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FIRST DIVISION

[G.R. No. 181298, January 10, 2011]

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

D E C I S I O N

DEL CASTILLO, J.:

Section 69 of the old National Internal Revenue Code (NIRC) allows unutilized tax credits to be refunded as long as the claim is filed within the prescriptive period. This, however, no longer holds true under Section 76 of the 1997 NIRC as the option to carry-over excess income tax payments to the succeeding taxable year is now irrevocable.

This Petition for Review on *Certiorari* [1] under Rule 45 of the Rules of Court seeks to set aside the January 25, 2007 Decision [2] and the January 21, 2008 Resolution [3] of the Court of Appeals (CA).

Factual Antecedents

Petitioner Belle Corporation is a domestic corporation engaged in the real estate and property business. [4]

On May 30, 1997, petitioner filed with the Bureau of Internal Revenue (BIR) its Income Tax Return (ITR) for the first quarter of 1997, showing a gross income of P741,607,495.00, a deduction of P65,381,054.00, a net taxable income of P676,226,441.00 and an income tax due of P236,679,254.00, which petitioner paid on even date through PCI Bank, Tektite Tower Branch, an Authorized Agent Bank of the BIR. [5]

On August 14, 1997, petitioner filed with the BIR its second quarter ITR, declaring an overpayment of income taxes in the amount of P66,634,290.00. The computation of which is reproduced below:

Gross Income	P 833,186,319.00
Less: Deductions	347,343,565.00
Taxable Income	P 485,842,754.00
Tax Rate	x 35%
Tax Due	P 170,044,964.00
Less: Tax Credits/Payments	

(a) Prior Year's Excess Tax Credit	-	
(b) 1st Quarter Payment	P236,679,254.00	
(c) Creditable Withholding Tax	-	
		(P 66,634,290.00) [6]

In view of the overpayment, no taxes were paid for the second and third quarters of 1997. [7] Petitioner's ITR for the taxable year ending December 31, 1997 thereby reflected an overpayment of income taxes in the amount of P132,043,528.00, computed as follows:

Gross Income		P 1,182,473,910.00
Less: Deductions		879,485,278.00
Taxable Income		P 302,988,362.00
Tax Rate		x 35%
Tax Due		P 106,046,021.00
Less: Tax Credits/Payments		
(a) Prior Year's Excess Tax Credit	-	
(b) 1st Quarter Payment	P236,679,254.00	
(c) Creditable Withholding Tax	(1,410,295.00)	(238,089,549.00)
REFUNDABLE AMOUNT		(P 132,043,528.00) [8]

Instead of claiming the amount as a tax refund, petitioner decided to apply it as a tax credit to the succeeding taxable year by marking the tax credit option box in its 1997 ITR. [9]

For the taxable year 1998, petitioner's amended ITR showed an overpayment of P106,447,318.00, computed as follows:

Gross Income		P 1,279,810,489.00
Less: Deduction		1,346,553,546.00
Taxable Income (Loss)		(P 66,743,057.00)
Tax Rate		34%
Tax Due (Regular Income Tax)	-	NIL
Minimum Corporate Income Tax		P 25,596,210.00
Tax Due		25,596,210.00
Less: Tax Credits/Payments		
(a) Prior year's excess Tax Credits		(P 132,041,528.00)

(b) Quarterly payment	-	
(c) Creditable tax withheld	-	
Tax Payable/Overpayment		(P 106,447,318.00) [10]

On April 12, 2000, petitioner filed with the BIR an administrative claim for refund of its unutilized excess income tax payments for the taxable year 1997 in the amount of P106,447,318.00. [11]

Notwithstanding the filing of the administrative claim for refund, petitioner carried over the amount of P106,447,318.00 to the taxable year 1999 and applied a portion thereof to its 1999 Minimum Corporate Income Tax (MCIT) liability, as evidenced by its 1999 ITR. [12] Thus:

Gross Income		P 708,888,638.00
Less: Deduction		1,328,101,776.00
Taxable Income		(P 619,213,138.00)
Tax Due		-
Minimum Corporate Income Tax		P 14,185,874.00
Less: Tax Credits/Payments		
(a) Prior year's excess Credit	P 106,447,318.00	
(b) Tax Payments for the 1st & 3rd Qtrs.	0	
(c) Creditable tax withheld	0	P 106,447,318.00
TAX PAYABLE/REFUNDABLE		(P 92,261,444.00) [13]

Proceedings before the Court of Tax Appeals (CTA)

On April 14, 2000, due to the inaction of the respondent Commissioner of Internal Revenue (CIR) and in order to toll the running of the two-year prescriptive period, petitioner appealed its claim for refund of unutilized excess income tax payments for the taxable year 1997 in the amount of P106,447,318.00 with the CTA *via* a Petition for Review, [14] docketed as CTA Case No. 6070.

In answer thereto, respondent interposed that:

> 4. Petitioner's alleged claim for refund/tax credit is subject to administrative routinary investigation/examination by respondent's Bureau;
>
> 5. Petitioner failed miserably to show that the total amount of P106,447,318.00 claimed as overpaid or excess income tax is refundable;

> 6. Taxes paid and collected are presumed to have been paid in accordance with law; hence, not refundable;
>
> 7. In an action for tax refund, the burden is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund;
>
> 8. It is incumbent upon petitioner to show that it has complied with the provisions of Section 204 (c) in relation to Section 229 of the tax Code;
>
> 9. Well-established is the rule that refunds/tax credits are construed strictly against the taxpayer as they partake the nature of tax exemptions. [15]

To prove entitlement to the refund, petitioner submitted, among others, the following documents: its ITR for the first quarter of taxable year 1997 *(Exhibit "B")*, [16] its tentative ITRs for taxable years 1997 *(Exhibit "D")* [17] and 1998 *(Exhibit "H")*, [18] its final ITRs for taxable years 1997 *(Exhibit "E")*, [19] 1998 *(Exhibit "I")* [20] and 1999 *(Exhibit "J")*, [21] its Letter Claim for Refund filed with the BIR *(Exhibit "K")* [22] and the Official Receipt issued by PCI Bank showing the income tax payment made by petitioner in the amount of P236,679,254.00 for the first quarter of 1997 *(Exhibit "C")*. [23]

On April 10, 2001, the CTA rendered a Decision [24] denying petitioner's claim for refund. It found:

> [T]hat all the allegations made by the Petitioner as well as the figures accompanying Petitioner's claim are substantiated by documentary evidence but noticed some flaws in Petitioner's application of the pertinent laws involved.
>
> It bears stressing that **the applicable provision in the case at bar is Section 69 of the old Tax Code and not Section 76 of the 1997 Tax Code**. Settled is the rule that under Section 69 of the old Tax Code, the carrying forward of any excess/overpaid income tax for a given taxable year is limited only up to the succeeding taxable year.
>
> A painstaking scrutiny of Petitioner's income tax returns would show that Petitioner carried over its 1997 refundable tax of P132,043,528.00 to the succeeding year of 1998 yielding an overpayment of P106,447,318.00 (Exhibit I-1) after deducting therefrom the minimum Corporate Income tax of P25,596,210.00. **However, Petitioner even went further to the taxable year 1999 and applied the Prior Year's (1998) Excess Credit of P106,447,318.00 to its income tax liability.**
>
> True enough, upon verification of Petitioner's 1999 Corporate Annual Income Tax Return (Exh. I), **this Court found that the whole amount of P106,447,318.00 representing its prior year's excess credit (subject of this claim) was carried forward to its 1999 income tax**

liability, details of the 1999 Income Tax Return are shown below as follows:

Gross Income		P 708,888,638.00
Less: Deduction		1,328,101,776.00
Taxable Income		(P 619,213,138.00)
Tax Due		-
Minimum Corporate Income Tax		P 14,185,874.00
Less: Tax Credits/Payments		
(a) Prior year's excess Credit	P 106,447,318.00	
(b) Tax Payments for the 1st & 3rd Qtrs.	0	
(c) Creditable tax withheld	0	P 106,447,318.00
TAX PAYABLE/REFUNDABLE		(P 92,261,444.00) [13]

It is an elementary rule in taxation that an automatic carry over of an excess income tax payment should only be made for the succeeding year. (Paseo Realty and Dev't. Corp. vs. CIR, CTA Case No. 4528, April 30, 1993) True enough, implicit from the provisions of Section 69 of the NIRC, as amended, (supra) is the fact that the refundable amount may be credited against the income tax liabilities for the taxable quarters of the succeeding taxable year not succeeding years; and that the carry-over is only limited to the quarters of the succeeding taxable year. (citing ANSCOR Hagedorn Securities Inc. vs. CIR, CA-GR SP 38177, December 21, 1999) To allow the application of excess taxes paid for two successive years would run counter to the specific provision of the law above-mentioned. [25] (Emphasis supplied.)

Petitioner sought reconsideration [26] of the CTA's denial of its claim for refund, but the same was denied in a Resolution [27] dated June 5, 2001, prompting petitioner to elevate the matter to the CA *via* a Petition for Review [28] under Rule 43 of the Rules of Court.

Ruling of the Court of Appeals

On January 25, 2007, the CA, applying *Philippine Bank of Communications v. Commissioner of Internal Revenue,* [29] denied the petition. The CA explained that the overpayment for taxable year 1997 can no longer be carried over to taxable year 1999 because excess income payments can only be credited against the income tax liabilities of the succeeding taxable year, in this case up to 1998 only and not beyond. [30] Neither can the overpayment be refunded as the remedies of automatic tax crediting and tax refund are alternative remedies. [31] Thus, the CA ruled: