FILINVEST DEVELOPMENT CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE AND COURT OF TAX APPEALS, RESPONDENTS.

G.R. NO. 146941. August 09, 2007

Ponente: NACHURA, J.

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NACHURA, J.:

Before us is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Civil Procedure filed by Filinvest Development Corporation (Filinvest) assailing the Decision[1] of the Court of Appeals (CA), dated August 18, 2000, and its Resolution[2] dated January 25, 2001 in CA-G.R. SP No. 56800.

The case stems from the claim for refund, or in the alternative, the issuance of a tax credit certificate (TCC), filed by petitioner Filinvest with respondent Commissioner of Internal Revenue (CIR) in the amount of P4,178,134.00 representing excess creditable withholding taxes for taxable years 1994, 1995, and 1996.[3]

When the CIR had not resolved petitioner's claim for refund and the two-year prescriptive period was about to lapse, the latter filed a Petition for Review[4] with the Court of Tax Appeals. In the petition before the CTA, docketed as CTA Case No. 5603, petitioner prayed for refund, or in the alternative, the issuance of a TCC, in the amount of P3,173,868.00. The amount of P1,004,236.00 representing excess/unutilized creditable withholding taxes for 1994 was no longer included as it was already barred by the two-year prescriptive period.

On August 13, 1999, the CTA rendered a Decision[5] dismissing the petition for review for insufficiency of evidence because petitioner failed to present in evidence its 1997 income tax return. The CTA held that since petitioner indicated in its 1996 Income Tax Return that it has opted to carry over any excess income tax paid to the following year, there was no way for the court to determine with particular certainty if petitioner Filinvest indeed applied or credited the refundable amount to its 1997 tax liability, if there were any.

Petitioner filed a motion for reconsideration, which was denied on December 23, 1999.[6]

Subsequently, petitioner filed a Petition for Review[7] before the CA on January 21, 2000. The CA dismissed the petition on the ground of failure to attach the proof of authority of Efren M. Reyes, who executed the certification of non-forum shopping, to sign for the corporation.[8] On motion for reconsideration, the CA set aside the January 26, 2000 Resolution and reinstated the case.[9]

On August 18, 2000, the CA issued the assailed Decision[10] denying Filinvest's petition for review, thus:

> Petitioner fails to discharge the burden of being entitled to the tax refund sought for considering that evidence on hand shows that although petitioner was able to comply with the requirements which a taxpayer must have to comply before a claim for a refund would be sustained, yet, it has failed to present vital documents (sic), its Income Tax Return for the year 1997, which would show whether or not petitioner has applied or credited the refundable amount sought for in its 1997 liability, if there be any, since per its 1996 Income Tax Return, it readily revealed that petitioner opted to carry over the excess income tax paid to the succeeding year and it is

> only from petitioner's Income Tax Return for the year 1997 that this fact can be determined with certainty and the non-presentation of this vital document proved fatal to the petitioner's cause of action.
>
> x x x x
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> WHEREFORE, FOREGOING PREMISES CONSIDERED, the petition is hereby DENIED for lack of merit. The assailed Decision dated August 13, 1999 of the Court of Tax Appeals is affirmed. Costs against petitioner.
>
> SO ORDERED.

Petitioner filed a motion for reconsideration, which the CA denied in the assailed Resolution[11] dated January 25, 2001.

Petitioner filed a petition for review before this Court but the same was denied on April 18, 2001 for failure to show that the appellate court committed reversible error, and for failure to comply with the requirements of Section 4, Rule 7 of the 1997 Rules of Civil Procedure in the execution of the verification.[12] Petitioner filed a motion for reconsideration, which the Court granted on April 3, 2002.[13] Hence, this petition for review.

In this petition for review, petitioner Filinvest alleges that the CA erred in (1) denying its claim for tax refund on the sole ground that it failed to present in evidence its Annual Income Tax Return for Corporations for 1997 despite holding that it had complied with all the requirements to sustain a claim for tax refund; (2) relying on CTA cases cited in its Decision as jurisprudential basis to support its ruling; (3) not ruling that Section 34, Rule 132 of the Revised Rules of Court, being a procedural rule, should be liberally construed in order that substantial justice due petitioner shall have been served; and (4) not ruling that, petitioner having proved that it paid excess taxes for taxable years 1995 and 1996, has shifted the burden of evidence to respondent CIR to show the factual basis to deny petitioner's claim.[14]

On the other hand, respondent CIR argues that in claims for tax refund, the burden of proof of refundability rests with claimant, and considering the rules on formal offer of evidence, the CA did not err in ruling against petitioner due to its failure to present evidence vital to sustain its claim. Likewise, respondent maintains that the CA did not err in relying on CTA cases because the latter is an authority on matters of taxation and therefore its resolutions carry great weight.[15]

The main issue for our resolution is whether petitioner is entitled to the tax refund or tax credit it seeks.

We rule in the affirmative.

It is settled that the factual findings of the CTA, as affirmed by the Court of Appeals, are entitled to the highest respect[16] and will not be disturbed on appeal unless it is shown that the lower courts committed gross error in the appreciation of facts.[17]

In the case at bench, the CA erred in ruling that petitioner failed to discharge the burden of proving that it is entitled to the refund because of the latter's failure to attach its 1997 Income Tax Return.

The appellate court itself acknowledges that petitioner had complied with the requirements to sustain a claim for tax refund or credit.[18] Yet it held that "petitioner fail[ed] to discharge the burden of being entitled to the tax refund sought for considering the evidence on hand shows that x x x it has failed to present [a] vital document[], its Income Tax Return for the year 1997 x x x."[19]

Both the CTA and the CA, citing the case of F. Jacinto Group, Inc. v. CIR[20] and Citibank N.A. v. Court of Appeals, et al.,[21] determined the requisites to sustain a claim for refund, thus:

> (1) That the claim for refund was filed within two years as prescribed under Section 230 of the National

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> Internal Revenue Code;
>
> (2) That the income upon which the taxes were withheld were included in the return of the recipient; and
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> (3) That the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee showing the amount paid and the amount of tax withheld therefrom.[22]

In the proceedings before the CTA, petitioner presented in evidence its letter of claim for refund before the BIR to show that it was made within the two-year reglementary period;[23] its Income Tax Returns for the years 1995 and 1996 to prove its total creditable withholding tax and the fact that the amounts were declared as part of its gross income;[24] and several certificates of income tax withheld at source corresponding to the period of claim to prove the total amount of the taxes erroneously withheld.[25] More importantly, petitioner attached its 1997 Income Tax Return to its Motion for Reconsideration, making the same part of the records of the case. The CTA cannot simply ignore this document.

Thus, we hold that petitioner has complied with all the requirements to prove its claim for tax refund. The CA, therefore, erred in denying the petition for review of the CTA's denial of petitioner's claim for tax refund on the ground that it failed to present its 1997 Income Tax Return.

The CA's reliance on Rule 132, Section 34[26] of the Rules on Evidence is misplaced. This provision must be taken in the light of Republic Act No. 1125, as amended, the law creating the CTA, which provides that proceedings therein shall not be governed strictly by technical rules of evidence.[27] Moreover, this Court has held time and again that technicalities should not be used to defeat substantive rights, especially those that have been established as a matter of fact.

The CA, likewise, erred in relying on CTA decisions as jurisprudential basis for its decision. As this Court has held in the past:

> [B]y tradition and in our system of judicial administration this Court has the last word on what the law is, and that its decisions applying or interpreting the laws or the Constitution form part of the legal system of the country, all other courts should take their bearings from the decisions of this Court, ever mindful of what this Court said fifty-seven years ago in People vs. Vera that "[a] becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation."[28]

The principle of stare decisis et non quieta movere, as embodied in Article 8 of the Civil Code of the Philippines,[29] enjoins adherence to judicial precedents. It requires our courts to follow a rule already established in a final decision of the Supreme Court. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. [30]

This is not the first time this issue has come before this Court. The case of BPI-Family Savings Bank v. Court of Appeals,[31] involves factual antecedents similar to the present case.

BPI Family Bank involves a claim for tax refund representing therein petitioner's taxes withheld for the year 1989. In petitioner's 1989 Income Tax Return, petitioner had a total refundable amount of P297,492.00 inclusive of the P112,491.00 being claimed as tax refund. However, petitioner declared in the same 1989 Income Tax Return that the said total refundable amount will be applied as tax credit to the succeeding taxable year. On October 11, 1990, petitioner filed a written claim for refund in the amount of P112,491.00 before the CIR alleging that it did not apply the 1989 refundable amount to its 1990 Annual Income Tax Return or other tax liabilities due to alleged business losses it incurred for the same year. Without waiting for the CIR to act on the claim for refund, petitioner filed a petition for review with the CTA, seeking the refund of P112,491.00.

The CTA dismissed the petition on the ground that petitioner failed to present as evidence its Corporate Annual Income Tax Return for 1990 to establish the fact that petitioner had not yet credited the refundable amount. Petitioner filed a motion for reconsideration. However, the same was denied on May 6, 1994. The CA affirmed the CTA decision, ruling that it was incumbent upon petitioner to show proof that it had not credited the amount of P297,492.00 to its 1990 Annual Income Tax Return as it had previously declared in its 1989 Income Tax Return that the amount would be applied as a tax credit in 1990. Petitioner having failed to submit such requirement, the CA said there is no basis to grant the claim for refund, because tax refunds are in the nature of tax exemptions and are regarded as in derogation of sovereign authority to be construed strictissimi juris against the person or entity claiming the exemption. In other words, the burden of proof rests upon the taxpayer, according to the CA.

In reversing the CA and ruling that petitioner was entitled to the refund, this Court held:

> More important, a copy of the Final Adjustment Return for 1990 was attached to petitioner's Motion for Reconsideration filed before the CTA. A final adjustment return shows whether a corporation incurred a loss or gained a profit during the taxable year. In this case, that Return clearly showed that petitioner incurred P52,480,173 as net loss in 1990. Clearly, it could not have applied the amount in dispute as a tax credit. Again, the BIR did not controvert the veracity of the said return. It did not even file an opposition to petitioner's Motion and the 1990 Final Adjustment Return attached thereto. In denying the Motion for Reconsideration, however, the CTA ignored the said Return. In the same vein, the CA did not pass upon that significant document.
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> True, strict procedural rules generally frown upon the submission of the Return after the trial. The law creating the Court of Tax Appeals, however, specifically provides that proceedings before it "shall not be governed strictly by the technical rules of evidence." The paramount consideration remains the ascertainment of truth. Verily, the quest for orderly presentation of issues is not an absolute. It should not bar courts from considering undisputed facts to arrive at a just determination of a controversy.
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> In the present case, the Return attached to the Motion for Reconsideration clearly showed that petitioner suffered a net loss in 1990. Contrary to the holding of the CA and the CTA, petitioner could not have applied the amount as a tax credit. In failing to consider the said Return, as well as the other documentary evidence presented during the trial, the appellate court committed a reversible error.
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> It should be stressed that the rationale of the rules of procedure is to secure a just determination of every action. They are tools designed to facilitate the attainment of justice. But there can be no just determination of the present action if we ignore, on grounds of strict technicality, the Return submitted before the CTA and even before this Court. To repeat, the undisputed fact is that petitioner suffered a net loss in 1990; accordingly, it incurred no tax liability to which the tax credit could be applied. Consequently, there is no reason for the BIR and this Court to withhold the tax refund which rightfully belongs to the petitioner.[32]

We find the foregoing disquisition applicable to the present case.

As in the BPI Family Bank case, herein petitioner's claim for refund is anchored on the following provisions of the National Internal Revenue Code (NIRC) then in effect:

> SEC. 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. 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 net income of that year the corporation shall either:
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> (a) Pay the excess tax still due; or
>
> (b) Be refunded the excess amount paid, as the case may be.

> In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, 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.
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> SEC. 230. Recovery of tax erroneously or illegally collected. - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. (Emphasis supplied)

On the other hand, Revenue Regulation No. 12-94, Section 10 provides for the requirements to claim for tax credit or refund, to wit:

> Section 10. Claim for Tax Credit or Refund. -
>
> (a) Claims for Tax Credit or Refund of income tax deducted and withheld on income payments shall be given due course only when it is shown on the return that the income payment received has been declared as part of the gross income and the fact of withholding is established by a copy of the Withholding Tax Statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.
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> (b) Excess Credits. - A taxpayer's excess expanded withholding tax credits for the taxable quarter/taxable year shall automatically be allowed as a credit for purposes of filing his income tax return for the taxable quarter/taxable year immediately succeeding the taxable quarter/taxable year in which the aforesaid excess credit arose, provided, however, he submits with his income tax return a copy of his income tax return for the aforesaid previous taxable period showing the amount of his aforementioned excess withholding tax credits.
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> If the taxpayer, in lieu of the aforesaid automatic application of his excess credit, wants a cash refund or a tax credit certificate for use in payment of his other national internal tax liabilities, he shall make a written request therefor. Upon filing of his request, the taxpayer's income tax return showing the excess expanded withholding tax credits shall be examined. The excess expanded withholding tax, if any, shall be determined and refunded/credited to the taxpayer-applicant. The refund/credit shall be made within a period of sixty (60) days from date of the taxpayer's request provided, however, that the taxpayer-applicant submitted for audit all his pertinent accounting records and that the aforesaid records established the veracity of his claim for a refund/credit of his excess expanded withholding tax credits. (Emphasis supplied)

It is true that herein petitioner has the burden of proving that it is entitled to refund. However, we have already held that once the claimant has submitted all the required documents, it is the function of the BIR to assess these documents with purposeful dispatch.[33]

In proving the inclusion of the income payments which formed the basis of the withholding taxes and the fact of withholding, this Court has held that:

> [D]etailed proof of the truthfulness of each and every item in the income tax return is not required. That function is lodged in the Commissioner of Internal Revenue by the NIRC which requires the Commissioner to assess internal revenue taxes within three years after the last day prescribed by law for the filing of the return. x x x The grant of a refund is founded on the assumption that the tax return is valid; that is, the facts stated

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> therein are true and correct. In fact, even without petitioner's tax claim, the Commissioner can proceed to examine the books, records of the petitioner-bank, or any data which may be relevant or material in accordance with Section 16 of the present NIRC.[34]

It is worth noting that under Section 230 of the NIRC and Section 10 of Revenue Regulation No. 12-84, the CIR is given the power to grant a tax credit or refund even without a written claim therefor, if the former determines from the face of the return that payment had clearly been erroneously made. Evidently, the CIR's function is not merely to receive the claims for refund but it is also given the positive duty to determine the veracity of such claim.

In another case, the Court held that while a taxpayer is given the choice whether to claim for refund or have its excess taxes applied as tax credit for the succeeding taxable year, such election is not final. Prior verification and approval by the Commissioner of Internal Revenue is required. The availment of the remedy of tax credit is not absolute and mandatory. It does not confer an absolute right on the taxpayer to avail of the tax credit scheme if it so chooses. Neither does it impose a duty on the part of the government to sit back and allow an important facet of tax collection to be at the sole control and discretion of the taxpayer.[35]

In the case of San Carlos Milling Co., Inc. v. CIR,[36] the Court struck down therein petitioner's attempt to unilaterally declare as tax credit its excess estimated quarterly income taxes from the previous year. The Court explained, thus:

> The respondent Court held that the choice of a corporate taxpayer for an automatic tax credit does not ipso facto confer on it the right to immediately avail of the same. Respondent court went on to emphasize the need for an investigation to ascertain the correctness of the corporate returns and the amount sought to be credited. We agree.
>
> It is difficult to see by what process of ratiocination petitioner insists on the literal interpretation of the word "automatic." Such literal interpretation has been discussed and precluded by the respondent court in its decision of 23 December 1991 where, as aforestated, it ruled that "once a taxpayer opts for either a refund or the automatic tax credit scheme, and signified his option in accordance with the regulation, this does not ipso facto confer on him the right to avail of the same immediately. An investigation, as a matter of procedure, is necessary to enable the Commissioner to determine the correctness of the petitioner's returns, and the tax amount to be credited."
>
> Prior approval by the Commissioner of Internal Revenue of the tax credit under then section 86 (now section 69) of the Tax Code would appear to be the most reasonable interpretation to be given to said section. An opportunity must be given the internal revenue branch of the government to investigate and confirm the veracity of the claims of the taxpayer. The absolute freedom that petitioner seeks to automatically credit tax payments against tax liabilities for a succeeding taxable year, can easily give rise to confusion and abuse, depriving the government of authority and control over the manner by which the taxpayers credit and offset their tax liabilities, not to mention the resultant loss of revenue to the government under such a scheme.

Hence we do not agree with respondent's contention that "the actual carry-over of the excess withholding tax to the next quarter virtually negates a refund of the excess since it is considered to have been automatically applied to any income of that period." However, even assuming that petitioner had the power to automatically apply its excess withholding taxes to subsequent payments, the fact remains that, in this particular case, it could not have done so given its business losses.

We must also point out that, simply by exercising the CIR's power to examine and verify petitioner's claim for tax exemption as granted by law, respondent CIR could have easily verified petitioner's claim by presenting the latter's 1997 Income Tax Return, the original of which it has in its files. However, records show that in the

proceedings before the CTA, respondent CIR failed to comment on petitioner's formal offer of evidence,[37] waived its right to present its own evidence,[38] and failed to file its memorandum.[39] Neither did it file an opposition to petitioner's motion to reconsider the CTA decision to which the 1997 Income Tax Return was appended.

That no one shall unjustly enrich oneself at the expense of another is a long-standing principle prevailing in our legal system. This applies not only to individuals but to the State as well. In the field of taxation where the State exacts strict compliance upon its citizens, the State must likewise deal with taxpayers with fairness and honesty. The harsh power of taxation must be tempered with evenhandedness. Hence, under the principle of solutio indebiti,[40] the Government has to restore to petitioner the sums representing erroneous payments of taxes.

WHEREFORE, premises considered, the petition is GRANTED. The CA decision and the CTA decision are REVERSED and SET ASIDE. Respondent Commissioner of Internal Revenue is ORDERED to refund, or in the alternative, issue a Tax Credit Certificate to petitioner Filinvest Development Corporation in the amount of P3,173,868.00.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 65-77

[2]Id. at 79.

[3] Id. at 97-101.

[4] Id. at 129-135.

[5]Id. at 186-192.

[6]Id. at 206-207.

[7] Id. at 211-232.

[8] Id. at 308-309.

[9] Id. at 318-319.

[10]Id. at 65-77.

[11] Id. at 79.

[12] Id. at 328.

[13]Id. at 347.

[14]Id. at 36-37.

[15]Respondent's Comment; rollo, pp. 395-400.

[16] Carrara Marble Philippines, Inc. v. Commissioner of Customs, 372 Phil. 322, 333-334 (1999).

[17] Commissioner of Internal Revenue v. Court of Appeals, 358 Phil. 562, 584 (1998).

[18]Rollo, p. 73.

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[19] Id. at 74.

[20] CTA Case No. 4971, April 5, 1995.

[21]345 Phil. 695 (1997).

[22] Rollo, p. 73.

[23]Formal Offer of Evidence, CTA rollo, pp. 100-109.

[24] Id. at 110-113.

[25] Id. at 114-133.

[26] SEC. 34. Offer of evidence. - The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

[27]SEC. 8. Court of record; seal; proceeding. - The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

[28]Caram Resources Corporation v. Contreras, A.M. No. MTJ-93-849, October 26, 1994, 237 SCRA 724, 735.

[29] ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

[30] De Mesa v. Pepsi Cola Products Philippines, Inc., G.R. Nos. 153063-70, August 19, 2005, 467 SCRA 433, 440, citing Castillo v. Sandiganbayan, 427 Phil. 785, 793 (2002).

[31]386 Phil. 719 (2000).

[32] BPI-Family Savings Bank v. CA, supra, at 726-727.

[33]Philex Mining Corporation v. Commissioner of Internal Revenue, 356 Phil. 189, 201-202 (1998).

[34] Citibank N.A. v. Court of Appeals, supra note 21, at 709-710.

[35]Paseo Realty and Development Corporation v. Court of Appeals, G.R. No. 119286, October 13, 2004, 440 SCRA 235, 249.

[36]G.R. No. 103379, November 23, 1993, 228 SCRA 135, 140-141.

[37] CTA rollo, p. 135.

[38]Id. at 143.

[39] Id. at 155.

[40] Civil Code of the Philippines, Art. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

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