REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ATENEO DE MANILA UNIVERSITY,
Petitioner,

- versus -

C.T.A. CASE NO. 3656

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

10/31/90

D E C I S I O N

A simple claim for refund of an alleged overpaid income taxes for the fiscal years ended March 31, 1981 and March 31, 1982.

Petitioner, a domestic corporation, non-stock and non-profit, organized and operated for educational purposes, had for its income tax returns the following declarations:

FY ended March 31, 1981

Gross income	P10,453,786.00
Total deductions	10,497,834.00
Amount subject to tax	None
Income tax due thereon	None
Tax withheld at source	83,683.31
Amount refundable	83,683.31

(Exh. H, pp. 135-140, CTA recs.)

FY ended March 31, 1982

Gross income	P11,088,971.00
Total deductions	11,323,006.00
Amount subject to tax	None

Income tax due thereon	None
Income tax withheld at source	191,716.40
Amount refundable	191,716.40

(Exh. I-1, pp. 145-151, CTA recs.)

On February 17, 1983, petitioner filed a claim for the refund of P275,399.71 representing the total refundable amounts for the fiscal years 1981 and 1982. (Exh. K)

No sooner than the respondent Commissioner of Internal Revenue could act on the claim, petitioner filed the present petition for review on July 7, 1983 to toll the two-year statutory period of limitations.

The issue under resolve is essentially addressed to whether petitioner has established a valid claim to the refund of excess income tax payments for the taxable years in question.

Respondent would have it impressed that the administrative claim as well as the judicial suit must show compliance with the requisites prescribed under the pertinent provisions of the Tax Code. "In any case, no suit nor proceeding shall be begun after the expiration of the two years from date of payment of the tax or, penalty regardless of the supervening cause that may arise after payment." (Section 292, Tax Code.) And, "No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two years after the payment of the tax or penalty." (Sec. 292, *ibid*.)

Construed, "This apparent contentious quibble on computation of the two-year prescriptive period under Section 292, *ibid*, had been squarely resolved in earlier decisions of the Supreme Court which lend settling eloquence to the precise issue in the case at bar. Thus, in a case where the tax is payable in quarterly installments the final payment is the last quarter payment at the end of the tax year when it is finally ascertained that the taxpayer either made a profit or suffered losses. (***Commissioner of Internal Revenue v. Asia Australia Express, Ltd., G.R. No. 85956, April 10, 1989.***) And the taxpayer has until the fourth month following the close of the fiscal year period within which to file a final adjustment return of the preceding fiscal year (Sec. 87, Tax Code), which may well be the reckoning date for the two-year prescriptive period." (***Unibake Incorporated v. Commissioner of Internal Revenue, CTA Case No.3987, July 31, 1989; Unimart Incorporated v. The Commissioner of Internal Revenue, CTA Case No. 3986, September 28, 1990.***)

Applied in the instant case, petitioner had until July 15, 1981 and July 15, 1982 or the 15th day of the fourth month following the close of the respective fiscal periods within which to file the final adjustment return and pay whatever taxes that may be due. And the administrative claim as well as the judicial suit for refund were filed on February 7, 1983 and July 7, 1983, respectively, which well comport within the two-year statutory proscription tolled from the dates above indicated, hence seasonably filed.

It does appear that the petitioner's income tax returns reflected net losses with no corresponding income taxes due for the two fiscal years in question, but showed creditable income taxes withheld which cannot be applied for tax liabilities of the petitioner. The taxes withheld from the petitioner's receivable incomes were covered by such requisite statements and certifications of taxes withheld at source consistent with the prescribed revenue regulations aggregating P83,683.31 for the FY 1981 (Exhs. F-1 to F-39, inclusive) and P191,716.40 for FY 1982 (Exhs. J-1 to J-15, inclusive).

It does not appear that the respondent presented any evidence controverting the correctness of the returns and other material facts. As a factly matter, respondent submitted the case for decision on the basis of the pleadings and the BIR records after petitioner had presented its evidence. "Since one who prays for judgment on the pleadings without offering proof as to the truth of his allegations, must be understood to have admitted the truth of all the material and relevant allegations of the opposing party and to rest his motion for judgment on the allegations taken together with such of his own as are admitted (*Bauermann v. Casas, 10 Phil. 386; Evangelista v. De la Rosa, et al., 76 Phil. 115*) respondent may be considered as not questioning seriously petitioner's entitlement to its claim for refund. More so when the evidences presented which were not disputed by respondent, sufficiently established petitioner's right to the refund." (*Commonwealth Management and Service Corporation v. Commissioner of Internal Revenue, CTA Case No. 3232, June 26, 1985.*) We hesitate to further fashion an issue into this satisfactorily settled rule.

All told, the case before Us hardly presents a gripping question. As thus shown the basis for the claim is not short of specific support in terms of tractable data openly laid and fully disclosed.

Going by the records, petitioner's income tax returns for the taxable years have shown losses and excess withheld income tax payments. Respondent points to no factual errors nor superfluities which need be abridged. Neither were there any deficiency assessments issued. Moreover, the records make it clear that the requisite statements or certifications of the income taxes withheld and deducted by the withholding agents through which respondent collected the income taxes and upon which tacked the claimed refund could furnish the basis for a definite resolve.

As thus, both circumstances obtaining and relevant legal standards compel the conclusion that petitioner has proved entitlement to a favorable determination of the desired relief.

WHEREFORE, respondent is hereby ordered to grant the refund of the total amount of P275,399.71 representing erroneously paid income taxes for the Fiscal Years 1981 and 1982.

SO ORDERED.

Quezon City, Metro Manila, October 31, 1990.

ALEX Z. REYES
Associate Judge

I CONCUR:

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 between the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

CONSTANTE C. ROAQUIN
Associate Judge
Court of Tax Appeals