

THIRD DIVISION

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

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

DECISION

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

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 Internal Revenue Code;
- (2) That the income upon which the taxes were withheld were included in the return of the recipient; and
- (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.

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.

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. 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