REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Third Division

BARRIO FIESTA MANUFACTURING CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10483

Members:
RINGPIS-LIBAN, *Chairperson,* *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
SEP 04 2023
3:44 p.m.

x---x

DECISION

RINGPIS-LIBAN, J.

STATEMENT OF THE CASE

The *Petition for Review* filed on March 10, 2021 prays for the refund in the amount of ₱5,454,368.17, allegedly representing petitioner's payment on March 12, 2019, for compromise settlement pursuant to the Offer of Compromise, which was not acted on by the respondent and still retained by the Bureau of Internal Revenue (BIR).[1]

THE PARTIES

Petitioner Barrio Fiesta Manufacturing, Inc. is a corporation duly registered under the law of the Philippines, with address at 17 F. Lazaro St., West Canumay, Valenzuela City, Metro Manila.[2] It is duly registered with the Securities and Exchange Commission (SEC) with Company Registration No. CS146893.[3] It is also duly registered with the BIR as shown in its BIR

---

[1] Summary of the Case, Pre-Trial Order dated March 2, 2022, Docket, p. 280.
[2] Par. 1, Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket, p. 241.
[3] Par. 4, Admitted Facts, JSFI, Docket, p. 242.

Certificate of Registration No. OCN 4RC0001389141, and was assigned with Taxpayer's Identification Number 000-286-365-000.[4]

Respondent Commissioner of Internal Revenue is sued in his official capacity, having been duly appointed and empowered to perform the duties of his office. He may be served with summons, notices and other court processes at his office at the BIR National Office Building, Diliman, Quezon City.[5]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Petitioner is the litigant in the following cases before this Court: (a) CTA Case No. 9850; (b) CTA Case No. 9871; and (c) CTA Case No. 9880, all entitled *"Barrio Fiesta Manufacturing Corporation vs. Commissioner of Internal Revenue"*.[6]

Petitioner received a Resolution from this Court promulgated on November 26, 2018 for CTA Case No. 9850, referring the case to mediation at the Philippine Mediation Center – Court of Tax Appeals, pursuant to the Interim Guidelines for Implementing Mediation in the CTA as approved by the Supreme Court on January 18, 2011.[7] With the assistance of the assigned mediator, both petitioner and BIR agreed to enter / explore the possibility of entering into a Compromise Agreement, subject to the approval of the National Evaluation Board (NEB), pursuant to Section 204(A) of the 1997 National Internal Revenue Code (NIRC), as amended.[8]

In order to increase the likelihood of approval by the NEB, during mediation, petitioner and the BIR agreed to include in the Compromise Agreement, the pending cases involving collection notices, and the assessments upon which they are allegedly based for other taxable years.[9] As such, CTA Case No. 9871 (involving assessment for deficiency taxes for taxable year 2015), and CTA Case No. 9880 (involving assessment for deficiency taxes for taxable year 2014), were included in the Compromise Agreement. Both petitioner and the BIR agreed that all three (3) cases be the subject of the Offer of Compromise.[10]

As agreed upon by both parties in the mediation proceedings, the Compromise Agreement contained the following terms and conditions, among others:

---

[4] Par. 5, Admitted Facts, JSFI, Docket, p. 242.
[5] Par. 3, Admitted Facts, JSFI, Docket, p. 241.
[6] Par. 7, Admitted Facts, JSFI, Docket, p. 242.
[7] Par. 8, Admitted Facts, JSFI, Docket, p. 242.
[8] Par. 9, Admitted Facts, JSFI, Docket, p. 243.
[9] Par. 10, Admitted Facts, JSFI, Docket, p. 243.
[10] Par. 11, Admitted Facts, JSFI, Docket, p. 243.

a) That petitioner agrees to settle the alleged deficiency tax liability being disputed in CTA Case No. 9850 by offering a compromise settlement at the rate of 10% of the basic tax assessed;

b) That both parties have explored in good faith the possibility of ending the dispute for the other cases currently pending with the CTA, specifically CTA Case No. 9871 and CTA Case No. 9880; and

c) That petitioner agrees to pay a compromise settlement at the rate of 10% of the assessed basic tax for all 3 cases (CTA Case Nos. 9850, 9871 and 9880), amounting to the total amount of ₱5,454,368.17.[11]

Petitioner then made the following payments to the BIR on March 12, 2019, relative to the Offer of Compromise, to wit:

Tax Type	*Taxable year*	*Amount*
Value-added tax (VAT)	2014	₱ 303,918.15[12]
Income tax	2014	2,889,043.64[13]
Expanded withholding tax	2014	247,803.71[14]
VAT	2015	1,396,995.15[15]
VAT	2016	616,607.52[16]
	TOTAL	**₱ 5,454,368.17**

On July 2, 2019, petitioner, through its counsel, received the *Manifestation* dated June 28, 2019, filed by the BIR in CTA Case No. 9850. As part of the said *Manifestation*, the *Memorandum* dated March 28, 2019 was attached, wherein the Offer of Compromise by petitioner was remanded to the Legal Division of Revenue Region No. 5, for it to undergo further study.[17] Through the Resolution dated July 29, 2019 promulgated by the First Division of this Court, the mediation was held unsuccessful.[18]

On March 9, 2021, petitioner filed an administrative claim for refund of the amount paid for the compromise settlement before the BIR Revenue Region No. 5, pursuant to Section 204(C) in relation to Section 229 of the NIRC, as amended.[19]

[11] Par. 12, Admitted Facts, JSFI, Docket, p. 243.
[12] Exhibits "P-8", "P-8-1", "P-8-2", Docket, pp. 378 to 379.
[13] Exhibits "P-9", "P-9-1", "P-9-2", Docket, pp. 380 to 381.
[14] Exhibits "P-10", "P-10-1", "P-10-2", Docket, pp. 382 to 383.
[15] Exhibits "P-11", "P-11-1", "P-11-2", Docket, pp. 384 to 385.
[16] Exhibits "P-12", "P-12-1", "P-12-2", Docket, pp. 386 to 387.
[17] Par. 13, Admitted Facts, JSFI, Docket, p. 244.
[18] Par. 14, Admitted Facts, JSFI, Docket, p. 244.
[19] Par. 15, Admitted Facts, JSFI, Docket, p. 244.

PROCEEDINGS BEFORE THIS COURT

The present *Petition for Review* was filed on March 10, 2021.[20]

On May 20, 2021, respondent filed a *Motion for Extension of Time to File Answer*,[21] which was granted by the Court in the Order dated May 24, 2021.[22] Thereafter, he filed a *Second Motion for Extension of Time to File Answer* on June 23, 2021,[23] and then filed his *Answer (with Motion to Admit)* on June 25, 2021.[24]

In the Resolution dated July 27, 2021,[25] the Court granted respondent's *Second Motion for Extension of Time to File Answer* and *Motion to Admit,* and admitted respondent's *Answer.*

The Pre-Trial Conference was initially set on September 20, 2021,[26] but was subsequently rescheduled and held on December 13, 2021.[27] Prior thereto, petitioner's *Pre-Trial Brief* was posted on September 15, 2021,[28] while the *Pre-Trial Brief for Respondent* was submitted on October 27, 2021.[29]

Respondent filed a *Manifestation* on December 3, 2021,[30] stating that the *BIR Records* involved in this case is already with the Judicial Records Division of this Court as of August 9, 2018, as it is also the subject of CTA Case No. 9850, to which the Compromise Settlement was submitted and the payment made therein is the one being refunded in this case.

On February 2, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[31] which was approved and adopted by the Court in the Pre-Trial Order dated March 2, 2022,[32] thereby deeming the termination of the pre-trial.

Trial ensued.

During trial, the parties presented their respective documentary and testimonial evidence.

---

[20] Docket, pp. 7 to 26.
[21] Docket, pp. 147 to 149.
[22] Docket, p. 152.
[23] Docket, pp. 150 to 151.
[24] Docket, pp. 153 to 163.
[25] Docket, pp. 168 to 171.
[26] Resolution dated July 24, 2021, Docket, pp. 168 to 171.
[27] *Notice of Resetting* dated October 11, 2021, Docket, p. 190; Order dated December 13, 2021, Docket, p. 236.
[28] Docket, pp. 172 to 187.
[29] Docket, pp. 228 to 231.
[30] Docket, pp. 232 to 234.
[31] Docket, pp. 241 to 251.
[32] Docket, pp. 280 to 286.

Petitioner offered the testimony of Ms. Liezel V. Bilazon, petitioner's Accounting Supervisor.[33]

On March 18, 2022, petitioner filed its *Formal Offer of Evidence*.[34] Respondent failed to file his comment thereon.[35] In the Resolution dated May 2, 2022,[36] the Court admitted all of petitioner's offered exhibits.

For his part, respondent offered the testimony of Revenue Officer Honeylette Claire P. Bobadilla.[37]

On May 11, 2022, respondent filed his *Formal Offer of Evidence*.[38] Petitioner failed to file its comment thereon.[39] In the Resolution dated August 1, 2022,[40] the Court admitted all of respondent's offered evidence.

Respondent's Memorandum[41] and petitioner's *Memorandum*[42] were separately filed on August 31, 2022.

This case was deemed submitted for decision on September 13, 2022.[43]

THE ISSUE STIPULATED BY THE PARTIES

As stipulated by the parties, the issues for the Court's resolution are as follows:

> "A. Whether Petitioner is entitled to the refund in the amount of Five Million Four Hundred Fifty-Four Thousand Three Hundred Sixty-Eight and 17/100 Pesos (₱5,454,368.17), pursuant to [Sections] 204(A), 204(C) and 229 of the Tax Code, as amended, representing the compromise settlement paid pursuant to the Offer of Compromise for the speedy disposition of CTA Case Nos. 9850, 9871, and 9880.
>
> B. Whether Petitioner made a timely claim for refund and complied with the requirement for the filing of Refund."[44]

[33] Exhibits "P-20" and "P-22", Docket, pp. 131 to 144, and pp. 264 to 269, respectively; Order dated February 16, 2022, Docket, p. 274.
[34] Docket, pp. 296 to 304.
[35] *Records Verification* dated April 21, 2022 issued by this Court's Judicial Records Division, Docket, p. 432.
[36] Docket, p. 434 to 435.
[37] Exhibit "R-16", Docket, pp. 195 to 204; Minutes of the hearing held on, and Order dated May 2, 2022, Docket, pp. 436 to 437.
[38] Docket, pp. 438 to 447.
[39] *Records Verification* dated June 14, 2022 issued by the Judicial Records Division of this Court, Docket, p. 458.
[40] Docket, pp. 462 to 465.
[41] Docket, pp. 469 to 482.
[42] Docket, pp. 488 to 516.
[43] Resolution dated September 13, 2022, Docket, p. 518.

Petitioner's arguments:

Petitioner argues that a written administrative claim for refund and *Petition* were timely filed by petitioner with the BIR and this Court, respectively; that the retention by the BIR of the amount paid by petitioner on the unacted Offer of Compromise is erroneous and illegal; and that the doctrine of *solutio indebiti* applies to erroneously paid or illegally collected taxes.

Respondent's counter-arguments:

Respondent contends that petitioner's request for refund does not fall in any of the instances when a claim for refund may be availed of; that assuming *arguendo* that the claim for refund is valid, petitioner did not comply with the requirements under Section 229 for refund of claims, particularly the filing of written claim for refund; that the compromise amount paid cannot be refunded since under Revenue Regulations (RR) No. 9-2013, which provides that in case of disapproval of the application for compromise settlement, the amount paid upon the filing of the aforesaid application shall be deducted from the total outstanding tax liabilities; and that refunds are in the nature of tax exemptions and are construed strictly against the person claiming the same.

THE COURT'S RULING

The present *Petition for Review* is denied.

Governing provisions for refund claims.

Sections 204(C) and 229 of the NIRC of 1997 read:

> "SEC. 204. *Authority of the Commissioner to Compromise/Abate and Refund or Credit Taxes.* — The Commissioner may —
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in**

[44] Summary of Issues to be Resolved, JSFI, Docket, p. 246.

> **writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* that a return filed showing an overpayment shall be considered as a written claim for credit or refund." *(Emphasis added)*
>
> "SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national **internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected,** until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Emphases added)*

The aforequoted provisions are clear: within two (2) years from the date of payment of tax, the claimant must first file an administrative claim with respondent before filing its judicial claim with the courts of law. Both claims must be filed within a two (2)-year reglementary period.[45] From the language of the law, it does not matter how far apart the administrative and judicial claims were filed, or whether respondent was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.[46]

Timeliness of the filing of the claim is mandatory and jurisdictional, and thus the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time. It is worthy to stress that as for the judicial claim, tax law even explicitly provides that it be filed within two (2) years from payment of the tax *"regardless of any supervening cause that may arise after payment."*[47]

---

[45] Commissioner of Internal Revenue vs. San Miguel Corporation, etseq., G.R. Nos. 180740 and 180910, November 11, 2019.

[46] Commissioner of Internal Revenue vs. Carrier Air Conditioning Philippines, Inc., G.R. No. 226592, July 27, 2021.

[47] Commissioner of Internal Revenue vs. San Miguel Corporation, etseq., supra.

Moreover, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An *"erroneous or illegal tax"* is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which is some other similar aspect is illegal.[48]

Thus, for the present claim for refund to prosper, petitioner must not only establish that it has timely filed its refund claim, it must likewise prove that the subject taxes paid are *"erroneous or illegal"*.

Petitioner timely filed its administrative and judicial claims.

In this case, it is shown that petitioner paid the amount totaling ₱5,454,368.17 to the BIR on March 12, 2019 relative to its Offer of Compromise.[49] Counting from this date, petitioner had until March 12, 2021 to file its administrative and judicial claims for refund. Clearly, petitioner's administrative claim for refund filed on March 9, 2021 before respondent,[50] and the judicial claim for refund filed before this Court on March 10, 2021,[51] both fell within the two-year prescriptive period.

Correspondingly, petitioner timely filed its administrative and judicial claims for refund.

However, petitioner failed to prove that there was an erroneous or illegal tax which was collected by the government.

Petitioner claims that the principle of *solutio indebiti* dictates that when the BIR receives something when there was no right to demand it, the BIR has the obligation to return it, and that simple justice requires the speedy refund of wrongly held taxes. Petitioner posits that it has proven by a preponderance of evidence that it is entitled to the recovery of erroneously paid or illegally collected taxes, representing the compromise settlement paid which was not acted upon by respondent and yet unduly retained by it.

To bolster its position, petitioner emphasizes that respondent's assessments against petitioner which are the subject of the Offer of

[48] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.
[49] Exhibits "P-8" to "P-12-2", Docket, pp. 378 to 387.
[50] Par. 15, Admitted Facts, JSFI, Docket, p. 244.
[51] Docket, pp. 7 to 15.

Compromise were disputed and are still pending with this Court, and that the assessments against petitioner are not yet final and executory. Petitioner submits, therefore, that it has no tax liability to which the amount paid as compromise settlement can be applied, and concludes that respondent's retention of the said amount is erroneous and illegal.

On the other hand, respondent avers that the payment was made in compliance to the requirements of the compromise, which the taxpayer voluntarily entered into. Thus, respondent submits that the payment was not in any way erroneously or wrongfully collected, and was made voluntarily by petitioner, being fully aware that it is a requirement for the submission of the compromise for approval of the Evaluation Board of the BIR.

We agree with respondent.

Section 6 of RR No. 30-2002,[52] as amended by RR No. 9-2013,[53] provides that no application for compromise settlement shall be processed without the full settlement of the offered amount, and that in case of disapproval of the application for compromise, the amount paid upon filing shall be deducted from the total outstanding tax liabilities, as follows:

> "SEC. 6. APPROVAL OF OFFER OF COMPROMISE. — Except for offers of compromise where the approval is delegated to the REB pursuant to the succeeding paragraph, all compromise settlements within the jurisdiction of the National Office (NO) shall be approved by a majority of all the members of the NEB composed of the Commissioner and the four (4) Deputy Commissioners. All decisions of the NEB, granting the request of the taxpayer or favorable to the taxpayer, shall have the concurrence of the Commissioner.
>
> xxx xxx xxx
>
> **The compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement. No application for compromise settlement shall be processed without the full settlement of the offered amount. In case of disapproval of the application for compromise settlement, the amount paid upon filing of the aforesaid application shall be deducted from the total outstanding tax liabilities.**" *(Emphasis added)*

[52] SUBJECT: Revenue Regulations Implementing Sections 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001.

[53] SUBJECT: Amending Certain Provisions of Revenue Regulations No. 30-2002.

Based on the foregoing regulation, the amount offered must be paid before the application for compromise settlement may be processed, and that in cases where the application is disapproved, the amount paid shall be deducted from the total outstanding tax liabilities.

In this case, as petitioner itself insists, the amount of total outstanding tax liabilities has yet to be determined because they have yet to become final and executory, as they are currently pending with this Court, and may even be the subject of appeals. Accordingly, based on RR No. 30-2002, as amended, the amount paid pursuant to the application for compromise settlement will be applied towards such outstanding tax liabilities yet to be determined, if any, and may not be the subject of a refund at this time.

In *Commissioner of Internal Revenue vs. San Miguel Corp.*,[54] the Supreme Court held that the principle of *solutio indebiti* applies where (1) payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment; and (2) the payment is made through mistake, and not through liberality or some other cause.

Notably in this case, there is a binding relation between the payor, the petitioner that filed an application for compromise settlement in relation to deficiency tax assessments for three (3) taxable years, and the respondent, the taxing authority in this jurisdiction. Moreover, the payment was made, not through mistake, but in pursuit of an application for compromise settlement.

Thus, this Court finds no erroneous or illegal taxes that are refundable in favor of petitioner.

Tax refunds are in the nature of tax exemptions, and are to be construed *strictissimi juris* against the entity claiming the same. Thus, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence, its entitlement to a claim for refund.[55] Petitioner, unfortunately, failed to discharge this burden.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

[54] G.R. Nos. 180740 & 180910, November 11, 2019.
[55] Philippine Geothermal, Inc. vs. The Commissioner of Internal Revenue, G.R. No. 154028, July 29, 2005.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, is it hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice