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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

CITYTRUST BANKING CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 5170

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

JAN 23 1997

x - x

D E C I S I O N

This is a petition seeking for the refund or issuance of a tax credit certificate amounting to P307,861.46 representing the alleged double payment of 20% final withholding tax on interest paid by petitioner on Agricultural Loan Fund Special Time Deposits for the month of October 1992.

The facts of the case are simple.

Petitioner is a domestic corporation organized and existing under and by virtue of the laws of the Philippines. It is duly authorized .and licensed to engage in the business of commercial banking in the Philippines (Exh. "A").

On November 10, 1992, petitioner filed its Monthly Remittance Return of Income Taxes Withheld for the month of October 1992 (Exh. "N") and paid the total amount P1,163,942.61. Attached in the said return is a Schedule of

Withholding Tax at Source (Exh. "N-2"), stating in detail the recipients of the income which has been subjected to withholding taxes and computed as follows:

SCHEDULE OF WITHHOLDING TAX AT SOURCE
Period Ending 11-10-92

PAYEE / SOURCE	AMOUNT
Citytrust STD HLF Accruals	**P 307,861.46 ***
Eppie's Garments	1,012,87
S.D. Yeong	2,823.88
- do -	7,926.86
- do -	4,830.21
Nat'l Steel Corporation	243,607.41
- do -	236,025.67
- do -	89,410.59
- do -	6,451.87
- do -	130,707.03
- do -	24,672.27
- do -	6,750.75
- do -	44,136.30
- do -	57,725.44
TOTAL	P1,163,942.61

The amount of * **P307,861.46** is reflected in this Schedule representing the 20% final withholding tax paid by herein petitioner on Agricultural Loan Fund Special Time Deposits which petitioner alleged to have been erroneously included in its remittance to the Bureau of Internal Revenue the same being due and part of a quarterly and not on a monthly remittance basis.

On January 25, 1993, petitioner filed its Quarterly Return of Final Income Taxes Withheld on Interest Paid on Deposits and Yield on Deposits Substitute/Trust/etc. for the fourth quarter of 1992 (Exh. "B") and paid the total amount of P14,413,686.79. Attached in the said Quarterly Return is a

Withholding Tax Report on Savings and Time Deposits (Exh. "B-3"), enumerating the different Citytrust branches which paid interests for the fourth quarter of 1992 and the corresponding taxes due on these interest payments computed as follows:

CITYTRUST BANKING CORPORATION
WITHHOLDING TAX REPORT
FOR THE QUARTER ENDED -DEC. 31, 1992

SAVINGS DEPOSIT			TIME DEPOSIT		
BRANCHES	INTEREST PAID	TAX DUE	BRANCHES	INTEREST PAID	TAX DUE
BUENDIA/HO	7,658,380.30	1,531,676.06	BUENDIA/HO	1,007,298.90	201,459.78
CDS	4,273,034.80	854,606.96	T S U	4,351,302.35	870,260.47
DASMARINAS	2,870,204.15	574,040.83	T L S	4,415,033.20	883,006.64 ++
QUIAPO	929.475.85	185,895.17	DASMARINAS	357,147.35	71,429.47
ABAD SANTOS	863,636.15	172,727.23	QUIAPO	288,796.30	57,759.26
CALOOCAN	1,412,490.20	282,498.04	ABAD SANTOS	442,818.95	88,563.79
STA. ANA	877,341.70	175,468.34	CALOOCAN	785,592.80	157,118.56
GUADALUPE	588,173.95	117,634.79	STA. ANA	621,075.60	124,215.12
PIONEER	2,693.225.65	538,645.13	GUADALUPE	77,196.65	15,439.33
TAYTAY	707,299.10	141,459.82	PIONEER	120,661.60	24,132.32
KAMUNING	1,295,077.65	259,015.53	TAYTAY	354,093.35	70,818.67
ERMITA	1,032,483.45	206,496.69	KAMUNING	289,037.85	57,807.57
ORTIGAS	1,585.605.35	317,121.07	ERMITA	114,439.00	28,887.80
LEGASPI	1,478,301.55	295,660.31	ORTIGAS	128,631.00	25,726.20
PASONG TAMO	1,570,791.55	314,158.31	LEGASPI	220,781.50	44,156.30
AYALA	1,149,371.00	229,874.20	PASONG TAMO	68,714.75	13,742.95
AURORA	1,211,227.30	242,245.46	AYALA	153,600.35	30,720.07
SHAW BOULEVARD	781,248.50	156,249.70	AURORA	341,464.70	68,292.94
WEST AVE.	1,113,908.25	222,781.65	SHAW BOULEVARD	113,844.90	22,768.98
LAS PINAS	1,195,108.35	239,021.67	WEST AVE.	275,171.65	55,034.33
DEL MONTE	2,432,695.35	486,539.07	LAS PINAS	520,986.90	104,197.38
ALABANG	1,345,831.05	269,166.21	DEL MONTE	180,606.90	36,121.38
NEW MANILA	946,483.25	189,296.65	ALABANG	446,418.25	89,283.65
GREENHILLS	946,984.75	189,396.95	NEW MANILA	(459,835.60)	(91,967.12)
BUTUAN	433,066.25	86,613.25	GREENHILLS	555,260.55	111,052.11
CALAMBA EXT.	496,744.80	99,348.96	BUTUAN	90.549.00	18,109.80
CEBU PLARIDEL	1,271,537.85	254,307.57	CALAMBA EXT.	21,751.50	4,350.30
DAVAO	1,035,758.05	207,151.61	CEBU PLARIDEL	232,519.35	46,503.87
IRIGA	177,345.45	35,469.09	DAVAO	252,261.95	50,452.39
STA. CRUZ	1,224,068.10	244,813.62	IRIGA	130,335.90	26,067.18
DARAGA	0.00	0.00	STA. CRUZ	256,528.10	51,305.62
CAGO	691,554.00	138,310.80	DARAGA	0.00	0.00
SAN PABLO	981,940.00	196,388.00	CAGO	190.286.65	38,057.33
CALAMBA MAIN	521,957.20	104,391.44	SAN PABLO	116,818.55	23,363.71
BATANGAS	583,576.55	116,715.31	CALAMBA MAIN	10,447.50	2,089.50
BAGUIO PHILEX	289.091.85	57,818.37	BATANGAS	70,854.95	14,170.99
BAGUIO SESSION	719,962.70	143,992.54	BAGUIO PHILEX	206,155.00	41,231.00
CEBU LAHUG	915,017.55	183,003.51	BAGUIO SESSION	219,590.75	43,918.15
DIVISORIA	516,329.75	103,265.95	CEBU LAHUG	109,411.55	21,882.31
MARIKINA	411,302.20	82,260.44	DIVISORIA	31,046.15	6,209.23
BUGO	205,909.40	41,181.88	MARIKINA	226,482.50	45,296.50
PASAY ROAD	640,430.45	128,086.09	BUGO	81,593.75	16,318.75
SAN FERNANDO	309,934.05	61,986.81	PASAY ROAD	584,880.25	116,976.05
LOYOLA	125,331.15	25,066.23	SAN FERNANDO	65,909.75	13,181.95
SUCAT	83,151.12	16,630,23	LOYOLA HEIGHTS	4,902.05	980.41
STA. MESA	112,995.25	22,599.05	SUCAT	6,188.75	1,237.75
ILOILO	581,507.00	116,301.40	STA. MESA HEIGHTS	10,039.70	2,007.94
COMMONWEALTH	35,437.40	7,087.48	ILOILO	13,423.90	2,684.78
	53,322,327.35	10,664,465.47	COMMONWEALTH	13,989.30	2,797.86
				16,740,106.60	3,749,221.32

TAX DUE ON:

SAVINGS, SPECIAL SAVINGS DEPOSIT	P 10,664,465.47
TIME DEPOSIT, STD ALF DEPO LIAB DEPO SUBST-NON FINANCIAL, ICLP	3,749,221.32
	P 14,413,686.79

Included in this list is the interest paid by the Trade and Loans Services (TLS) Unit of herein petitioner for the period covering October to December 1992 in the amount of P4,415,033.20 and the corresponding 20% withholding tax due thereon amounting to P883,006.64 (Exh. "B-3"), computed as follows:

Exhibit No.	Bank Debit Ticket No.	Date	Amount
"C"	15074	October 30, 1992	**P307,861.46***
"D"	15075	January 18, 1993	297,920.45
"E"	15073	January 18, 1993	277,214.73
			P883,006.64

On May 27, 1993, petitioner filed with the respondent, a claim for refund or issuance of tax credit certificate amounting to * P307,861.46 representing the double payment of the 20% final withholding tax on interest paid by the petitioner on Agricultural Loan Fund Special Time Deposits for the month of October 1992.

Considering the inaction of the respondent on the aforementioned claim and that the two-year period mandated by law under Sections 204 and 230 of the Tax Code is about to expire, petitioner to filed the instant petition before Us on November 9, 1994.

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

1. Petitioner's Central Bank Certificate of Authority (Exh. "A");

2. Quarterly Return of Final Income Taxes Withheld on Interest Paid On

1745) (Exh. "B"), duly stamped received by the respondent (Exh. "B-2"), showing the amount of P14,413,686.79 as the total tax withheld for the fourth quarter of 1992 and the accompanying Withholding Tax Report (Exh. "B-3");

3. Bank Debit Tickets (Exhs. "C", "D", and "E") issued by the petitioner, representing the 20% Final Withholding Tax on Interest paid on Agricultural Loan Fund (ALF) for October, November and December 1992 showing the amounts of P307,861.46, P297,930.45 and P277,214.73 (Exhs. "C-1", "D-1", and "E-1"), respectively;

4. Letter of the petitioner to the Revenue Accounting Division, Bureau of Internal Revenue, dated May 21, 1993 (Exh. "F"), claiming for the refund of P307,861.46, received by the respondent on May 27, 1993 (Exh. "F-2");

5. Letter-request of petitioner's auditor, SGV & Co. addressed to the respondent requesting for a certification that the amounts of P1,163,942.61 and P14,413,686.79 appearing on petitioner's Monthly Remittance of Income Taxes Withheld and Quarterly Return of Final Income Taxes Withheld on Interest Paid on Deposits and Deposit Substitutes, respectively, were actually remitted to the Bureau of Internal Revenue (Exh. "G");

6. Certification, dated July 20, 1995, issued by Mrs. Carmelita S.J. Pascual, Chief Revenue Accounting Division, stating that the amounts of P1,163,942.61 and P14,413,686.79 appearing on petitioner's Monthly Remittance of Income Taxes Withheld and Quarterly Return of Final Income Taxes Withheld on Interest Paid on Deposits and Deposit Substitutes, respectively, have been verified and were actually remitted to the Bureau of Internal Revenue (Exh. "H");

7. Pertinent portions of petitioner's Loan Ledger pertaining to the Agricultural Loan Funds showing the amounts of accrued interests recognized by herein petitioner and the 20% withholding taxes due thereon for the fourth quarter of 1992 (Exhs. "I", "J", "K", and "L");

8. Certification issued by Mrs. Lilian S. Bajaboso summarizing in details the accruals or interest payables on ALF loans and the corresponding withholding taxes due thereon paid by the petitioner for the period covering October to November 1992 (Exh. "M"); and

9. Petitioner's Monthly remittance Return of Income Taxes Withheld for the month of March 1992 with the accompanying Schedule of Withholding Tax at Source, showing the amount of P307,861.46 as the tax due on Citytrust STD ALF Accruals (Exhs. "N", and "N-2").

Considering the repeated absence of respondent's counsel to appear during the hearing of this case for the presentation of her evidence, the court on motion of petitioner resolved to consider respondent to have waived her right to present evidence. Respondent also failed to file her memorandum in support of her case.

The lone issue to be resolved in this case is whether or not there was double payment of 20% final withholding tax on interest paid by petitioner on Agricultural Loan Fund Special Time Deposits for the month of October 1992.

We answer in the affirmative.

During the trial, petitioner was able to substantiate and prove its claim for refund or tax credit when it presented in evidence its Monthly Remittance Return on Income Taxes Withheld for October 1992 (Exh. "N") showing payment of P307,861.46 and its Quarterly Return of Final Income Taxes Withheld on Interest Paid on Deposits and Yield on Deposit Substitutes/Trusts/etc. for the period covering October to December 1992 (Exh. "B") again paying the amount of P307,861.46 as part of the withholding tax of interest paid by the Trade and Loans Services (TLS) unit of petitioner in the amount of P883,006.64. The fact of actual remittance of the amounts appearing on the aforesaid Returns were also properly verified and certified by the Chief of the BIR-Revenue Accounting Division (Exh. "H"), a representative of the respondent .Commissioner herself. In addition, the Schedules attached to the aforesaid Returns, Debit Tickets and Loan Ledger entries pertaining to withholding taxes on interest on Agricultural Loan Funds were also presented in Court.

After a thorough examination and evaluation of the aforementioned documentary evidences offered by the petitioner as well as the testimony of the witnesses for the petitioner, this Court finds that the disputed amount was indeed erroneously remitted and paid twice by the petitioner, hence, a refund is in order.

WHEREFORE, finding this judicial claim for refund well taken, this petition is hereby **GRANTED**. Respondent is hereby ordered to refund or in the alternative issue a Tax Credit Certificate in favor of the petitioner in the amount of P307,861.46. representing the double payment of 20% final withholding tax on interest paid by petitioner on Agricultural Loan Fund Special Time Deposits for the month of October 1992.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

I CONCUR:

RAMON O. DE VEYRA
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