REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LUIS J. ISON,
Petitioner,

- versus -

C.T.A. CASE NO. 5343

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 06 1998

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DECISION

This case involves a claim for refund of overpaid income tax in the amount of ₱347,534.00 for the calendar year ended December 31, 1993.

Petitioner is a Filipino citizen and an employee of Goodyear Philippines, Incorporated.

During the period January 2, 1993 to May 14, 1993, he was detailed on official business to visit three countries where Goodyear has an office (Exh. H). He earned compensation income from domestic and foreign assignments detailed as follows:

Countries	Currencies	Amount	Exh.
Philippines	Peso	₱ 804,311.64	A-1 & A-2
Indonesia	Rupiah	Rp.3,109,900.00	C, C-1
England	Pound Sterling	Ps 2,408.00	D
Luxembourg	Luxembourg Francs	Luf 25,967.00	E

On April 4, 1994, petitioner filed his 1993 income tax return reflecting a total compensation income in the

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amount of ₱1,951,726.00, representing income within and without the Philippines. He had a total tax due of ₱616,979.00 for the taxable year 1993. The amount of ₱153,841.00, representing tax withheld on compensation, was applied to the tax due of ₱616,979.00 resulting to a tax payable of ₱463,138.00 (Exhs. A and A-3). The tax due was paid in two installments. The first was paid on April 4, 1993 in the amount of ₱154,649.00 and the second installment was paid on July 12, 1994 in the amount of ₱308,489.00 (Exhs. A-4, B-5 and B-6).

Petitioner alleges that upon review of his 1993 Individual Income Tax Return, it was discovered that the per diem paid in Luxembourg francs had been considered as pound sterling resulting in the overstatement of petitioner's compensation income for taxable year 1993. The correct compensation income should be ₱958,771.12 instead of ₱1,951,726.00 reported in his income tax return, to wit:

Income	Conversion	Reported	Conversion	Should Be
₱804,311.64	1	₱ 804,311.64	1	₱ 804,311.64
Rp3,109,900	0.012499	38,870.64	0.012499	38,870.64
Ps 2,408	38.94	93,767.52	38.94	93,767.52
Luf 25,967	38.94	1,011,154.98	0.840348	21,821.32
T o t a l		₱1,951,726.00		₱ 958,771.12

On February 13, 1995, petitioner through his authorized agent, Ms. Josephine L. Adalem, filed his amended income tax return reflecting, among others, the refundable amount of ₱349,442.00 (Exhs. B and B-1).

On March 6, 1995, petitioner through his tax counsel SGV & Co., filed with the Bureau of Internal Revenue a letter-request for the refund of the aforementioned overpayment (Exhs F, and F-1 to F-3).

On September 12, 1995, a memorandum report was submitted by Revenue Officer, Mr. Gilquin B. Tolentino, recommending the total denial of the amount sought (Exhs 1, 1-a and 1-b).

On September 26, 1995, presumably still unaware of the result of the examination, petitioner amended his claim for refund to a lesser sum of ₱347,534.00 (Exhs. G and G-1).

On April 3, 1996, petitioner lodged his appeal with this Court in order to toll the running of the two-year prescriptive period prescribed by Section 230 of the Tax Code.

This case was submitted for decision sans the memoranda of both parties.

Is petitioner entitled to the claim for refund of overpaid income tax in the amount of ₱347,534.00 resulting from an error in using the conversion rate of pound sterling instead of Luxembourg francs to Philippine peso?

We answer in the affirmative.

The evidence of petitioner has convinced this Court that an error was committed in computing his taxable income for the calendar year 1993.

The certifications issued by petitioner's employer together with that of its foreign branches would show the true income earned by the petitioner. Evidently, petitioner over-declared his income for 1993 which resulted to an overpayment of income tax.

The records show that there was proof that an amount of ₱616,979.00 as income tax due was paid for taxable year 1993 instead of the correct tax liability of ₱267,537.00 thus it follows that the difference of ₱349,442.00 should be refunded to petitioner.

With respect to the evidence presented by the respondent which is the memorandum report of revenue examiner recommending the denial of the instant claim, the same holds no water.

The Court noticed that it was based on a single photocopied document. As testified to by Mr. Tolentino during the May 22, 1997 hearing:

JUDGE DE VEYRA:

Did you examine any document pertaining to the claim for refund of the petitioner? Do you have any findings or conclusion in your memorandum report?

A. At that time, only the photocopy of the amended tax return was handled to me for my examination, your Honors.

JUDGE DE VEYRA:

And on that basis you made a report denying the claim for refund because they're photocopied.

A. It was still incomplete and no formal claim was yet given to me, your Honors.

JUDGE DE VEYRA:

Did you not communicate with Mr. Ison to submit the original copy of that document? Are there other supporting papers for you to be able to make conclusions/findings or submission to be incorporated in your memorandum report, Mr. Witness?

A. Some papers were given to me after that. And on that basis I prepared a memorandum under-pressure and soon afterwards my memorandum was dated September 12 when the documents followed came only on October but the memorandum report was already prepared, your Honors.

JUDGE DE VEYRA:

The memorandum antedated in submission of other documents.

A. No, it was not antedated. In fact, it was received. I turned over the docket to my Supervisor. Apparently, it was misplaced by him so the documents... I was really surprised when I saw the docket because it was already voluminous. (Underlining supplied)

If the revenue examiner was given an opportunity to review all the documents submitted by the petitioner, his findings would have been different. The memorandum report of Mr. Tolentino cannot be given probative value since it is based on a single photocopied amended income tax return.

What was clear from the records of the case is that petitioner was able to prove that in the calendar year 1993 there was a mistake in converting his income received abroad to Philippine peso. Thus, any overpayment which resulted from this mistake should therefore be refunded to petitioner.

WHEREFORE, finding the petition for review meritorious, the same is hereby **GRANTED.** Respondent is **ORDERED** to **REFUND** in favor of petitioner the sum of ₱347,534.00 representing overpaid income tax for 1993.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

RAMON O. DE VEYRA
Associate Judge

AMANCIO Q. SAGA
Associate Judge

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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

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