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AMERICAN EXPRESS INTERNATIONAL,
INC.,
Petitioner,

- versus - C.T.A. CASE NO. 3736

THE COMMISSIONER OF INTERNAL
REVENUE,
Réspondent.

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D E C I S I O N

For the years 1977 to 1980, petitioner had an accumulated branch profit totalling ₱1,399,105 which it intended to remit abroad. However, before filing an application for remittance with the Central Bank of the Philippines, it withheld for said profit the amount of ₱209,866.00 representing 15% branch profit remittance tax imposed under Section 24(b)(2) of the Tax Code and paid the same to the Bureau of Internal Revenue on February 18, 1982, as evidenced by BIR Revenue Tax Receipt No. 8551725 (Exh. C-1) and Central Bank Confirmation Receipt No. 9483539 (Exh. C-2).

When the application for remittance was actually filed with the Central Bank, the same was not approved due to certain technicalities and so the accumulated branch profits of petitioner for the years 1977 to 1980 totalling ₱1,399,105.00 was not actually remitted abroad.

In a ruling dated January 21, 1980, respondent Commissioner of Internal Revenue ruled that "the 15% branch profit remittance tax shall be imposed on the profit actually remitted and not on the total branch profit out of which the remittance is to be made". This ruling is plainly in accordance with Section 24(b)(2) of the Tax Code which provide in part thus-

> "xxx Provided, further, that any profit remitted abroad by a branch office to its mother company shall be subject to tax of fifteen percent (except those registered with the Export Processing Zone Authority) xxx." /Emphasis supplied/.

On August 18, 1983, petitioner filed with respondent Commissioner of Internal Revenue, a claim for refund of the total amount of ₱209,866.00 representing its erroneous payment of branch profit remittance tax, pursuant to Section 295 of the Tax Code which up to the present respondent has not acted upon (Exh. E). Hence, this appeal.

The sole issue in this case is whether or not petitioner is entitled to the refund of the sum of ₱209,866.00 as erroneous payment of branch profit remittance tax.

Considering the fact that aforementioned branch profits of petitioner for the years 1970 to 1980 were not actually remitted abroad, pursuant to the provisions of Section 24(b)(2) of the Tax Code and ruling of the Commissioner of Internal Revenue dated January 21, 1980, it is not liable for the 15% branch profit remittance tax, and hence petitioner is entitled to the refund of the full amount of ₱209,866.00 which it remitted to the Bureau of Internal Revenue on February 18, 1982.

WHEREFORE, the Commissioner of Internal Revenue is hereby ordered to refund to petitioner American Express International Inc., the sum of ₱209,866.00 representing 15% branch profit tax imposed under Section 24(b)(2) of the Tax Code.

No pronouncement as to costs.

SO ORDERED.

Quezon City, January 27, 1988.

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