

## THIRD DIVISION

[ G.R. No. 168331, October 11, 2012 ]

**UNITED INTERNATIONAL PICTURES AB, PETITIONER, VS.  
COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.**

### DECISION

**PERALTA, J.:**

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assails the Decision<sup>[1]</sup> dated August 31, 2004 and Resolution<sup>[2]</sup> dated May 17, 2005 of the Court of Appeals in CA-G.R. SP No. 76173.

The facts follow.

On April 15, 1999, petitioner filed with the Bureau of Internal Revenue (BIR) its Corporation Annual Income Tax Return for the calendar year ended December 31, 1998 reflecting, among others, a net taxable income from operations in the sum of P24,961,200.00, an income tax liability of P8,486,808.00, but with an excess income tax payment in the amount of P4,325,152.00 arising from quarterly income tax payments and creditable taxes withheld at source, computed as follows:

Gross Income	P 42,905,466.00
Less: Deductions	<u>17,944,266.00</u>
Taxable Income	P 24,961,200.00
Tax Due	P 8,468,808.00
Less: Tax Credits/Payments	<u>12,811,960.00</u>
Tax Overpayment	P 4,325,152.00

Petitioner opted to carry-over as tax credit to the succeeding taxable year the said overpayment by putting an "x" mark on the corresponding box.

On April 17, 2000, petitioner filed its Corporation Annual Income Tax Return for the calendar year ended December 31, 1999 wherein it reported, among others, a taxable income in the amount of P7,071,651.00, an income tax due of P2,333,645.00, but with an excess income tax payment in the amount of P9,309,292.00, detailed as follows:

Gross Income	P 25,240,148.00
Less: Deductions	<u>18,168,497.00</u>
Taxable Income	P 7,071,651.00
Tax Due	P 2,333,645.00
Less: Tax Credits/Payments	
a. Prior Years Excess Credits	P 4,325,152.00
b. Creditable Tax Withheld	<u>7,317,785.00</u>
	<u>11,642,937.00</u>

On the face of the 1999 return, petitioner indicated its option by putting an "x" mark on the box "To be refunded."

On April 28, 2000, petitioner filed with the BIR an administrative claim for refund in the amount of P9,309,292.00.

As respondent did not act on petitioner's claim, the latter filed a petition for review before the Court of Tax Appeals (CTA) to toll the running of the two-year prescriptive period.

On September 12, 2001, the CTA rendered a Decision<sup>[3]</sup> denying petitioner's claim for refund for taxable year 1998. It reasoned that since petitioner opted to carry over the 1998 tax overpayment as tax credit to the succeeding taxable year, the same cannot be refunded pursuant to Section 76 of the National Internal Revenue Code (NIRC) of 1997. The decretal portion of the decision reads:

**WHEREFORE**, in view of the foregoing, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to **REFUND**, or in the alternative, **ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the amount of P7,269,078.40 representing unutilized creditable withholding tax for the year 1999.<sup>[4]</sup>

Dissatisfied, both parties filed their respective motions for reconsideration, but the same were denied by the CTA per Resolution dated March 11, 2003.

Consequently, respondent elevated the case to the Court of Appeals (CA).

In its petition, respondent argued that petitioner is not entitled to the refund awarded by the CTA, because it failed to present sufficient proof that the subject taxes were erroneously or illegally collected.

On August 31, 2004, the CA annulled and set aside the decision of the CTA. The CA ruled in this wise:

All told, the CTA erred in granting respondent's claim for tax refund, albeit in a reduced amount. As earlier discussed, the law specifically outlines the evidentiary requirements for the grant of tax credit or refund and failure on the part of the taxpayer to justify its claim in accordance with said standard is fatal to its cause. Considering the doubts cast on the documentary evidence presented by respondent in support of its claim, said evidence cannot be the basis for the grant of a refund. Indeed, it is the height of absurdity to allow a taxpayer to claim a refund when there is doubt as to whether it had, in fact, paid the correct amount of taxes due to the government.

**WHEREFORE**, the instant petition is **GRANTED**. The assailed decision of

the Court of Tax Appeals is **ANNULLED** and **SET ASIDE** and another rendered **DISMISSING** the claim for tax refund of respondent.

**SO ORDERED.**<sup>[5]</sup>

Thereafter, petitioner filed a motion for reconsideration against the aforementioned decision, but the same was denied in a Resolution dated May 17, 2005.

Accordingly, petitioner filed a petition for review on certiorari before this Court praying that the decision of the CA be set aside and that an income tax refund or tax credit certificate in the full amount of P9,260,585.40 be issued in its favor.

In its petition, petitioner submitted the following issues for this Court's disposition:

- A. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN ANNULING THE DECISION OF THE COURT OF TAX APPEALS THEREBY DENYING THE CLAIM FOR REFUND OF [PETITIONER] UIP.
- B. WHETHER UIP IS PERPETUALLY PRECLUDED FROM [SUBMITTING] AN APPLICATION FOR INCOME TAX REFUND ON ITS EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAXES FOR THE YEAR 1998 AFTER IT HAS INDICATED ITS OPTION TO CARRY-OVER THIS EXCESS CREDITABLE INCOME TAX TO THE FOLLOWING TAXABLE YEAR 1999.<sup>[6]</sup>

The foregoing issues can be simplified as follows: *first*, whether petitioner is perpetually barred to refund its tax overpayment for taxable year 1998 since it opted to carry-over its excess tax; and *second*, whether petitioner has proven its entitlement to the refund.

Let us discuss the issues *in seriatim*.

Anent the first issue, petitioner asserts that there is nothing in the law which perpetually prohibits the refund of carried over excess tax. It maintains that the option to carry-over is irrevocable only for the next "taxable period" where the excess tax payment was carried over.

We are not convinced.

Section 76 of the NIRC of 1997 states –

**Section 76. Final Adjustment Return.** – Every corporation liable to tax under Section 27 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 income of that year, the corporation shall either:

- (A) Pay the balance of tax still due; or