REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

TOWA INDUSTRY, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5219

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 13 1997 Jmargarith

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# DECISION

Before Us is a petition seeking for a refund or issuance of a tax credit certificate in the amount of P1,873,093.35 representing alleged excess creditable VAT input taxes covering the period January 1, 1993 to December 31, 1994.

The antecedent facts of the case are as follows:

Petitioner is a VAT and BOI-registered domestic corporation organized and existing under the laws of the Republic of the Philippines.

On March 10, 1995, petitioner filed its amended quarterly VAT returns for the following periods:

| Period Covered | Cumulative Creditable Input Tax |
|---|---|
| January 1 to March 31, 1993 | P107,696.96 |
| April 1 to June 30, 1993 | 364,186.90 |

Subsequently, on March 23, 1995, petitioner filed the following additional amended quarterly VAT returns:

| Period Covered | Cumulative Creditable Input Tax |
|---|---|
| July 1 to September 30, 1993 | P 530,088.48 |
| October 1 to December 31, 1993 | 568,628.50 |
| January 1 to March 31, 1994 | 845,551.28 |
| April 1 to June 30, 1994 | 1,115,590.51 |
| July 1 to September 30, 1994 | 1,428,427.67 |
| October 1 to December 31, 1994 | 1,873,093.35 |

Being a zero-rated taxpayer, petitioner incurred no VAT output as all its sales were export sales, resulting to a total creditable VAT input of P1,873,093.35 for the period January 1, 1993 to December 31, 1994.

On March 27, 1995, petitioner filed its application for tax credit/refund of the aforestated cumulative VAT input payments with the Tax and Revenue Group of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance. (Exhibit "A")

Considering that the two-year period mandated by law under Sections 204 and 230 of the Tax Code is about to expire, inaction of the respondent on the aforementioned claim prompted the petitioner to file the instant petition before Us on March 31, 1995.

On July 10, 1996, respondent's counsel manifested in court that a partial refund had already been granted and furnished the petitioner with a copy of the letter of the Department of Finance, dated January 17, 1996 (p.82, CTA recs.), addressed to the Commissioner of Customs on the said approval of claim for refund. This fact urged the petitioner to file a Manifestation and Motion for Leave of Court for the Admission of Amended Petition for Review on August 1, 1996 (pp. 78-80, CTA recs.) for the purpose of impleading the Commissioner of Customs as an indispensable party to the case considering that he is the person who has the authority to issue the tax credit certificate and therefore necessary to a complete determination or settlement of the questions involved in the case.

On August 30, 1996, this Court through a Resolution (p. 111. CTA recs.) denied the foregoing motion filed by the petitioner on the ground that"

> "x x x in the original petition for review, as well as in the amended petition for review, the amount being prayed for to be refunded is the same without taking into consideration the tax credit already granted to the petitioner by the respondent Commissioner of Internal Revenue, the balance that still has to be litigated and the portion of the claim that pertains to the Bureau of Customs.

On September 23, 1996, respondent filed a Motion to Dismiss (pp. 113-115, CTA recs.) on the ground that the claim for refund had already been approved and granted by the respondent in the amount of ₱1,606,651.02, computed as follows:

| | Domestic Purchases | Importations | Total |
|---|---|---|---|
| Amount of Claim | P1,421,368.03 | P451,725.32 | P1,873,093.35 |
| Add: Output Taxes Applied | ..... | ..... | ..... |
| | P1,421,368.03 | P451,725.32 | P1,873,093.35 |
| Less: Disallowed Input Taxes | 201,215.16 | 65,227.17 | 226,442.33 |
| Approved Refund | P1,220,152.87 | P386,498.15 | P1,606,651.02 |

Respondent further maintained that the Bureau of Internal Revenue already issued TCC SN 006137 in the amount of P1,220,152.87 (p. 150, BIR recs.) and with respect to the taxes paid on importations, the Bureau of Customs has the authority to issue the tax credit thereon. And since the principal issue of the case has become moot and academic, the case must be dismissed.

Petitioner filed an Opposition to Motion to Dismiss on October 3, 1996 (pp. 117-122, CTA recs.) arguing that since petitioner's claim for refund has not been fully satisfied as a result of disallowance of a portion of its creditable value added tax input in the amount of P226,442.33, the motion to dismiss is devoid of merit.

This court resolved (Resolution, pp.124-125, CTA recs.) to deny the Motion to Dismiss filed by the respondent on the ground that since there was only partial grant of the refund requested, the case should subsist with regard to the input taxes disallowed by the respondent in the total amount of P266,442.33.

Considering all that transpired during the trial of this case, the lone issue that remains to be resolved is whether or not the petitioner is entitled to the unapproved balance of claim for refund amounting to P266,442.33.

After careful examination of the evidences presented by the petitioner before this Court, We are convinced that the said claim for refund should be denied.

Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the exemption. The burden of proof is upon him who claims the exemption in his favor and he must be able to justify his claim by the clearest grant of organic or statute law and cannot be permitted to exist upon vague implications (**Asiatic Petroleum Co. v. Llanes, 49 Phil. 466; Northern Phil. Tobacco Corp. v. Mun. of Agoo, La Union, 31 SCRA 304; Reagan v. Commissioner, 30 SCRA 968; Asturias Sugar Central, Inc. v. Commissioner of Customs, 29 SCRA 617; Davao Light and Power Co. Inc. v. Commissioner of Customs, 44 SCRA 122**). Thus, when tax exemption is claimed, it must be shown undubitably to exist, for every presumption is against it, and a well founded doubt is fatal to the claim (**Farrington** v. **Tennessee & Country Shelby**, 95 U.S. 679, 686; **Manila Electric Co.** v. **Vera**, L-29987, Oct. 22, 1975; **Manila Electric Co.** v. **Tabios**, L-23847, Oct. 22, 1975, 67 SCRA 351).

In the case at bar, petitioner failed to prove and substantiate the amount of its input tax claim, for it merely presented its Amended Value Added Tax Returns for the quarters covering the period January 1, 1993 to December 31, 1994, where the amount of cumulative creditable input taxes are reported. It did not submit in Court the invoices, official receipts or other documents corresponding to the input taxes claimed which would have served as basis for the refund/credit.

**WHEREFORE**, in view of all the foregoing, petitioner's claim for issuance of tax credit certificate or refund for the unapproved balance of P266,442.33 is hereby **DENIED** for lack of merit. No pronouncement as to costs.

**SO ORDERED.**

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

RAMON O. DE VEYRA
Associate Judge

AMANCIO Q. SAGA
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