LIB

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GROLIER INTERNATIONAL, INC., - PHILIPPINE BRANCH,
Petitioner,

versus -

C.T.A. CASE NO. 5234

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

SEP 04 1997

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DECISION

This case involves a claim for refund or issuance of tax credit certificate for the amount of P7,567,222.00 allegedly representing overpaid income tax payments for the years 1992 and 1993.

The antecedent facts of the case are simple.

Petitioner is a resident foreign corporation duly organized and existing under and by virtue of the laws of the Philippines.

For the year 1992, petitioner filed its Annual Corporate Income Tax Return (Exh. "A") reflecting a refundable amount of P7,693,865.00 computed as follows:

Taxable Income		P 8,258,871.00
Tax Due		P 2,890,605.00
Less: Quarterly Payments/Credits Made This Year		
06/01/92 (Exh. "B")	P 664,441.00	
08/31/92 (Exh. "C")	1,001,559.00	
11/26/92 (Exh. "D")	3,037,795.00	
05/03/93 (Exh. "E")	5,880,675.00	(P10,584,470.00)
Tax Payable (Refundable)		P 7,693,865.00

Petitioner indicated in the aforementioned return its intention of applying the overpaid or refundable tax as tax credit in the succeeding taxable year.

For the following year 1993, petitioner filed its Annual Corporate Income Tax Return (Exh. "F") reflecting a refundable amount of P7,567,222.00 computed as follows:

Taxable Income		P10,156,883.00
Tax Due		P 3,554,909.00
Less: Prior Year's Excess Credit	P7,693,865.00	
Quarterly Payments/Credits Made This Year		
05/17/93 (Exh. "G")	621,941.00	
11/26/93 (Exh. "H")	2,806,325.00	(11,122,131.00)
Tax Payable (Refundable)		(P 7,567,222.00)

The refundable tax for 1993 amounting to P7,567,222.00 was no longer applied as tax credit in the succeeding taxable year 1994 as clearly shown in the Annual Corporate Income Tax Return of the petitioner for the year 1994 (Exh. "I").

On September 13, 1994, petitioner filed with the Bureau of Internal Revenue an administrative claim for refund in the amount of P7,567,222.00 representing overpaid quarterly income tax payments for taxable years ended December 31, 1992 and December 31, 1993 (Exh. "J").

The inaction of the respondent on the aforementioned claim compelled the petitioner to file the instant petition for review on April 11, 1995 in order to toll the running of the two-year prescriptive period mandated by Sections 204 and 230 of the Tax Code, as amended.

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

1. Petitioner's annual income tax returns for the years 1992, and 1993 (Exhs. "A", and "F") together with its corresponding financial statements and auditor's reports (Exhs. "A-3" and "F-4").

2. Petitioner's machine validated corporate quarterly income tax returns for the 1st, 2nd and 3rd quarters of 1992 and its tentative annual income tax return for 1992 (Exhs. "B", "C", "D" and "E").

3. Petitioner's machine validated corporate quarterly income tax returns for the 1st and 3rd quarters of 1993 (Exhs. "G", and "H").

4. Machine validated petitioner's annual income tax return for the year 1994 (Exhs. "I").

5. Letter claim for refund (Exh. "J")

Respondent on her part presented a certification issued by the Chief of the Revenue Accounting Division of the Bureau of Internal Revenue, Ms. Carmelita SJ. Pascual, dated October 12, 1995, as to the fact of payments received by the respondent that were verified against the tax returns filed by the petitioner (Exh. "3"). Based on this certification, respondent's witness, Mr. Manuel San Pedro of RDO No. 47, of the BIR testified that "the payment made by the petitioner on the fourth quarter, that is the final return on April 15, 1993 has no sufficient fund for the petitioner. That is why they were not able to include the payment in the certification in the amount of P5,880,675.00."

As rebuttal evidence, petitioner offered the "Note" appearing below the signature of the Chief of the BIR-Revenue Accounting Division previously marked as Exhibit "3" for the respondent, which states that:

"The payment made on April 15, 1993 under BCS No. 93-82 in the amount of P5,880,675.00 was included in the List of Dishonored Checks and was redeemed on June, 1993. (Exh. "L")" (underscoring supplied)

In addition, petitioner submitted the following before this Court:

1. Solidbank Check No. 831822 issued by the petitioner in favor of the Commissioner of Internal Revenue dated April 29, 1993 in the amount of P5,880,675.00 as replacement to the dishonored check (Exh. "M");

2. Certification issued by United Coconut Planters Bank (UCPB) that the aforementioned check was duly received by a UCPB teller on May 3, 1993 (Exh. "N");

3. Grolier International, Inc. current account statement with Solidbank as of May 31, 1993 showing that the amount of P5,880,675.00 was duly withdrawn from petitioner's account (Exh. "O");

4. Certification issued by the Chief of BIR-Revenue Accounting Division dated April 26, 1996 to establish the fact that the second check issued by the petitioner in the amount of P5,880,675.00 was duly remitted to the BIR (Exh. "P"); and

5. Authority to accept payment No. 560672 issued in the name of Grolier International, Inc. (Exh. "Q") to prove that petitioner paid the interest from April 16, 1993 to May 3, 1993 in the amount of P72,501.30 as penalty for late payment.

The sole issue to be resolved in this case is whether or not petitioner is entitled to the refund or issuance of tax credit certificate sought.

We answer in the affirmative.

Section 69 of the National Internal Revenue Code, as amended, provides, thus:

> "Section 69. ***Final Adjustment Return*** - Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. <u>If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year the corporation shall either:</u>
>
> (a) Pay the excess tax still due; or
>
> (b) <u>Be refunded the excess amount paid</u>, as the case may be.
>
> In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, <u>the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year."</u> (Underscoring supplied)

In the case at bar, petitioner had established through convincing evidence that the quarterly payments it made for taxable year 1992 exceeded the total tax due on the entire taxable income for the same year. And despite the fact that it credited the 1992 refundable amount against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year 1993, the same resulted to a refundable/creditable amount of P7,567,222.00.

The respondent's contention in her Answer (pp. 46-47, CTA recs.) that the alleged refundable or creditable amount has not been properly documented and still has to be verified is unmeritorious. The machine-validated quarterly income tax returns filed by the petitioner and the certification issued by the BIR-Revenue Accounting Division (Exh. "3") attest to the fact that petitioner properly remitted the amounts reflected in its quarterly income tax returns for 1992 and 1993.

Moreover, the allegation by the respondent's witness that the tax payment by the petitioner for the fourth quarter of 1992 remains outstanding due to dishonored check was proven wrong by the subsequent certification (Exh. "P") issued by the BIR-Revenue Accounting Division that said tax payment was duly made and remitted to the BIR through the replacement Solidbank Check No. 831822 on May 3, 1993 amounting to P5,880,675.00.

WHEREFORE, in view of all the foregoing, respondent is hereby ordered to refund or in the alternative issue a Tax Credit Certificate in favor of the petitioner in the amount of P7,567,222.00, representing overpaid income tax payments for taxable years ended 1992 and 1993.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding 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