

Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

STAR PERFORMANCE, INC.,
Petitioner,

-versus-

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

En Banc Case No. 78
(CTA Case No. 6434)

Present:

ACOSTA, P.J.
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA, and
PALANCA-ENRIQUEZ, JJ.

Promulgated:

OCT 12 2005

M. Apolinario

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RESOLUTION

This is a Petition for Review before the Court of Tax Appeals En Banc filed under Republic Act No. 9282, seeking to (1) MODIFY the November 17, 2004 Decision of the First Division of the Court of Tax Appeals, DECLARE Petitioner as entitled to a full refund in the amount of Three Million Two Hundred Ten Thousand Five Hundred Ninety Seven Pesos (PhP3,210,597.00) or, at the very least, the amount of Three Million Two Hundred Thousand Seven Hundred Fifty Six Pesos and Forty Eight Centavos (PhP3,200,756.48) representing the allegedly excess income tax payment and creditable withholding taxes paid in 1999 and ORDER Respondent to return such amount to Petitioner; or (2) ALLOW THE RE-OPENING of the proceedings before the First Division of the Court of Tax Appeals for the limited purpose of allowing Petitioner to present additional evidence to further support its entitlement to a full refund or tax credit certificate of excess or unutilized creditable withholding taxes for taxable year 1999 in the amount of Three Million Two Hundred Ten Thousand Five Hundred Ninety Seven Pesos (PhP3,210,597.00) or, at the very least, the

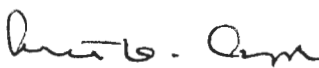
amount of Three Million Two Hundred Thousand Seven Hundred Fifty Six Pesos and Forty Eight Centavos (PhP3,200,756.48).

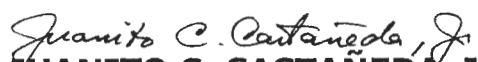
After a careful and thorough perusal, evaluation and consideration of the instant Petition for Review, the Court En Banc finds no cogent reason to disturb the Decision of the First Division promulgated on November 17, 2004 and the Resolution dated March 30, 2005, *ORDERING* the respondent CIR to refund or issue a Tax Credit Certificate in favor of the petitioner in the reduced amount of One Million Two Hundred Seventy One Thousand One Hundred Two Pesos and Forty Eight Centavos (PhP1,271,102.48) representing excess creditable taxes withheld for the taxable year 1999 and *DENYING* petitioner's "Motion for Partial Reconsideration or to Re-Open the Proceedings", respectively. What the instant Petition asks is for the Court En Banc to view and appreciate the evidence in their perspective of things, which unfortunately had been resolved and extensively discussed in the assailed Decision and Resolution. Consequently, finding no new matters raised by the petitioner in the instant Petition for Review, the Court En Banc hereby adopts, by reference, the findings of facts and conclusions of law contained in the certified true copy of the assailed Decision and Resolution attached hereto.

WHEREFORE, the instant Petition is hereby **DENIED DUE COURSE** and **DISMISSED** for lack of merit.

SO ORDERED.

~~WE CONCUR:~~


ERNESTO D. ACOSTA
Presiding Justice


JUANITO C. CASTANEDA, JR.
Associate Justice


LOVELL R. BAUTISTA
Associate Justice


ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


OLGA PALANCA-ENRIQUEZ
Associate Justice

CERTIFICATION

Pursuant to Sec 13, Art. VIII of the 1987 Constitution, it is hereby certified that the conclusions in the above decision was reached in consultation before the case was assigned to the writer of the opinion of the Court.


ERNESTO D. ACOSTA
Presiding Justice