REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

SPLASH CORPORATION,
Petitioner,

C.T.A. CASE NO. 7197

Members:

- versus -

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

MAY 2 9 2007

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DECISION

CASTAÑEDA, JR., *J.*:

This case involves a claim for refund in the total amount of **FORTY SEVEN MILLION FOUR HUNDRED SIXTY NINE THOUSAND FIVE HUNDRED FORTY EIGHT AND 29/100 PESOS (P47,469,548.29)** allegedly representing petitioner's alleged excess payment of income tax for the taxable year 2002.

The facts as stipulated and admitted by the parties are as follows:

Petitioner is a domestic corporation organized and existing under Philippine laws with office at the HBC Corporate Centre, 2nd Floor, No. 548 Mindanao Avenue, Quezon City. It is engaged primarily to manufacture, bottle, pack, and market cosmetics and other beauty products in the Philippines and overseas. It is large-scale taxpayer duly registered with the Bureau of Internal Revenue with Tax Identification No. 001-096-221-000. It is likewise registered as a withholding agent, and as such, withheld taxes on the wages/salaries of its employees and on income payments to individuals or corporations subject to the expanded withholding tax.

As the inventor/owner of various skin care composition products, petitioner was issued Certificate of Utility Model/Design Registration Numbers UM-8471[1], 2-1997-15095[2] and 2-1999-00320[3] by the Bureau of Patents and the Intellectual Property Office on December 23, 1997, June 29, 2000 and September 19, 2000, respectively, for the registration of its patented products under the brand names Extraderm Plus, Extract and Maxipeel[4].

On the other hand, respondent Commissioner is the head of the Bureau of Internal Revenue (BIR) with office address at the BIR National Office, Diliman, Quezon City.

For the taxable period 2002, petitioner, on April 14, 2003, paid its annual income taxes in the total amount of Sixty Five Million Five Hundred Ninety Four Thousand Six Hundred Thirty Seven and 76/100 (P65,594,637.76).

On September 28, 2004, in view of petitioner's application for a tax exemption pursuant to the tax incentives as provided for under Republic Act No. (R.A.) 7459, or otherwise known as the Inventors and Inventions

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[1] Exhibit "D"
[2] Exhibit "E"
[3] Exhibit "F"
[4] Exhibit "I"

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Incentives Act of the Philippines, for the following Patent Registration/Utility Model Nos., to wit:

1. UM-8471 – A Skin Care Composition for the Treatment of Acne and Pigmentary Disorder
2. 2-1997-15095 – A Skin Care Composition for Use as a Facial Cleanser
3. 2-1999-00320 – A Skin Care Composition

the BIR Deputy Commissioner for Legal and Inspection Group Jose Mario C. Buñag issued a ruling[5] confirming petitioner's entitlement to the income tax exemption under Section 6 of the said R.A., which exemption could be availed of during the first ten (10) years from the date of the first sale on a commercial scale, subject to specific conditions, registration processes, as well as, payment of taxes not covered by the incentive.

In this regard, petitioner then filed on April 7, 2005 an administrative claim for refund for its alleged excess income taxes paid for the taxable year 2002 in the amount of P47,469,548.29 computed as follows:

Regular Corporation Income Tax (paid on April 14, 2003)	P 65,594,637.79
Less: Regular Corporate Income Tax (after taking Into consideration the income Tax exemption granted)	18,125,089.50[6]
Total Refundable	**P 47,469,548.29**

Without waiting for the decision of the respondent and before it would be barred by prescription, petitioner then elevated this appeal to this Court through a Petition for Review on April 12, 2005.

[5] BIR Ruling Number DA-506-2004
[6] Annexes "A" and "I", p.13 and pp. 55-57, Records, respectively

In his Answer filed on June 14, 2005, respondent raised the following as his Special and Affirmative Defenses:

> "4. Petitioner's alleged claim for refund/tax credit is subject to administrative routinary examination/investigation by the respondent's Bureau;
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> 5. Petitioner failed miserably to show that the total amount of Php 47,469,548.29 claimed as overpaid income tax for taxable year 2002 was erroneously or illegally collected, or that the same was properly documented;
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> 6. Taxes paid and collected as presumed to have been paid in accordance with law; hence, not refundable;
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> 7. In an action for tax refund/credit, the taxpayer has the burden to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund;
>
> 8. It is incumbent upon petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code; and
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> 9. Well-established is the rule that refund/tax credits are construed strictly against the taxpayer as they partake the nature of exemption from tax."

It is noted that, after hearing and presentation of evidence, petitioner, in its Memorandum filed on December 5, 2006, modified its prayer/relief to show the amount of **P52,665,854.33** (instead of the original prayer of P47,469,548.29) representing its overpaid income taxes for the year 2002, which amount is based on the Report of the Court-Commissioned Certified Public Accountant[7]. This case was subsequently submitted for decision on December 18, 2006, sans respondent's Memorandum.

The parties stipulated the following as the issues of the case:

1. Whether or not the respondent Commissioner can disregard the income tax holiday ("ITH") incentives to

[7] Exhibit "K"

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which the petitioner is entitled under Republic Act ("R.A.") No. 7459, otherwise known as the "Investors and Inventions Act of the Philippines".

2. Whether or not the petitioner overpaid its income tax for the year ended December 31, 2002.

3. Whether or not the petitioner is entitled to the claim for refund for the excess income taxes paid for the taxable year 2002.

As regards the first and third issues raised, petitioner argues that, as the patentee of the following inventions, pursuant to the certificates[8] issued by the Bureau of Patents/Intellectual Property Office, to wit:

1. UM-8471 – A Skin Care Composition for the Treatment of Acne and Pigmentary Disorder
2. 2-1997-15095 – A Skin Care Composition for Use as a Facial Cleanser
3. 2-1999-00320 – A Skin Care Composition

it is entitled to the income tax exemption as allowed under Section 6 of R.A. No. 7459 which provides, thus:

> Section 6. Tax Exemption. - To promote, encourage, develop and accelerate commercialization of technologies developed by local researchers or adapted locally from foreign sources including inventions, any income derived from these technologies shall be exempted from all kinds of taxes during the first ten (10) years from the date of the first sale on a commercial scale, subject to the rules and regulations of the Department of Finance: Provided, That this tax exemption privilege pertaining to invention shall be extended to the legal heir or assignee upon the death of the inventor.
>
> The technologies, their manufacture or sale, shall also be exempt from payment of license, permit fees, customs duties and charges on imports.

Petitioner contends that the basic feature of the above-mentioned law is to give due recognition to the role of inventors in the Philippines by

[8] Exhibits "D", "E", & "F"

providing rewards and incentives such as tax exemptions. The tax exemption accordingly favors Filipino inventors and Filipino ingenuity, as enshrined in Article XIV, Sections 10 and 13 of our Constitution, which declares that the State recognizes the importance of science and technology in national development and promote and encourage its growth and development. Moreover, it is clear that there is a legislative intent to authorize the exemption of qualified inventors from the payment of income taxes relative to their inventions as explicitly granted under Section 6 of R.A. 7459[9].

To further support its claim, petitioner submits that even the BIR had found and resolved that petitioner is eligible for tax exemptions on its sales of the patented products. Indubitably, it is shown that there is an existence of the right and that respondent cannot disregard the grant of the income tax holiday.

This Court agrees.

It is necessary at this point to determine whether or not petitioner's utility models qualify as inventions to be eligible under R.A. 7459. Under R.A. No. 7459, otherwise known as the "Inventors and Invention Incentives Act of the Philippines," the word "invention" is defined as "that referring to any patented machine, product, process including implements or tools and other related gadgets of invention, utility model and industrial design patents". Also, "technology" is defined as "the application of knowledge or science which shall include all others such as inventions, innovations and results of researches".

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[9] The Inventors and Inventions Act of the Philippines

In this instant case, it is undisputed, and petitioner had satisfactorily shown that, on separate dates of December 23, 1997, June 29, 2000 and September 19, 2000, petitioner was issued Certificates of Registration for its utility models, UM-8471, 2-1997-15095 and 2-1999-000320, respectively, of skin care compositions by the Bureau of Patent and the Intellectual Property Office of the Philippines. These certificates were duly issued, after due determination by the respective concerned agency, for the purpose of registering petitioner's inventions of new and useful utility models of skin care compositions. And it is a basic rule that findings of agencies, in this case, the Bureau of Patents and the Intellectual Property Office, composed of experts in their respective fields, are given much weight, unless otherwise voided for being contrary to law, considering that such agencies are specifically commissioned to ascertain the issues of the patentability of the utility models.

Resolving that petitioner's utility models qualify as "inventions" or "technologies" as defined under R.A. 7459, necessarily, petitioner is entitled to the tax incentives specifically provided for under Section 6 of the said statute which provides that:

> Section 6. Tax Exemption. - To promote, encourage, develop and accelerate commercialization of technologies developed by local researchers or adapted locally from foreign sources including inventions, any **income derived from these technologies shall be exempted from all kinds of taxes during the first ten (10) years from the date of the first sale on a commercial scale, subject to the rules and regulations of the Department of Finance**: Provided, That this tax exemption privilege pertaining to invention shall be extended to the legal heir or assignee upon the death of the inventor.
>
> The technologies, their manufacture or sale, shall also be exempt from payment of license, permit fees, customs duties and charges on imports. (*Emphasis and underscoring Ours.*)

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Verily, any income derived by petitioner from the sale of the patented products shall be exempt from the payment of income taxes[10] for a period of ten (10) years from the date of the product's first sale on a commercial scale, subject to the rules and regulations of the Department of Finance. In fact, this tax exemption granted to "inventions" or "technologies" was confirmed by the respondent[11]. Such affirmation logically cannot be disregarded by respondent.

Going now to the second issue raised, petitioner contends that it had overpaid its income tax for the year ended December 31, 2001. During the course of the trial, petitioner presented pieces of evidence[12] to show that it had duly filed and paid its 2002 annual income tax return in the amount of P65,594,637.76. And considering that it is only liable to pay the amount of P18,125,089.50 per its retained accounting firm's reports[13], it is entitled to the refund of the difference in the amount of P47,469,548.29. However, relying on the findings of the Court-commissioned independent Certified Public Accountant, Punongbayan and Araullo, during the course of the trial, petitioner now modifies its claim to show the amount of P52,665,854.33 as its excess income tax payments for its exempt products for the taxable year 2002.

This Court partially finds for the petitioner.

It is worth emphasizing at this point that, aside from the fact that respondent did not present any evidence to disprove petitioner's claim, it has

[10] OP Case No. 03-G-422, February 2, 2004
[11] Exhibit "H", DA-506-2004, dated September 28, 2004
[12] Exhibits "B-1" to "B-4(d)"
[13] Annexes "A", p.13, and "I", pp. 55-57, Records

been determined that the respondent had already completed its review and examination of petitioner's income tax return for the taxable year 2002 and that petitioner had already settled the additional tax liability[14] which has been assessed after such examination.

Petitioner presented in evidence its Annual Income Tax Return for the taxable year 2002[15], as well as, Debit Memos[16], BIR Tax Payment Slips[17] and its 2002 Quarterly Income Tax Returns[18] to prove that it had paid its 2002 income tax return in the amount of P65,594,637.79. Based on these documents, it is shown that petitioner indeed filed and paid its 2002 income taxes as follows:

Total Income Tax Due – 2002		P 65,594,637.76
Less: Payments for the First three quarters[19]	P23,749,622.00	
Creditable Tax With Held for the first three Quarters	2,305,567.00	
Tax Debit Memo 121-03-00144[20]	36,266,275.36	
Tax Debit memo 121-03-00143[21]	2,941,734.41	P 65,263,198.77
Total Tax Unpaid		P 331,438.99
Tax Payment[22]		331,438.99
Total Tax Due		0

It must be noted though that the above amount refers to petitioner's income from the sale of all its products, and not merely from the sale of the tax-exempt models. Per petitioner's claim, the income tax due from it should only be in the amount of P18,125,089.50, this is allegedly after considering

[14] Exhibit "J" to "J-6"
[15] Exhibit "B"
[16] Exhibits "B-1(a)", "B-1(b)", "B-2(b), "B-3(c)", and "B-4(a)"
[17] Exhibits "B-1(c)"
[18] Exhibits "B-2", "B-3", "B-4"
[19] Exhibits "B-2" to "B-4"
[20] Exhibit "B-1(a)"
[21] Exhibit "B-1(b)"
[22] Exhibit "B-1(c)"

petitioner's income tax exemption. Thus, only the amount of P47,469,548.29[23] (P65,594,637.76 – P18,125,089.50) is due for refund as excess income tax payment.

This amount apparently varies from the amount as found by the Court-Commissioned Independent CPA, which found the amount of P52,665,854.33 as the total amount overpaid by petitioner for its tax-exempt products. Based on the Report[24], the independent CPA performed the procedures in computing for the amount of the tax reconciling items that can be reasonably allocated to the tax-exempt products. The Report determined petitioner's sales as properly recorded in the claimed year. It was determined that petitioner's sales invoices supporting the sales of its exempt products totaling to P1,053,279,852.00 were all accounted for as local and export sales.

After a careful examination of the records and the Report submitted by the Independent CPA, this Court finds everything to be in order. As claimed by petitioner, this Court finds that indeed petitioner has excess income taxes for the taxable year 2002 and thus, entitled to the refund claimed for.

However, this Court cannot grant petitioner's prayer that it is entitled to the overpaid amount of P52,665,854.33 as found by the Independent CPA. This Court simply cannot grant an amount which is more that what is being asked for in the administrative claim for refund, as well as, in this Petition. It must be reiterated that both petitioner's administrative and judicial claims were only for the amount of P47,469,548.29 and not P52,665,854.33. In other words, when petitioner claimed only the amount of P47,469,548.29, as

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[23] As erroneously computed by petitioner.
[24] Exhibit "K"

per its computation of excess income taxes, the difference of P5,196,306.04 (P52,665,854.33 – P47,469,548.29) not claimed was already deemed waived.

Inasmuch as petitioner did not administratively nor judicially claim the full amount of P52,665,854.33 as its excess income taxes paid for the taxable year 2002 within the prescriptive period allowed by law, this Court may only grant the amount of P47,469,548.29 as petitioner's overpaid income taxes for the year 2002.

WHEREFORE, this instant Petition for Review is **GRANTED**. Accordingly, respondent is hereby **ORDERED** to **REFUND** to petitioner the amount of **FORTY SEVEN MILLION FOUR HUNDRED SIXTY NINE THOUSAND FIVE HUNDRED FORTY EIGHT AND 29/100 PESOS (P47,469,548.29)** representing petitioner's excess income taxes paid for its exempt products for the taxable year 2002.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is 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.

ERNESTO D. ACOSTA
Presiding Justice