REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

BASIC ADVERTISING, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5331

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUL 11 1997

x - x

DECISION

Before Us is a claim for the refund or tax credit of withholding taxes on bonuses and royalties which allegedly have been erroneously or excessively remitted to the Bureau of Internal Revenue ("BIR", for short) in the total amount of P2,154,205.22.

Petitioner is a corporation duly organized and existing under Philippine laws with principal office located at Zaragoza Building, 102 Gamboa St., Legaspi Village, Makati City.

The facts are simple.

On January 25, 1994, petitioner, as a large taxpayer, remitted to the BIR the sum of P2,175,478.15 representing the withholding tax on the accrued bonuses of its employees amounting to P11,271,902.43. (Exhibits "A" and "B-1-A") Subsequently, petitioner withheld again the withholding tax on said bonuses, allegedly through inadvertence, amounting to P2,032,882.52 which it remitted to the BIR on February 28, 1994, March 25, 1994 and May 25, 1994. (Exhibits "C", "D" and "E", all inclusive; petitioner's memorandum, p.2)

In a similar incident, petitioner also accrued the sum of P485,289.82 for the first calendar quarter of the year 1994, as home office charges in favor of FCB International, Inc. ("FCB", for brevity), a corporation duly organized under the laws of the State of Delaware, U.S.A., pursuant to an agreement between the parties requiring petitioner to pay FCB 2% of its billings on Colgate-Palmolive Account. Correspondingly, petitioner paid and remitted to the BIR the 25% final tax on the monthly accruals for said quarter in the aggregate amount of P121,322.70 (Exhibits "C-2-8", "D-4" and "G-4"; Petitioner's memorandum, p.2)

However, in view of the cancellation of the aforementioned agreement as a result of the removal of the Colgate-Palmolive Account from the petitioner the said amount of charges was never paid to FCB and neither was it claimed as deduction in petitioner's taxable gross income for the year 1994.

Consequently, a written claim for refund/issuance of tax credit was filed by the petitioner with the respondent on June 9, 1995 regarding the excess taxes withheld on compensation amounting to P2,032,882.52 and the erroneous taxes withheld on home office charges in the sum of P121,322.70, (Exhibit "A").

On February 19, 1996, petitioner followed-up its claim with a supplemental letter, but inexplicably, respondent continued her apparent inaction on the matter.

Hence, on February 23, 1996, petitioner was constrained to institute the instant appeal on account of the near expiry of the two-year period from the date of payment of the tax within which a judicial claim for refund or issuance of tax credit may be seasonably begun, as provided under Section 230 of the National Internal Revenue Code.

At bar, petitioner restated its stance a quo. Respondent, on the other hand, could only answer, inter alia, that petitioner's claim is pending administrative investigation. Thereafter, trial proper proceeded accordingly and petitioner presented evidence in support of its claim. A careful examination of such evidence convinces Us that petitioner has proven its entitlement for claim for refund. However with respect to the mount corresponding to the withholding tax on the accrued bonuses of its employees, the total sum proven, as shown by the evidence presented is only P1,947,067.89 and not P2,175,478.15 as claimed in the petition for review. A final recomputation of the refundable amount to be granted to petitioner is detailed as follows:

WITHHOLDING TAX ON BONUSES

For the month of January 1994 (C-1-H)

Particular	Exh.	Amount of Tax Wittheld	
Central Group	C-1-A	P167,323.96	
Macrographics	C-1-B	66,070.00	
South Division	C-1-C	143,017.06	
North Division	C-1-D	98,656.17	
West Division	C-1-E	107,474.62	
PLDT Group	C-1-F	52,487.32	
East Division	C-1-G	171,763.65	P 806,792.78

For the month of February 1994 (Exh. D-1-H)

Particular	Exh.	Amount of Tax Wittheld	
Central Group	D-1-A	P183,652.33	
Macrographics	D-1-B	20,730.06	
South Division	D-1-C	148,599.26	
North Division	D-1-D	94,854.93	
West Division	D-1-E	125,566.17	
PLDT Group	D-1-F	64,227.67	
East Division	D-1-G	163,031.33	800,661.75

For the month of April 1994 (Exh. E-1-G)

Particular	Exh.	Amount of Tax Wittheld	
Central Group	E-1-A	P 89,348.49	
Macrographics	E-1-B	11,233.52	
South Division	E-1-C	74,456.60	
North Division	E-1-D	50,426.37	
West Division	E-1-E	51,749.45	
East Division	E-1-F	62,398.93	339,613.36
T O T A L			P1,947,067.89

WITHHOLDING TAX ON TECHNICAL TRANSFER - ROYALTY

Month	Exh.	Amount of Tax Wittheld	
January 1994	C-2-B	P 17,999.25	
February 1994	D-4	35,759.45	
March 1994	G-4	67,564.00	
T O T A L			P 121,322.70

TOTAL AMOUNT REFUNDABLE P2,068,390.59

WHEREFORE, in view of the foregoing, the instant Petition for Review is hereby **GRANTED**. Respondent is hereby **ORDERED** to **ISSUE** a **TAX CREDIT CERTIFICATE** in favor of petitioner **BASIC ADVERTISING, INC.** the amount of P2,068,390.59 immediately. No costs.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
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.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals