Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

GOODYEAR PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA-E.B. NO. 104
(C.T.A. Case No. 6430)

Present:

Acosta, *P.J.*,
Castañeda, Jr.,
Bautista,
Uy,
Casanova, and
Palanca-Enriquez, *JJ*.

Promulgated:

JAN 16 2006

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DECISION

UY, *J*.:

This is an appeal to the Court *En Banc* by way of verified Petition for Review pursuant to Section 18 of Republic Act No. 1125, as amended by R.A, 9282, of the Decision of the First Division of the Court of Tax Appeals promulgated on November 25, 2004 entitled "Goodyear Philippines, Inc. vs. Commissioner of Internal Revenue", docketed as CTA Case No. 6430, partially granting petitioner's claim, in the amount of **Six Million Six Hundred Fifty Six Thousand Eight Hundred Sixty Two Pesos and Thirty Two Centavos (P6,656,862.32)** representing excess creditable withholding taxes for the taxable year 2000; as well as, a review of the Resolution promulgated on June 22, 2005, partially granting petitioner's Motion for Reconsideration and ordering respondent to refund to petitioner the

Culled from the records of this case, these are the relevant antecedent facts of the instant petition for review.

Petitioner is a domestic corporation duly organized and existing under and by virtue of the Philippine laws, with principal office address at Old National Road, Barangay Almanza, Las Pinas City while respondent is the duly appointed Commissioner of Internal Revenue with authority to act as such, including among others, the power to decide, approve and grant refunds or tax credit of internal revenue taxes provided by law.

On April 11, 2001, petitioner filed with the Bureau of Internal Revenue (BIR) its Annual Corporate Income Tax Return or AITR for the calendar year ended December 31, 2000 showing a net loss of P339,776,628.00 and a Minimum Corporate Income Tax Return or MCIT, of P3,828,943.00. Also petitioner reported the amount of P30,733,129.00 as total tax credits which consisted of the prior year's excess credits of P20,114,874.00 and creditable taxes withheld for the four quarters of 2000 of P10,618,255.00. These total tax credits of P30,733,129.00 were applied against the MCIT due of P3,828,943.00 resulting to an overpayment of P26,904,186.00 as of December 31, 2000, which petitioner marked in the return as "to be refunded".

While petitioner's income tax return for the year 2000 indicated its option to have the excess tax credits of P26,904,186.00 refunded already in itself operates as a formal application for refund pursuant to Section 2.58.3(C)(1) of Revenue Regulations No. 2-98, petitioner filed on March 13, 2002 with the Large Taxpayers Division, Revenue District Office (RDO) No. 116 of the Bureau of Internal Revenue a formal letter to reiterate its request for refund. Respondent's inaction thereto constrained petitioner to file a Petition for Review under the exclusive original jurisdiction of this Court on April 10, 2002, the Decision and Resolution of which is subject matter of the instant petition for review, but this time, praying for the issuance of a tax credit certificate instead of cash refund of the amount of P26,904,186.00.

On May 9, 2002, petitioner filed an amended income tax return for the taxable year 2000 increasing its reported total tax credits from P30,733,129.00 to P31,540,874.00 or an increment of P807,745,00 which resulted to a higher amount of excess tax credits of P27,711,931.00 as of December 31, 2000. Petitioner again elected to have the aforesaid amount refunded.

On June 7, 2002, petitioner filed a Motion for Leave of Court to Admit Attached Supplemental Petition for Review to include the additional claim of P807,745.00 which allegedly pertains to certificates of creditable withholding taxes which were received by petitioner only after it had already filed its original income tax return for taxable year 2000. This Motion was granted in a Resolution dated July 1, 2002, thereby admitting petitioner's increased claim from P26,904,186.00 to P27,711,931.00.

However, on June 17, 2003, petitioner manifested that on June 12, 2003, it filed with the Revenue District Office (RDO) No. 116, Large Taxpayer's Division of the BIR, a formal letter reducing the amount of its claim for refund from P27,711,931.00. to P11,145,002.00 representing the excess or unutilized creditable income taxes withheld at source for the year 2000.

On November 25, 2004, the First Division of this Court promulgated its assailed Decision, granting only a portion of petitioner's claim for failure of petitioner to present documents to substantiate its prior year's excess credits. The dispositive portion thereof reads as follows:

> "IN VIEW OF THE FOREGOING, the instant petition for review is hereby PARTIALLY GRANTED. Respondent Commissioner of Internal Revenue is hereby ORDERED TO ISSUE A TAX CREDIT CERTIFICATE in favor of the petitioner in the amount of P6,656,862.31 representing excess creditable withholding taxes for the taxable year 2000." (Decision in CTA Case No. 6430 dated November 25, 2004).

In said Decision, petitioner was found to have sufficiently complied with all the requirements for the issuance of a tax credit certificate in the amount of P6,656,862.31

representing excess creditable withholding taxes for the taxable year 2000, computed as follows:

Minimum Corporate Income Tax Due		P 3,828,943.00
Less: Creditable Taxes Withheld during the year	P 11,145,002.00	
Less: Creditable Taxes the corresponding Certificates of which were not pre-marked /formally offered	659,196.69	10,485,805.31
Refundable Excess Tax Credits		P 6,656,862.31

With respect to the disallowed certificates of Creditable Tax Withheld at Source, it was found that these were not pre-marked, thus, not formally offered in evidence and were correspondingly not considered by the Court in the appreciation of petitioner's evidence.

A Motion for Reconsideration was filed by petitioner on December 22, 2005 seeking a review of the aforesaid Decision alleging that the law and regulations do not require the presentation of documents to substantiate prior year's excess credits and that the Court should allow the admission of documents incorporated in the report of the independent CPA and which are included in the records of the Court.

On June 22, 2005, the First Division of this Court rendered its assailed Resolution, partially granting petitioner's Motion for Reconsideration by allowing the excluded amount of P659,196.69 to be refunded to petitioner, the dispositive portion thereof reading thus:

> **"WHEREFORE,** the Motion for Reconsideration is PARTIALLY GRANTED. Accordingly, respondent is ORDERED to REFUND to petitioner the amount of SEVEN MILLION THREE HUNDRED SIXTEEN THOUSAND FIFTY NINE PESOS (P7,316,059.00)." (Resolution in CTA Case No. 6430 dated June 22, 2005)."

Hence, the instant Petition for Review anchored on the following grounds:

"(1) The law and regulations do not require the presentation of documents to substantiate prior years' excess credits.
(2) Respondent's power to assess has prescribed.
(3) Petitioner's 2000 Annual Income Tax Return is presumed to be correct and sufficient."

Petitioner argues that "it was allegedly inconsistent on the part of the Honorable Court's First Division to require substantiation of prior years' excess credits, when it had already declared that the requisites of a valid claim for refund are limited only to those

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"it was x x x not legally imperative for petitioner to prove prior years' excess credits, absent any law or regulation requiring the same" (Petition for Review, pp. 8-9).

A thorough consideration of the allegations in the instant petition for review and its annexes, as well as the respondent's comment thereto, would readily reveal that the grounds raised by petitioner had been exhaustively discussed by the First Division when it rendered its assailed Decision dated November 25, 2004 and Resolution dated June 22, 2005. The Court En Banc agrees with the following findings contained in the assailed Resolution, to wit:

> "The subject claim of P11,145,002.00 allegedly represents unutilized tax credits, i.e., *undiminished by any income tax liability*. Thus, **it is vital for the petitioner to prove that other than the claimed amount P11,145,002.00, it has enough prior year's excess credits to cover its reported MCIT liability of P3,828,943.00 for taxable year 2000.** Therefore, mere declaration of prior year's excess credits in its Income Tax Return for taxable year 2000 will not suffice. Otherwise, the MCIT liability of P3,828,943.00 shall be applied against the current creditable withholding tax of P11,145,020.00 which were found to be validly supported by withholding tax certificates as was held in the questioned Decision.

In the recent case of *Star Performance, Inc. vs. Commissioner of Internal Revenue* the Court En Banc had occasion to rule that "the Annual Income Tax Return for taxable year 1998 submitted by petitioner is not sufficient proof of payment, without the accompanying documents, such as Certificates of Creditable Withholding Tax Withheld at Source for prior years tax credit, among others, since prior year's excess credits and creditable taxes withheld in 1998 were also partially applied against the 1998 MCIT. Accordingly, the court *[sic]* holds that without any proof of payment, the application of the Unexpired Excess of Prior Year's MCIT over Normal Income Tax Rate, and Prior Year's Excess Credits as tax credit against the income tax due in 1999, could not be validly allowed" (*En Banc Case No. 78 [CTA Case No. 6434]).*

Although the substantiation of petitioner's prior year's excess credit was an additional requirement set forth by the Court relative to petitioner's claim for refund of excess creditable taxes withheld, this undoubtedly, was within the prerogative and power of the Court to do so, to enable it to decide this case with certainty. Otherwise, the Court will

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lack valid and justifiable reason in granting the unutilized or excess creditable income tax of the petitioner for the taxable year 2000.

Petitioner likewise maintains that respondent's power to assess has prescribed. This argument bears no significance, since neither the Court nor the respondent is assessing petitioner of tax liabilities. The claim for refund was and should still be denied for petitioner's failure to show entitlement thereto, as above discussed.

With regard to the last issue, petitioner claims that the figures appearing in its 2000 Annual ITR are, by law and jurisprudence, presumed to be correct and sufficient. In as much as it was prepared under the penalties of perjury, petitioner's prior years' excess credits should be presumed true and correct, in the absence of contrary evidence.

It is true that detailed proof of the truthfulness of each and every item in the income tax return is not required (*Citibank, N.A. vs. Court of Appeals, 280 SCRA 459)*. However, the presumption of the truthfulness of the items in the income tax return does not amount to an abdication of the Court's power to ascertain whether these items are correct towards the end of determining whether petitioner is entitled to the refund sought for.

If the Court is to follow petitioner's line of reasoning, then all claims for refund will be granted even to those not entitled to them. To reiterate, documentary evidence must be presented by petitioner to show entitlement to claim for refund. In this case, petitioner presented nothing to prove the existence of the prior year's excess credits. Therefore, the MCIT due should be deducted to determine the refundable excess tax credits of petitioner for the subject period. Once again, it is stressed that tax refunds are in the nature of tax exemptions and should be construed *strictissimi juris* against the taxpayer (*Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332, 1995)*.

All the foregoing considered, the Court En Banc finds no reversible error committed by the First Division of this Court when it rendered its assailed Resolution dated June 22, 2005.

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WHEREFORE, the instant petition is **DENIED** due course and is hereby **DISMISSED** for lack of merit. The assailed Resolution dated June 22, 2005 is correspondingly affirmed in toto.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court before the case was assigned to the writer of the opinion of this Court.

ERNESTO D. ACOSTA
Presiding Justice

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