REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MOTORMALL DAVAO CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 6075

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
FEB 05 2003

x--x

DECISION

This case involves a claim for refund of the amount of P307,765.00 representing excess or overpaid income tax as of December 31, 1998.

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with main office address at EDSA corner Madison Street, Mandaluyong City (*par. 1, Joint Stipulation of Facts*).

On April 15, 1998, petitioner filed its Annual Income Tax Return for the year 1997, declaring a net loss of P378,720.00 and creditable withholding tax in the amount of P446,364.00, consisting of income taxes withheld by petitioner's various customers/clients and payors on its income payments (*Exhibit "A"*).

Through a letter dated November 27, 1998, petitioner filed its administrative claim for refund in the amount of P446,364.00 representing unutilized creditable withholding tax for 1997 (*Exhibit "C"*).

On April 15, 1999, petitioner filed its Annual Income Tax Return for the taxable year 1998 declaring an income tax due in the amount of P275,479.00 and total tax credits amounting to P583,244.00, consisting of its prior year's excess credits of P446,364.00 and tax credits for the first three quarters in the amount of P136,880.00, resulting to an overpayment of P307,765.00 (*Exhibit "B"*). According to petitioner, it carried forward its 1997 unutilized creditable withholding tax amounting to P446,364.00 to the succeeding year 1998 because it was informed by the Appellate Division of the Bureau of Internal Revenue (*BIR*) that the investigation for tax refund claim for 1997 is still pending.

On January 11, 2000, petitioner filed its claim for refund with the same division of the BIR in the amount of P307,765.00, representing its excess creditable withholding tax as of December 31, 1998 (*Exhibit "E"; par. 6 Joint Stipulation of Facts*).

As the two-year prescriptive period was about to expire, petitioner filed its Petition for Review with this court on April 14, 2000.

In his Answer filed on May 26, 2000, respondent raised the following Special and Affirmative Defenses:

> "4. In an action for refund, the taxpayer has the burden to show that the taxes paid were erroneously or illegally collected and failure to do so is fatal to the action;
>
> 5. Claims for tax refund are strictly construed against the taxpayer. Petitioner has no cause of action."

The sole issue to be resolved is: Whether or not, on the basis of the evidence presented, petitioner is entitled to the claim for refund in the amount of P307,765.00, representing unutilized creditable withholding taxes for the taxable years 1997 and 1998.

The court rules to partially grant the instant claim for refund.

In order to be entitled to a refund of excess creditable withholding taxes, the taxpayer-claimant must prove compliance with the following three (3) basic requirements:

1. That the claim for refund was filed within the two-year prescriptive period provided under Section 204(3) [*now 204(C)*], in relation to Section 230 [*now 229*], of the Tax Code, as amended;

2. That the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. That the income upon which the taxes were withheld were included in the return of the recipient ***[Revenue Regulations No. 2-98; Revenue Regulations No. 12-94 (amending Revenue Regulations No.6-85); Citytrust Finance Corporation vs. The Commissioner of Internal Revenue, CTA Case No. 4134, November 11, 1991, affirmed by the Court of Appeals in Citytrust Finance Corporation vs. Court of Tax Appeals and The Commissioner of Internal Revenue, C.A. G.R. SP No. 28239, March 14, 1994; Citytrust Finance Corporation (formerly Investors Finance Corporation/FNCB Finance) vs. Commissioner of Internal Revenue, CTA Case No. 4046, February 24, 1993, affirmed by the Court of Appeals in Commissioner of Internal Revenue vs. Citytrust Finance Corporation (formerly Investors Finance Corp./FNCB Finance) and the Court of Tax Appeals, CA G.R. SP No. 31104, April 18, 1994; Ayala Life Assurance, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5631, dated May 11, 2000; Stock Transfer Service, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5796, dated May 3, 2000; Union Bank of the Philippines vs. Commissioner of Internal Revenue, CTA Case No. 5623, dated April 12, 2000; Citibank, N.A. vs. Court of Appeals and Commissioner of Internal Revenue, 280 SCRA 459; ACCRA Investments Corporation vs. Court of Appeals, 204 SCRA 957].***

Petitioner filed its administrative claim for refund for the taxable years 1997 and 1998 on December 3, 1998 and January 11, 2000, respectively. On the other hand, its judicial claim for refund for the taxable years 1997 and 1998 was filed with this court on April 14, 2000. Reckoned from April 15, 1998 and April 15, 1999, the dates when petitioner filed its 1997 and 1998 Annual Income Tax Returns, respectively, both the administrative and judicial claims for refund were filed well within the two-year prescriptive period.

We proceed to the second requirement.

To prove the fact of withholding, petitioner presented various certificates of creditable withholding tax at source, details of which are shown below:

FOR 1997

EXHIBIT	WITHHOLDING AGENT	INCOME PAYMENT	WITHHELD
F	Amadeo, Pedro	P 499,000.00	P 4,990.00
G	Ayala Agri. Dep't. Corp.	17,936.00	179.36
G-1	Ayala Agri. Dep't. Corp.	4,710.10	47.10
G-2	Ayala Agri. Dep't. Corp.	450.00	4.50
G-3	Ayala Agri. Dep't. Corp.	25,962.00	259.62
G-4	Ayala Agri. Dep't. Corp.	3,658.25	36.58
G-5	Ayala Agri. Dep't. Corp.	140.00	1.40
G-6	Ayala Agri. Dep't. Corp.	9,275.00	92.75
G-7	Ayala Agri. Dep't. Corp.	3,833.00	38.33
G-8	Ayala Agri. Dep't. Corp.	20,466.00	204.66
G-9	Ayala Agri. Dep't. Corp.	2,933.75	29.33
H	BIPP-Bukidnon Forest Inc.	198,913.00	1,808.30
I	Barangay Piapi	217,272.72	2,172.72
J	City Gov't. of Davao	40,431.00	624.92
J-1	City Gov't. of Davao	17,960.00	163.27
J-2	City Gov't. of Davao	31,120.00	282.91
J-3	City Gov't. of Davao	3,250.00	131.44
J-4	City Gov't. of Davao	37,103.00	364.93

J-5	City Gov't. of Davao	52,566.00	489.67
J-6	City Gov't. of Davao	29,753.00	366.89
J-7	City Gov't. of Davao	54,927.80	797.55
J-8	City Gov't. of Davao	21,929.95	389.16
K	Coca-cola Bottlers	13,702.00	137.02
K-1	Coca-cola Bottlers	420,911.00	4,209.11
L	Motormall	384,545.00	3,845.45
M	Davao Fruits Corporation	2,070.00	20.70
N	Davao Light & Power Co.	821,127.00	8,211.27
N-1	Davao Light & Power Co.	131,909.00	1,319.09
N-2	Davao Light & Power Co.	10,671.00	106.71
N-3	Davao Light & Power Co.	144,061.00	1,440.61
O	Davao Union Cement Corp.	340,909.00	3,409.09
P	DBP	1,460.00	13.27
P-1	DBP	21,368.00	213.68
Q	Dole Philippines, Inc.	4,265,165.48	42,651.68
Q-1	Dole Philippines, Inc.	4,037,313.66	40,373.16
Q-2	Dole Philippines, Inc.	8,419.00	84.19
R	DTI-XII	7,799.00	77.99
R-1	DTI-XII	18,385.00	183.85
R-2	DTI-XII	18,390.00	183.90
R-3	DTI-XII	1,968.00	19.68
R-4	DTI-XII	1,725.00	17.25
R-5	DTI-XII	646.00	6.46
R-6	DTI-XII	2,323.00	23.23
R-7	DTI-XII	613.00	6.13
R-8	DTI-XII	4,454.55	44.55
R-9	DTI-XII	6,974.00	69.74
R-10	DTI-XII	5,816.00	58.16
S	DILG	216,363.00	2,163.63
T	Eden Fruits Corporation	2,311.00	23.11
T-1	Eden Fruits Corporation	4,189.00	41.89
T-2	Eden Fruits Corporation	9,946.00	99.46
U	Equitable Bank	7,408.95	37.04
U-1	Equitable Bank	3,840.04	19.20
V	LGU-Rosario	21,630.00	216.30
V-1	LGU-Rosario	38,000.00	380.00
W	Marbel Telephone System	217,800.00	4,356.00
W-1	Marbel Telephone System	217,800.00	4,356.00

X	Maritime Industry	3,268.00	32.68
Y	Mindanao Geothermal	1,881,818.00	18,818.18
Z	Monark Equipment	6,390.98	64.00
Z-1	Monark Equipment	3,200.00	31.99
Z-2	Monark Equipment	3,054.55	30.54
Z-3	Monark Equipment	1,163.64	11.64
Z-4	Monark Equipment	1,694.09	16.93
AA	Municipality of Carmen	1,800.00	18.00
AA-1	Municipality of Carmen	94,370.00	943.70
BB	Municipality of Katipunan	1,845.40	16.78
BB-1	Municipality of Katipunan	6,304.95	57.31
CC	Municipality of Maco	5,788.00	57.88
DD	Municipality of Manay	25,851.00	258.51
EE	Municipality of Panabo	63,717.50	637.18
EE-1	Municipality of Panabo	30,100.35	301.00
EE-2	Municipality of Panabo	58,970.65	589.71
EE-3	Municipality of Panabo	61,674.95	616.75
EE-4	Municipality of Panabo	87,262.30	872.63
EE-5	Municipality of Panabo	76,051.25	760.51
FF	Municipality of Sta. Cruz	3,242.00	29.47
FF-1	Municipality of Sta. Cruz	915.00	8.32
FF-2	Municipality of Sta. Cruz	7,866.00	71.50
FF-3	Municipality of Sta. Cruz	10,982.20	99.83
FF-4	Municipality of Sta. Cruz	466.00	4.23
FF-5	Municipality of Sta. Cruz	742.50	6.75
FF-6	Municipality of Sta. Cruz	7,600.00	69.09
FF-7	Municipality of Sta. Cruz	2,168.95	19.72
FF-8	Municipality of Sta. Cruz	950.00	8.63
FF-9	Municipality of Sta. Cruz	1,295.00	11.77
GG	Municipality of Tagum	38,251.00	382.51
HH	National Food Authority	3,540.00	33.46
HH-1	National Food Authority	6,495.60	64.95
II	NIA Libungan Parish	2,508.00	25.08
JJ	Office of the Pres.-Mindanao	581,363.65	5,813.64
JJ-1	Office of the Pres.-Mindanao	3,049.99	30.49
KK	Pescarich MDC	1,095,000.00	10,950.00
LL	Phil. Japan Active Carbon	48,212.00	482.12
LL-1	Phil. Japan Active Carbon	447,873.00	4,478.73
LL-2	Phil. Japan Active Carbon	193,221.00	1,932.21

LL-3	Phil. Japan Active Carbon	513,282.00	5,132.82
MM	Phil. Postal Corporation	3,236.36	32.36
MM-1	Phil. Postal Corporation	3,077.27	30.77
MM-2	Phil. Postal Corporation	10,481.81	104.81
MM-3	Phil. Postal Corporation	5,598.18	55.98
MM-4	Phil. Postal Corporation	3,443.63	34.43
MM-5	Phil. Postal Corporation	2,054.54	20.54
MM-6	Phil. Postal Corporation	5,115.27	51.15
MM-7	Phil. Postal Corporation	1,040.00	9.45
MM-8	Phil. Postal Corporation	2,718.18	27.18
MM-9	Phil. Postal Corporation	1,190.90	11.90
MM-10	Phil. Postal Corporation	1,599.09	15.99
NN	Phil. Science High School	172,727.27	1,727.27
OO	Pilipinas Hino Inc.	165,797.00	1,657.97
OO	Pilipinas Hino Inc.	4,112,518.20	205,625.91
PP	Pilipinas Transport Industries	36,636.00	366.36
PP	Pilipinas Transport Industries	1,630,000.00	16,300.00
QQ	Provincial Gov't. of Zamboanga	120,952.30	1,099.56
RR	Provincial Gov't. of Bukidnon	404,500.00	3,677.00
SS	Provincial Gov't. of Davao	75,268.00	752.68
SS-1	Provincial Gov't. of Davao	16,529.00	163.29
SS-2	Provincial Gov't. of Davao	135,076.00	1,350.76
TT	Provincial Gov't of Cotabato	18,636.95	186.37
TT-1	Provincial Gov't of Cotabato	117,714.50	1,177.14
UU	San Miguel Brewing Group	127,685.91	1,276.84
VV	Spamast	89,500.00	895.00
WW	Suzuki Phils. Incorporated	22,077.00	220.77
WW-1	Suzuki Phils. Incorporated	32,751.00	327.51
WW-2	Suzuki Phils. Incorporated	117,817.00	1,178.17
WW-3	Suzuki Phils. Incorporated	41,320.00	413.20
XX	UP Mindanao	100,000.00	909.09
XX-1	UP Mindanao	100,000.00	909.09
XX-2	UP Mindanao	184,373.00	1,843.73
XX-3	UP Mindanao	100,000.00	909.09
XX-4	UP Mindanao	607,500.00	5,522.73
ZZ-5	UP Mindanao	279,430.00	2,794.30
ZZ-6	UP Mindanao	188,693.00	1,886.93
AAA	Yellow Bus Line	214,000.00	4,280.00
AAA-1	Yellow Bus Line	54,633.00	546.33

AAA-2	Yellow Bus Line	57,430.35	574.30
AAA-3	Yellow Bus Line	118,394.00	1,183.94
AAA-4	Yellow Bus Line	52,982.00	529.82
Total		**P 27,623,449.46**	**P 446,364.94**

FOR 1998

EXHIBIT	WITHHOLDING AGENT	INCOME PAYMENT	WITHHELD
BBB	Alcantara & Sons	P 5,392.73	P 53.93
BBB-1	Alcantara & Sons	4,618.00	46.18
BBB-2	Alcantara & Sons	3,836.36	38.36
CCC	Alsons Dev. & Investment Corp.	1,480.86	14.81
CCC-1	Alsons Dev. & Investment Corp.	4,123.95	41.24
DDD	Ayala Agri. Dep't. Corp.	2,901.20	29.01
DDD-1	Ayala Agri. Dep't. Corp.	5,689.00	56.89
DDD-2	Ayala Agri. Dep't. Corp.	5,554.00	55.54
DDD-3	Ayala Agri. Dep't. Corp.	9,817.00	98.17
DDD-4	Ayala Agri. Dep't. Corp.	2,429.00	24.29
DDD-5	Ayala Agri. Dep't. Corp.	8,080.00	80.80
DDD-5	Ayala Agri. Dep't. Corp.	8,832.00	88.32
DDD-6	Ayala Agri. Dep't. Corp.	495.00	4.95
EEE	BIPP-Bukidnon Forest Inc.	72,682.00	660.75
FFF	Bislig Municipal Government	23,645.00	236.45
GGG	Busco Sugar Milling	3,161.82	31.62
HHH	City Government of Iligan	1,584,000.00	15,840.00
III	City Government of Surigao	75,745.00	688.58
JJJ	City Government of Tagum	550,000.00	5,500.00
KKK	Coca-cola Bottlers	303,065.00	3,030.65
KKK-1	Coca-cola Bottlers	226,468.00	2,264.68
LLL	Davao Light & Power Co.	220,641.00	2,206.41
LLL-1	Davao Light & Power Co.	11,631.00	116.31
LLL-2	Davao Light & Power Co.	15,455.00	154.55
MMM	DTI-XII	41,923.00	419.23
MMM-1	DTI-XII	2,000.00	20.00
NNN	Duratrak Corporation	29,634.00	269.40
NNN-1	Duratrak Corporation	1,271.00	11.55

NNN-2	Duratrak Corporation	12,623.25	114.76
OOO	Eden Corporation	31,711.00	317.11
OOO-1	Eden Corporation	7,824.00	78.24
PPP	Eden Corporation	1,495.00	14.95
PPP-1	Eden Corporation	1,968.00	19.68
OOO-2	Eden Corporation	4,510.00	45.10
PPP-2	Eden Corporation	2,579.00	25.79
QQQ	Equitable Card Network Inc.	8,848.53	44.24
RRR	FGU Ins. Corporation	11,918.18	119.18
SSS-1	Island Garden City of Samal	15,080.40	150.80
SSS-1	Island Garden City of Samal	1,300.00	13.00
TTT	LBP-Butuan City	7,813.00	78.13
UUU	Monark Qquipment	1,745.00	17.45
UUU	Monark Qquipment	3,193.00	31.93
UUU-1	Monark Qquipment	1,745.00	17.45
UUU-1	Monark Qquipment	3,193.00	31.93
UUU-2	Monark Qquipment	1,727.00	17.27
UUU-2	Monark Qquipment	76,377.00	763.77
VVV	Municipal Gov't. of Asuncion	7,000.00	70.00
VVV-1	Municipal Gov't. of Asuncion	25,000.00	250.00
WWW	Municipal Gov't. of Digos	280,800.00	2,552.73
WWW-1	Municipal Gov't. of Digos	1,572.00	14.29
XXX	Municipality of Panabo	16,959.70	169.60
XXX-1	Municipality of Panabo	64,370.85	643.71
XXX-2	Municipality of Panabo	3,950.00	39.50
YYY	Municipality of Sta. Cruz	5,066.00	50.66
YYY-1	Municipality of Sta. Cruz	5,290.00	48.09
ZZZ	National Food Authority	1,360.00	12.36
ZZZ-1	National Food Authority	3,831.55	34.38
ZZZ-2	National Food Authority	5,396.00	53.96
ZZZ-3	National Food Authority	4,909.00	44.63
ZZZ-4	National Food Authority	3,697.60	33.61
ZZZ-5	National Food Authority	2,237.00	22.37
AAAA	NIA-Provincial Irrigation	6,363.00	63.63
AAAA-1	NIA-Provincial Irrigation	27,749.00	277.49
AAAA-2	NIA-Region XII	27,749.00	277.49
BBBB	Office of the Pres. Mindanao	1,800.00	18.00
BBBB-1	Office of the Pres. Mindanao	727.00	7.27
BBBB-2	Office of the Pres. Mindanao	643.00	6.43

CCCC	Pepsi Cola Bottlers Phils.	5,209.00	52.09
CCCC	Pepsi Cola Bottlers Phils.	59,015.00	590.15
CCCC-1	Pepsi Cola Bottlers Phils.	120,071.00	1,200.71
DDDD	Philippine Coconut Authority	1,460.00	13.27
EEEE	Philippine Information Agency	11,517.23	151.17
EEEE-1	Philippine Information Agency	9,693.73	96.94
EEEE-2	Philippine Information Agency	8,247.36	82.47
EEEE-3	Philippine Information Agency	6,037.08	60.36
FFFF	Philippine Japan Active Carbon	298,570.00	2,985.70
FFFF-1	Philippine Japan Active Carbon	35,061.00	350.61
FFFF-2	Philippine Japan Active Carbon	176,400.00	1,764.00
FFFF-3	Philippine Japan Active Carbon	65,376.00	653.76
GGGG	Philippine Postal Corporation	2,700.00	27.00
GGGG-1	Philippine Postal Corporation	3,347.27	33.47
GGGG-2	Philippine Postal Corporation	1,363.63	13.63
GGGG-3	Philippine Postal Corporation	23,609.09	236.09
GGGG-4	Philippine Postal Corporation	35,270.00	352.70
GGGG-5	Philippine Postal Corporation	4,509.09	45.09
GGGG-6	Philippine Postal Corporation	1,938.18	19.38
GGGG-7	Philippine Postal Corporation	13,333.63	133.33
GGGG-8	Philippine Postal Corporation	1,738.18	17.38
GGGG-9	Philippine Postal Corporation	10,909.09	109.09
GGGG-10	Philippine Postal Corporation	1,227.27	12.27
GGGG-11	Philippine Postal Corporation	1,610.90	16.10
GGGG-12	Philippine Postal Corporation	1,477.27	14.77
GGGG-13	Philippine Postal Corporation	1,686.36	16.86
GGGG-14	Philippine Postal Corporation	56,636.36	566.36
GGGG-15	Philippine Postal Corporation	1,245.45	12.45
HHHH	Phil. Science High School	13,680.23	136.80
HHHH-1	Phil. Science High School	3,194.59	31.95
IIII	Pilipinas Hino Inc.	17,401.00	174.01
IIII-1	Pilipinas Hino Inc.	30,859.00	308.59
IIII-1	Pilipinas Hino Inc.	30,000.00	3,000.00
IIII-2	Pilipinas Hino Inc.	200,000.00	10,000.00
IIII-3	Pilipinas Hino Inc.	32,501.00	325.01
JJJJ	Pilipinas Palmoil Plantations Inc.	45,454.55	454.55
KKKK	Provincial Gov't. of Bukidnon	1,802.00	16.00
KKKK-1	Provincial Gov't. of Bukidnon	15,345.00	140.00
LLLL	Provincial Gov't. of Davao	63,926.00	639.26

LLLL	Provincial Gov't. of Davao	7,495.00	74.95
MMMM	Provincial Gov't. of Davao Del Sur	1,400,000.00	12,727.27
MMMM-1	Provincial Gov't. of Davao Del Sur	1,428,000.00	12,981.82
NNNN	Provincial Gov't of Davao Orriental	5,506.05	50.05
OOOO	Provincial Gov't. of Zamboanga Del Norte	21,900.00	219.00
OOOO-1	Provincial Gov't. of Zamboanga Del Norte	43,208.00	432.08
PPPP	San Miguel Corporation	379,072.85	3,790.72
PPPP-1	San Miguel Corporation	61,582.50	615.80
QQQQ	Southmin Transport Warehousing	50,000.00	500.00
QQQQ-1	Southmin Transport Warehousing	52,000.00	520.00
QQQQ-2	Southmin Transport Warehousing	50,000.00	500.00
RRRR	Spanish Assistance Integrated	1,400,000.00	14,000.00
SSSS	Stanfilco	1,483,529.00	14,835.29
TTTT	Suzuki Phils. Incorporated	30,979.00	309.09
UUUU	The Maryknoll Fathers Inc.	47,440.00	474.40
VVVV	Trofresh	2,459.90	223.63
WWWW	UP Mindanao	6,110.00	61.10
UUUU-1	The Maryknoll Fathers Inc.	8,590.00	85.90
WWWW-2	UP Mindanao	14,508.00	145.08
WWWW-3	UP Mindanao	6,961.00	69.61
XXXX	Yellow Bus Line	665,573.25	6,655.73
XXXX-1	Yellow Bus Line	172,671.00	1,726.71
XXXX-2	Yellow Bus Line	223,904.45	2,239.03
Total		**P 12,891,604.52**	**P 136,764.28**

After a careful examination of the above-enumerated exhibits, the court rules to disallow the following:

1) *Exhibit DD* in the amount of P258.51 - the certificate indicated no particular date;

2) *Exhibit I* in the amount of P2,172.72 representing withholding tax pursuant to RA 7649 - the withholding is for creditable input VAT;

3) *Exhibits UUU, KKK-1 and AAAA* in the aggregate amount of P2,377.69 - they were merely provisionally marked and petitioner failed to compare them with their originals or even present certified true copies. These exhibits were denied admission by

> the court in its resolution dated December 14, 2001 (*CTA records, pp. 517-519*).

Anent the third requirement, petitioner was able to prove that the income upon which its 1997 and 1998 creditable withholding taxes were included in the gross income declared by petitioner in its 1997 and 1998 Annual Income Tax Returns. For the taxable year 1997, petitioner declared gross income in the amount of P234,029,593.00, which is greater than the amount of P27,623,449.46, the total income payments reflected in the 1997 certificates of withholding tax. Likewise, the amount of gross income declared by petitioner in its 1998 Annual Income Tax Return is P122,697,810.00, which far exceeds the total income payments declared in the certificates of creditable income tax withheld at source which is P12,891,604.52.

Finally, this court finds that petitioner's excess creditable withholding taxes for the years 1997 and 1998 were not carried-over to the taxable year 1999 (*page 594, CTA Records*). This clearly shows that the aggregate amount of excess creditable withholding taxes for the years 1997 and 1998 were not utilized.

In sum, petitioner is entitled to the refund of excess creditable withholding taxes for the years 1997 and 1998 in the reduced amount of P302,841.30, computed as follows:

Total Excess Creditable Withholding Taxes for 1997 & 1998			P583,244.00
Less: Exceptions			
1. Withholding Tax Certificate without date		P 258.51	
2. Withholding by Govt. pursuant to RA 7649		2,172.72	
3. Amount denied per court's resolution		2,377.69	
4. Unsubstantiated amount			
Creditable Withholding Tax per ITR	P583,244.00		
Less: Withholding Tax per Certificates			
(P136,764.28+P446,364.94)	583,129.22	114.78	4,923.70

Balance before 1998 income tax due	P578,320.30
Less: Income Tax Due for 1998	275,479.00
Refundable Amount	P302,841.30

WHEREFORE, in view of the foregoing, the court finds the instant petition meritorious. Accordingly, respondent is hereby **ORDERED** to **REFUND** to petitioner the amount of P302,841.30 representing excess or overpaid income tax as of December 31, 1998.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Judge

LOVELL R. BAUTISTA
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