REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

DBS SAVINGS BANK (formerly BSA Savings Bank),
Petitioner,

- versus -

C.T.A. CASE NO. 5805

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
NOV 27 2000

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DECISION

This is a judicial claim for refund of the amount of P1,753,017.00 representing alleged overpaid quarterly income tax for the taxable year 1996 filed by the Petitioner on April 15, 1999.

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines.

Records show that Petitioner filed its annual income tax return for taxable year 1996 (Exh. D), reflecting an alleged refundable amount of P1,977,777.00, computed as follows:

Taxable Income (from Section A)	P2,878,405.00
Tax Due	1,007,442.00
Less: Tax Credits/Payments (from Section E)	2,985,219.00
Tax Payable (Refundable)	(P1,977,777.00)

On April 13, 1998, Petitioner filed its annual income tax return for taxable year 1997 showing that it applied its 1996 excess income tax in the amount of P1,977,777.00 against its tax liability for the year 1997 amounting to P242,760.00, thereby leaving an alleged unutilized balance of P1,753,017.00 (Exhibit E).

Believing that it overpaid its income tax, Petitioner filed an administrative claim for refund with the Bureau of Internal Revenue on July 16, 1998 (Exh. F), relying on the provisions of Section 69 of the National Internal Revenue Code which provides:

> **Section 69. *Final Adjustment Return.*** - Every corporation liable to pay tax under Section 24 shall file a final adjustment return covering the total net income for the preceding calendar year or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable net income of that year the corporation shall either:
>
> (a) Pay the tax still due; or
> (b) Be refunded the excess amount paid, as the case may be.
>
> In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year.

Unable to obtain an affirmative response from the Respondent and fearing that its right to claim for refund might prescribe, Petitioner elevated its case to this Court on April 15, 1999.

In answer to Petitioner's assertions, Respondent advanced the following Special and Affirmative Defenses, to wit:

> 6. Petitioner's alleged claim for refund/tax credit is still undergoing administrative routinary investigation/examination by the Respondent's Bureau;

7. Petitioner failed miserably to show that the total amount of P1,753,017.00, claimed as overpaid quarterly income tax for the year 1996, were erroneously or illegally collected;

8. Taxes paid and collected are presumed to have been made in accordance with law; hence, not refundable;

9. In an action for tax refund, the burden is on the taxpayer to establish its right thereto, and failure to sustain the same is fatal to the claim for refund;

10. It is incumbent upon the Petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code;

11. Well-established is the rule that claims for refund/tax credit are construed in strictissimi juris against the taxpayer as it partakes the nature of exemption from tax;

12. The Honorable Court has no jurisdiction to take cognizance of the petition, the same having been filed beyond the 2-year period prescribed by law.

On October 4, 1999, Petitioner filed its Formal Offer of Evidence and presented to support its stance the following relevant documentary exhibits, to wit:

EXHIBITS	DESCRIPTION
A	Quarterly Corporate Income Tax Return (Form 1702 Q) of BSA Finance and Leasing Corporation for the first quarter of taxable year 1996
A-1	Portion of Petitioner's Quarterly Corporate Income Tax Return showing the machine validated amount of P1,677,377.57
B	Quarterly Corporate Income Tax Return of BSA Finance and Leasing Corporation for the second quarter of taxable year 1996
B-1	Portion of Petitioner's Quarterly Corporate Income Tax Return showing the machine validated amount of P1,307,841.24
C	Quarterly Corporate Income Tax Return of BSA Finance and

	Leasing Corporation for the third quarter of taxable year 1996
D	Annual Corporate Income Tax Return (Form 1702) of BSA Savings Bank for taxable year 1996.
E	Annual Corporate Income Tax Return of BSA Savings Bank for taxable year 1997
F	Letter claim for refund dated July 15, 1998
F-1	Portion of page 1 of the letter claim for refund showing the "Stamp Received" by BIR Revenue Region No. 8 dated July 16, 1998
G	Certificate of Filing of Amended Articles of Incorporation of BSA Savings Bank (Formerly BSA Finance and Leasing Corporation) with SEC Reg. No. 104239
H	Annual Corporate Income Tax Return for DBS Savings Bank for taxable year 1998

On February 2, 2000, Petitioner submitted its Memorandum and further elucidated its stance *a quo* that it made an overpayment of income taxes for calendar year 1996. Respondent did not submit controverting evidence nor file memorandum to support his defenses.

On February 12, 2000, this case was deemed submitted for decision.

The vortex of the controversy now lies on whether or not Petitioner was able to substantiate its claim for the refund of the amount of P1,753,017.00 representing alleged overpaid income tax for the taxable year 1996.

We vote to grant the petition.

While this Court adheres to the principle that tax refunds are in the nature of an exemption and therefore must be construed in *strictissimi juris* against the taxpayer, in cases where the taxpayer is able to substantiate its claim, We readily grant the relief sought for.

A painstaking scrutiny of the evidence on record shows that Petitioner was able to sufficiently substantiate its claim when it submitted in evidence its quarterly income tax returns showing income tax payments in the amount of P2,985,218.81 and its annual income tax returns for taxable years 1996 and 1997 showing that it had applied its quarterly tax payments of P2,985,218.81 to its tax due in the year 1996 amounting to P1,007,442.00 thereby leaving a balance of P1,977,777.00 which was carried over to taxable year 1997. Having a tax liability in the amount of P242,760.00 for the year 1997, Petitioner applied its excess tax payments against the said tax liability, thus, leaving an unutilized income tax payments of P1,753,017.00. This Court found out after examining Petitioner's annual income tax return that the amount of P1,753,017.00, subject matter of this claim, was not carried over to taxable year 1998 (Exh. H), the same must be refunded to the Petitioner. Following established precedents that declarations made by a taxpayer in his income tax return are, for all intents and purposes, presumed to be correct having been prepared under pain of being penalized for perjury **(Pasco Realty and Development Corporation vs. Commissioner of Internal Revenue, CTA Case Nos. 4528 and 4913, dated April 30, 1993 and July 29, 1993).** In the absence therefore of any countervailing evidence to dispute the said presumption, this Court therefore grants the claim.

Noted however is the fact that Petitioner committed a mathematical error in the computation of the amount refundable. Thus, this Court is inclined to grant only the reduced amount of P1,735,017.00 computed as follows:

Taxable Income	P 693,601.00
Tax Due	P 242,760.00
Less: Prior Year's Excess Credit	1,977,777.00
Amount Refundable	P1,735,017.00*

(Note: *Appearing in Petitioner's 1997 annual income tax return as P1,753,017.00.)

WHEREFORE, in the light of all the foregoing, Respondent is hereby **ORDERED** to **REFUND** or in the alternative to **ISSUE** a Tax Credit Certificate in the amount of ONE MILLION SEVEN HUNDRED THIRTY FIVE THOUSAND AND SEVENTEEN PESOS (P1,735,017.00) in favor of the Petitioner representing unutilized overpaid quarterly income taxes for the year 1996.

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