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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

UNITED ARTISTS PHILIPPINES, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 3206

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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12/89

# D E C I S I O N

This is a claim for refund of the amounts of P149,843.00 and P526,881.13 representing overpaid income tax for fiscal year ended November 30, 1978 and 1979.

Petitioner is a resident foreign corporation licensed to engage in business in the Philippines.

On March 5, 1979 (Exh. E-1) petitioner filed its corporate annual income tax return (Exh. E) for fiscal year ended November 30, 1978.

Its corporate annual income tax return for fiscal year 1978 showed the following:

| | | | |
|---|---|---|---|
| Net Income | | | P230,688.00 |
| Tax due thereon | | P 82,275.00 | |
| Less: Credits | | | |
| (a) 5% Tax Withheld on film rentals | P 1,143.00 [1] | | |
| (b) Quarterly Tax Payments | | | |
| First qtr. | 225,365.00 | | |
| Second qtr. | 5,610.00 | | |
| Total Credits Available | | 232,118.00 | |
| Amount refundable | | | P149,843.00 [2] |

The first quarter income tax as shown in petitioner's declaration of net taxable income are for the quarter ended February 28, 1978 (Exh. B), in the amount of P225,365.00 (Exh. B-1) was paid on April 24, 1978 (Exh. B-2). On the other hand, the second quarter income tax, as shown in its declaration of net taxable income for the quarter ended May 31, 1978 (Exh. C) in the amount of P5,610.00 (Exh. C-1) was paid on July 25, 1978.

For the fiscal year ended November 30, 1979, petitioner's corporate annual income tax return (Exh. I) showed a net loss of P20,939.00 (Exhs. I-1, I-2) and showed a refundable amount of P676,723.00 (Exh. I-3) as follows:

| | | | |
|---|---|---|---|
| Net Loss | | | (P20,939.00) |
| Tax due thereon | | NIL | |
| Less: Credits | | | |
| (a) Amount refundable | P149,843.00 | | |
| (b) 5% tax withheld on film rentals | 526,881.00 [3] | | |
| Total credits available | | P676,723.00 | |
| Total amount refundable | | P676,723.00 [4] | |

Of the amount of P149,843.00, which consists of 5% tax withheld on film rental of P1,143.00 paid on November 30, 1978 (Exh. E-4), the 1st quarter payment of P225,365.00 was paid on April 24, 1978, and the 2nd quarter payment of P5,610.00 was paid on July 25, 1978.

Out of the amount of 5% tax withheld on film rental of P526,881.00, as at the end of the quarter 1979, the claim for refund counted from the date February 25, 1979 of this amount has not prescribed, and the petition for review having been filed on February 25, 1981, it was filed within 2 years from the time of the payment of the tax.

We note, however, that the amount of P1,143.00 was withheld on November 30, 1978 (Exh. E-4), the amount of P225,365.00 (Exh. B-1) was paid on April 24, 1978 (Exh. B-2), and the 2nd payment of P5,610.00 for the quarter ended May 31, 1978 (Exh. C & C-1) was paid on July 25, 1978 (Exh. C-2), which were paid by petitioner three years long before the prescriptive date of February 25, 1981. Thus, it is believed that these amounts of P1,143.00, P225,365.00 and P5,610.00 has prescribed.

In view of the foregoing, with the exception of the sum of P149,843.00, which has prescribed and therefore not refundable, the sum of P526,881.00 shown in the final income tax return of petitioner for fiscal year ended November 30, 1979 is refundable.

**WHEREFORE, the claim for refund of only the sum of P526,881.00 is hereby granted.**

**Without pronouncement as to costs.**

**SO ORDERED**

Quezon City, Metro Manila, June 3, 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