REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

COMMONWEALTH MANAGEMENT
AND SERVICE CORPORATION,
Petitioner,

- versus -

C.T.A. CASES NOS. 3754
and 3794

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

7/31/87

D E C I S I O N

The above-capitoned cases consolidated by reason a common issue with the same involved parties simply address the question of whether petitioner has established a valid claim to the refund of alleged overpayment of income taxes for the years 1982 (CTA Case No. 3754) and 1983 (CTA Case No. 3794).

As it appears, petitioner domestic corporation filed with the respondent Commissioner of Internal Revenue claims for the refund under letters both dated March 26, 1984 of the amounts of ₱111,348.00 (Exhibit "A") and ₱76,474.00 (Exhibit "A") representing creditable withholding taxes which were withheld at various times in 1982 and 1983, respectively, and which cannot be credited against income taxes due.

It does appear that petitioner's Annual Income Tax Returns reflected net losses in the amounts of ₱227.00 for 1982 (Exhibit "B") and ₱13,031.00 for 1983 (Exhibit "B") and no income taxes being due from petitioner for the said years. Taxes withheld from petitioner's receivable incomes covered by such requisite statements or certifications of tax withheld at source consistent with the pertinent revenue regulations aggregated the sums of ₱111,348.00 for 1982 (Exhibits "C", "C-1", "C-2", "C-3" and "C-4"; CTA Case No. 3754), and ₱76,474.00 for 1983 (Exhibits "C", "C-1", "C-2", "C-3", "C-4" and "C-5"; CTA Case No. 3794).

It does not appear that the respondent presented any evidence controverting the correctness of the returns and other material facts. As a factly matter, respondent submitted the cases for decision on the basis of the pleadings and the records after the petitioner has presented and offered its evidence. It may suffice that "Since one who prays for judgment on the pleadings without offering proof as to the truth of his allegations, must be understood to have admitted the truth of all the material and relevant allegations of the opposing party, and to rest his motion for judgment on these allegations taken together with such of his own as are admitted (Bauermann v. Casas, 10 Phil. 386; Evangelista v. De la Rosa, et al., 76 Phil. 115), respondent, as pointed out by petitioner, may be considered as not questioning seriously petitioner's entitlement to its claim for refund. More so when the evidence presented, which was not disputed by respondent, sufficiently establishes petitioner's right to the refund". (Commonwealth Management and Service Corporation v. Commissioner of Internal Revenue, CTA Case No. 3232, June 26, 1985.) We hesitate to further fashion an issue into a satisfactorily settled rule.

We likewise share the view expressed in CTA Cases Nos. 3383 and 3578, June 30, 1987, similar in many or so in tenor and circumstances involving the same petitioner which aptly applies to the cases at bar, thus -

> The cases before Us hardly presents a gripping question or require any tortured ratiocination. As thus shown the basis for the claims are not short of specific support in terms of tractable data openly laid and fully disclosed. Going by the records, petitioner's income tax returns for the subject taxable years have shown losses and excess income tax payments. Respondent points to no factual errors nor superfluities which need be

> abridged. Neither were there any deficiency assessments issued. Moreover, the records make it clear that the requisite statements or certifications of the income taxes withheld and deducted by the withholding agents through which respondent collected the income taxes and upon which tacked the claimed refund could furnish the basis for a definite resolve. But official action thereon appears consigned to a limbo of lingering verification, to date!

We do not think any different conclusion ought to follow. The petitioner has fared consistent with the requirements of law and regulations in establishing its rightful claim to the refund sought.

ACCORDINGLY, respondent is hereby ordered to grant the refund to the petitioner the amounts of ₱111,348.00 and ₱76,474.00 representing erroneously paid income taxes for the years 1982 and 1983, respectively. No costs.

SO ORDERED.

Quezon City, Metro Manila, July 31, 1987.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge