REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AYALA GENERAL INSURANCE CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 5905

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 07 2000

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DECISION

The petition at bar seeks the refund of the amount of P750,000.00 allegedly representing Petitioner's erroneously paid Documentary Stamp Tax (DST) on its original issuance of stock certificates covering P75,000,000.00 worth of shares to its stockholders.

As represented, Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, authorized to engage in the non-life insurance business, with principal office at the 11/F Multinational Bancorporation Centre, 6805 Ayala Avenue, Makati City.

Petitioner, upon its incorporation on October 7, 1996 had an Authorized Capital Stock of P200,000,000.00, P75,000,000.00 of which was subscribed and fully paid up by its stockholders.

Sometime after the Securities and Exchange Commission approved its incorporation on January 8, 1997, Petitioner allegedly caused the payment of documentary stamp tax (DST) in the total amount of P750,000.00 for the original issuance of stock certificates covering P75,000,000.00 worth of shares to its stockholders.

The same amount of P750,000.00 for the same purpose of payment of the DST on the original issuance of P75,000,000.00 worth of shares of Petitioner was alleged to have been paid again through the Documentary Stamps Metering Machine of Ayala Land, Inc. (ALI) on July 9, 1997 by the office of Petitioner's Corporate Secretary who holds office at a separate address at 32/F Tower One, Ayala Triangle, Ayala Ave., Makati City, and who was not informed of such previous payment.

The "double payment" was allegedly discovered when Ayala Land, Inc. (ALI) sent a Statement of Account to Petitioner asking for the reimbursement of the amount of P750,000.00 paid as DST on the latter's behalf as aforesaid.

On July 9, 1999, Petitioner filed with the Respondent its administrative claim for refund in the aforestated amount of P750,000.00 allegedly representing the DST which it paid twice, first on January 8, 1997, and second on July 9, 1997.

On the same date, July 9, 1999, Petitioner filed with this Court the instant Petition for Review.

In its Petition for Review, Petitioner contends that it is entitled to a refund or issuance of a tax credit certificate (TCC) for the DST erroneously paid on July 9, 1997 (second payment), in the amount of P750,000.00. It said that said DST of P750,000.00 for the same original issuance of stock certificates was already paid on January 8, 1997 (first payment), hence, there was double payment, and that Respondent is under obligation to return to Petitioner the claimed amount of P750,000.00.

On the other hand, Respondent argued that Petitioner is not entitled to the claimed refund on the ground that it failed to present sufficient proof to prove that the said documentary stamp tax was indeed paid twice and that the same went to the coffers of the government. Respondent averred that Petitioner did not present the Authority to Accept Payment (ATAP) which was necessary before payment of the documentary stamp tax can be effected, neither did it present as witnesses the persons from the United Coconut Planters Bank (UCPB) who issued the Certification that the bank received from Petitioner the amount of P750,000.00.

The issue which is presented for Our consideration is whether or not Petitioner had established by evidence its entitlement to the amount sought to be refunded.

It is a basic rule in an action for tax refund/credit that the party claiming the tax refund/tax credit has the burden of proving it. Claims for the refund or tax credit of taxes are in the nature of tax exemptions and being so, they are construed in *stictissimi juris* against the taxpayer and in favor of the taxing authority **(Commissioner of Internal Revenue vs. Rio Tuba Nickel Mining Corporation and the Court of Tax Appeals, G.R. Nos. L-83583-84, March 25, 1992, 207 SCRA 549).** In general, there is no disagreement that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund. Tax refunds, like tax exemptions, are construed strictly against the taxpayer **(Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue, 280 SCRA 459).** In doing so, Petitioner must rely on the strength of its evidence and not on the weakness of that of its opponent.

In the case at bar, Petitioner failed to support its claimed "double payment" of DST by substantial evidence. Substantial evidence has been construed to mean not necessarily preponderant proof as is required in an ordinary civil action, but such kind of "relevant evidence as a reasonable man might accept as adequate in support of a conclusion." **(De Lamera vs. Court of Agrarian Relations, et. al., 17 SCRA 368).** The evidence presented by Petitioner established that the latter indeed paid on July 9, 1997 the amount of P750,000.00 as DST for the 7,500,000 shares of stocks it issued to its stockholders thru the DST metering machine of ALI (Exhs. C to M) but failed to establish that on January 8, 1997 it earlier paid the same amount of P750,000.00 to the Respondent as payment for the DST of the same shares of stocks. The Court finds that the documents presented by Petitioner as evidence (Exhs. B to B-2) to support its claim of payment of DST on January 8, 1997 are not conclusive proof that Petitioner has paid the subject DST to the Respondent. The said Exhibits B to B-1 can only confirm the fact that there was a request for a preparation of a check amounting to P750,000.00 for DST on stock certificates and that a cash voucher was prepared for that amount, whereas, Exh. B-2 merely refers to a tax payment to the bank by petitioner without mention that it is for the DST of the subject certificates of stocks. Thus, the doubt on the alleged "first payment". The best evidence that Petitioner should have presented to support its claimed "first payment" of DST was the Authority to Accept Payment (ATAP), which is necessary before payment of documentary stamp tax can be effected. Petitioner not only failed to present such document; it also failed to explain the loss thereof, assuming they had existed before. The bank validation on the ATAP and the ATAP itself will serve as Petitioner's official receipt that will prove that indeed the amount of P750,000.00

allegedly constituting the "first payment" of DST was paid and remitted to the Government.

As stated earlier, tax refunds partake of the nature of tax exemptions, as such, they are regarded as in derogation of sovereign authority and is to be construed strictly against the person or entity claiming the refund, hence, the burden of proof is upon the claimant to establish its claimed refund. In the case at bar, Petitioner failed to discharge this burden, thus, this Court has no other recourse but to deny the claim for refund.

IN THE LIGHT OF ALL THE FOREGOING, the instant Petition for Review is **DENIED** for insufficiency of evidence.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge