1B

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

JOHNSON AND JOHNSON,
(Phils.), INC.,
Petitioner,

- versus -

C.T.A. CASE NO.4420

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:
JUN 04 1996

x - x

DECISION

This refers to petitioner's claim for refund or tax credit, in the total amount of Two Million Four Hundred Seventy One Thousand Nine Hundred Seventy-Nine Pesos (P2,471,979.00), as alleged erroneously or illegally collected sales tax for the calendar quarter ended December 31, 1987.

As narrated by petitioner, the following are the facts of the case.

Petitioner is a domestic corporation engaged in the manufacture and sale of pharmaceutical and other products, one of which is the Johnson's Baby Cologne (JBC, for brevity).

For calendar quarter ending December 31, 1987, petitioner's total sales of its manufactured products amounted to P188,415,118.00, inclusive of sales tax billed separately in the invoice amounting to P29,348,480.00, which sales were reported and the corresponding sales tax was paid to the B.I.R.

Part of petitioner's sales reported for the calendar quarter ended December 31, 1987 and petitioner's sales tax paid to the B.I.R., were sales of JBC amounting to P17,092,724.00 and the corresponding sales tax thereon amounting to P2,176,218.00, computed as follows:

Sales Tax	P2,909,320.00
Less: Tax Credit for raw materials purchased for JBC	73,102.00
Sales Tax Paid for Sales of JBC	P2,176,218.00

Petitioner contends that the above-mentioned amount of P2,176,218.00 is tax refundable or tax creditable, by virtue of B.I.R. Ruling No.535-88, dated November 9, 1988, which states:

> "This refers to your letter dated September 29, 1988 requesting in behalf of your client, Johnson & Johnson, confirmation of BIR Ruling No.59-81 dated March 30, 1981 which held that your client's product, Johnson's Baby Cologne, falls under the term "other preparations", that as the chief ingredient of the preparation is alcohol, a distilled spirit, the same is subject to specific tax as such distilled spirit, pursuant to then Section 138 of the Tax Code; that

since the specific tax on the aforesaid alcohol has already been paid, no further specific tax is due and payable on the said product; and that no further percentage tax is due and payable on the same product.

In reply, please be informed that the aforesaid then Section 138 which is the basis of the above ruling was renumbered as Section 121 (d) by P.D. No.1994 effective January 1, 1986 and again renumbered as Section 138 (c) by Executive Order No.273 effective January 1, 1988, quoted as follows:

"(c) Medicinal preparations, flavoring extracts, and all other preparations except toilet preparations, of which excluding water, distilled spirits form the chief ingredient, shall be subject to the same tax as such chief ingredient".

In other words, said provision is still in force since BIR Ruling No.59-81 was rendered up to the present. Accordingly, as long that the present product, Johnson's Baby Cologne, is the same product of your client having the same alcohol content, this Office hereby confirms that said ruling is effective and still applies to its present product. (See also BIR Ruling No.304-87 dated September 24, 1987)"

Petitioner anchors its claim for refund or tax credit of the amount of P2,176,218.00 not only on the above-cited ruling but also on respondent's favorable action on its other similar claims for refund or tax credit, the most recent of which was in CTA Case No.4398, involving calendar quarter ended September 30, 1987. In this case, respondent has consistently ruled that petitioner's sales of JBC are not subject to sales tax, and granted petitioner's claim, even before this Court has rendered its decision.

In addition to the amount of P2,176,218.00, petitioner likewise, claims as refundable or tax creditable, the amount of P295,761.00 representing sales tax effect of cash discounts, erroneously not deducted from the selling price in computing the base of the sales tax. Petitioner avers, such cash discounts which are agreed upon at the time of sale and indicated in the sales invoice, are deductible from the selling price in computing the taxable base of the sales tax. Basis of its averment is Section 5 (b) of Revenue Regulations No.2-86, which provides:

> (b) <u>Tax based on gross sales</u>-The percentage tax on sales shall be determined by applying the appropriate rate of tax on the gross selling price or gross value in money of the articles sold, bartered, exchanged or transferred. <u>In computing the taxable base, discounts may be allowed as a deduction from gross selling price provided said discounts are given at the time of the sale and are expressly indicated in the sales invoice.</u> Sales returns and allowances shall be allowed as deduction from gross sales in the period when such returns and allowances are made. If the returns or allowances exceed the gross sales for the

> the succeeding period or periods. (Underscoring ours)."

On January 15, 1990, petitioner filed with respondent a request for tax credit or refund of erroneously or illegally collected sales tax, in the total amount of P2,471,979.00. Four days later, or on January 20, 1990, petitioner elevated its claim to this Court by filing a Petition for Review.

Respondent's Answer was filed on July 9, 1990, stating by way of Special and Affirmative Defenses, the following:

> "6. Petitioner's claim for tax refund/credit is pending investigation;
>
> 7. In order that cash discounts may be allowed as a deduction from the gross selling price under Section 5 (b) of Revenue Regulations No.2-86, it is incumbent upon the petitioner to show clearly that said cash discounts <u>are given at the time of the sale and are expressly indicated in the sales invoice;</u>
>
> 8. Petitioner's argument that Johnson's Baby Cologne is the same product having the same alcohol content during the year involved is not supported by evidence. Hence, the same is subject to sales tax;
>
> 9. It is incumbent upon the petitioner to show compliance with the provisions of Section 230 in relation to Section 240 of the Tax Code;
>
> 10. In an action for refund and/or tax credit the taxpayer has the burden of showing that the taxes allegedly paid were erroneously collected and failure to

sustain said burden is fatal to the action for refund;

11. The amount of P2,471,979.00 allegedly representing erroneously paid sales tax on sales of Johnson Baby Cologne and sales tax effects of cash discount erroneously not deducted from the selling price in computing the taxable base of the sales tax was collected in accordance with law and existing regulations, hence, not refundable;

12. A claim for tax refund/credit is construed strictly against claimants since a claim for refund of sales tax partakes of the nature of an exemption from taxation (Coll. of Int. Rev. v. Ledesma, G.R. No. L-17508, 31 SCRA 95, January 30, 1970).

The lone factual issue involved in this case is whether or not petitioner is entitled to the refund or tax credit of the total amount of P2,471,979.00 as erroneously or illegally collected sales tax on sales of Johnson's Baby Cologne and also as cash discounts erroneously not deducted from petitioner's sales, both for the calendar quarter ended December 31, 1987.

After a careful and exhaustive scrutiny of the records of the case, as well as the numerous invoices presented, the Court had the following findings, to wit:

1. The total sales of Johnson's Baby Cologne amounting to P17,092,724.00 were not all supported by invoices as shown in the table hereinafter presented;

2. There were invoices which signify that the sales tax was already based on the net sales, contrary to the allegation of petitioner that sales tax was based on the gross sales. Said

invoices were marked as Exhs. "F-45" to "F-76", "F-79" to "F-87" and "F-96"; and

3. Invoices marked as Exhs. "F-7", "F-8", "F-9" and "F-28" represent sales for the 3rd quarter of 1987, thus, should not form part of the instant claim as the latter covers only the fourth quarter of 1987.

Consequently, as gathered from the exhibits presented and submitted by petitioner, the allowable refund that can be granted is hereby recomputed as follows:

Recomputation of Refundable Sales Tax Pertaining to Sales of Johnson's Baby Cologne and Effect of Cash Discount per Court Computation for the Calendar Quarter Ended December 31, 1987.

a)	Sales tax corresponding to the sales of Johnson's Baby Cologne (P595,608.44 x 20%)	P119,121.69
b)	Effect of cash discount	85,962.89
	Total amount refundable	P205,084.58

JOHNSON & JOHNSON (PHILS.), INC.
SALES INVOICE SUMMARY
For the Calendar Quarter Ended December 31, 1987

Date	Invoice No.	SALES Other Products	J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
10-16-87	015703	P 182,580.60		5,440.90	691.34	F
10-16-87	015704	12,503.80	P 30,391.20	1,278.27	214.48	F-2
10-16-87	015705	6,977.50		207.92	48.14	F-3
10-16-87	015706	4,321.85	2,707.80	209.49	35.15	F-4
10-16-87	015708	6,750.00		201.15	33.74	F-5

* Johnson's Baby Cologne

Date	Invoice No.	S A L E S Other Products	J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
10-15-87	015709	2,250.00		67.05	11.24	F-6
10-09-87	016466	1,339.60		66.17	6.00	F-10
10-09-87	016467	918.00		45.35	6.25	F-11
10-14-87	016469	21,273.22		1,050.89	95.35	F-12
10-14-87	016472	3,049.80		150.66	25.21	F-13
10-14-87	016473	846.60		41.82	7.00	F-14
10-15-87	016474	2,968.20		146.63	24.54	F-15
10-15-87	016475	14,263.00		704.59	117.90	F-16
10-15-87	016476	22,440.00		1,108.54	185.51	F-17
10-15-87	016479	60,860.00		3,006.48	272.76	F-18
10-13-87	018624	3,775.42		112.50	16.32	F-19
10-10-87	020125	3,354.10		165.69	7.89	F-20
10-10-87	020131	2,409.78		119.05	5.67	F-21
10-13-87	020133	1,285.20		63.49	3.02	F-22
10-14-87	020140	25,075.00		1,238.70	112.38	F-23
10-01-87	020175	6,000.00		178.80	30.00	F-24
10-01-87	020177	2,400.00		71.52	12.00	F-25
10-01-87	020178	3,422.28		101.99	1.93	F-26
10-01-87	020180	2,705.94		80.64	20.23	F-27
10-07-87	020395	4,688.70	15,040.80	587.94	78.81	F-29
10-14-87	020434	67,449.40		2,009.99	155.09	F-30
10-14-87	020438	60,441.60	10,584.00	2,116.55	355.13	F-31
10-02-87	020733	15,264.00		454.87	76.32	F-32
10-06-87	020755	1,976.40		58.89	9.89	F-33
10-12-87	020783	4,459.20		305.94	51.14	F-34
10-12-87	020784	4,900.80		474.13	79.18	F-35
10-13-87	020787	3,525.48		105.05	5.32	F-36
10-08-87	021212	8,886.40	1,887.60	765.66	125.76	F-37
10-13-87	021240	24,310.85		724.47	167.88	F-38
10-16-87	021272	6,708.40	2,579.20	276.77	74.73	F-39
10-16-87	021277	8,054.20	3,876.30	355.52	81.74	F-40
10-16-87	021278	8,554.06		254.91	60.06	F-41
10-16-87	021286	12,978.96	882.00	408.06	38.06	F-42
10-16-87	021296	32,150.00	5,013.60	1,107.48	102.24	F-43
10-16-87	021297	18,000.02	10,027.20	835.21	81.81	F-44
10-26-87	017680	2,029.69		60.49	-	F-45
10-30-87	017687	5,400.00		160.92	-	F-46
10-21-87	019913	29,540.46	14,451.60	1,310.96	-	F-47
10-21-87	019914	13,991.40	5,662.80	585.69	-	F-48
10-21-87	019915	2,731.50		81.40	-	F-49
10-21-87	019918	6,308.10		187.98	-	F-50
10-21-87	019919	11,500.80		342.73	-	F-51
10-21-87	019931	23,246.40	3,528.00	797.87	-	F-52
10-23-87	019935	4,318.25	1,388.85	170.07	-	F-53

* Johnson's Baby Cologne

Date	Invoice No.	S A L E S Other Products	J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
10-29-87	019946	3,539.34	599.65	123.34	-	F-54
10-27-87	021324	1,870.00		92.37	-	F-55
10-26-87	021371	2,362.50		70.40	-	F-56
10-26-87	019123	3,398.60		101.27	-	F-57
10-26-87	018435	6,881.70	9,151.92	477.79	-	F-58
10-26-87	017679	8,398.95		250.29	-	F-59
11-06-87	013413	7,555.20	1,887.60	281.40	-	F-60
11-12-87	017821	16,626.32	742.80	517.60	-	F-61
11-12-87	017833	12,707.76		378.69	-	F-62
11-12-87	017834	87,423.60	6,808.80	2,808.12	-	F-63
11-17-87	017859	7,537.40	1,485.60	268.88	-	F-64
11-17-87	017860	3,026.40		90.18	-	F-65
11-02-87	018444	3,121.05		93.00	-	F-66
11-03-87	018445	9,599.00	5,168.40	440.06	-	F-67
11-05-87	018451	1,356.90		40.42	-	F-68
11-10-87	018457	39,127.10		1,165.98	-	F-69
11-13-87	018486	35,113.86		1,046.38	-	F-70
11-14-87	018487	79,083.05	15,040.80	2,804.88	-	F-71
11-14-87	018488	15,595.70	4,611.60	602.17	-	F-72
11-14-87	018489	11,197.70	2,472.80	407.37	-	F-73
11-14-87	018497	10,586.44		315.47	-	F-74
11-02-87	021402	4,337.92	136.70	133.35	-	F-75
11-07-87	013452	1,929.15		57.49	-	F-76
11-17-87	013495	4,998.65	1,292.10	187.47	18.05	F-77
11-17-87	013496	13,165.80		392.34	55.07	F-78
11-17-87	013498	1,274.40		37.97	-	F-79
11-19-87	017914	3,087.70		92.02	-	F-80
11-27-87	017924	9,699.90		792.76	-	F-81
11-03-87	017932	2,340.60		178.14	-	F-82
12-08-87	013526	2,546.10		75.87	-	F-83
12-10-87	017938	253.00	742.80	29.68	-	F-84
12-15-87	017945	15,780.45		1,160.08	-	F-85
12-17-87	013531	28,289.15		843.02	-	F-86
12-10-87	016505	10,581.20	9,378.00	594.78	-	F-87
11-23-87	013502	3,423.60	1,887.60	158.27	26.55	F-88
12-04-87	013506	56,095.20	23,677.20	2,377.21	398.85	F-89
12-14-87	013530	46,214.30	18,756.00	1,936.11	324.85	F-90
11-27-87	016808	3,570.00		176.36	29.51	F-91
11-27-87	016809	331.50		16.38	2.74	F-92
12-11-87	016815	3,740.00		184.76	30.92	F-93
12-23-87	016816	12,779.75		631.32	105.64	F-94
12-16-87	016960	7,244.10	1,585.50	263.13	15.37	F-95
11-27-87	017925	5,635.20		471.17	-	F-96
11-19-87	021589	1,064.88		52.61	2.51	F-97

* Johnson's Baby Cologne

Date	Invoice No.	SALES Other Products	J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
11-26-87	021592	2,023.00		99.94	4.77	F-98
12-02-87	021595	5,057.50		249.84	41.81	F-99
12-07-87	021646	2,700.00		80.46	13.50	F-100
11-23-87	023232	18,490.60		1,268.61	212.05	F-101
11-23-87	023233	6,176.52		303.92	50.86	F-102
12-10-87	023249	1,734.60		119.00	19.88	F-103
12-10-87	023250	49,914.90		2,455.99	410.99	F-104
12-12-87	023251	35,910.00		1,766.90	295.66	F-105
12-14-87	023252	49,914.90		2,456.02	411.00	F-106
12-14-87	023253	19,814.45		1,359.42	227.23	F-107
12-22-87	023254	3,689.00		253.09	42.31	F-108
12-22-87	023255	158,283.30		7,788.17	1,303.31	F-109
12-10-87	023702	69,943.50		6,943.50	1,168.06	F-110
12-10-87	023703	31,860.00		3,126.00	532.06	F-110
12-15-87	023707	3,075.30		151.92	25.42	F-111
12-18-87	023712	2,759.10		136.30	22.81	F-112
12-23-87	023715	864.45		42.70	2.03	F-113
12-23-87	023716	4,131.00		204.07	9.72	F-114
11-18-87	866341	912.00		45.05	7.51	F-115
11-15-87	217362	22,554.75		1,114.21	101.32	F-116
11-15-87	217363	10,361.50		511.86	46.54	F-117
11-16-87	217493	317,487.20		15,683.86	473.43	F-118
11-17-87	217590	878,250.00		26,171.85	4,364.90	F-119
11-17-87	217594	3,347,226.00		99,747.33	16,635.72	F-120
11-17-87	217637	8,478.11		252.65	57.43	F-121
11-17-87	217661	53,730.00		1,601.15	267.04	F-122
11-18-87	217670	2,160,681.00		64,388.29	14,920.90	F-123
11-18-87	217678	26,640.00		793.87	11.78	F-124
11-18-87	217679	10,656.00		317.55	4.72	F-125
11-18-87	217680	5,328.00		158.77	2.36	F-126
11-18-87	217699	17,115.60		845.51	76.88	F-127
11-18-87	217700	5,355.00		264.54	24.05	F-128
11-18-87	217713	5,465.16		269.98	29.94	F-129
11-18-87	217701	7,140.00		352.72	32.07	F-130
11-18-87	217729	2,612.71		129.06	16.83	F-131
11-18-87	217731	639.99		31.62	3.11	F-132
11-19-87	217921	112,500.00		3,352.50	559.13	F-133
11-19-87	217924	225,000.00		6,705.00	1,118.25	F-134
11-19-87	217934	32,435.66		1,602.32	300.89	F-135
11-19-87	217974	1,235.00		36.80	6.14	F-136
11-19-87	217975	5,279.70		157.34	26.24	F-138
11-19-87	218028	189,189.00		5,637.83	940.27	F-139
11-19-87	218086	5,427.15		161.73	26.98	F-140
11-19-87	218088	1,200.00		35.76	5.96	F-141

* Johnson's Baby Cologne

Date	Invoice No.	SALES Other Products	SALES J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
11-19-87	218092	7,633.00		377.07	34.28	F-142
11-19-87	218095	405.45		20.03	1.82	F-143
11-19-87	218112	1,216.35		60.09	5.47	F-144
11-19-87	218122	5,773.20		285.19	47.55	F-145
11-19-87	218128	7,988.30		394.63	35.89	F-146
11-19-87	218129	1,295.40		63.99	5.81	F-147
11-19-87	218164	3,052.80		90.98	15.17	F-148
11-19-87	218176	4,940.00		147.21	24.55	F-149
11-19-87	218186	1,576.58		46.99	7.84	F-150
11-19-87	218187	540,000.00		16,092.00	2,683.80	F-151
11-19-87	218191	1,200.00		35.76	5.96	F-152
11-06-87	013417	20,178.95		601.33	66.78	F-153
11-06-87	013418	7,045.95	4,518.40	344.61	57.82	F-154
11-12-87	013483	6,449.80	6,442.60	384.19	17.02	F-155
10-11-87	015731	16,641.00	5,865.00	670.68	103.57	F-156
10-17-87	015732	34,082.70	9,378.00	1,295.13	217.30	F-157
10-23-87	015751	9,000.00		444.60	74.40	F-158
10-26-87	015752	52,893.60		1,576.23	264.46	F-159
10-26-87	015753	2,918.16		86.96	7.91	F-160
10-30-87	015785	4,500.00		134.10	22.50	F-161
11-06-87	015815	42,804.00		1,275.56	214.02	F-162
11-06-87	015817	7,004.40		208.73	35.02	F-163
11-09-87	015845	58,088.40		1,731.03	290.44	F-164
11-09-87	015846	21,509.70		640.99	108.59	F-165
11-13-87	015862	164,130.10	10,584.00	5,206.48	418.17	F-166
11-13-87	015863	86,972.55		2,591.79	1,025.76	F-167
10-23-87	016484	3,349.00		165.44	27.69	F-168
10-23-87	016485	2,465.00		121.77	20.38	F-169
10-23-87	016486	1,045.50		51.65	8.64	F-170
10-26-87	016489	3,825.00		188.96	31.62	F-171
11-03-87	016493	1,343.00		66.34	11.10	F-172
11-04-87	016494	5,062.60		250.09	41.86	F-173
11-12-87	016499	3,604.00		178.03	16.15	F-174
11-09-87	016610	82,418.82	7,303.20	2,673.72	342.92	F-175
11-10-87	016620	24,343.16		1,670.13	287.25	F-176
11-10-87	016621	1,811.70		141.88	23.71	F-177
11-11-87	016710	8,129.70		242.27	40.65	F-178
11-12-87	016721	8,918.40		611.86	102.28	F-179
11-12-87	016736	5,749.40	2,305.80	240.04	59.70	F-180
11-12-87	016750	2,104.60		62.72	10.53	F-181
11-12-87	016802	39,555.60		1,954.04	326.99	F-182
11-13-87	016805	19,720.00		974.17	92.76	F-183
11-13-87	016806	9,010.00		445.09	40.38	F-184
11-02-87	019304	35,159.90	4,921.20	1,194.42	200.41	F-185

* Johnson's Baby Cologne

Date	Invoice No.	S A L E S Other Products	J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
11-02-87	019949	15,264.00		454.87	76.32	F-186
10-23-87	020912	4,234.50		126.19	21.17	F-187
11-02-87	020934	33,810.60		2,319.67	331.78	F-188
11-02-87	020935	2,883.90		279.00	46.60	F-189
11-12-87	021176	213,750.00		10,517.35	1,760.02	F-190
11-13-87	021193	85,500.00		4,206.94	704.01	F-191
10-21-87	021314	757.35		37.42	3.39	F-192
10-22-87	021316	17,272.00		853.23	142.78	F-193
10-22-87	021317	3,614.67		178.56	8.51	F-194
10-22-87	021318	6,861.60		338.96	16.15	F-195
11-05-87	021337	1,198.50		59.20	9.91	F-196
11-10-87	021344	5,218.15		257.77	17.55	F-197
11-02-87	021391	6,663.60		198.58	33.32	F-198
11-02-87	021392	1,884.49	882.00	82.44	4.51	F-199
11-03-87	021406	85,674.40	22,808.40	3,232.79	117.27	F-200
11-03-87	021419	672.00		20.03	3.36	F-201
11-10-87	021447	3,403.22	294.00	110.17	15.96	F-202
11-11-87	021471	2,961.60		88.26	14.81	F-203
11-11-87	021476	11,305.25		336.89	56.53	F-204
11-11-87	021478	5,644.80		168.21	28.22	F-205
11-11-87	021480	3,623.50	902.60	134.88	22.63	F-206
11-11-87	021481	34,274.10	15,442.80	1,481.57	296.56	F-207
11-11-87	021482	10,774.20		321.07	53.87	F-208
11-13-87	021534	14,631.60		436.02	73.16	F-209
11-13-87	021535	37,514.30		1,117.92	95.85	F-210
11-13-87	021536	4,849.70	471.90	158.58	26.61	F-211
11-13-87	021562	11,887.20		587.22	71.26	F-212
11-13-87	021563	62,424.85		3,083.78	134.59	F-214
11-13-87	021584	50,150.00		2,477.41	224.77	F-215
11-13-87	021587	3,672.00		181.40	16.45	F-216
10-26-87	216089	46,130.70	5,942.40	1,551.78	425.94	F-217
10-26-87	216090	14,091.00		419.91	70.04	F-218
10-26-87	216101	13,369.55		398.42	66.44	F-219
10-27-87	216196	18,700.00		923.78	84.00	F-220
10-27-87	216200	2,975.00		146.97	13.37	F-221
10-29-87	216212	1,010.85		30.12	5.02	F-222
10-29-87	216248	276.00		8.22	1.37	F-223
10-29-87	216255	2,491.20		74.24	12.38	F-224
10-29-87	216259	3,735.00		111.30	18.56	F-225
10-29-87	216261	6,072.00		180.95	30.18	F-226
10-29-87	216291	8,028.00	943.80	433.14	72.21	F-227
10-29-87	216294	5,610.00		277.13	25.20	F-228
10-31-87	216326	7,768.85		231.51	38.62	F-229
11-02-87	216367	2,664.00		232.24	15.29	F-230

* Johnson's Baby Cologne

Date	Invoice No.	SALES Other Products	J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
11-02-87	216370	29,537.82		880.23	46.17	F-231
11-02-87	216371	3,839.00		108.44	20.47	F-232
11-02-87	216373	1,235.20		36.81	6.14	F-233
11-02-87	216374	1,235.20		36.81	6.14	F-234
11-02-87	216388	18,526.00		552.13	92.08	F-235
11-02-87	216391	12,352.00		368.09	61.39	F-236
11-02-87	216392	3,088.00		92.02	15.35	F-237
11-03-87	216426	79,920.00		2,151.62	35.33	F-238
11-03-87	216430	2,664.00		79.39	1.17	F-239
11-03-87	216431	21,317.00		635.10	3.12	F-240
11-03-87	216432	2,664.00		79.39	1.17	F-241
11-03-87	216446	1,065.60		31.76	0.47	F-242
11-03-87	216448	2,664.00		79.39	1.17	F-243
11-03-87	216449	53,[illegible]		1,557.74	23.55	F-244
11-03-87	216450	1,598.40		47.63	0.40	F-245
11-03-87	216451	2,664.00		79.39	1.17	F-246
11-03-87	216460	[illegible]		386.80	64.50	F-247
11-03-87	216461	1,257.50		61.39	10.32	F-248
11-03-87	216462	19,266.85		951.79	99.53	F-249
11-04-87	216479	51,[illegible]	15,040.80	1,399.68	169.21	F-250
11-04-87	216480	2,918.16		86.96	7.91	F-251
11-04-87	216492	11,770.00		350.77	58.50	F-252
11-04-87	216494	123,[illegible]	9,977.28	10,469.11	1,249.65	F-253
11-04-87	216495	65,[illegible]	7,056.00	2,117.97	128.17	F-254
11-04-87	216496	10,490.16		312.61	48.53	F-255
11-04-87	216497	23,381.15		699.76	53.97	F-256
11-04-87	216531	1,526.40		45.48	7.59	F-257
11-04-87	216535	11,161.50		566.37	51.49	F-258
11-04-87	216536	1,[illegible]		55.35	9.23	F-259
11-04-87	216542	1,[illegible]		60.26	10.05	F-260
11-04-87	216543	[illegible]		29.39	4.90	F-261
11-05-87	216617	[illegible]		4.22	1.37	F-262
11-05-87	216622	30,360.00		904.73	150.89	F-263
11-05-87	216623	6,691.20		199.49	33.29	F-264
11-05-87	216627	3,705.00		110.41	18.41	F-265
11-05-87	216629	[illegible]		220.46	38.77	F-267
11-05-87	216630	253.00		7.54	1.26	F-268
11-06-87	216670	6,930.30		208.79	34.48	F-269
11-06-87	216671	6,377.50		314.80	40.63	F-270
11-06-87	218771	6,1[illegible]			-	F-271
11-06-87	216672	41,159.50		2,034.34	184.98	F-272
11-06-87	216674	9,0[illegible]		418.37	40.77	F-273
11-07-87	216713	3,561.14		177.00	23.07	F-274
11-08-87	216773	1,614.60		48.12	8.03	F-275

* Johnson's Baby Cologne

Date	Invoice No.	SALES Other Products	SALES J B C*	Discount	Refundable Sales Tax on Cash Discount	Exh.
11-08-87	216675	517.65		25.57	2.32	F-276
11-09-87	216858	178,890.20	93,780.00	8,125.57	1,311.28	F-277
11-09-87	216859	14,374.80		428.37	71.44	F-278
11-09-87	216860	43,797.90		1,305.18	316.14	F-279
11-09-87	216865	50,538.90		1,506.06	282.21	F-280
11-10-87	216880	5,610.00		277.13	25.20	F-281
11-11-87	216951	6,120.00		302.33	50.41	F-282
11-11-87	216986		15,010.80	447.32	74.60	F-283
11-11-87	216992	147,000.00		4,380.60	730.59	F-284
11-11-87	216993	12,657.30		377.18	62.90	F-285
11-11-87	216996	22,935.76	247.60	690.86	40.65	F-286
11-11-87	216997	952.20		28.37	4.74	F-287
11-11-87	216998	102,431.28	1,632.24	3,101.10	517.20	F-288
11-11-87	216999	8,386.50		249.92	41.67	F-290
11-11-87	217000	24,629.40	4,921.20	1,929.11	321.63	F-291
11-11-87	217001	16,618.50		820.95	102.61	F-292
11-11-87	217002	3,370.57		166.50	18.47	F-293
11-12-87	217012	212,053.20		6,319.18	1,053.90	F-294
11-12-87	217015	121,528.80	67,464.00	5,631.99	939.30	F-295
11-12-87	217016	2,190,655.40		65,281.53	13,280.37	F-296
11-12-87	217018	132,100.60	66,540.00	5,919.49	987.24	F-297
11-12-87	217020	1,334.16		39.76	0.59	F-298
11-12-87	217026	54,000.00		1,609.20	268.38	F-299
11-12-87	217067	69,822.92	1,485.60	2,125.00	226.16	F-300
11-13-87	217109	1,047.75		31.23	5.21	F-301
11-13-87	217124	2,095.50		62.45	10.42	F-302
11-13-87	217127	1,047.75		31.23	5.21	F-303
11-13-87	217128	25,146.00		749.35	124.97	F-304
11-13-87	217134	3,670.50		109.39	18.23	F-305
11-13-87	217135	5,600.34		166.69	27.82	F-306
T O T A L		P15,694,718.15	P595,608.44	P538,909.42	P85,962.89	

Petitioner has complied with the provisions of Section 230 of the Tax Code. Its claim for tax credit/refund was filed both in the administrative and judicial levels within two years from the date of payment.

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* Johnson's Baby Cologne

WHEREFORE, finding the petition partly **MERITORIOUS** and in accordance with law, the same is hereby **GRANTED** but only in the reduced amount of P205,084.58. Respondent is hereby **ORDERED** to **REFUND** or **ISSUE** Tax Credit Certificate in favor of petitioner only in the amount of P205,084.58, as erroneously collected sales tax on sales of Johnson's Baby Cologne, and also as cash discounts erroneously not deducted from petitioners sales, both for the calendar quarter ended December 31, 1987.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

(On Leave)
MANUEL K. GRUBA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among 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