REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

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PHILIPPINE AIRLINES, INC. (PAL),
Petitioner,

\- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 6877

Members:

ACOSTA, *Chairperson*
BAUTISTA, *and*
CASANOVA, *JJ.*

Promulgated:

NOV 09 2010; 11:18am

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DECISION

BAUTISTA, *J.*:

This case involves a claim for refund of the amount of P1,747,869.59 and US$65,877.07, allegedly representing final income taxes erroneously withheld by China Banking Corporation, JP Morgan Chase Bank, Philippine Bank of Communications, and Standard Chartered Bank for the year 2002.

Petitioner Philippine Airlines Inc. is a domestic corporation organized in accordance with the laws of the Republic of the Philippines, with principal office at the 9th Floor, PAL Center, Legazpi St., Legazpi Village, Makati City.[1]

[1] Par. 1, Facts, Joints Stipulation of Facts and Issues (JSFI), docket, p. 68

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), empowered to perform the duties of said office including, among others, the duty to act upon and approve claims for refunds or tax credits as provided by law. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

For the year 2002, petitioner alleges that it had several US dollar and Philippine peso deposits or placements in different banks in the Philippines, namely, China Banking Corporation (CBC), JP Morgan Chase Bank (JPMCB), Philippine Bank of Communications (PBC), and Standard Chartered Bank (SCB).

On its U.S. Dollar Time Deposit with CBC for the period starting January 1, 2002 and ending December 31, 2002, petitioner claims that it earned interest income net of 7.5% withholding tax in the total amount of US$480,688.76, as evidenced by the latter's certification dated October 24, 2003, signed by Wilfredo A. Quijencio, Senior Manager, International Banking Group.[2]

Petitioner further asserts that as stated in the afore-mentioned certification, withholding taxes were deducted from said interest income totaling US$38,974.75, which taxes were remitted to the BIR on different dates starting on February 11, 2002 and ending January 10, 2003.

On petitioner's peso deposit with JPMCB during the months of September 2002 to December 2002, petitioner maintains that it earned

[2] Exhibit "C"

interest income in the amount of P6,188,232.17 from which was deducted withholding tax totaling P1,237,646.43.[3]

On its various dollar placements with PBC for the year 2002, petitioner claims that it also earned interest income thereon and the corresponding final withholding taxes were deducted as follows:[4]

CERTIFICATE FOR THE PERIOD	INTEREST INCOME	TAX WITHHELD
First Quarter	US$102,648.40	US$ 7,698.63
Second Quarter	US$ 22,653.20	US$ 1,698.00
Third Quarter	US$ 40,123.73	US$ 3,009.28
Fourth Quarter	US$107,163.73	US$ 8,037.28
TOTAL	US$272,589.06	US$20,443.19

On petitioner's deposit with PBC for the year 2002, petitioner alleges that it also earned interest income thereon and the corresponding final withholding taxes were deducted as follows:[5]

CERTIFICATE FOR THE PERIOD	INTEREST INCOME	TAX WITHHELD
Second Quarter	P 541,758.42	P108,351.67
Third Quarter	P2,009,357.41	P401,871.46
TOTAL	P2,551,115.83	P510,223.13

The taxes withheld by PBC from the above-enumerated interest income of petitioner for the year 2002 had been purportedly remitted by PBC to the BIR as evidenced by a letter dated April 10, 2003 of PBC's Branch Manager Ms. Carmencita L. Tan.[6]

On petitioner's dollar time deposit with SCB for the period May 2002 to December 2002, petitioner manifests that it also earned US$86,107.55

[3] Exhibits "D" and "D-1"
[4] Exhibits "E", "F", "G", and "H"
[5] Par. 8, Petition for Review, docket, p. 2; Exhibits "F" and "G"
[6] Exhibit "I"

interest income, and the corresponding 7.5% final withholding tax amounting to US$6,458.14 was deducted therefrom and remitted to the BIR.[7]

On November 3, 2003, petitioner's Assistant Vice President for Financial Planning and Analysis, Ms. Ma. Stella L. Diaz, filed with the office of the Commissioner of Internal Revenue, a written request for refund of the amounts of P1,747,869.59 and US$65,877.07, representing final withholding taxes erroneously withheld from petitioner by CBC, JPMCB, PBC, and SCB for the year 2002. As stated in the written request, the tax refund was being claimed by petitioner by virtue of its exemption from said tax under its franchise, Presidential Decree No. 1590, which only subjects petitioner to either the basic corporate income tax or the two percent (2%) franchise tax, whichever of the two will result in a lower tax; in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature or description imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency.[8]

Due to the inaction of respondent, petitioner elevated its case before this Court on February 24, 2004.

Respondent, in his Answer[9] filed on March 25, 2004, raised the following Special and Affirmative Defenses:

> "4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau;

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[7] Exhibit "J"
[8] Exhibit "B"
[9] Docket, pp. 32-35

5. The amount of P1,747,869.59 being claimed by petitioner as allegedly representing final income taxes erroneously withheld by China Banking Corporation, JP Morgan Chase Bank, Philippine Bank of Communications and Standard Chartered Bank for taxable year 2002 was not properly documented;

6. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;

7. Petitioner must show that it has complied with the provisions of Sections 204 (C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit;

8. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and such, they are looked upon with disfavor (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211*)."

During trial on the merits, petitioner presented documentary and testimonial evidence. Respondent, on the other hand, manifested that he will no longer present any evidence and will submit the case for decision based on the pleadings.[10]

On November 24, 2009, this Court considered the case submitted for decision, with respondent submitting his Memorandum on October 22, 2009 and petitioner submitting its Memorandum on November 23, 2009.

As jointly stipulated by the parties, the issues[11] to be resolved by this Court are the following:

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[10] Docket, p. 794
[11] Docket, pp. 69-70

"1. Whether or not petitioner is exempt under its franchise, Presidential Decree No. 1590, from the 20% and 7½% final taxes imposed under Section 27(D)(1) of the National Internal Revenue Code;

2. Whether or not the PHP1,747,869.59 and US$65,877.07 being claimed by petitioner as representing the 20% and 7½%, respectively, final income taxes erroneously withheld by the depositary banks from the interest income of PAL for the period January 2002 to December 2002, as well as, the remittance thereof to the BIR, are properly documented.

3. Whether or not petitioner complied with the provisions of Sections 204(C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit.

4. Whether or not petitioner is entitled to a refund of the said withholding taxes."

All of the above issues boil down to the question of whether or not petitioner is entitled to a refund of the amount of P1,747,869.59 and US$65,877.07, respectively representing the 20% and 7.5% final income taxes erroneously withheld and remitted by China Banking Corporation, JP Morgan Chase Bank, Philippine Bank of Communications, and Standard Chartered Bank for the year 2002.

Petitioner argues that it is exempt from paying any tax other than the option it chooses between the alternatives provided in Presidential Decree (P.D.) No. 1590. Section 13 of P.D. No. 1590 provides:

"SECTION 13. In consideration of the franchise and rights hereby granted, the grantee shall pay to the Philippine Government during the life of this franchise whichever of subsections (a) and (b) hereunder will result in a lower tax:

(a) The basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code; or

(b) A franchise tax of two percent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or non-transport operations; provided, that with respect to international air-transport service, only the gross passenger, mail, and freight revenues from its outgoing flights shall be subject to this tax.

The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future. xxx" *(Emphasis supplied)*

Based on the foregoing, petitioner has the option to pay either the basic corporate income tax or the franchise tax of 2%, whichever is lower. Further, the option chosen would be "in lieu of" all other taxes.

The phrase "in lieu of" means "instead of or in place of; in exchange or return for".[12] In other words, whichever is lower between the options granted to petitioner would be its "tax payable" instead of or in place of or in exchange for all other taxes including the 20% and 7.5% final withholding taxes which are the subject taxes of the instant petition.

In the present case, it is clear that petitioner chose to be taxed under Section 13(a) of P.D. No. 1590, which is the basic corporate income tax, as

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[12] Black's Law Dictionary 8th Edition, page 803

testified to by petitioner's witnesses, Ms. Ma. Stella Diaz and Ms. Evelyn Taghap, to wit:

"ATTY. VENTANILLA:

Q. Ms. Witness, you have just mentioned that you're filing the Claim for Refund on the basis of the franchise of Philippine Airlines. Why do you say that you are entitled to this refund on the basis of the franchise?

MS. DIAZ:

A. Because as PAL's franchise provides that PAL shall pay only to the Philippine Government either the basic corporate income tax or the franchise tax of 2% whichever is lower, Sir.

ATTY. VENTANILLA:

Q. Ms. Witness, for the year 2002, what did the petitioner pay in lieu of which you said exempt from other taxes?

MS. DIAZ:

A. For the year 2002, Philippine Airlines did not pay the corporate income tax nor the 2% franchise tax, Sir.

ATTY. VENTANILLA:

Q. Ms. Witness, why do you say that Philippine Airlines did not pay neither the corporate income tax nor the franchise income tax?

MS. DIAZ:

A. During those years which actually covers two fiscal years which ended March 2002 and March 2003, Philippine Airlines incurred business losses. **Since that the corporate income tax returns that we filed showed a zero tax liability, Philippine Airlines did not pay any corporate income tax, Sir.** *(Emphasis supplied)*

ATTY. VENTANILLA:

Q. Ms. Witness, what is your proof that Philippine Airlines incurred business losses, and did not pay any income tax for those two fiscal years?

MS. DIAZ:

A. We have copies of the Annual Income Tax Returns which we filed to the Bureau of Internal Revenue, Sir. (At this juncture, the counsel for the petitioner show the documents.)

ATTY. VENTANILLA:

Q. Ms. Witness, I am showing to you this Annual Income Tax Returns, one is for the fiscal year 2002 and the other one is for the fiscal year 2003. How is this related to the income tax returns which you said filed by you for those fiscal years?
(At this point, the witness examine the documents.)

MS. DIAZ:

A. These income tax returns showed zero tax liability, Sir.

ATTY. VENTANILLA:

Q. Ms. Witness, were these the Income Tax Returns that you filed to the BIR?

MS. DIAZ:

A. Yes, Sir.

xxx xxx xxx

ATTY. VENTANILLA:

Q. Ms. Witness, can you show which says in the return that the petitioner did not pay any income tax for that year?

MS. DIAZ:

A. Under that tax due column, on Line 25, the amount indicated is zero, Sir.

xxx xxx xxx

JUSTICE CASTAÑEDA:

Q. Ms. Witness, in the Annual Income Tax Return for the fiscal year 2003, can you kindly point out where in the return says that the petitioner did not pay any income tax?

MS. DIAZ:

A. On Line 25 indicates that the tax due is zero, Sir."[13]

"ATTY. VENTANILLA:

Q. Mrs. Taghap, for the fiscal years covered by these returns, 2002 and 2003, these are the returns covering the calendar year 2002 which is the subject of present petition. Did Philippine Airlines pay the 2% franchise tax?

MS. TAGHAP:

A. No, Sir.

ATTY. VENTANILLA:

Q. Why not?

MS. TAGHAP:

A. Because for our franchise PAL is only liable to paid a lower tax of either the basic corporate income tax or the 2% franchise tax. And since in our computation of the basic property income tax resulted to zero tax liability then we do not pay any franchise tax which is based on gross revenue."[14]

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[13] TSN dated September 1, 2004, pages 11-17
[14] TSN dated October 14, 2004, pages 22-23

As testified by petitioner's witnesses, petitioner incurred negative income tax liability because it has a zero net income. Thus, petitioner does not have to pay even its chosen corporate tax liability, as there was actually no tax due to the government for fiscal years ending March 31, 2002 and March 31, 2003.

Nevertheless, the issue of petitioner's exemption from payment of final withholding taxes on interest on bank deposits by virtue of the clause "in lieu of all other taxes" granted in its franchise was already ruled upon by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Philippine Airlines, Inc.*[15]. The pertinent portions of the said ruling are hereunder quoted, to wit:

> "A franchise is a legislative grant to operate a public utility. Like those of any other statute, the ambiguous provisions of a franchise should be construed in accordance with the intent of the legislature. In the present case, Presidential Decree 1590 granted Philippine Airlines an option to pay the lower of two alternatives: (a) 'the basic corporate income tax based on PAL's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code' or (b) 'a franchise tax of two percent of gross revenues.' Availment of either of these two alternatives shall exempt the airline from the payment of 'all other taxes,' including the 20 percent final withholding tax on bank deposits.
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> xxx xxx xxx
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> A corporate income tax liability, therefore, has two components: the general rate of 35 percent, which is not disputed; and the specific final rates for certain passive incomes. PAL'S request for a refund in the present case pertains to the passive income on bank deposits, which is subject to the specific final tax of 20 percent.
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> xxx xxx xxx

[15] G.R. No. 160528, October 9, 2006

> To repeat, the pertinent provision in the case at bar reads: 'basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code.' The Court has already illustrated that, under the Tax Code, 'taxable income' does not include passive income subjected to final withholding taxes. Clearly, then, the 'basic corporate income tax' identified in Section 13 (a) of the franchise relates to the general rate of 35 percent as stipulated in Section 27 of the Tax Code. The final 20 percent taxes disputed in the present case are not covered under Section 13 (a) of PAL's franchise; thus, a refund is in order.
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> xxx xxx xxx
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> (I)t is clear that PD 1590 intended to give respondent the option to avail itself of Subsection (a) or (b) as consideration for its franchise. Either option excludes the payment of other taxes and dues imposed or collected by the national or the local government. PAL has the option to choose the alternative that results in lower taxes. It is not the fact of tax payment that exempts it, but the exercise of its option."

Hence, it is clear in the above-cited jurisprudence that petitioner's franchise granted it an option to pay basic corporate income tax or the franchise tax of 2% and that the availment of either of the two alternatives shall exempt the airline from the payment of "all other taxes", which includes the 20% and 7.5% final withholding taxes on bank deposits.

This Court will now proceed to the issue of substantiation of the claimed amount.

Well-settled is the rule that failure to show proof of proper documentation and evidence to support its allegation is fatal to one's claim for refund or tax credit.

In this regard, Section 14 of P.D. No. 1590 provides:

> "SECTION 14. The grantee shall pay either the franchise tax or the basic corporate income tax on quarterly basis to the Commissioner of Internal Revenue. Within sixty (60) days after the end of each of the first three quarters of the taxable calendar or fiscal year, the quarterly franchise or income-tax return shall be filed and payment of either the franchise or income tax shall be made by the grantee.
>
> A final or an adjustment return covering the operation of the grantee for the preceding calendar or fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the calendar or fiscal year. The amount of the fiscal franchise or income tax to be paid by the grantee shall be the balance of the total franchise or income tax shown in the final or adjustment return after deducting therefrom the total quarterly franchise or income taxes already paid during the preceding first three quarters of the same taxable year.
>
> Any excess of the total quarterly payments over the actual annual franchise of income tax due as shown in the final or adjustment franchise or income-tax return shall either be refunded to the grantee or credited against the grantee's quarterly franchise or income-tax liability for the succeeding taxable year or years at the option of the grantee.
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> The term 'gross revenues' is herein defined as the total gross income earned by the grantee from; (a) transport, non-transport, and other services; (b) earnings realized from investments in money-market placements, bank deposits, investments in shares of stock and other securities, and other investments; (c) total gains net of total losses realized from the disposition of assets and foreign-exchange transactions; and (d) gross income from other sources."

Based on the foregoing provision, petitioner is required to file at least three (3) quarterly franchise or income tax returns and a final or adjustment franchise or income tax return for the purpose of determining the income tax liability of petitioner. The return will show the option elected by petitioner, that is, whether it chose to be taxed under either Section 13(a) or (b) of its franchise, whichever is lower.

In support of its claim, petitioner offered in evidence its Annual Income Tax Returns for fiscal years ending March 31, 2002[16] and March 31, 2003[17].

A perusal of the income tax returns reveals that petitioner incurred negative income tax liability[18] because of a zero net income, which reasonably explains why petitioner does not need to pay, as there was actually no tax due to the government for fiscal years ending March 31, 2002 and March 31, 2003. Logically, negative income tax liability based on the basic corporate income tax is lower than the 2% franchise tax.

This Court will now determine whether petitioner has fully substantiated its claim of the total amount of P1,747,869.59 and US$65,877.07, respectively representing the 20% and 7.5% final income taxes deducted from its interest income from bank deposits for the year 2002.

To prove that petitioner earned interest income on its bank deposits and that they were remitted to the BIR, petitioner offered in evidence the following certifications and Certificates of Final Tax Withheld at Source (BIR Form No. 2306) from various banks:

BANK	PERIOD COVERED	AMOUNT OF TAX WITHHELD	
		PESO	US DOLLAR
China Banking Corp. (Exhibit "C")	January 2002 – December 2002		38,974.75
JP Morgan Chase Bank (Exhibit "D")	September 2002 – December 2002	1,237,646.43	
Phil. Bank of Communication (Exhibit "E")	January 2002 – March 2002		7,698.63

[16] Exhibit "K"
[17] Exhibit "L"
[18] Line 25 of Exhibits "K" and "L"

Phil. Bank of Communication (Exhibit "F")	April 2002 - June 2002	108,351.68	1,698.99
Phil. Bank of Communication (Exhibit "G")	July 2002 – September 2002	401,871.48	3,009.28
Phil. Bank of Communication (Exhibit "H" and "I")	October 2002 – December 2002		8,037.28
Standard Chartered (Exhibit "J")	May 2002 – December 2002		6,458.14
TOTAL		**P1,747,869.59**	**$ 65,877.07**

A careful scrutiny of the evidence presented reveals that only documents[19] pertaining to the amount of taxes withheld and actually remitted to the BIR by depositary bank JP Morgan Chase, in the amount of P1,237,646.43, represents petitioner's valid claim. The amount of P1,237,646.43 is broken down follows:

DATE	Amount of Final Tax Withheld	Exhibits
September 2002	P 45,992.71	D-3-a, D-3-b, D-4-a, D-5
October 2002	373,768.67	D-6-a, D-6-b, D-7-a, D-8
November 2002	539,875.59	D-9-a, D-9-b, D-10-a, D-11
December 2002	278,009.46	D-12-a, D-12-b, D-13-a, D-14
TOTAL	**P 1,237,646.43**	D

This Court cannot give credence to the other certifications and Certificates of Final Tax Withheld at Source issued by the various depositary banks because proof on the fact of remittance was not aptly complied with; thus, the amount of taxes to be refunded cannot be ascertained.

The amount of final withholding taxes as reflected on the Summary of Monthly Final Income Taxes Withheld on Philippine Savings Deposit and Foreign Currency Deposit and the Monthly Remittance Return of Final Income

[19] Exhibits "D-3" to "D-14"

Taxes (BIR Form No. 1602) provided by withholding agents China Banking Corporation, Philippine Bank of Communication, and Standard Chartered Bank were based on the total amount of final withholding taxes per branch of each depositary banks; while the total amount appearing on the documents of Monthly Remittance Return of Final Income Taxes (BIR Form No. 1602) was based on the total amount of final withholding taxes for all the branches of the depositary banks.

Therefore, the amount of final income tax withheld from petitioner cannot be ascertained with particularity from the total amount of final withholding taxes that were remitted to the BIR by China Banking Corporation, Philippine Bank of Communication, and Standard Chartered Bank.

It bears stressing that in order to be entitled to the refund sought, it is indispensable on the part of petitioner to prove actual remittance of the alleged withheld taxes to the BIR. This principle was reiterated by this Court in the case of *Philippine Airlines Inc. vs. Commissioner of Internal Revenue*[20], which states:

> "However, the Court finds that the certifications from petitioner's various banks were not corroborated by other documentary evidence to show that the amounts withheld from petitioner PAL were actually remitted to the BIR, thus, we cannot give credence to said certifications. Although petitioner PAL presented Certificates of Final Tax Withheld at Source (BIR Form No. 2306) from the various banks, a careful examination of the said certificates does not show that the amount withheld corresponding to the 20% and $7^1/_2$% final taxes deducted from petitioner PAL's interest income from its bank deposits for calendar year 2003, were included as part of

[20] CTA Case No. 7224, May 11, 2010

those remitted by petitioner's various banks to the BIR. At most, the Certificates of Final Tax Withheld at Source presented by petitioner PAL only show that the various banks remitted withholding taxes from their depositors. However, it bears stressing that equally important to petitioner PAL's claim for refund is evidence showing that the taxes withheld from petitioner PAL's interest income were actually remitted to the BIR. Without supporting documents to prove that the amount petitioner PAL is claiming for refund had in fact been remitted to the BIR, this Court cannot determine the exact amount refundable to petitioner PAL by reason of its exemption from all other taxes. xxx"

Applying the foregoing jurisprudence, the amount of claim corresponding to the final income tax withheld from petitioner and remitted to the BIR by China Banking Corporation, Philippine Bank of Communication, and Standard Chartered Bank cannot be granted since petitioner failed to show evidence proving its actual remittance.

Lastly, as to the timeliness of the filing of the petition, the applicable provisions are Sections 204(C) and 229 of the National Internal Revenue Code of 1997, to wit:

"SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit taxes.* - The Commissioner may -

xxx xxx xxx

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless **the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: *Provided, however*, That a return filed showing an**

> **overpayment shall be considered as a written claim for credit or refund.**
>
> xxx xxx xxx
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax** or penalty regardless of any supervening cause that may arise after payment; *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." (*Emphases supplied)*

Based on the said provisions, the administrative claim and the judicial claim must both be filed within two years from the date of payment of the tax.

In the present case, petitioner filed the administrative claim[21] for refund on November 3, 2003; while the Petition for Review[22] was filed on February 24, 2004.

Since only the amount withheld and remitted by JP Morgan Chase Bank was proven, the reckoning period would be the dates when JP Morgan Chase

[21] Exhibit "B-1"
[22] Exhibit "A-1"

Bank remitted to the BIR petitioner's final income taxes, which fell on the following dates: October 11, 2002[23]; November 15, 2002[24]; December 16, 2002[25]; and January 15, 2003[26].

Based on the foregoing, petitioner had until October 11, 2004, at the earliest, within which to file its administrative and judicial claims. Clearly, the administrative claim and the Petition for Review were both filed within the two-year prescriptive period.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** in favor of petitioner the reduced amount of P1,237,646.43, representing the 20% final income tax withheld and remitted by JP Morgan Chase Bank on petitioner's interest income; while the remaining claim of P510,223.16 and US$65,877.07, representing the final income tax withheld by China Banking Corporation, Philippine Bank of Communication, and Standard Chartered Bank are hereby **DENIED** due to insufficiency of evidence.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

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[23] Exhibit "D-5-a"
[24] Exhibit "D-8-a"
[25] Exhibit "D-11-a"
[26] Exhibit "D-14-a"

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division