REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHILIPPINE BOBBIN CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 5050

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAR 06 1998

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D E C I S I O N

Before Us is a petition seeking for the refund or issuance of a tax credit certificate in the amount of P5,292,135.18 representing input value-added tax allegedly paid by petitioner to the Bureau of Internal Revenue for the period May 1991 to August 1993.

The facts of the case are simple.

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines. It is also registered with the Bureau of Internal Revenue (BIR) as a value-added tax (VAT) taxpayer with VAT Registration No. 25-1-005982 (Exhibit "A") and with the Export Processing Zone Authority (EPZA) as an export producer with Certificate of Registration No. 91-06 (Exhibit "B").

As a zero-rated taxpayer, petitioner religiously filed its VAT returns indicating its creditable input VAT payments for local purchases of goods and services. For the period May 1991 to August 1993, the input VAT payments made by the petitioner resulted to an aggregate amount of P5,292,135.18 computed as follows:

Exhibit	Date Filed	Period Covered	Creditable Input VAT
"C"	October 21, 1991	May - September 1991	P1,438,295.81
"D"	January 20, 1992	October - December 1991	1,180,232.95
"E"	April 20, 1992	January - March 1992	1,381,199.72
"F"	July 20, 1992	April - June 1992	789,460.73
"G"	October 20, 1992	July - September 1992	153,419.52
"H"	January 20, 1993	October - December 1992	211,022.50
"I"	April 20, 1993	January - March 1993	36,027.65
"J"	July 20, 1993	April - June 1993	69,534.60
"K"	August 25, 1993	July 1993	17,543.73
"L"	September 24, 1993	August 1993	15,397.97
			P5,292,135.18

On December 1, 1993, petitioner filed with the BIR an application for tax credit/refund (Exh. "M") of input value-added tax paid for the period May 1991 to August 1993 in the total amount of P5,292,135.18.

Considering that the two-year period mandated by law under Section 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 December 23, 1993.

Petitioner formally offered in evidence the following documents which were properly identified by its witnesses:

1. Certificate of VAT Registration (Exh. "A");

2. Certificate of EPZA Registration (Exh. "B");

3. VAT Returns for the period May 1991 to August 1993 (Exhs. "C", "D", "E", "F", "G", "H", "I", "J", "K" and "L");

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4. Schedules of Input Taxes Paid for the period May 1991 to August 1993 ("C-3", "D-3", "E-5", "F-4", "F-5", "G-5", "H-5", "I-4", "J-5", "K-4", and "L-3");

5. Schedules of Total Sales for the period January to March 1992 (Exh. "E-4), July to December 1992 (Exh. "G-4", "H-4"), April to August 1993 ("J-4", "K-3", and "L-2");

6. Application for Tax Credit/Refund of VAT Paid (Exh. "M");

7. Certification issued by EPZA that petitioner has not filed with their office any application for tax credit/refund (Exh. "N");

8. Certification issued by the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center that petitioner has not filed with their office any application for tax credit/refund (Exh. "O");

9. Certification issued by the Bureau of Customs Drawback Center that petitioner has not filed with their office any application for tax credit/refund (Exh. "P");

10. Certification issued by the Bank of Philippine Islands to prove that petitioner coursed through BPI inward remittances in 1992 (Exh. "Q");

11. Certification issued by Solid Bank to prove that petitioner coursed through Solid Bank inward remittances in 1992 and 1993 (Exh. "R");

12. CPA Certification issued by SGV & Co. (Exh. "S");

13. Summary of Input Tax Payments of petitioner for the period May 1991 to August 1993 (Exh. "T"); and

14. Invoices, Official Receipts, and other documents supporting Exh. "T" (Exhs. "T-1" to "T-2,025).

Respondent for her part presented as evidence the testimony and memorandum report (Exh. "1") of Revenue Officer Armando F, Tria who investigated the claim for refund filed by the petitioner. In the said report, some of the input taxes claimed for credit/refund were disallowed for lack of supporting

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invoices/official receipt and for having been filed beyond the two-year prescriptive period mandated by law.

The primordial issue to be resolved in this case is whether or not the petitioner is entitled to the tax credit/refund of P5,292,135.18 which allegedly represents the input VAT paid for local purchases of goods and services for the period May 1991 to August 1993.

We answer in the negative.

The petitioner anchors its claim for tax credit/refund of input taxes on Section 106(c) of the Tax Code which provides, thus:

> "**Section 106. Refunds or tax credits of input tax**. - x x x x **(c) Capital goods.** - A VAT registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application for refund can be made only after the expiration of 2 succeeding quarters following the quarter in which the importation or local purchase was made: Provided, that a VAT registered person who is just commencing business may apply for refund of input taxes under this paragraph not earlier than 180 days from the date of registration or actual start of business operations, whichever comes later; Provided however, that the application is filed not later than 2 years from the dates herein prescribed." (underscoring supplied)

and the cited case of Union Carbide Philippines Inc. vs. Commissioner of Internal Revenue, CTA Case No. 4890, dated February 13, 1995, where the petitioner is an ordinary VAT-registered manufacturing corporation. However, We find the aforementioned provision of the Tax Code and jurisprudence inapplicable in the instant case.

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In the case at bar, the petitioner is an exporter and Section 106(a) of the Tax Code clearly mandates how an exporter may avail of refunds or tax credits of input tax, to wit:

> **"Section 106. Refunds or tax credits of input tax. - (a) Export Sales -** An exporter who is a VAT-registered person may, within two years from the date of exportation, apply for the issuance of a tax credit certificate or refund of the input tax attributable to the goods exported, to the extent that such input tax has not been applied to output tax and upon presentation of proof that the foreign exchange proceeds has been accounted for in accordance with the regulations of the Central Bank of the Philippines." (underscoring supplied)

A perusal of the aforementioned provision of the Tax Code and Revenue Regulations No. 3-88 dated April 7, 1988, shows that a refund or the issuance of a tax credit certificate on input taxes paid shall be granted only upon compliance with the following requirements:

1) The exporter must be VAT-registered;

2) An application for tax credit/refund of value-added tax paid (BIR Form No. 2552) shall be filed with the Revenue District Office of the city or municipality where the principal place of business of the applicant is located or directly with the Commissioner, Attention: VAT Division;

3) A photocopy of the purchase invoice or receipt evidencing the value added tax paid shall be submitted together with the application;

4) Photocopy of export document showing the amount of export, and the date and destination of the goods exported. With respect to foreign currency denominated sale, the photocopy of the invoice or receipt evidencing the sale of the goods, as well as the name of person to whom the goods were delivered;

5) Statement from the Central Bank or any of its accredited agent banks that the proceeds of the sale in acceptable foreign

currency has been inwardly remitted and accounted for in accordance with applicable banking regulations;

6) That such input taxes paid has not been applied to output taxes; and

7) The value added tax paid must be attributable to the goods exported.

It appears from the records of this case that petitioner complied with some of the aforecited requirements. Petitioner has shown that it is VAT-registered and that an application for tax credit/refund for input taxes paid have been duly filed together with purchase invoices or receipts evidencing the value-added tax paid. Petitioner also offered as evidence, certifications issued by Bank of Philippine Islands and Solid Bank to prove that petitioner coursed through the said accredited agent banks of the Central Bank, inward remittances in 1992 and 1993. Moreover, petitioner submitted its VAT returns for the subject period to prove that the input taxes claimed were not applied to output taxes.

However, it failed to comply with the equally significant requirement of submitting photocopies of export documents showing the amount of export, and the date and destination of the goods exported, or with respect to foreign currency denominated sales, photocopies of invoices or receipts evidencing the sale of the goods, as well as the name of the person or entity to whom the goods were delivered, unmindful of the fact that proof of actual sales and exportation of its products is material to its claim. Furthermore, petitioner failed to show proof that it has not applied its VAT input taxes to any output tax liabilities for the succeeding period as clearly ruled by this Court in the case of ***AMI Philippines vs. CIR, CTA Case No. 5304, dated January 20, 1998 and CTA Case Nos. 5187 and 5199, dated October 2, 1997.***

As a settled rule, 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 indubitably 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, 67 SCRA 351).***

Inasmuch as the petitioner failed to fully substantiate its claim for tax refund or issuance of tax credit certificate on input taxes paid for its local purchases of goods and services, we find no need to delve into the other issues involved in this case.

WHEREFORE, in view of all the foregoing, the claim for refund or issuance of tax credit certificate in the amount of P5,292,135.18 is hereby **DENIED.**

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

AMANCIO Q. SAGA
Associate Judge

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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