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THIRD DIVISION

[G.R. No. 122480, April 12, 2000]

BPI-FAMILY SAVINGS BANK, INC., PETITIONER, VS. COURT OF APPEALS, COURT OF TAX APPEALS AND THE COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments. When it is undisputed that a taxpayer is entitled to a refund, the State should not invoke technicalities to keep money not belonging to it. No one, not even the State, should enrich oneself at the expense of another.

The Case

Before us is a Petition for Review assailing the March 31, 1995 Decision of the Court of Appeals[1] (CA) in CA-GR SP No. 34240, which affirmed the December 24, 1993 Decision[2] of the Court of Tax Appeals (CTA). The CA disposed as follows:

> "WHEREFORE, foregoing premises considered, the petition is hereby DISMISSED for lack of merit."[3]

On the other hand, the dispositive portion of the CTA Decision affirmed by the CA reads as follows:

> "WHEREFORE, in [view of] all the foregoing, Petitioner's claim for refund is hereby
>
> DENIED and this Petition for Review is DISMISSED for lack of merit."[4]

Also assailed is the November 8, 1995 CA Resolution[5] denying reconsideration.

The Facts

The facts of this case were summarized by the CA in this wise:

> "This case involves a claim for tax refund in the amount of P112,491.00

representing petitioner's tax withheld for the year 1989.

In its Corporate Annual Income Tax Return for the year 1989, the following items are reflected:

Income		P1,017,931,831.00
Deductions		P1,026,218,791.00
Net Income (Loss)		(P8,286,960.00)
Taxable Income (Loss)		P8,286,960.00
Less:		
	1988 Tax Credit	P185,001.00
	1989 Tax Credit	P112,491.00
TOTAL AMOUNT REFUNDABLE		P297,492.00

"It appears from the foregoing 1989 Income Tax Return that petitioner had a total refundable amount of P297,492 inclusive of the P112,491.00 being claimed as tax refund in the present case. However, petitioner declared in the same 1989 Income Tax Return that the said total refundable amount of P297,492.00 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 with the respondent Commissioner of Internal Revenue alleging that it did not apply the 1989 refundable amount of P297,492.00 (including P112,491.00) to its 1990 Annual Income Tax Return or other tax liabilities due to the alleged business losses it incurred for the same year.

"Without waiting for respondent Commissioner of Internal Revenue to act on the claim for refund, petitioner filed a petition for review with respondent Court of Tax Appeals, seeking the refund of the amount of P112,491.00.

"The respondent Court of Tax Appeals dismissed petitioner's 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 amount of P297,492.00 (inclusive of the amount P112,491.00 which is the subject of the present controversy) to its 1990 income tax liability.

"Petitioner filed a motion for reconsideration, however, the same was denied by respondent court in its Resolution dated May 6, 1994."[6]

As earlier noted, the CA affirmed the CTA. Hence, this Petition.[7]

Ruling of the Court of Appeals

In affirming the CTA, the Court of Appeals ruled as follows:

"It is incumbent upon the petitioner to show proof that it has not credited to its 1990 Annual income Tax Return, the amount of P297,492.00 (including P112,491.00), so as to refute its previous declaration in the 1989 Income Tax Return that the said amount will be applied as a tax credit in the succeeding year of 1990. Having failed to submit such requirement, there is no basis to grant the claim for refund. x x x

"Tax refunds are in the nature of tax exemptions. As such, they are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the exemption. In other words, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to the claim for refund." [8]

Issue

In their Memorandum, respondents identify the issue in this wise:

"The sole issue to be resolved is whether or not petitioner is entitled to the refund of P112,491.00, representing excess creditable withholding tax paid for the taxable year 1989."[9]

The Court's Ruling

The Petition is meritorious.

Main Issue:
Petitioner Entitled to Refund

It is undisputed that petitioner had excess withholding taxes for the year 1989 and was thus entitled to a refund amounting to P112,491. Pursuant to Section 69[10] of the 1986 Tax Code which states that a corporation entitled to a refund may opt either (1) to obtain such refund or (2) to credit said amount for the succeeding taxable year, petitioner indicated in its 1989 Income Tax Return that it would apply the said amount as a tax credit for the succeeding taxable year, 1990. Subsequently, petitioner informed the Bureau of Internal Revenue (BIR) that it would claim the amount as a tax

refund, instead of applying it as a tax credit. When no action from the BIR was forthcoming, petitioner filed its claim with the Court of Tax Appeals.

The CTA and the CA, however, denied the claim for tax refund. Since petitioner declared in its 1989 Income Tax Return that it would apply the excess withholding tax as a tax credit for the following year, the Tax Court held that petitioner was presumed to have done so. The CTA and the CA ruled that petitioner failed to overcome this presumption because it did not present its 1990 Return, which would have shown that the amount in dispute was not applied as a tax credit. Hence, the CA concluded that petitioner was not entitled to a tax refund.

We disagree with the Court of Appeals. As a rule, the factual findings of the appellate court are binding on this Court. This rule, however, does not apply where, *inter alia*, the judgment is premised on a misapprehension of facts, or when the appellate court failed to notice certain relevant facts which if considered would justify a different conclusion.[11] This case is one such exception.

In the first place, petitioner presented evidence to prove its claim that it did not apply the amount as a tax credit. During the trial before the CTA, Ms. Yolanda Esmundo, the manager of petitioner's accounting department, testified to this fact. It likewise presented its claim for refund and a certification issued by Mr. Gil Lopez, petitioner's vice-president, stating that the amount of P112,491 "has not been and/or will not be automatically credited/offset against any succeeding quarters' income tax liabilities for the rest of the calendar year ending December 31, 1990." Also presented were the quarterly returns for the first two quarters of 1990.

The Bureau of Internal Revenue, for its part, failed to controvert petitioner's claim. In fact, it presented no evidence at all. Because it ought to know the tax records of all taxpayers, the CIR could have easily disproved petitioner's claim. To repeat, it did not do so.

More important, a copy of the Final Adjustment Return for 1990 was attached to petitioner's Motion for Reconsideration filed before the CTA.[12] 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.

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." [13] 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.

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.

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.[14] 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.[15] 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.

Public respondents maintain that what was attached to petitioner's Motion for Reconsideration was not the final adjustment Return, but petitioner's first two quarterly returns for 1990.[16] This allegation is wrong. An examination of the records shows that the 1990 Final Adjustment Return was attached to the Motion for Reconsideration. On the other hand, the two quarterly returns for 1990 mentioned by respondent were in fact attached to the Petition for Review filed before the CTA. Indeed, to rebut respondents' specific contention, petitioner submitted before us its Surrejoinder, to which was attached the Motion for Reconsideration and Exhibit "A" thereof, the Final Adjustment Return for 1990.[17]

CTA Case No. 4897

Petitioner also calls the attention of this Court, as it had done before the CTA, to a Decision rendered by the Tax Court in CTA Case No. 4897, involving its claim for refund for the year 1990. In that case, the Tax Court held that "petitioner suffered a net loss for the taxable year 1990 x x x."[18] Respondent, however, urges this Court not to take judicial notice of the said case.[19]

As a rule, "courts are not authorized to take judicial notice of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been heard or are actually pending before the same judge."[20]

Be that as it may, Section 2, Rule 129 provides that courts may take judicial notice of

matters ought to be known to judges because of their judicial functions. In this case, the Court notes that a copy of the Decision in CTA Case No. 4897 was attached to the Petition for Review filed before this Court. Significantly, respondents do not claim at all that the said Decision was fraudulent or nonexistent. Indeed, they do not even dispute the contents of the said Decision, claiming merely that the Court cannot take judicial notice thereof.

To our mind, respondents' reasoning underscores the weakness of their case. For if they had really believed that petitioner is not entitled to a tax refund, they could have easily proved that it did not suffer any loss in 1990. Indeed, it is noteworthy that respondents opted *not* to assail the *fact* appearing therein -- that petitioner suffered a net loss in 1990 – in the same way that it *refused* to controvert the *same fact* established by petitioner's other documentary exhibits.

In any event, the Decision in CTA Case No. 4897 is not the sole basis of petitioner's case. It is merely one more bit of information showing the stark truth: petitioner did not use its 1989 refund to pay its taxes for 1990.

Finally, respondents argue that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the claimant. Under the facts of this case, we hold that petitioner has established its claim. Petitioner may have failed to strictly comply with the rules of procedure; it may have even been negligent. These circumstances, however, should not compel the Court to disregard this cold, undisputed fact: that petitioner suffered a net loss in 1990, and that it could not have applied the amount claimed as tax credits.

Substantial justice, equity and fair play are on the side of petitioner. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.

WHEREFORE, the Petition is hereby *GRANTED* and the assailed Decision and Resolution of the Court of Appeals *REVERSED* and *SET ASIDE*. The Commissioner of Internal Revenue is ordered to refund to petitioner the amount of P112,491 as excess creditable taxes paid in 1989. No costs.

SO ORDERED.

Melo, (Chairman), Purisima, and *Gonzaga-Reyes, JJ.,* concur.

Vitug, J., abroad, on official business.

[1] Fourth Division, composed of *JJ.* Quirino D. Abad Santos Jr. (*ponente*), Gloria C. Paras (chairman) and Delilah Vidallon-Magtolis (member)

[2] Written by Associate Judge Ramon O. De Veyra, with the concurrence of Presiding Judge Ernesto A. Acosta and Associate Judge Manuel K. Gruba. The case was docketed as CTA Case No. 4694.

[3] Rollo, p. 30.

[4] Rollo, p. 38.

[5] Rollo, p. 32.

[6] Rollo, pp. 27-28.

[7] The case was deemed submitted for resolution on October 18, 1999, upon receipt by this Court of respondents' Memorandum, which was signed by Assistant Solicitor General Mariano M. Martinez and Associate Solicitor Olivia V. Non. Petitioner's Memorandum, which was signed by Atty. Sabino B. Padilla IV of the Padilla Law Office, was received earlier on August 19, 1999. This case, however, was assigned to the undersigned *ponente* for the writing of the Court's Decision during the deliberations of the Court on April 5, 2000 when his erstwhile Dissent was voted as the majority opinion. Subsequently, the original *ponente* changed his mind and now agrees with this Decision.

[8] Rollo, p. 29.

[9] Respondents' Memorandum, p. 5.

[10] "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. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total due on the entire taxable net income of that year the corporation shall either:

(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."

[11] *National Steel Corporation v. CA,* 283 SCRA 45, December 12, 1997; *Fuentes Jr. v. Court of Appeals,* 253 SCRA 430, 435, February 9, 1996.

[12] Exhibit "A," Motion for Reconsideration filed before the CTA. This was attached to Petitioner's Surrejoinder (Rollo, p. 160)

[13] Section 8, Republic Act No. 1125.

[14] See *De Guzman v. Sandiganbayan*, 256 SCRA 171, April 11, 1996.

[15] See Annex "A," Petitioner's Surrejoinder; rollo, p. 160.

[16] Respondent's Memorandum, p. 7.

[17] Rollo, p. 160.

[18] Decision in CTA Case No. 4897, p. 7; rollo, p. 59.

[19] Respondents' Memorandum, pp. 9-10.

[20] *Tabuena v. CA*, 196 SCRA 650, May 6, 1991, per Cruz, J.
