REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GEOPHYSICAL SERVICES INC.,
Petitioner,

- versus -

CTA CASE NO. 3727

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

11/15/84

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

# D E C I S I O N

This case involves a claim for refund of the sum of P246,256.52 representing alleged overpaid income tax for the taxable year 1981.

The facts upon which petitioner relies in claiming a refund are as follows:

Petitioner is a foreign corporation engaged in petroleum operations under Presidential Decree No. 1354 in the Philippines.

For the taxable year ended December 31, 1981 petitioner filed its corporate income tax return (Exh. B) with the respondent's bureau on April 15, 1982 (Exh. B-1) declaring therein a gross income of P4,647,725.00 (Exh. B-2) as its 1981 earnings.

The income tax due thereon was P371,818.00 (Exh. B-3). After crediting the total amount of P85,000.00 (Exhs. B and O), representing the 8% tax withheld by its withholding agents, petitioner's final income tax return showed a tax still due in the amount of P286,818.00 (Exhs. B-4 and B-4-a), which amount was paid on April 15, 1982 as evidenced by BIR Revenue Tax Receipt A-9198489 (Exh. C and C-1) and Central Bank Confirmation Receipt A-9526723 (Exhs. D, D-1).

On January 29, 1982, Whitestone Philippines Inc., as one of petitioner's withholding agents, likewise remitted to the bureau the amount of P246,256.52 representing the 8% witholding tax on its payment to the petitioner of P3,078,206.66 Exh. J-1), evidenced by certificate of tax withheld at source (Exh. J). The withheld tax was paid through Interport Resources Corporation, Whitestone's joint venture partner, as evidenced by BIR Revenue Tax Receipt No. 8306131 (Exh. L) and Central Bank Confirmation Receipt No. A-8775905 (Exhs. M, M-1).

It appears however that petitioner was apprised of such payment by the withholding agent only on July 9, 1982.

Posited thus, "In view of the fact that Whitestone Philippines, Inc. had withheld and remitted the amount of P246,256.52, which represents 8% withholding tax of the gross income of P3,078,206.66, to the government from its payment to the petitioner, an overpayment resulted when petitioner included in its gross income tax the said amount of P3,078,206.66 and accordingly paid the tax due, without the benefit of the tax credit for P246,256.52 withheld by Whitestone Philippines, Inc.".

Computed this wise:

| | | |
|---|---|---|
| Gross Income | | P4,647,725.00 |
| Total Tax Due | P371,818.00 | |
| Less: | | |
| Withholding tax at source under P.D. 1354 | 85,000.00 | |
| Withholding tax paid by Interport Resources Corporation/ Whitestone Phils. | P246,256.52 | |
| Amount of tax still due | P 40,561.48 | |
| Less: | | |
| Amount of tax paid | 286,818.00 | |
| EXCESS TAX PAYMENT | P246,256.52 | |

(Petitioner's brief, pp. 2 and 6)

On August 24, 1982 (Exh. A-1) petitioner filed with the respondent's office a claim for the refund of the amount of P246,256.52 (Exh. A) which the respondent neither had granted nor otherwise acted upon as the date of filing the instant petition for review on January 25, 1984.

It does not appear that the respondent disputes the relatively simple material facts but for the legal presumption that the amount sought to be refunded has been collected in accordance with law and that the burden of proving entitlement therefor if otherwise erroneously collected lies with the taxpayer.

The sole issue presented is whether the petitioner has established a valid claim to the refund of an alleged overpaid income tax for the taxable year ended December 31, 1981.

The case before us hardly presents a gripping question. As thus shown the basis for the claim is not short of specific support in erms of tractable data openly laid and fully disclosed, as such deserves the credence normally accorded in the absence of contrary evidence. Respondent points to no factual errors nor superfluities that need be abridged. Neither was there any deficiency assessment issued. And the records make it clear that the requisite statements and certifications of the income tax paid and remitted upon which tacked the claimed refund for the overpayment could readily furnish the basis for a definite resolve but official action appears to have remained at idling speed so to speak.

Suffice it therefore, upon the records both the circumstances obtaining and the relevant legal standards compel the conclusion that petitioner has proved entitlement to a favorable determination.

WHEREFORE, finding the petitioner's claim well taken the refund of the amount sought is hereby granted. No costs.

SO ORDERED.

Quezon City, Metro Manila, November 15, 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