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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

JARDINE FLEMING (PHILS.), INC.,
Petitioner,

-versus -

C.T.A. CASES NOS. 4041 & 4125

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - - x

10/31/91

D E C I S I O N

The cases above-captioned come on identical factual situation and common issue on a claim for refund/tax credit of an alleged overpaid income taxes for the years 1984 and 1985 aggregating a total amount of P39,304.00.

As it appears, petitioner domestic corporation filed its corporate (final adjustment) income tax return for the taxable year 1984 on April 12, 1985 which reflected a net loss of P334,076.00 after deducting P585,341.00 from a gross income of P251,265.00 and a "nil" tax liability (Exhs. A, A-1, and A-3).

However, petitioner had a creditable withholding tax of P10,451.05 on its income from management advisory services (Exhs. B, C, D, and E) which remained unutilized in view of the net loss for the said year.

As a consequence, petitioner filed an administrative claim on March 17, 1986 and instituted a judicial action on March 21, 1986 (C.T.A. Case No. 4041) for the refund thereof.

Before any resolution can be had on the claim petitioner applied the same against income tax liabilities of the succeeding year 1985 under the automatic credit scheme that "the refundable amount shown on its final adjustment return may be credited against the estimated quarter income tax liabilities for the taxable quarter of succeeding taxable year" (Sec. 69, Tax Code).

Again, on April 9, 1986, petitioner filed its corporate annual (final adjustment) income tax return for the taxable year 1985 which likewise reflected a net loss of P196,712.00 and a "nil" tax due (Exhs. A, A-1, A-3 and A-6).

As of December 31, 1985 petitioner had a total creditable income taxes of P39,304.00 inclusive of the P10,451.05 earlier credited (Exhs. B, C, D, E, F, G, H, I and J). Thus alleged, inasmuch as the petitioner suffered losses and had no income tax liabilities against which it can credit the total creditable taxes withheld an overpayment of

P39,304.00 resulted.

On October 3, 1986 petitioner requested the respondent for confirmation that it could credit the refundable amount of P39,304.00 against its income tax liabilities in 1986 and succeeding years pursuant to Section 69 of the Tax Code and, in the alternative, sought a refund or tax credit therefor.

And neither confirmation nor denial was forthcoming when the petitioner filed the instant petition on December 20, 1986, docketed as C.T.A. Case No. 4125.

Addressed is the validity of petitioner's claim for refund of an excess income tax payments for taxable years in question.

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 records after petitioner rested its cases. "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 the 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 may be considered as not questioning seriously petitioner's entitlement to its claim for refund. More so, when the evidence presented which were not disputed by respondent sufficiently established petitioner's right to the refund (***Commonwealth Management and Service Corporation v. Commissioner of Internal Revenue***, *CTA Case No. 3232, June 26, 1985*)."

Wrapped up, the cases before Us hardly persents a gripping question. As thus shown the basis for the claim is 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 taxable years in question have indeed shown losses and excess creditable withheld income tax payments, which remained applied for any tax liabilities during the taxable years. Respondent points to no factual errors nor superfluities which need be abridged. Respondent has not issued any deficiency assessment nor disputed the correctness of the returns. The records make it clear that the requisite statements and/or certifications of income tax withheld and deducted by withholding agents through which respondent collected the taxes and upon which tacked the claimed refund furnish the basis for a definite resolve.

As thus, both circumstances obtaining and relevant legal standards compel the conclusion that petitioner had proved entitlement to a favorable determination of the desired relief.

WHEREFORE, respondent is hereby ordered to grant the refund of the amount sought by the petitioner without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, October 31, 1991.

ALEX Z. REYES
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ERNESTO D. ACOSTA
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.

ALEX Z. REYES
Presiding Judge
Court of Tax Appeals