REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ATLAS CONSOLIDATED MINING
& DEVELOPMENT CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 3609

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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

7/29/88

D E C I S I O N

An action to enforce a claim for refund/tax credit of an alleged overpaid income taxes for the years 1980 and 1981 aggregating the total of P8,480,859.00.

Petitioner is a domestic corporation registered with the Board of Investment and engaged in the business of mining copper ore in its concession at Toledo City. Set forth are its 1980 and 1981 quarterly and annual income tax returns relevantly summarized as follows:

1980

1st quarter filed May 30, 1980, showing tax due in the amount of P92,807,065.00 (Exh. B-1), paid under CB Confirmation Receipt No. A0180475 dated May 30, 1980 and BIR Revenue Tax Receipt No. A4483123 (Exhs. B-1a and B-1b).

2nd quarter filed August 29, 1980 showing tax due in the amount of P40,486,403.00 (Exh. B-2), paid under CB Confirmation Receipt No. 0179764 dated August 29, 1980 (Exh. B-2a) and BIR Revenue Tax Receipt No. A4706020 of the same date (Exh. B-2b).

3rd quarter filed November 28, 1980 showing tax due of P27,474,262.00 (Exh. B-3) paid under CB Confirmation Receipt No. A01-79712 dated November 28, 1980 and BIR Revenue Tax Receipt No. A4966106 (Exh. B-3b).

The annual income tax return for 1980 (Exh. B) showing a total tax due in the amount of P169,671,195.00 of which P160,767,730.00 had previously been paid as related above.

The balance of P8,903,465.00 was credited with the amount of P552,208.00 representing creditable taxes withheld by their payors, leaving an unpaid balance of P8,351,257.00. This was increased by P3,706,775.00 representing "additional income tax for accelerated depreciation on fully depreciated assets" (t.s.n., pp. 16-18), leaving a total unpaid tax of P12,058,032.00. This was satisfied on April 15, 1981 under Confirmation Receipt No. A0180760 for P12,058,032.00 (Exh. C) and BIR Revenue Tax Receipt No. A6617478 for the same amount (Exh. D).

1981

1st quarter return filed May 29, 1981 showing tax due of P4,774,084.00 (Exh. F) paid under Confirmation Receipt No. A37187723 dated May 29, 1981 for P4,516,686.00 (Exh. F-1) and BIR Revenue Tax Receipt No. A5589733 (Exh. F-2) and BIR Tax Credit Memo No. 0842 for P257,398.00 dated January 9, 1981 (Exh. F-3).

2nd quarter return filed August 28, 1981 showing tax due in the amount of P4,754,353.00 (Exh. G). This was satisfied by cash payment of P4,516,686.00 and Tax Credit Memo of P257,398.00 made in the 1st quarter and mentioned above, resulting in a refundable amount of P19,731.00.

3rd quarter return filed on November 20, 1981 showing tax due totalling P2,717,613.00, cumulative

(Exh. H). As at that date, petitioner had already paid, as stated above, P4,516,686.00 cash and P257,398.00 tax credit, leaving a refundable amount of P2,056,471.00.

On April 15, 1982, petitioner filed its annual income tax return (Exh. E) showing that it suffered a loss of P912,636.00 or zero income tax return for year 1981. Since it had paid, as stated above, P4,516,686.00 cash and P257,398.00 tax credit, it was entitled to a refundable amount of P4,774,084.00 corresponding to year 1981.

As of April 15, 1982, petitioner already discovered that it had erroneously paid the sum of P3,706,775.00 in its 1980 income tax return (see Exh. B-4). It therefore reflected this amount in its 1981 Income Tax Return (Exh. E) to show a total refundable amount of P8,480,859.00.

On April 7, 1983, petitioner filed its claim dated March 25, 1983 for the refund/tax credit of the total sum of P8,430,859.00 (Exh. A) representing excess income tax payments for the years 1980 and 1981. But no sooner than the claim could be acted upon by the respondent Commissioner of Internal Revenue, petitioner elevated the same to this Court on April 11, 1983.

It may suffice to state that there appears no basic disagreement as to the facts. The parties having agreed to submit the case for decision based on the pleadings and record after petitioner has presented its evidence.

The case at bar presents for our determination the sole issue of whether petitioner is entitled to the refund of an alleged erroneous and/or overpaid income taxes for the years 1980 and 1981.

Petitioner points out to the discrepancy of an "additional income tax for accelerated depreciation on fully depreciated assets" which was traced to the "mistake in adding back in 1980 the amount of P3,706,775.00 (Exh. B-4) as additional tax due, thus resulting in an overpayment of the income tax by the said amount." (t.s.n., pp. 5-6, CTA records). The records of the case does indicate respondent's office investigation lending currency to the claim, thus,

> The claim for 1980 tax refund by the Atlas Consolidated Mining and Development Corporation stemmed from the erroneous addition to the final income tax payable in the amount of P3,706,775.00. In April, 1981, Mr. Ernesto A.

Ancheta, the then Chief Accountant of the corporation recommended that the accelerated depreciation was overstated in the amount of P9,266,938.17 computed as follows:

Normal depreciation for 3rd quarter 1980	*P33,346,333.07*
Less: Normal depreciation on assets depreciated on accelerated basis (1/2 of P48,158,789.80)	*24,079,394.90*
Normal depreciation of fully depreciated assets on accelerated basis	*P 9,266,938.17*
Income tax rate	*40%*
Additional Income Tax	*P 3.706.775.-*

As a result of this addition, the final income tax payable for 1980 was increased from P8,351,257.- to P12,058,032.- and over payment of P3,706,775.- (please see attached xerox copies of quarterly memos of Cebu Office to Makati Office of accelerate depreciation of fixed assets).

The taking up of the accelerated depreciation on fully depreciated assets for the 3rd quarter of 1980 is erroneous because the depreciation on fully depreciated assets of 1980 in the amount of P35,614,590.37 already includes the 3rd quarter depreciation of P9,266,938.17.

(7th Indorsement dated September 30, 1986, Chief Revenue Enforcement Office to Chief Agriculture & Natural Resources Division) (Exh. P, petitioner)

On the petitioner's claimed overpayment of income tax for 1981 consequenced by "an income tax liability of zero on said year as against actual income tax payments totalling P4,774,084.00" the same may be said to have its affirmance in the report of findings of respondent's office, "With respect to the claim for refund for the year 1981, this Offic has previously recommended the refund of the total amount of P4,774,084.00 as contained in our 4th indorsement dated November 11, 1985," and, "recommended that the aggregate amount of P8,480,859.00 representing claims for refund of overpaid income taxes corresponding to the years 1980 (P3,706,775.00) and 1981 (P4,480,084.00) be refunded to Atlas Consolidated Mining & Development Corporation." (8th Indorsement dated October 1, 1986, Chief, Agriculture & Natural Resources Division to Chief, Litigation Division, Legal Office). (Exh. Q, petitioner).

As thus shown, the report itself furnishes the best means of its own exposition. The factual findings are not short of specific support in terms of tractable data and relevant records openly laid and fully disclosed, as such deserves the credence normally accorded in the absence of contrary evidence. Upon the records both the circumstances obtaining and relevant legal standards compel the conclusion that petitioner has proved entitlement to a favorable determination.

WHEREFORE, the refund/tax credit of the aforesaid amount of overpaid income taxes for the years involved is hereby granted. No costs.

SO ORDERED.

Quezon City, Metro Manila, July 29, 1988.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

C E R T I F I C A T I O N

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.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals