REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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HEWLETT-PACKARD PHILIPPINES CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7756

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:

AUG 06 2009 ;10:05am

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DECISION

ACOSTA, *PJ.*:

The instant Petition for Review seeks the refund or issuance of tax credit certificate in the amount of P2,283,079.36, representing petitioner's erroneous double payment of its Expanded Withholding Tax liability for March 2006.

Hewlett-Packard Philippines Corporation (Petitioner) is a domestic corporation organized and existing under Philippine laws, with principal office address at Robinsons Summit Center, 6783 Ayala Avenue, Makati City.[1]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of his office, including among others, the duty

[1] Annex "A", Petition for Review, docket, p. 12.

to act upon and approve claims for refund or tax credit as provided by law. He holds office at the 4th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner is engaged in the business of importing, assembling, selling and distributing computer, electronic components and parts, and computer systems and equipment. It is likewise engaged in software development and system integration, design and implementation, and other related activities.

Petitioner is registered with the BIR as a large taxpayer as evidenced by its Certificate of Registration OCN8RC0000018609 and Taxpayer Identification No. (TIN) 003-956-294-000. It is also enrolled with the BIR's Electronic Filing and Payment System (EFPS).

Under the EFPS, the taxpayer pays the tax due on the return being filed using electronic fund transfer. Tax payments through electronic fund transfer are deemed paid after a Confirmation Number is issued to the taxpayer and to the BIR by the Authorized Agent Bank. Under the electronic fund transfer mechanism of the EFPS, funds are transferred from the taxpayer's bank account to a bank account belonging to the BIR upon acknowledgment that each filed return has a corresponding payment transaction number. The EFPS indicates the date and time when a specific return is filed and paid by the taxpayer.[2]

Petitioner claims that it made an erroneous double payment of its Expanded Withholding Tax (EWT) for March 2006 on April 12, 2006.

On April 12, 2006 at about 9:01 A.M., petitioner allegedly processed for payment through the EFPS its EWT amounting to P2,283,079.36 (hereinafter referred to as the "Original Return").

While processing the return, petitioner encountered a system problem while attaching the electronic copy of the Alpha List which is to be filed together with the return.

[2] Pars. 1 to 4, Joint Stipulation of Facts, docket, pp. 83-84

Notwithstanding the same, petitioner completed the processing of the Original Return without having attached the electronic copy of the Alpha List. The EFPS print-out of the Original Return bears Reference No. 020600001011134.[3]

After processing the Original Return, petitioner tried to file the Alpha List through E-Submission using the BIR Website, but failed. Hence, on the same day, petitioner decided to file an Amended Return through EFPS, attaching the Alpha List. The same was processed at 9:21 A.M. The EFPS print-out of the Amended Return bears Reference No. 020600001011233.[4]

Petitioner later discovered that both the Original and the Amended Returns for its EWT for March 2006 were processed by the EFPS and its bank[5] debited twice the amount of P2,283,079.36.

On April 18, 2006, petitioner filed with the BIR a hard copy of the March 2006 EWT Remittance Return and the Schedule of Expanded Withholding Taxes.[6]

On February 14, 2008, petitioner filed its Application for Refund for the said double payment.[7]

Due to respondent's inaction on petitioner's administrative claim for refund, petitioner filed the instant Petition for Review on April 10, 2008.

In his Answer[8] filed on May 16, 2008, respondent interposed the following Special and Affirmative Defenses:

> "4. Petitioner failed to demonstrate that the tax subject of the case at bar was erroneously or illegally collected.
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> 5. Taxes paid and collected are presumed to have been made in accordance with law and regulations, hence, not refundable.

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[3] Exhibit "B"
[4] Exhibit "D"
[5] Exhibits "F" and "F-1"
[6] Exhibit "H"
[7] Annex "H", Petition for Review, docket, pp. 42-44
[8] Docket, pp. 67-68

6. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to refund and failure to adduce sufficient proof is fatal to the action for tax refund/credit.

7. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the 1997 Tax Code.

8. Claims for refund are construed strictly against the claimant for the same partakes the nature of exemption from taxation **(Commissioner of Internal Revenue vs. Ledesma, G.R. No. L-13509, January 30,1970, 31 SCRA 95)** and as such, they are looked upon with disfavor **(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 121)**."

During trial, petitioner filed its Formal Offer of Evidence on September 29, 2008; while respondent's counsel manifested that he is submitting the case for decision.[9]

On March 30, 2009, the case was submitted for decision, considering petitioner's Memorandum filed on March 19, 2009, sans respondent's Memorandum.

The parties submitted the following jointly stipulated issues[10] for this Court's resolution:

"1. Whether or not Petitioner made a double payment of its Expanded Withholding Tax liability for March 2006.

2. Whether or not the Petitioner's claim for refund/tax credit allegedly representing double payment of its Expanded Withholding Tax liability for March 2006 in the amount of P2,283,079.36 is substantiated by documentary evidence."

The foregoing issues can be summarized as follows:

"Whether or not petitioner is entitled to the issuance of tax credit certificate or refund of the amount of P2,283,079.36, arising from double payment of its Expanded Withholding Tax Liability for March 2006."

Before proceeding to the main issue, the Court deems it appropriate to determine first whether the refund claim was timely filed.

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[9] Docket, p. 283
[10] Docket, pp. 84-85

Section 229 of the National Internal Revenue Code (NIRC) of 1997 lays down the requisites for refund of tax erroneously collected, which reads as follows:

> "**SEC. 229. Recovery of Tax Erroneously or Illegally Collected.** - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
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> In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid."

This is congruent with the authority of respondent to refund erroneously collected taxes as stated in Section 204 of the same Code, to wit:

> "**SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes**. - The Commissioner may –
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> xxx xxx xxx
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> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. 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 (2) years after the payment of the tax or penalty: *Provided, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.
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> xxx xxx xxx"

From the afore-quoted provisions, petitioner has two (2) years from the payment of tax within which to file its claim for refund.

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In the instant case, petitioner paid its Expanded Withholding Tax liability for March 2006 on April 12, 2006. Petitioner filed its administrative Application for Refund for the alleged double payment with respondent on February 14, 2008 and its judicial claim for refund on April 10, 2008. Counting from petitioner's date of payment, both administrative and judicial claims of petitioner fall within the two-year prescriptive period.

The Court now proceeds to determine petitioner's entitlement to the claim for issuance of tax credit certificate or refund.

Petitioner submitted the following documents to prove that it made a double payment of its March 2006 EWT:

1. EFPS printout of Original EWT Return for March 2006[11];
2. EFPS printout of Amended EWT Return for March 2006[12];
3. EFPS printout of payment confirmation for Original EWT Return for March 2006[13];
4. EFPS printout of payment confirmation for Amended EWT Return for March 2006[14]; and
5. Bank Statement for petitioner's BPI-Maxi-One-Corp Account No. 00-11-1423-89 for the period March 31 to April 30, 2006[15].

A perusal of these documents reveals that both the Original and Amended Returns filed through the EFPS were successfully processed and paid. The double payment was also evident from petitioner's bank account, where the tax payments of P2,283,079.36 were debited twice. Petitioner's alleged double payment can be seen from the tax payment confirmation summarizing payments made on April 12, 2006, generated from petitioner's BPI Expresslink internet account.[16] The Reference Nos. 020600001011134 and 020600001011233 correspond to the reference numbers for the Original and

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[11] Exhibit "B"
[12] Exhibit "D"
[13] Exhibit "C"
[14] Exhibit "E"
[15] Exhibit "F"
[16] Exhibit "G"

Amended Returns and their respective payment confirmations of P2,283,079.36. Moreover, the payment transaction numbers and acknowledgment numbers for the two foregoing payments correspond to the payment transaction numbers and acknowledgment numbers in the payment confirmation.

Indeed, the pieces of evidence presented by petitioner established that it filed and paid twice on April 12, 2006 the amount of P2,283,079.36 as its EWT for March 2006 through the EFPS.

Equally noteworthy is the fact that the parties jointly stipulated that petitioner has two (2) Expanded Withholding Tax Returns (Form 1601-E) for March 2006 filed through EFPS on April 12, 2006 – one filed at 9:01 A.M. and the other at 9:21 A.M. – and both cover the amount of P2,283,079.36.[17]

The Supreme Court in the case of **UST Cooperative Store vs. City of Manila, *et al.***,[18] declared that payment of taxes under a mistake of fact is recoverable, thus:

> "A payment of taxes under a mistake of fact has been held not to be voluntary, and is therefore recoverable. (51 Am. Jur. 1023)
>
> On principle, a recovery should be allowed where money is paid under a mistake of fact although such mistake of fact may be induced by a mistake of laws, or where there is both a mistake of fact and a mistake of law. (40 Am. Jur. 846)
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> When money is paid to another under the influence of a mistake of fact — that on the mistaken supposition of the existence of a specific fact which would entitle the other to the money — and it would not have been known that the fact making the payment was otherwise, it may be recovered. The ground upon which the right of recovery rests is that money paid through misapprehension of facts belongs, in equity, and in good conscience, to the person who paid it. (4 Am. Jur. 514)"

In the instant case, petitioner, believing that the Original Return was not successfully processed and paid, made a mistake in filing an Amended Return a few minutes after filing its Original Return; which was also successfully processed and paid. Such payment is held to be not voluntary and, therefore, can be recovered or refunded.

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[17] Par. 6, Joint Stipulation of Facts, docket, p. 84
[18] G.R. No. L-17133, December 31, 1965

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Petitioner undoubtedly made a double payment of its Expanded Withholding Tax liability for March 2006; hence, petitioner is entitled to a refund.

The High Tribunal in **The Commissioner of Internal Revenue vs. Acesite (Philippines) Hotel Corporation**[19], held that tax refunds are based on the principle of quasi-contract or *solutio indebiti*. The pertinent laws governing this principle are found in Articles 2142 and 2154 of the Civil Code, to wit:

> "Art. 2142. Certain lawful, voluntary, and unilateral acts give rise to the juridical relation of quasi-contract to the end that no one shall be unjustly enriched or benefited at the expense of another."
>
> "Art. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises."

Basic is the principle that when money is paid to another under the influence of a mistake of fact, it may be recovered. The Government is not exempt from the scope of *solutio indebiti* principle.[20] There being no doubt that petitioner paid its EWT for March 2006 twice, there arises an obligation on the part of respondent to return what was mistakenly paid by petitioner.

WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **TWO MILLION TWO HUNDRED EIGHTY-THREE THOUSAND SEVENTY-NINE PESOS AND 36/100 (P2,283,079.36)**, representing petitioner's Expanded Withholding Tax liability for March 2006.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

[19] G.R. No. 147295, February 16, 2007
[20] Commissioner of Internal Revenue v. Fireman's Fund Insurance Company, *et al.*, G.R. No. L-30644, March 9, 1987

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division