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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PREMIUM PACKAGING INTERNATIONAL, INC.,
Petitioner,

- versus -

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 5247

Promulgated:
DEC 08 1997

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# DECISION

The issue which is presented for our consideration is whether or not petitioner is entitled to the issuance of a tax credit certificate in the amount of ₱11,012,734.00 allegedly representing its excess income tax payments for the year 1992.

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal place of business at Tanza, Cavite.

On April 15, 1993, petitioner filed its 1992 corporate annual income tax (final adjustment) return at the Revenue District Office at Tanza, Cavite, reflecting therein (1) an amount subject to tax of ₱24,405,926.00, (2) the amount of tax due totalling ₱8,542,074.00, (3) the total payments/credits of P19,554,808.00, and (4) the amount of tax refundable totalling P11,012,734.00 (Exh. "C"). In the said return, petitioner did not specify its option, as to whether or not the excess income tax payments (refundable amount of P11,012,734.00) is to be refunded or applied as tax credit to the succeeding quarters of the taxable year of 1993.

On March 9, 1994, petitioner filed a letter with the Revenue District Officer of Trese Martirez City, requesting approval that the excess income tax payments made in 1992 in the aforementioned amount be applied against its income tax liabilities for the year 1993 and 1994 (Exh. "A"). In the said letter, petitioner mentioned that of the P11,012,734.42, excess income tax payment for 1992, P6,276,809.37 was already applied as its tax credit for 1993 and the remaining balance of P4,735,924.15 is to be applied against its 1994 tax liabilities. These were adhered to by the petitioner when it filed its 1993 and 1994 Annual Income Returns (Exhs. "D" and "E-31") on April 15, 1994 and April 17, 1995, respectively. Thus, the excess income tax payments for 1992 was totally applied by the petitioner to its 1993 and 1994 income tax liabilities, albeit it did not receive any reply from the respondent as to the above request.

On April 12, 1995, petitioner filed with this Court the instant petition for review, seeking for a tax credit of the aforementioned excess income tax payments for 1992 in the amount of P11,012,734.00, with Section 69 of the Tax Code as its basis. Said provision of law is quoted hereunder *in toto*, for easy reference.

> **Sec. 69.** ***Final adjustment return.*** - Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable net income of that year the corporation shall either:
>
> (a) Pay the excess tax still due; or
>
> (b) Be refunded the excess amount paid, as the case may be;
>
> In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarter of the succeeding taxable year.

Petitioner raises in its petition for review the sole issue as to whether or not it is entitled to the issuance of a tax credit certificate in the amount of P11,012,734.00 allegedly representing its excess income tax payments for the year 1992.

This issue should be ruled in the negative. Petitioner is not entitled to the issuance of a tax credit in the amount of P11,012,734.00 allegedly representing its excess income tax payments for the year 1992, for the reason that it has already applied the said amount in its income tax liabilities for the year 1993 and 1994 as shown in its exhibits "D" and "E-31". To award such tax credit in spite of the fact that the excess income tax payments for 1992 of P11,012,734.00 was already credited against the income tax liabilities of the petitioner for the years 1993 and 1994 in the amounts of P6,276,810.00 and P4,735,924.00, respectively, is an absurdity and a polarity in conceptual effects and is tantamount to granting petitioner twice the tax credit of the same amount. The petitioner cannot be entitled to a tax credit of its excess income tax payments for 1992 which it had already credited or off-setted against income tax liabilities for the years 1993 and 1994.

As correctly pointed out by respondent, this Court has resolved the same issue in the cases of **AF Holdings and Management Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5099, May 9, 1996**, and **Ayala Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5081, March 31, 1997**, wherein it was held in the former that "xxx to grant petitioner's refund despite the fact that said amount was applied as tax credit by petitioner in the taxable year 1990 is detrimental to the interest of the Government as the same is tantamount to "granting petitioner twice the refund of the same amount", and in the latter case which declared that an application for automatic tax credit to the succeeding taxable year of excess credits will no longer entitle the petitioner to a refund because there is really nothing left to be refunded (or credited) and to do so would be tantamount to granting twice the refund being sought.

In its memorandum, petitioner raised the argument that it is entitled to automatically apply its 1992 income tax overpayment against its 1993 and 1994 income tax liabilities and if not able to do so, it is entitled to a tax credit or refund of said excess income tax payment pursuant to Section 69 of the Tax Code. The evidence presented by the petitioner particularly Exhibits "D" and "E-31 representing its 1993 and 1994 corporate annual income tax returns respectively, show that it has fully applied the excess income tax payments made in the taxable year of 1992 to its 1993 and 1994 income tax liabilities. This Court can only affirm the automatic tax credit done by petitioner of its 1992 excess income tax payments to its 1993 income tax liabilities but we cannot condone its application of this 1992 excess income tax payments to its 1994 tax liabilities as seen in Exhibit "E-31" as this is in contravention of Section 69 of the Tax Code (supra) which specifically allows the application of excess income tax payments only against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year.

In the alternative prayer found in the memorandum, petitioner asks this Court to confirm the automatic tax credit of P6,276,810.00 against the 1993 income tax liabilities and to order the respondent to grant a tax credit or refund in the amount of P4,735,924.00 which represents the total amount of P11,012,734.00. This particular prayer signifies that petitioner is well-aware that it erroneously credited its 1992 excess income tax payments to its 1994 income tax liabilities, so that now it is asking for a refund or tax credit of the same via this petition for review.

We cannot also allow this because the evidence (Exhibit E-31) clearly shows that the excess income tax payment in 1992, apart from being applied to its 1993 tax liabilities was also applied to its 1994 income tax liabilities. Petitioner did not present any evidence showing that it has amended its annual income tax return of 1994 showing that it has not utilized its excess income tax payments to pay its 1994 income tax liabilities. Decisions promulgated by this Court are based on the evidence presented by both parties. The evidence clearly shows that the petitioner has already utilized fully the overpaid income tax payments of 1992 thus there is nothing else to refund to petitioner.

**IN THE LIGHT OF ALL THE FOREGOING**, finding the petition to be without merit, the same is hereby **DISMISSED** with costs against petitioner.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

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
Court of Tax Appeals