REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

BPI FAMILY SAVINGS BANK, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 5326

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 2 2 1997

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DECISION

Before Us is a petition seeking for the refund of the amount of P322,500.18 representing overpaid 1993 fourth quarter final taxes on interest earned on time and savings deposits allegedly paid by petitioner to the Bureau of Internal Revenue on February 1, 1994.

The facts of the case are simple.

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, operating as a savings and mortgage bank.

In the course of its business operations, petitioner, through its various branches, accepts savings and time deposits from the public and the interest earned on these savings and time deposits is subjected to a final tax that is periodically remitted by petitioner to respondent.

On January 25, 1994, petitioner filed with the respondent its quarterly return (Exh. "A") of final taxes withheld on the interest earned on all deposits in all its branches. This return for the fourth quarter of 1993 showed a total amount payable of P54,343,725.36 which amount was remitted to the respondent simultaneously with its filing as evidenced by BPI Family Bank Check No. 022657 dated January 25, 1994 (Exh. "C"). A summary (Exhs. "A-6" to "A-9") of final taxes on deposits in petitioner's various branches, including its Ormoc Branch, was attached to the said return.

On February 1, 1994, petitioner's Ormoc Branch filed with respondent a quarterly return (Exh. "B-160") showing final taxes payable in the amount of P322,500.18 for the fourth quarter of 1993. Simultaneous with the filing of said quarterly return, petitioner's Ormoc Branch paid the respondent the amount of P322,500.18 as evidenced by BPI-Family Bank Check No. 000463 (Exh. "D").

Realizing that there was a duplication of payment to respondent of final taxes on interest earned on time and savings deposits for the fourth quarter of 1993 in the total amount of P322,500.18, the Branch Manager of petitioner's Ormoc branch filed a claim for refund (Exh. "E") with respondent's District Office at Ormoc City on May 23, 1994.

Considering that the two-year period mandated by law under Section 230 of the Tax Code is about to expire, inaction of the respondent on the aforementioned claim prompted the petitioner to file the instant petition before Us on January 30, 1996.

In her Answer, respondent asserted the following special and affirmative defenses:

> "3. The instant petition states no cause of action as it does not allege the date when the particular tax sought to be refunded was paid (Manufacturer's Bank and Trust Company, as

Trustee for General Trust Plan vs. Commissioner of Internal Revenue, CTA Case No. 1657, November 18, 1985);

4. In an action for refund, the taxpayer has the burden of showing that the taxes paid were erroneously collected and failure to sustain this burden is fatal to said action;

5. Claims for refund are construed strictly against the claimants since they are in the nature of tax exemption. It cannot be allowed unless granted in the most explicit and categorical language (Manila Electric Co. vs. Commissioner of Internal Revenue, 47 SCRA 351)."

Petitioner formally offered in evidence the following documents which were properly identified by its witnesses:

1. Consolidated Quarterly Return of Final Income Taxes Withheld on Interest Paid on Deposits and Yield on Deposit Substitutes (BIR Form 1745) of petitioner for the fourth quarter of 1993 (Exh. "A");

2. Transmittal Sheets showing the breakdown of the final taxes on interest paid on deposits and yield on deposit substitutes for each branch of petitioner for the fourth quarter (Exhs. "A-6" to "A-9");

3. Quarterly Return of Final Income Taxes Withheld on Interest Paid on Deposits and Yield on Deposit Substitutes of petitioner's Ormoc City Branch for the fourth quarter of 1993 which was appended as part of Exh. "A" (Exh. "B");

4. Individual Quarterly Returns of petitioner's different branches (except Ormoc Branch) ("B-2" to "B-159") for the fourth quarter of 1993;

5. Quarterly Return of Final Income Taxes Withheld on Interest Paid on Deposits and Yield on Deposit Substitutes of petitioner's Ormoc City Branch for the fourth quarter of 1993 filed by the Manager of petitioner's Ormoc City Branch on February 01, 1994 with the Development Bank of the Philippines, Ormoc City Branch (Exh. "B-160");

6. CPA Certification issued by Joaquin Cunanan & Co. (Exh. "B-161");

7. Microfilm copy of BPI-Family Bank Manager's Check No. 022657 dated January 25, 1994 payable to the Bureau of Internal Revenue for the account of BPI Family Bank amounting to

P54,343,725.36 (Exh. "C") and the corresponding disbursement voucher issued by the petitioner (Exh. "C-1);

8. Photocopy of manager's check dated January 31, 1994 issued by petitioner's Ormoc City Branch in favor of the Bureau of Internal Revenue amounting to P322,500.18 (Exh. "D");

9. Claim for refund dated May 23, 1994 filed by petitioner's Ormoc City Branch Manager with respondent's district office in Ormoc City (Exh. "E");

Respondent on her part presented as evidence the testimony of Assistant Revenue District Officer of Ormoc City, Romulo C. Regañon, who merely acknowledged receipt of the Annual Information Return of Final Income Taxes Withheld on Interest Paid on Deposits and Yield on Deposit Substitutes/Trusts/Etc. for the calendar year 1993 on January 31, 1994 (Exh. "1"). Said witness also admitted that he did not have the chance to verify the truthfulness of the return filed by the petitioner and that he was not actually the one assigned to handle the claim for refund filed by petitioner's Ormoc City Branch (TSN dated October 25, 1996, pp. 8 to 9 and 11).

The lone issue to be resolved in this case is whether or not the petitioner is entitled to the tax refund of P322,500.18 which allegedly represents the final taxes on interest earned on time and savings deposits erroneously paid by petitioner to the Bureau of Internal Revenue through its, Revenue District Office in Ormoc City on February 1, 1994.

We answer in the affirmative.

A thorough examination of all the documentary evidence submitted by the petitioner convinced Us that this is a clear case of double payment of tax. Records revealed that petitioner actually filed and remitted the payment of its final taxes corresponding to the fourth quarter of 1993 on interest earned on time and savings deposits of all its branches, including that of its Ormoc City Branch, to the Bureau of Internal Revenue on January 25, 1994. Inadvertently, the Ormoc City Branch of petitioner filed its own quarterly return for the fourth quarter of 1993 pertaining to the same final taxes amounting to P322,500.18 and actually remitted payment to respondent's Revenue District Office in Ormoc City. Undoubtedly then, since the same taxpayer paid the same kind and amount of tax for the same taxing period, a refund is in order.

WHEREFORE, premises considered, respondent is hereby ORDERED to GRANT tax refund of the sum of P322,500.18 to petitioner BPI-Family Savings Bank, Inc.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

RAMON O. DE VEYRA
Associate Judge

AMANCIO Q. SAGA
Associate Judge

CERTIFICATION

I hereby certify that this 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
Court of Tax Appeals