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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

KAWASAKI HEAVY INDUSTRIES,
LTD.,
Petitioner,

- versus - CTA CASE NO. 3502

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

6/8/89

D E C I S I O N

This case involves a claim for refund of the amount of P700.658.00 representing overpaid income tax for the fiscal year ending March 31, 1981, arising from the balance of erroneously withheld 35% withholding at source computed as follows:

Income & Corporate Dev. Tax due taxable year ended March 31, 1981	P300,271.00	(Exh. V)
Branch Profit Remittance Tax-taxable year ended March 31, 1989	64,640.00	(Exh. V-1)
Total	P364,911.00	
Less: Overpaid income tax carried forward from ended March 31, 1980	477,993.00	(Exhs. U-1;V)
	(P113,082.00)	
Tax withheld (35%) by Petitioner's clients during FY ended March 31, 1981	(587,576.00)	(Exh. V)
Amount claimed	P700,658.00	

Petitioner is a resident foreign corporation duly licensed to engage in business in the Philippines through its Manila Branch Office. *(par. 1, Petition; admitted par. 1, Answer.)*

During the fiscal year ending March 31, 1980, for royalties and technical services rendered to Kawasaki Motor (Philippines) Corporation (hereinafter called KMPC for brevity) and Philippines Shipyard and Engineering Corporation (hereinafter called PHILSECO for brevity), on various occasions, remitted to petitioner's home office in Japan service fees and royalties due the petitioner. In remitting the same, KMPC and PHILSECO erroneously withheld and remitted to respondent's Bureau the 35% tax on said royalty fees imposable on non-resident foreign corporation in the total amount of P1,991,223.24 as shown below:

BY KMPC

Date	Official Receipt No.		Amount	Exhibit
11-24-78	CR	A-37610425	P113,347.45[*]	X
04-27-79	CR	A-2555486	67,865.78	C
	RTR	A-0784191		C-1
03-12-79	CR	A-1774319	20,447.66	W
11-20-79	CR	A-2896114	114,880.43	D
	RTR	A-2693626		D-1
04-24-80	CA	A-929602	70,163.57	E
	RTR	A-4353934		E-1
Sub Total			P386,704.89	

BY PHILSECO

Date	Official Receipt No.	Amount	Exhibit
04-29-80	CR A-3635795	P1,499,125.31[**]	G
	RTR A-4648646		G-1
06-17-80	CR A-3638530	105,393.04	F
	RTR A-5096306		F-1
Sub Total		P1,604,518.35	
Grand Total		P1,991,223.24	

On July 15, 1980, petitioner filed with respondent's RDO 32, Makati, its corporate annual income tax return *(Exh. U)* for the fiscal year ending March 31, 1980. In said return, it credited the erroneous withholding tax payment of P1,991,223.24, against its income tax liability of P1,292,944.00. Accordingly, there resulted a refundable amount of P698,279.24 for said fiscal year 1980.

When petitioner filed its return for its profit remittance tax *(Exh. U-1)*, which tax amounted to P220,286.00, it applied its 1980 overpaid income tax in the sum of P698,279.24 against said tax. Consequently, there remained a balance of P477,993.24 which constitutes petitioner's 1980 adjusted overpaid income tax.

During petitioner's fiscal year ended March 31, 1981, KMPC and PHILSECO likewise remitted royalty and technical service fees to petitioner's home office in Japan. As in the previous year 1980, the former erroneously subjected said income of petitioner to the 35% withholding tax imposable on non-resident foreign corporations, which tax amounted to P587,576.11 as shown in the schedule of withholding tax at source *(Exhibit H)* as follows:

BY KMPC

Date	Official Receipt No.	Amount	Exhibit
10-08-80	CR A-5403337 RTR A-4781190	P 37,731.50	I I-1
03-30-81	CR A-7143341 RTR A-6086200	31,587.07	J
Sub Total		P 69,318.57	

BY PHILSECO

Date	Official Receipt No.	Amount	Exhibit
07-28-80	CR A-3642690 RTR A-5096586	P 73,382.40	K K-1
07-28-80	CR A-3642693 RTR A-5096585	39,243.70	L L-1
09-30-80	CR A-5670107 RTR A-5096995	102,212.26	M M-1
10-29-80	CR A-5156032 RTR A-5097085	41,441.10	N N-1
11-24-80	CR A-5782114 RTR A-5097152	41,961.30	O O-1
12-29-80	CR A-5653882 RTR A-5097244	40,982.15	P P-1
01-23-81	CR A-6311718 RTR A-5097404	49,787.60	Q Q-1
02-24-81	CR A-5718309 RTR A-5816572	42,035.40	R R-1

03-23-81	CR A-7034422		
	RTR A-6556127	45,484.56	S
04-27-81	CR A-7524450	41,727.07	T
	RTR A-6559718	45,484.56	T-1
Sub Total		P518,257.54	
Grand Total		P587,576.11	

When petitioner filed its amended corporate annual income tax return on August 26, 1981 for fiscal year ending March 31, 1981 *(Exh. V)*, it showed a refundable amount of P765,298.00 computed as follows:

Net Income	P795,846.00	
Tax Due		P300,271.00
Less:		
1) 35% withholding tax	587,576.00	
2) Tax Refundable	477,993.00	(1,065,569.00)
Amount of Tax Refundable		-(P 765,298.00)

When petitioner filed its amended return for the branch profit remittance tax *(Exh. V-1)*, it credited its 1981 income tax refund of P765,298.00 *(Exh. V-1-a)* against its branch profit remittance tax liability of P64,640.00. Consequently, there remained a balance of P700,658.00, which constitutes petitioner's adjusted income tax refund for 1981.

On July 9, 1982, petitioner through its auditors SGV & Co., filed with respondent's office a claim for refund *(Exh. A)* in the amount of ₱700,658.00.

The only issue posed for determination is whether or not petitioner is entitled to the refund claim of ₱700,658.00.

We agree with the claim for refund of the amount of ₱700,658.00. This amount represent erroneously withheld 35% withholding tax at source computed as follows:

Income & Corporate Dev. Tax due taxable year ended March 31, 1981	₱300,271.00	(Exh. V)
Branch Profit Remittance Tax-taxable year ended March 31, 1989	64,640.00	(Exh. V-1)
Total	₱364,911.00	
Less: Overpaid income tax carried forward from FY ended March 31, 1980	477,993.00	(Exhs. U-1;V)
	(₱113,082.00)	
Tax withheld (35%) by Petitioner's clients during FY ended March 31, 1981	(587,576.00)	(Exh. V)
Amount claimed	₱700,658.00	

It is apparent that the refundable amount of ₱700,658.00 is composed of the 35% withholding tax paid in the amount of ₱587,576.00 and a portion of the overpaid income tax carried forward for fiscal year ended March 31, 1980 in the amount of ₱477,993.00, thus:

From 1981 withholding tax	P587,576.00
From P477,993.00 carried forward from FY ended March 31, 1980	113,082.00
T o t a l	P700,658.00

WHEREFORE, the claim for refund of petitioner Kawasaki Heavy Industries, Ltd., in the sum of P700,658.00 is hereby granted.

No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, June 1, 1989.

CONSTANTE C. ROAQUIN
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge

CERTIFICATION

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
AMANTE FILLER
Presiding Judge
Court of Tax Appeals