

THIRD DIVISION

[G.R. No. 113703, January 31, 1997]

**COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS.
A.SORIANO CORPORATION, COURT OF TAX APPEALS AND COURT
OF APPEALS, RESPONDENTS.**

R E S O L U T I O N

FRANCISCO, J.:

The facts of this case are undisputed.

On November 27, 1987, private respondent, A. Soriano Corporation (hereinafter referred to as ANSCOR for brevity), filed with the respondent, Court of Tax Appeals, a petition for refund of excess tax payments it made to the Bureau of Internal Revenue (BIR) in the amount of P273,876.05 for the year 1985 and P1,126,065.40 for the year 1986 or a total amount of P1,399,941.45, arriving at the foregoing amount as follows:

1985

**Prior year's excess
Income tax
payments (Exh. A)**

P 3,016,841.00

Plus:

**Taxes withheld on
Interest**

P 255,864.00

1,068,244.00 (Exh. A)

Rentals, etc.

812,380.00

P 4,085,085.00

Less:

Income Tax

P 2,620,347. 00

1981 tax credit

Claimed in CTA

Case No. 3964

1,190,861.95

3,811,208.95

P 237,876.05 (Exh. D)

Excess tax payments

1986

**Taxes Withheld by
withholding agents**

1,126,065.40 (Exh. C)

**Total excess tax
payments**

P 1,399,941.45"[1]

During trial before the Court of Tax Appeals, ANSCOR presented evidence to substantiate its claim, to which no objection was interposed by the petitioner, Commissioner of Internal Revenue, except for the purposes for which they were offered. When ANSCOR rested its case, the petitioner, instead of presenting evidence, submitted the case for decision solely upon the evidence adduced by ANSCOR and the pleadings on record.^[2]

On August 7, 1991, the Court of Tax Appeals rendered a decision, the pertinent portion of which reads:

“In the light of the course respondent has chosen to prove his case, the approach turns out short. In a very recent case (Citytrust Banking Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4099, May 28, 1991) we concluded under similar circumstances:

‘Respondent did not object to the existence of statements and certificates which were offered by petitioner as proof of the withholding taxes but took exception to their contents and purposes. Despite said reservation, up until the submission of this case for decision, respondent was not heard to complain about the veracity of the contents of these documents or exhibits nor has it shown any irregularity in the same which will taint their reliability or sufficiency as proofs of the taxes withheld despite the fact that it is well within their competence to do so. Respondent is thereby considered to have admitted the truth of the contents of these exhibits. Hence, those amounts of withheld taxes which are supported by corresponding statements or certificates of withholding taxes admitted in evidence shall be allowed as tax credits.’

“Nor does the failure of respondent affect only the subject of 1985 taxes. Against the claimed deductions by petitioner for 1986, which it supported with tax returns as evidence, respondent could only give out the perfunctory resistance such as that ‘mere allegation of net loss does not ipso facto merit a refund.’ But respondent for his part, did not present any evidence that would have disputed the correctness of the tax returns and other material facts therein (Citytrust Banking Corporation vs. Commissioner of Internal Revenue, supra).

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“WHEREFORE, the petition is hereby GRANTED. Respondent is ordered to issue a tax credit memorandum to petitioner in the sum of P1,399,941.45 to be used as payment for its internal revenue tax liabilities.”^[3]

On September 17, 1991, the petitioner filed a motion for reconsideration of the foregoing decision. Seeking the admission in evidence of a report^[4] submitted only on September 18, 1991 by the BIR Official who investigated ANSCOR’s claim for refund, a supplemental motion for reconsideration was filed by the petitioner on September 27, 1991. The Court of Tax Appeals, however, denied the petitioner’s motion for reconsideration and supplemental motion for reconsideration. In a