claim for refund of its VAT input taxes amounting to ₱1,743,469.58, which allegedly pertains to its local purchases of goods and services in connection with and attributable to its export operations.

Obtaining no affirmative relief from the Respondent and fearing that it would be barred by the mandatory period of prescription, Petitioner elevated its case to this Court on December 29, 1997, via Petition for Review.

In its Answer filed on February 20, 1998, Respondent assailed the validity of Petitioner's claim and interposed the following Special and Affirmative Defenses, to wit:

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4. Petitioner failed to show compliance with the substantiation requirement under the provision of Section 16(c)(3) of Revenue Regulations No. 5-87, as amended by Revenue Regulations No. 3-88;

5. Petitioner has not shown proof that the alleged VAT input taxes attributable to its export sales have not yet been applied to the output tax for the period covered in its claim or any succeeding period and that the alleged total foreign exchange proceeds have been accounted for by the Central Bank;

6. The petition states no cause of action as it does not allege the date/s when the taxes sought to be refunded were actually paid;

7. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to the refund and failure to sustain the burden is fatal to the action for tax refund;

8. Taxes paid and collected are presumed to have been made in accordance with law and regulations, hence, not refundable; and

9. Well-settled is the rule that claims for refund are construed against the claimants since it partakes of the nature of an exemption from taxation.

In a resolution promulgated on April 13, 1999, this case was considered submitted for decision sans the memorandum of the respondent.

Forming the crux of the matter is whether or not Petitioner has proven through documentary and testimonial evidence its entitlement for refund of its alleged creditable Value-Added input taxes for the last quarter of 1995.

The main thesis of the Petitioner as it appears to Us from its memorandum hinges upon Section 106(A)(1) which provides, thus:

"Section 106. ***Value-added tax on sale of goods or properties.*** - (a) *Rate and base of tax.* - There shall be levied, assessed and collected on every sale, barter, or exchange of goods, a value-added tax equivalent to 10% of the gross selling price or gross value in money or goods sold, bartered or exchange, such tax to be paid by the seller or transferor:

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(2) The following sales by VAT-registered persons shall be subject to 0%:

(a) Export sales.. - x x x"

in relation to Section 112(A) and (B) of the Tax Code which reads, thus:

Section 112. *Refunds or tax credits of input tax.* -

(A) *Zero-rated or effectively zero-rated sales.* - Any VAT-registered person, whose sales are zero-rated, may within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided*, however, That in the case of zero-rated sales under Section 100(a)(2)(A)(i), (ii) and (b) and Section 102(b)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.

(B) *Capital Goods.* - A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.

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In view of the above provisions of law, Petitioner submits that it has no Value-Added output tax liability as it sells all its finished products abroad and thus qualifies as export sales which results in no output tax liability as the same is subject to 0% rate. Such being the case, Petitioner further asseverates, that it is entitled to the refund of its VAT input taxes amounting to ₱1,743,469.58 which pertains to its local purchases of goods and services in connection with and attributable to its export operations.

A meticulous study of the evidence at hand in this case does not sustain the Petitioner's position. Accordingly, for failure to substantiate, the petition must fail.

Based on the aforecited provisions of the Tax Code, Petitioner need not only prove the fact that it is engaged in exportation of goods, thus, making its export sales zero-rated. As a condition *sine qua non*, Petitioner must also show that the foreign currency exchange proceeds of its exportations have been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP). Records at bar fail to reveal any evidence to this effect.

Assuming arguendo that Petitioner's sales qualify as export sales under the Tax Code, still, We are not inclined to grant the claim for refund. This must be so since the Petitioner failed to adduce in evidence the supporting copies of its purchase invoices/receipts of its Input VAT, instead, it merely submitted a computerized summary or schedule of its Input Value-Added Tax for the fourth quarter of 1995. In this regard, this Court has no means of verifying the veracity of the facts and figures appearing on the said schedule.

Well-settled is the rule that a mere summary or schedule without accompanying documents proves nothing inasmuch as there is no way by which this Court can ascertain Petitioner's assertions therein. We have repeatedly held that receipts/invoices are important in the sense that it is only through these documents that this Court would be able to determine with particular certainty whether the goods purchased are really attributable to Petitioner's export sales. Moreover, these invoices/receipts presented are the only direct and real evidence of the amount of Input VAT being claimed. In the absence of these documents, this Court in deciding a refund case, cannot just rely on sweeping generalizations of the Petitioner for it must be stressed that refund of taxes partakes the nature of a tax exemption and are thus construed in *strictissimi juris* against the taxpayer and in favor of the taxing authority **(Insular Co. vs. CTA, 104 SCRA 710; CIR vs. Rio Tuba Nickel Mining Corp., 207 SCRA 549).**

WHEREFORE, in view of all the foregoing, the instant Petition for Review is hereby **DENIED** due to insufficiency of evidence.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

(On leave)
RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge