

FIRST DIVISION

[G.R. No. 181298, March 02, 2011]

**BELLE CORPORATION, PETITIONER, VS. COMMISSIONER OF
INTERNAL REVENUE, RESPONDENT.**

R E S O L U T I O N

DEL CASTILLO, J.:

For Resolution is the Motion for Clarification^[1] filed by petitioner Belle Corporation. In the Motion, petitioner prays that our Decision dated January 10, 2011 be modified or clarified to indicate petitioner's entitlement to a tax credit of unutilized excess income tax payments for the taxable year 1997.

In our Decision, we held that Section 76 of the 1997 National Internal Revenue Code (NIRC) and not Section 69 of the old NIRC applies. Section 76 provides that a taxpayer has the option to file a claim for refund or to carry-over its excess income tax payments. The option to carry-over, however, is irrevocable. Thus, once a taxpayer opted to carry-over its excess income tax payments, it can no longer seek refund of the unutilized excess income tax payments. The taxpayer, however, may apply the unutilized excess income tax payments as a tax credit to the succeeding taxable years until such has been fully applied pursuant to Section 76 of the NIRC.

In our Decision, we denied petitioner's claim for refund because it has earlier opted to carry over its 1997 excess income tax payments by marking the tax credit option box in its 1997 income tax return. We must clarify, however, that while petitioner may no longer file a claim for refund, it properly carried over its 1997 excess income tax payments by applying portions thereof to its 1998 and 1999 Minimum Corporate Income Tax in the amounts of P25,596,210.00 and P14,185,874.00, respectively. Pursuant to our ruling, petitioner **may apply the unutilized excess income tax payments as a tax credit to the succeeding taxable years until fully utilized.** Thus, as of the taxable year 1999, petitioner still has an unutilized excess income tax payments of P92,261,444.00 which may be carried over to the succeeding taxable years until fully utilized.

IN VIEW OF THE FOREGOING, it is hereby clarified that although petitioner may no longer file a claim for refund, it may, however, apply the excess income tax payments for the taxable year 1997 as a tax credit to the succeeding taxable years until fully utilized.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] *Rollo*, pp. 280-286.



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