REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GREATER ASIA RESOURCES CORPORATION (formerly Ramie Textiles, Inc., then, Gaming Interest and Franchise Technologies, Inc.),
Petitioner,

- versus -

C.T.A. CASE NO. 5427

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JAN 08 1998

x - x

DECISION

This case involves a judicial action for the refund of the sum of ₱9,056,250.00, representing overpaid creditable withholding tax for the fiscal year ended June 30, 1994.

The antecedent facts of the case are as follows:

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines. Its former names were Ramie Textiles, Inc. and Gaming Interest and Franchise Technologies, Inc.. Its principal office is located at Unit 502 Philippine Stock Exchange East Tower, Exchange Road, Ortigas Center, Pasig City.

On October 17, 1994, petitioner filed its annual income tax return for fiscal year ended June 30, 1994 reflecting, among others, a net loss from operations in the sum of ₱159,290,050.00 but with a refundable income tax in the amount of ₱9,056,250.00, representing creditable withholding tax at source.

This overpaid income tax arose from petitioner's sale of several parcels of land to San Miguel Corporation, located in Valenzuela, Metro Manila, for a total consideration of ₱345,000,000.00 paid on installment basis (see Deeds of Sale, Exhs. A and B, pp. 71 to 84, CTA records). As agreed upon, the following payments were tendered and a corresponding 5% creditable withholding tax were withheld and remitted to the Bureau of Internal Revenue (Exhs. F, F-1, G and G-1, pp. 95 to 96, CTA records). The details of which are as follows:

Date	Amount	5% Withholding Tax	Date Remitted
02-19-91	₱ 86,250,000.00	₱ 4,312,500.00	10-15-91
11-19-92	51,750,000.00	2,587,500.00	12-10-92
05-19-93	25,875,000.00	1,293,750.00	06-10-93
11-19-93	25,875,000.00	1,293,750.00	12-27-93
12-27-93	155,250,000.00	7,762,500.00	01-25-94
Total	₱345,000,000.00	₱17,250,000.00	

Petitioner, by way of this Petition for Review, seeks to recover the 5% creditable withholding tax in the total amount of ₱9,056,250.00 covering the payments made by San Miguel Corporation on November 19, 1993 and December 27, 1993.

On February 16, 1995, petitioner, pursuant to Section 230 of the National Internal Revenue Code, as amended, filed its letter-claim for refund with the Bureau of Internal Revenue covering the aforesaid excessive income tax payment.

On October 9, 1996, petitioner lodged its appeal with this Court in order to conform with the statutory prescriptive period of two years to judicially claim for tax refund.

On January 22, 1997, upon oral motion of petitioner, respondent was declared in default due to her failure to file an Answer within the extended period allowed by the Court (see Minutes of the Session, p. 56, CTA records). Confirming resolution was then issued on January 29, 1997.

The sole issue to be resolved by this Court is whether or not petitioner is entitled to the refund sought.

After a thorough review of the records and evidence of the case, we rule against the petitioner.

An analysis of petitioner's June 30, 1994 annual income tax return reveals that an "X" was marked in the box "TO BE APPLIED AS CREDIT TO NEXT YEAR" (Exhs. H to H-4, p. 97, CTA records), leading us to believe that petitioner applied the excess income tax payment to the succeeding taxable fiscal year ended June 30, 1995.

We would like to emphasize that in this scenario, presentation of the succeeding year's income tax return is very material in order to determine whether or not petitioner applied the overpaid creditable withholding tax of the fiscal year ended June 30, 1994 to the succeeding taxable year.

Time and again, we have denied several claims for refund due to the failure of petitioner to present the succeeding year's income tax return wherein the overpaid income tax sought to be refunded was opted to be carried over to the succeeding taxable year (**AF Holdings and Management Corporation v. Commissioner of Internal Revenue, CTA Case No. 4529, March 16, 1993; Philippine Bank of Communications v. Commissioner of Internal Revenue, CTA Case No. 4309, May 20, 1993; BPI Data Systems Corporation (formerly Filipinas Management and Leasing Services, Inc.) v. Commissioner of Internal Revenue, CTA Case No. 4691, December 6, 1993; BPI Family Savings Bank, Inc. v. Commissioner of Internal Revenue, CTA Case No. 4694, December 24, 1993; Anscor Hagedorn Securities, Inc. v. Commissioner of Internal Revenue, CTA Case No. 4947, January 30, 1995; Pasig Land Corporation v. Commissioner of Internal Revenue, CTA Case No. 4773, May 30, 1995; Rondel Management, Inc. v. The Commissioner of Internal Revenue, CTA Case No. 4787, January 3, 1996; Citytrust Investment Philippines, Inc. v. The Commissioner of Internal Revenue, CTA Case No. 4958, April 25, 1996**). To grant a refund to petitioner who may have already applied its excess credit to the succeeding year would be tantamount to granting twice the refund being sought (**Paseo Realty and Development Corp. v. Commissioner of Internal Revenue, CA G.R. SP No. 33589, October 14, 1994**).

It must be stressed that a refund of taxes partakes of the nature of a tax exemption and are construed in *strictissimi juris* against the taxpayer and in favor of the taxing authority (**Insular Lumber Company vs. Court of Tax Appeals and Commissioner of Internal Revenue, G.R. No. L-31057, May 29, 1981; Commissioner of Internal Revenue vs. Court of Tax Appeals and Insular Lumber Company, G.R. No. L-31137, May 29, 1981, 104 SCRA 710; and Commissioner of Internal Revenue vs. Rio Tuba Nickel Mining Corporation and The Court of Tax Appeals, G.R. Nos. L-83583-84, March 25, 1992, 207 SCRA 549**).

WHEREFORE, in view of the foregoing, the petition for review is hereby **DISMISSED** for lack of merit. Accordingly, petitioner's claim for refund is **DENIED**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

RAMON O. DE VEYRA
Associate Judge

AMANCIO Q. SAGA
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
Court of Tax Appeals