REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

F. JACINTO GROUP, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5349

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
APR 01 1998

x - x

DECISION

This is a judicial action for the refund of the sum of ₱972,780.42, representing overpaid creditable withholding tax for the calendar year ended December 31, 1993.

The facts are undisputed.

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines. It is engaged in the business of rendering management services with office address at F. Jacinto House, #116 Rada Street, Legaspi Village, Makati, Metro Manila.

For the year 1993, petitioner filed its annual income tax return on April 12, 1994 showing taxable net income in the amount of ₱912,461.99, an income tax liability of ₱319,361.70 but with a refundable sum of ₱2,735,201.03 arising from its 1992 carried-over excess tax credit of ₱1,465,538.00 and the 1993 creditable withholding tax at source in the sum of ₱1,589,024.73. The details of which are as follows:

Income:	
Services fees (Schedule 2)	₱31,781,382.56
Miscellaneous income (Schedule 3)	178,050.00
Total	₱32,378,318.04
Less: Deductions (Section D)	31,465,856.05
Net Income	₱ 912,461.99
Tax Due	₱ 319,361.70
Less:	
a. Prior years excess credit	₱ 1,465,538.00
b. Quarterly payments made this year	0.00
c. Creditable tax withheld	1,589,024.73
Total	₱ 3,054,562.73
Amount Refundable	₱ 2,735,201.03

Petitioner opted to carry over this overpaid income tax in the amount of ₱2,735,201.03 as tax credit for the succeeding taxable year 1994. However, out of the amount of ₱2,735,201.03, petitioner alleged that only the sum of ₱1,589,024.73 was carried-over and applied to income tax liability of 1994 in the amount of ₱616,244.31. The balance of ₱1,146,176.30 (₱2,735,201.03 less ₱1,589,024.73) representing 1992 excess income tax payment was the subject of CTA Case No. 5231 which was already decided in favor of petitioner and has reached its finality through this Court's Entry of Judgment, dated September 5, 1997.

Petitioner, on April 10, 1996, filed a letter-claim for refund with the Bureau of Internal Revenue pursuant to Section 69 of the National Internal Revenue Code, as amended, with respect to the balance of ₱972,780.42 out of the 1993 excess creditable withholding tax of ₱1,589,024.73

after applying the amount of ₱616,244.31 as income tax payment for 1994.

On April 11, 1996, a day after filing the administrative claim for refund, petitioner lodged its appeal with this Court in order to beat the running of the two-year prescriptive period to claim for the refund of excess income tax payment in accordance with Section 230 of the National Internal Revenue Code, as amended.

The sole issue to be resolved by this Court is whether or not petitioner is entitled to the refund of the amount of ₱972,780.42, representing overpaid income tax for the year 1993 resulting from an excess payment of creditable withholding tax at source.

The issue besetting this Court is nothing new.

Earlier, we have already decided in favor of the same petitioner a number of claims for refund involving the same facts and issues, to wit:

CTA Case No.	Year Involved	Amount Granted	Date Decided	Entry of Judgment
4971	1990	₱1,096,272.00	04-05-95	06-29-95
5086	1991	965,628.00	01-16-97	02-02-97
5231	1992	1,096,272.00	08-15-97	09-05-97

In these previous cases, We have already laid down the basic requirements needed for a grant of refund of creditable withholding taxes, to wit:

1. that it filed a claim for refund within the two (2) year period as prescribed under Section 299 (now 230) of the National Internal Revenue Code;

2. that the income upon which the taxes were withheld were included in the return of the recipient; and

3. the fact of withholding is established by a copy of statement (BIR Form 1743.1) duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom. (**Sec. 10, Rev. Reg. 6-85; see Citytrust Finance Corporation vs. The Commissioner of Internal Revenue, CTA Case No. 4134, November 11, 1991; and Citytrust Finance Corporation (Formerly Investor's Finance Corporation/FNCB Finance) vs. Commissioner of Internal Revenue, CTA Case No. 4046, February 24, 1993**).

A perusal of the evidence submitted by petitioner reveals that it has successfully met the above requirements. The claim for refund was timely filed within two years from the date of payment of the tax. Its claim for refund with the Bureau of Internal Revenue was filed on April 10, 1996 (Annex O, pp. 25 and 26, CTA records) and its Petition for Review with this Court was filed on April 11, 1996. The two-year period commences to run on April 12, 1994, the date when petitioner filed its final adjustment return for the year 1993 (**Commissioner of Internal Revenue v. TMX Sales, Inc. et al., G.R. No. 837736, January 15, 1992**).

The income upon which the creditable withholding taxes were paid were included in petitioner's 1993 Corporation

Annual Income Tax Return under Schedule No. 2 Section A (Exhs. E and E-1, p. 60, CTA records).

The 1993 creditable withholding taxes were duly supported by Certificates of Creditable Withholding Tax at Source [BIR Form 1743.1] (Exhs. F, G, H, I, and J, pp. 62 to 65, CTA records) and were proven to have been remitted to the Bureau of Internal Revenue by copies of the Monthly Remittance Returns of Income Taxes Withheld of the respective withholding agents (Exhs. P, Q, R, S, T, U, V, W, X, Z, AA, BB, CC, DD, EE, FF, GG, HH, II, JJ, KK, LL, MM, NN, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, ZZ, AAA, BBB, CCC, DDD, EEE, FFF, GGG, HHH, III, JJJ, KKK, LLL, and MMM, pp. 72 to 121, CTA records).

In fact, respondent did not have any objection with respect to petitioner's entitlement to the refund. It even presented in evidence the revenue examiner's report on the claim for refund of petitioner for the year 1993 recommending the granting of the amount of ₱972,780.42 (Exhs. 2, 2-a, and 2-b, pp. 137 and 138, CTA records), pertinent portions of which reads as follows:

> Considering that the herein taxpayer was already investigated for the year 1993 as per attached report of investigation, and that it appears from the above cited facts that the said claim for refund is valid and legitimate, it is therefore recommended that the claim for refund in the amount of ₱972,780.42 be granted.

We agree with the aforequoted recommendation.

Below is a tabular computation of petitioner's excess income tax payment for the year 1993:

Withholding Agent	Amount of Income Payment	Amount of Tax Withheld	Exh.
Jacinto Iron & Steel Sheets Corp.	₱ 918,108.00	₱ 45,888.00	F
Camara Steel Industries, Inc.	9,546,590.00	477,324.00	G
Jacinto Press Coat Corp.	478,494.55	23,924.73	H
Mindanao Steel Corporation	14,512,152.00	725,592.00	I
Beatriz Marketing & Trading Corp.	6,326,016.00	316,296.00	J
Total	₱31,781,360.55	₱1,589,024.73	
Less: 1994 income tax liability		616,244.31	
AMOUNT REFUNDABLE		₱ 972,780.42	

WHEREFORE, finding the petition for review meritorious, respondent is hereby **ORDERED** to **REFUND** in favor of petitioner the sum of **P972,780.42**, representing overpaid income tax for the year 1993.

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