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Republic of the Philippines
COURT OF TAX APPEALS
Manila

MALAYAN INSURANCE COMPANY,
INC.,
Petitioner,

July 16, 1963

- versus - C.T.A. CASE NO. 1018

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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

D E C I S I O N

This is a claim for refund of the amount of ₱958.00 paid by petitioner to respondent, representing income tax of Orion Insurance Company Ltd. on premium receipts derived from its reinsurance of risks located in the Philippines during the year 1958.

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Philippines. On April 27, 1959, the petitioner which had a reinsurance agreement with Orion Insurance Company Ltd., a non-resident foreign insurance corporation, filed a return for the latter for 1958 and paid the tax due thereon in the amount of ₱958.00 as evidenced by Official Receipt No. A-503833 dated May 14, 1959. Upon discovery that Filipinas Compañia de Seguros, the duly authorized agent of Orion Insurance Company Ltd. had filed a return for the same year and paid the same tax due thereon per Official Receipts Nos. A-502234 and 619284 dated May 14, 1959 and August 8, 1959, respectively, petitioner filed a claim for refund of the amount of ₱958.00 which it had paid for Orion Insurance Company Ltd. on the ground that the said payment was erroneous. Pursuant to Section 306 of the National Internal Revenue Code, in relation to Section 7 of Republic Act No. 1125, petitioner filed with this Court a petition for review on March 2, 1961.

On the basis of the pleadings, the parties submitted the case for decision without further memoranda.

The only issue to be resolved in the present appeal is whether or not petitioner is entitled to the refund of the amount claimed.

The records of the case which have been transmitted to this Court by the Bureau of Internal Revenue conclusively show that petitioner paid the sum of ₱958.00 as income tax on reinsurance premiums on risks ceded by it in 1958 to Orion Insurance Company, Ltd., a foreign insurance company of London. The Filipinas Compania de Seguros, a domestic corporation, and the duly authorized agent of Orion Insurance Company, Ltd., also paid the tax on the same insurance premiums. It is clear, therefore, that the payment by petitioner of the sum of ₱958.00 was erroneous and should be refunded to it, pursuant to Sections 306 and 309 of the National Internal Revenue Code.

Respondent filed a counterclaim for the sum of ₱15,416.96, which amount represents the income tax on certain insurance premiums on risks ceded to Orion Insurance Company, Ltd. As it is not denied that the duly authorized agent in the Philippines of said foreign insurance company is the Filipinas Compania de Seguros, the counterclaim against petitioner is not in order.

WHEREFORE, respondent is hereby ordered to refund to petitioner the sum of ₱958.00. Respondent's counterclaim for the sum of ₱15,416.96 is dismissed, without prejudice. No pronouncement as to costs.

SO ORDERED.

Manila, July 16, 1963.

ROMAN M. UMALI
Associate Judge

I concur:

AUGUSTO M. LUCIANO
Associate Judge