Lit.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FILIPINAS MANAGEMENT AND
LEASING CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 3772

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

6/1/89

D E C I S I O N

This is a claim for refund of the amount of P53,849.00 for overpaid income tax for the year 1980.

For the year ended December 31, 1981, petitioner filed a corporate annual income tax return with respondent showing a net loss of P25,138.00 (Annex D, Petition for Review, p. 9, CTA rec.) and thus there is no income tax liability. In the same year, there was withheld from the petitioner's gross income taxes amounting to a total of P53,849.00. Hence, in 1981, it had no tax liability against which to credit the withheld amount of taxes of P53,849.00.

On January 13, 1983, petitioner filed with respondent a letter dated January 12, 1983 requesting for the refund of the total amount of P56,315.00. However, petitioner's total refund claim amounts to P53,849.00 for the reason that in carrying forward withholding taxes at source amounting to P18,856.00 the amount of P2,466.00, representing income tax due for the calendar year 1980 was not considered or deducted therefrom. Hence, on March 15, 1983, petitioner filed another request for refund reflecting the corrected refundable laimed amount in the 1980 final adjusted return. Petitioner therefore claimed a refund of the total amount of P53,849.00 amounting to the following:

Overpaid/Refundable income taxes for calendar year 1980 carried forward for Section 86 of the Tax Code	P16,190.00
1981 taxes withheld at source......	37,659.00
Total amount claimed..........	P53,849.00

Respondent Commissioner of Internal Revenue has submitted this case based upon the pleadings and records.

The sole issue in this case is whether or not petitioner is entitled to the claim for refund of P53,846.00.

It has been established by petitioner that there was an overpayment of the income tax for the year 1980 at P16,190.00. (Exh. C, p. 82, CTA rec.) It was equally shown that there were 1981 taxes withheld by clients amounting to a total of P34,012.01. (Exhs. E, FF, GG, HH, II, JJ, KK, LL, MM.) Since a taxpayer can claim for a refund only so much as it can prove, petitioner is entitled to the refund only of the sum of P50,202.01 out of the total claim of P53,849.00.

WHEREFORE, petitioner is entitled to the judicial refund of the sum of P50,202.01 computed as follows:

Overpaid/Refundable income taxes for the year 1980 carried forward under Section 86 of the Tax Code	P16,190.00
1981 taxes withheld at source...	34,012.01
Total refund	P50,202.01

Without 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

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