REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

INDUSTRIAL TEXTILES MFG.
COMPANY OF THE PHILIPPINES
INC.,
Petitioner,

- versus - C.T.A. CASE NO. 3996

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.
x - - - - - - - - - - - - - - x 6/7

D E C I S I O N

This is a claim for refund of the amount of P529,813.80 representing excess income tax for the year 1984.

On March 27, 1985, petitioner filed its final income tax return for the tax year 1984, showing zero income tax liability and income tax payments.

On June 27, 1985, petitioner filed a claim for refund with the respondent for the amount of P529,813.80 representing excess income tax paid for the year 1984 as follows:

Prior year's excess income tax		P 40,994.00
Income tax paid for 1st Qtr. 1984	P271,053.00	
Income tax paid for 2nd Qtr. 1984	187,756.00	458,809.00
Taxes withheld by:		
Atlas Fertilizer Corp.	11,320.80	
Herald Publications	17,640.00	
San Miguel Corp.	1,050.00	30,010.00
		P 529,813.80

Petitioner was unable to offset the excess tax payment because it has ceased manufacturing operations and does not have nor will it have any forseeable income against which the said refundable amount may be credited, and that the final income tax return filed on March 27, 1985 has showed on its face that the amount of P529,813.80 was refundable as excess payment.

Respondent has not acted on the claim for tax credit. Hence, petitioner filed its judicial claim for refund of P529,813.80.

During the pendency of this case before this court, petitioner manifested that on July 29, 1987, it received TW No. B 05714942 dated July 29, 1987 for P415,198.00 representing partial approval by the respondent of the total claim for refund of P529,813.80. Consequently, only the balance of P114,615.80 remains to be resolved by this court.

Petitioner had presented evidence to prove that it had filed in 1984 the 3rd quarterly income tax return (Exh. D); and the fact of loss; and the reundable amount of P529,813.80; and the creditable withholding tax on rental of the total amount of P30,010.80 (Exhs. D-1, D-2 and D-3).

In a memorandum to the Commissioner of Internal Revenue dated November 6, 1986, Chief Revenue Enforcement Officer Abelardo C. Comia recommended that the reduced amount of P529,463.80 be granted as tax refund in favor of petitioner Industrial Textiles Manufacturing Company of the Philippines (Exh. F, pp. 52-53, CTA rec.), and was recommended for approval by Vicente Y. Puno, Chief, Manufacturing Division II of the Bureau of Internal Revenue. (Exh. F-1, p. 51, CTA rec.)

In view of the overwhelming evidence presented in this case, this court is constrained to grant a tax refund of P529,463.80, it having been shown that the amount of P350.00 was paid on April 1983, beyond the prescriptive period of two years.

Deducting from P529,463.80 the sum of P415,198.00, representing partial approval by the respondent of its claim, there still remained the refundable amount of P114,265.80.

WHEREFORE, the refund of the sum of **P114,265.80 representing excess income tax paid for the year 1984 is hereby granted.**

Without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, June 7, 1991.

CONSTANTE C. ROAQUIN
Associate Judge

WE CONCUR:

ALEX Z. REYES
Presiding Judge

ERNESTO D. ACOSTA
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.

ALEX Z. REYES
Presiding Judge
Court of Tax Appeals