REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GUANZON LIME DEVELOPMENT CO., INC.,
Petitioner,

- versus - C.T.A. CASE No. 2050

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

D E C I S I O N

On October 28, 1969, petitioner filed a petition for review praying for the refund of the amount of ₱26,599.67, representing ad valorem tax alleged to have been erroneously paid to respondent for the period from the 3rd quarter of 1966 to the 2nd quarter of 1968.

On December 9, 1971, after issues were joined by respondent's answer and before trial of the case, respondent wrote petitioner a letter, the full context of which states as follows:

> In connection with the claim of your client, Guanzon Lime and Development Co., for refund of the sum of ₱26,599.69 representing erroneous payment of ad valorem taxes for the period from the 3rd quarter of 1966 to the 2nd quarter of 1968 under letters dated August 15 1968 and Petition for Review in CTA Case No. 3050, I have the honor to inform you that under the circumstances obtaining in said case, we have finally determined the market value of the quarried limestone for the taxable years in question. Accordingly, after readjusting the ad valorem taxes paid by your client and following the deci-

24

> sion of the Supreme Court in G.R. No. L-120660 entitled "Republic Cement Corporation vs. CIR", this Office has adjudged your client to be entitled to a creditable amount of ₱25,511.50 only.
>
> Please be informed, however, that release of the tax credit certificate covering said amount will be held in abeyance until such time as the courts shall have finally decided your appeal from our assessment of 7% manufacturer's sales tax amounting to ₱450,299.99. (Exh. A, p. 22, CTA rec.; underlining supplied.)

On the basis of said letter, petitioner, on February 8, 1972, filed a motion for summary judgment contending that said letter "is a confession of judgment which renders hearing on this case unnecessary", and that the condition in the last paragraph thereof "is immaterial for the reason that the same has not been pleaded in the answer as a counterclaim or a cross claim."

On February 12, 1972, during the hearing on its motion, petioner manifested, through counsel, that it is satisfied with the sum of ₱25,511.50 adjudged in its favor by respondent; that, instead of a tax credit, said amount should be refunded to it; and that the refund should not be made to depend upon the outcome of the appeal on the assessment for 7% sales tax because the same has no bearing and pertinence in the present case. On the other hand, respondent's counsel offered no objection to petitioner's motion for sum-

VS

mary judgment. In fact, she manifested that the case (involving claim for refund of ad valorem tax) should be dismissed since the issue has been administratively resolved by respondent when he adjudged petitioner as entitled to a tax credit amounting to ₱25,511.50.

Considering that in his letter above (Exhibit A), respondent, in effect, admits that for the period in question petitioner has made an erronous payment of ad valorem tax in the sum of ₱25,511.50 and the fact that petitioner, at the hearing, had expressed its satisfaction thereto, we believe that there no longer exists a genuine issue as to any material facts which needs to be proved at the trial in this case.

We agree with the petitioner that the overpaid ad valorem tax should be refunded to it, instead of being merely allowed as a tax credit. This is so because respondent's assessment for 7% sales tax against petitioner amounting to ₱450,299.99 is still pending determination before this Court and until petitioner shall have been finally adjudged liable thereto, the same cannot as yet be made a valid basis for setoff against the amount of ₱25,511.50 adjudged in favor of petitioner as overpaid ad valorem tax. And for one thing, the possible liability of petitioner for sales tax in another case is a matter extraneous to the present. It is the result of another assessment with a basis distinct from that of the present and had to follow its own procedural course since it had not been joined with the present case.

vb

DECISION -
CTA CASE No. 2050

IN VIEW OF THE FOREGOING, judgement is hereby rendered ordering the respondent to refund to petitioner the amount of ₱25,511.50, representing erroneously paid ad valorem tax for the period from the 3rd quarter of 1966 to the 2nd quarter of 1968.

SO ORDERED.

Quezon City, March 13, 1972.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge