REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ANSCOR CONTAINER CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 3444

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

5/30/85

D E C I S I O N

In its petition for review filed with this Court on April 13, 1982, petitioner alleges:

1. That petitioner Anscor Container Corporation is a domestic corporation engaged in the manufacture of steel drums and pails with office/factory at 18 E. de los Santos Avenue, Mandaluyong, Metro Manila, while respondent is the duly appointed Commissioner of Internal Revenue, an agency of the Government charge with the duty of enforcing the national internal revenue laws with offices at BIR Bldg., Diliman, Quezon City, where he may be served with summons, writs and other legal processes;

2. That on April 14, 1980, petitioner filed with respondent its final or annual income tax return covering calendar year ended December 31, 1979 reporting a net taxable income of ₱2,253,005.00 and an income tax due of ₱891,202.00. From the said income tax due and payable, petitioner credited and/or deducted ₱10,775.00 and

₱669,314.00, representing overpaid 1978 income tax plus income taxes withheld and income tax payments for the first 3 quarters of 1979, respectively, or a total of ₱680,089.00, leaving a balance of ₱211,113.00, which was paid on April 14, 1980, hence, a total income tax paid of ₱891,202.00;

3. That on April 13, 1982, petitioner filed an amended income tax return for 1979 after it discovered that its purchases for 1979 were understated and reported a corrected net taxable income of only ₱1,761,007.00 and an income tax due of ₱694,403.00. Since it had previously paid ₱10,775.00 and ₱880,427.00, or a total of ₱891,202.00, there was an obvious erroneous and/or illegal payment of ₱196,799.00;

4. That on April 13, 1982, petitioner filed with respondent a claim for refund of the aforesaid overpaid income tax of ₱196,799.00 paid on April 14, 1980; and

5. That petitioner has instituted this appeal to preserve its rights under Section 292 of the Revenue Code.

Petitioner therefore asks that respondent be ordered to refund to petitioner the sum of ₱196,799.00 representing alleged erroneous and/or illegal payment of income tax for 1979.

Except for partial denials of certain averments in paragraphs 2, 3, 4 and 5, allegedly for lack of knowledge or information sufficient to form a belief as to the truth thereof, although they are invariably within respondent's competency to check or verify, respondent practically admitted in his answer the aforestated allegations of petitioner. At any rate, when this case was heard by the Court, petitioner manifested that since its claim for refund was still being administratively processed by the Bureau of Internal Revenue and this appeal has been instituted to preserve petitioner's rights under Section 292 of the Revenue Code, it might be propitious to wait for the findings and recommendation of respondent's officers concerned.

Then during the hearing on May 7, 1985, the parties submitted this case for decision on the basis of the Memorandum for the Commissioner dated October 2, 1984 of the Chief of the Appellate Division, which was concurred in by the Revenue Service Chief (Legal Office), recommending, for reasons stated therein, that the amount of ₱138,101.00 be credited to petitioner Anscor Container Corporation. (pp. 314-315, BIR records.) To put an end to this litigation, petitioner manifested its willingness to accept the tax credit of ₱138,101.00 instead of its original claim of ₱196,799.00. To quote the above-mentioned memorandum for the Commissioner: (pp. 314-315, BIR records.)

MEMORANDUM FOR:
The Commissioner

SUBJECT:

This refers to the claim filed on April 13, 1982 by Atty. Demosthenes A. Gadioma, in behalf of his client, ANSCOR CONTAINER CORPORATION, for tax credit of ₱196,799.00 as alleged erroneously paid income tax for 1979 (p. 238).

FACTS:

Taxpayer is a domestic corporation, organized and existing under Philippine Laws, and is engaged in the manufacture of steel drums and pails. Recently, taxpayer discovered that its purchases account in 1979 with the National Steel Corporation (NSC), the principal supplier of its raw materials in the manufacture of its steel drums and pails was understated thereby resulting in the said overpayment of income tax for the said year.

As claimed by taxpayer's accounting personnel, the error or reconciling items were attributable to the breakdown of the company's accounting machines, turn-over of personnel and the change of accounting system.

Based on such reconciliation, the 1979 balance of the liability account due National Steel Corporation as of the end of the year, should be ₱3,487,305.08 as against the unreconciled balance of only ₱2,826,862.83 or a difference of ₱660,442.25 which normally represents the under-recording of its purchases account. Out of such difference, the reconciliation statement showed further that the net amount of only ₱353,463.53 constituted the net additional adjustments to the purchase account covering the year 1979 (pls. see doc. on pp. 203-204).

Taxpayer's payments were verified remitted to the Bureau (p. 266).

FINDINGS AND RECOMMENDATION:

The claim is meritorious. Investigation made by the examiner showed a refundable amount of only ₱138,101.00 instead of ₱196,799.00 as claimed computed as follows:

Total adjustment for 1979 . .	₱353,463.53
Disallowed adjustment . . .	8,211.18
Net . . .	₱345,252.35
Refundable . . .	₱138,101.00

The original investigation of the 1979 income and business tax liabilities of said corporation disclosed a deficiency income tax of ₱693,901.41, a deficiency withholding tax of ₱115,677.81 and deficiency 3% contractor's tax of ₱86,122.91. The aforementioned tax liabilities were, however, cancelled and settled upon payment and compliance by taxpayer of Revenue Memorandum Order No. 38-83 dated November 14, 1983 (pls. see doc. on pp. 243-244).

In view of all the foregoing and as the claim was filed within two (2) years from date of payment of the tax, it is respectfully recommended that the amount of ₱138,101.00 be credited to Anscor Container Corporation, 18 EDSA, Mandaluyong, Metro Manila, pursuant to Section 295 of the Tax Code.

Respectfully submitted:

(SGD.) EULOGIO H. NATIVIDAD
Chief, Appellate Division

I CONCUR:

(SGD.) REYNOSO B. FLOREZA
Revenue Service Chief
(Legal Office)

In view of respondent's recognition of the meritoriousness of petitioner's claim for refund in the amount of ₱138,101.00, instead of ₱196,799.00 as claimed, and willingness that such amount of ₱138,101.00 be credited to petitioner, pursuant to Section 295 of the National Internal Revenue Code, and petitioner's acceptance thereof, instead of ₱196,799.00 as originally claimed by it, the parties maybe considered to have entered into a compromise agreement to put an end to this appeal thru the rendition of a judgment, as prayed for by them, incorporating such agreement or stipulation. (See Republic of the Philippines vs. Marcelo B. Garay, L-21416, Dec. 31, 1965, 15 SCRA 695.)

WHEREFORE, respondent Commissioner of Internal Revenue is hereby ordered to grant a tax credit to petitioner Anscor Container Corporation in the amount of ₱138,101.00 representing erroneously paid income tax for 1979. Without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, May 30, 1985.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge