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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE PHILIPPINE AMERICAN
LIFE INSURANCE COMPANY,
Petitioner,

- versus -

C.T.A. CASE NO. 3868

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

8/24/88

D E C I S I O N

In its letter of September 26, 1984 to respondent Commissioner of Internal Revenue, petitioner the Philippine American Life Insurance Company requested for the refund of the amount of P133,084.00 representing overpaid income tax for the calendar year ended December 31, 1982. Since no action was taken seasonably by respondent on its claim for tax refund, petitioner filed the instant petition for review for recovery of the said amount of P133,084.00.

The facts are not disputed, respondent having submitted this case for decision on the basis of the pleadings and records after petitioner has presented its evidence. As alleged in the petition for review and admitted by respondent, and borne out by the records:

1. Petitioner is a corporation organized and existing under Philippine laws, with principal office at the Philamlife Building, United Nations Avenue, Ermita, Manila; while Respondent is the government official who heads the Bureau of Internal Revenue and holds office at the BIR National Office Building, Diliman, Quezon City.

2. For the first quarter ended March 31, 1982, petitioner filed its quarterly income tax return with the Bureau of Internal Revenue on May 31, 1982, in which return it declared a net taxable income in the amount of P19,685,876.00 and tax due thereon in the amount of P6,837,116.00. After crediting the amount of P18,730.00 representing foreign tax credits, petitioner's quarterly income tax return showed a tax in the amount of P6,818,386.00. This amount was paid on May 31, 1982. (Exhibits A, A-1, A-2, A-3, B, C.)

3. For the first and second quarters ended June 30, 1982, petitioner filed its cumulative quarterly income tax return with the Bureau of

Internal Revenue on August 30, 1982, in which return it declared a net taxable income in the amount of P31,619,689.00 and income tax due thereon in the amount of P10,966,962.00. After crediting the amount of P6,818,386.00 and P37,461.00, representing income tax paid for the first quarter and foreign tax credits, respectively, petitioner's cumulative quarterly income tax return showed a tax due in the amount of P4,111,115.00. This amount was paid on August 30, 1982. (Exhibits D, D-1, D-2, D-3, E, F.)

4. For the first, second, and third quarters ended September 30, 1982, petitioner filed its cumulative quarterly income tax return with the Bureau of Internal Revenue on November 29, 1982, in which return it declared a net taxable income in the amount of P39,824,724.00 and income tax due thereon in the amount of P13,773,417.00. After crediting the amounts of P6,818,386.00, P4,111,115.00 and P115,985.00 totalling P11,045,486.00 representing income taxes paid for the first and second quarters and foreign tax credits, respectively, against the aforementioned tax due, petitioner's cumulative quarterly income

tax return showed a tax due in the amount of P2,727,931.00. This amount was paid on November 29, 1982. (Exhibits G, G-1, G-2, G-3, H, I.)

5. For calendar year ended December 31, 1982, petitioner filed its final adjustments income tax return with the Bureau of Internal Revenue on April 15, 1983, in which return, it declared a net taxable income in the amount of P39,661,701.00 and income tax due thereon in the amount of P13,871,595.00. After crediting the amounts of P13,657,432.00, P208,786.00 and P138,461.00 totalling P14,004,679.00 petitioner's final adjustment return showed a refundable amount of P133,084.00. The amounts credited consist of the following:

Income tax paid for the first quarter of 1982	-	P 6,818,386.00
Income tax paid for the second quarter of 1982	-	4,111,115.00
Income tax paid for the third quarter of 1982	-	2,727,931.00
Tax withheld on rental income	-	208,786.00
Foreign tax credits on dividends	-	138,461.00
Total	-	P14,004,679.00

(Exhibits J, J-1 to J-17, L, M, N, O, P.)

6. On October 3, 1984, petitioner filed a claim for refund with respondent's Appellate Division in the total amount of P133,084.00 representing overpaid income tax for calendar year ended December 31, 1982. (Exhibits K, K-1, K-2.)

To date, respondent has not yet granted petitioner's claim for the refund of the said amount of P133,084.00.

Hence, this petition for review.

The lone question tendered for resolution is whether or not petitioner is entitled to the refund of the amount of P133,084.00 representing overpaid income tax for the calendar year ended December 31, 1982.

Respondent points to no legal nor factual reason or impediment which would hinder or interfere with the grant of the refund requested by petitioner. Respondent has not presented any evidence to rebut or contradict petitioner's evidence which sufficiently and adequately established petitioner's entitlement to the refund. As a matter of fact, even in his special and affirmative defenses in his answer to the petition for review, respondent seems to concede to the refundability of the amount requested by petitioner. Thus,

6. Implementing Sections 85 and 86 of the Tax Code, which require filing of corporate quarterly income tax returns and corporate final adjustment returns, the Ministry of Finance has issued B.I.R. Memorandum Circular No. 10-77, providing, among others, that any excess of the total quarterly payments over the actual income tax computed per adjustment return or final corporate income tax return shall be refunded to the corporation or may be credited against the estimated quarterly income tax liabilities for the quarters of the succeeding taxable year;

7. To insure prompt action on corporate annual income tax returns showing refundable amounts arising from overpaid quarterly income tax, the B.I.R. promulgated Revenue Memorandum Order No. 32-76 dated June 11, 1976, pursuant to which, the returns are pre-audited and the refund or tax credit is granted.

In fact, under paragraph 9 of his answer, respondent even contends that there is no need for petitioner to file a petition for review with this

Court to preserve the right to refund or tax credit within the 2-year period. And oddly, respondent asserts that a taxpayer may recover from the Bureau of Internal Revenue excess income tax paid under Section 86 of the Tax Code within ten (10) years from date of payment allegedly pursuant to Article 1144 of the Civil Code. While respondent states under paragraph 5 of his answer that the excess tax payments involved in this case are not illegally or erroneously collected taxes and therefore petition for review does not lie, in Commonwealth Management and Service Corporation vs. The Commissioner of Internal Revenue, CTA Case No. 3232, June 26, 1985, and Jardine Fleming (Philippines) Inc. vs. The Acting Commissioner of Internal Revenue, CTA Case No. 3667, January 20, 1988, this Court ruled that such excess tax payments are taxes erroneously paid refundable to the taxpayer. Indeed, the Government must set an example of fairness and honest dealing.

At any rate, the factual setting and the question involved in the above-cited cases are on all fours with the case at bar and this Court has already ruled:

"To prove these excess income tax payments, petitioner presented in evidence its income tax returns for the years involved, the corresponding official receipts for its income tax payments, as well as the various withholding tax certificates issued to petitioner. No controverting evidence was presented by respondent. As a matter of fact, as stated above, respondent submitted this case for decision on the basis of the pleadings and the records after petitioner has presented and offered its evidence. Since one who prays for judgment on the pleadings without offering proof as to the truth of his allegations, must be understood to have admitted the truth of all the material and relevant allegations of the opposing party, and to rest his motion for judgment on these allegations taken together with such of his own as are admitted (Bauermann vs. Casas, 10 Phil. 386; Evangelista vs. De la Rosa, et. al., 76 Phil. 115), respondent, as pointed out by petitioner, may be considered as not questioned seriously petitioner's entitlement to its claim for refund. (p. 86, CTA records).

We find no cogent reason to modify or depart from the conclusion reached in Commonwealth Management and Jardine Fleming, as expressed in the above-quoted opinion of the Court there, and the same should resolve the similar problem now brought before us in this proceeding.

ACCORDINGLY, respondent Commissioner of Internal Revenue is hereby ordered to refund to petitioner the Philippine American Life Insurance

Company the amount of P133,084.00 representing overpaid income tax for calendar year ended December 31, 1982.

SO ORDERED.

Quezon City, Metro Manila, August 24, 1988.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate 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