REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

STATES STEAMSHIP COMPANY,
Petitioner,

versus C.T.A. CASE NO. 818

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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D E C I S I O N

Petitioner, a foreign corporation engaged in the shipping business in the Philippines, sought the refund of the alleged overpaid income tax of ₱4,020.00 for the calendar year 1957 based on its amended income tax return which was filed with respondent's office on May 25, 1959. Because respondent Commissioner of Internal Revenue failed to act on petitioner's claim for refund, an appeal was filed with this Court on May 13, 1960.

On March 31, 1958, petitioner filed with respondent's office its 1957 income tax return, showing and declaring therein a net taxable income of ₱27,385.00 and paid income tax on account thereof in the amount of ₱5,477.00.

Petitioner's 1957 income tax return was prepared in California, U.S.A. by the Vice President of the shipping company and subscribed and sworn to before Philippine Vice Consul Dominador P. Amor. Subsequently, petitioner filed with respondent's office a 1957 amended income tax return prepared by the accounting firm of Sycip, Gorres, Velayo and Company, petitioner's attorney-in-fact.

Petitioner's amended income tax return shows a net taxable income of ₱4,284.26 and an income tax due of ₱857.00 instead of ₱27,385.00 and ₱5,477.00, respectively, as declared in the original return of petitioner.
The discrepancy arose from an adjustment of petitioner's financial statement. It computed its Philippines allocated deductions by applying the formula pursuant to Section 37(b) of the National Internal Revenue Code and Section 160 of the Income Tax Regulations.

This case was submitted to this Court for decision by the opposing parties on the basis of their pleadings and the BIR records.

Petitioner contends that sufficient evidence was submitted to the respondent Commissioner of Internal Revenue to sustain the validity of its claim for refund. On this point, petitioner relied on the amended returns and the enclosures in the original income tax return reportedly authenticated by Philippine Vice Consul Dominador P. Amor stationed at California, U.S.A. We disagree.

An examination of the 1957 original income tax return of petitioner shows that the same was merely subscribed and sworn to before the Philippine Vice Consul at California, U.S.A. by the Vice President of the

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foreign shipping company. The financial statement of income and expenses enclosed therewith was not authenticated by our consular official stationed at California, U.S.A. Neither were the world gross income and expenses used in the formula required by Section 37(b) of our Revenue Code reflected by the head office books of account of petitioner. Not even petitioner's world-wide financial statements and balance sheet for 1957, duly audited by its U.S. certified public accountants, as well as petitioner's duly authenticated copy of its 1957 U.S. income tax return, submitted in evidence. Consequently, this Court is not satisfied from the evidence of record that petitioner is legally entitled to the refund of the alleged overpaid income tax of ₱4,020.00 for 1957.

Petitioner further contends and argues that, inasmuch as respondent Commissioner of Internal Revenue had issued an assessment for ₱857.00 on the basis of petitioner's amended income tax for 1957, the assessment in question is tantamount to a confirmation of its 1957 income tax liability. We find no merit in the said argument.

An examination of the BIR records shows that Assessment No. 90-EAC-59-58 for ₱857.00 was prepared by respondent's office (BIR rec., pp. 17-18). However, it will be noted that the said assessment was for the calendar year 1958 and not 1957. Moreover, the original and duplicate copies of the proposed assessment were never issued and released by the respondent to petitioner and the same were cancelled by respondent's office.

WHEREFORE, petitioner's claim for the refund of the alleged overpaid income tax of ₱4,020.00 for 1957 has to be, as it is hereby, denied. Without pronouncement as to costs.

SO ORDERED.

Quezon City, August 25, 1976.

ESTANISLAO R. ALVAREZ
Presiding Judge

WE CONCUR:

AMANTE FILLER
Associate Judge

CONSTANTE C. ROAQUIN
Associate Judge