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SECOND DIVISION

[G.R. No. 144440. September 1, 2004]

COMMISSIONER OF CUSTOMS, *petitioner, vs.* **PHILIPPINE PHOSPHATE FERTILIZER CORPORATION,** *respondent.*

SYNOPSIS

Section 17 of Presidential Decree No. 66 (EPZA Law) exempts from customs and internal revenue laws, supplies brought into the export processing zone. Philphos, an enterprise registered with the Export Processing Zone, is entitled to tax incentives. Consequently, Philphos sought the refund of customs duties it had paid for the period October to December 1991 and January to June, 1992 on purchased fuels and petroleum products from Petron which imported the same and paid the corresponding customs duties but passed on said customs duties to Philphos as part of the selling price. These fuel supplies are indispensable for Philphos' business as they run the machines which manufacture the fertilizers.

The Supreme Court held that Sec 17 (l) certainly covers petroleoum supplies used, directly or indirectly, by Philphos to facilitate its production of fertilizers, subject to the minimal requirement that these supplies are brought into the zone. The supplies are not subject to customs and internal revenue laws and regulations, nor to local tax ordinances. Sec. 17 (l) considers such supplies exempt even if they are used indirectly , as they had been in this case. The Bureau of Customs denied the claim for refund. On appeal, the CTA issued a Tax Credit Certificate in favor of Philphos. The CA affirmed the CTA's decision *in toto*. Both relied on Section 17(1) of the EPZA Law to justify the conclusion that Philphos is entitled to the refund

In the present petition for review, the Commissioner of Customs insists that it is Section 18 (i) of the EPZA Law that is applicable and precludes Philphos's claim for refund

Denying the petition, the Supreme Court held that *solutio indebiti* provisions in the past have been applied in cases when taxes were collected thru error or mistake; *Solutio indebiti* is a quasi-contract, thus the claim for refund must be commenced

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within six (6) years from date of payment pursuant to Article 1145 (2) of the New Civil Code. Thus, Philphos' right to refund has not yet prescribed. Section18 of the EPZA Law does not exclude the broad grant of benefits accorded by Section 17. These "additional incentives" under Section 18 are to be enjoyed in conjunction with the incentives under Section 17. The Supreme Court, however, slightly modified the award . Instead of a tax credit which avails only if the supplies form part of the export product, a refund of the same amount is warranted under the circumstances.

SYLLABUS

1. **TAXATION; PRESIDENTIAL DECREE NO. 66 (EPZA LAW); SECTION 17(I) THEREOF; TAX EXEMPTIONS; FOREIGN AND DOMESTIC MERCHANDISE OF REGISTERED ENTERPRISES BROUGHT INTO THE ZONE ARE NOT SUBJECT TO CUSTOMS AND INTERNAL REVENUE LAWS NOR TO LOCAL TAX ORDINANCES; CASE AT BAR.—** Section 17 of the EPZA Law particularizes the tax benefits accorded to duly registered enterprises. . . . The cited provision certainly covers petroleum supplies used, *directly or indirectly*, by Philphos to facilitate its production of fertilizers, subject to the minimal requirement that these supplies are brought into the zone. The supplies are not subject to customs and internal revenue laws and regulations, nor to local tax ordinances. It is clear that Section 17(I) considers such supplies exempt even if they are used *indirectly*, as they had been in this case. Since Section 17(I) treats these supplies for tax purposes as beyond the ambit of customs laws and regulations, the arguments of the Commissioner invoking the provisions of the Tariff and Customs Code must fail.

2. **ID.; ID.; ID.; ID.; ID.; APPLICATION OF PRESCRIPTIVE PERIOD FOR *SOLUTIO INDEBITI* CASES PROPER IN CLAIMS FOR REFUND; CASE AT BAR. –** Neither would the prescriptive periods or procedural requirements provided under the Tariff and Customs Code serve as a bar for the claim for refund. The holding of the CTA on this point is illuminating. What is the prescriptive period which a duly registered enterprise should observe in applying for a refund to which it is entitled under the EPZA Law? The EPZA Law itself is silent on the

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matter, and the prescriptive periods under the Tariff and Customs Code and other revenue laws are inapplicable, by specific mandate of Section 17(I) of the EPZA Law. This does not mean though that prescription will not lie, as the Civil Code provisions on *solutio indebiti* may find application. The Civil Code is not a customs and internal revenue law. The Court has in the past sanctioned the application of the provisions on *solutio indebiti* in cases when taxes were collected thru error or mistake. *Solutio Indebiti* is a quasi-contract, thus the claim for refund must be commenced within six (6) years from date of payment pursuant to Article 1145(2) of the New Civil Code. Clearly then, Philphos's right to refund has not yet prescribed.

3. **ID.; ID.; ID.; ID.; ADDITIONAL INCENTIVES GRANTED UNDER SECTION 18 DO NOT EXCLUDE BENEFITS ACCORDED BY SECTION 17; CASE AT BAR.—** Section 18 does not exclude or otherwise limit the broad grant of benefits accorded by Section 17. These "additional incentives" under Section 18 are to be enjoyed in conjunction with the incentives under Section 17. This is indicated by the use of the words "additional" and "shall also" in the first paragraph of Section 18. Even the Commissioner admits the distinct character of Section 18. The divergent natures of the benefits under Sections 17 and 18 become readily apparent upon examination of the additional incentives enumerated under Section 18. They include allowance of net-operating loss carry-over, accelerated depreciation, exemption from export tax, foreign exchange assistance, financial assistance, exemptions for local taxes and licenses, deductions for labor training services, and deductions for organizational and pre-operating expenses. Section 18 does not serve the purpose of qualifying the benefits provided under Section 17. Instead, it enumerates another class of incentives also available to registered enterprises, in addition to, and apart from, the general benefits accorded under Section 17. There can be no doubt that the additional incentives under Section 18 are separate and distinct from those under the preceding section.

4. **ID.; TAX REFORM ACT OF 1997; TAX REFUND DISTINGUISHED FROM TAX CREDIT; AWARD OF A TAX REFUND PROPER IN CASE AT BAR.—** The Tax Reform Act of 1997 authorizes either a refund or credit as a means of recovery of tax erroneously or illegally collected. It may be that there is no essential difference between a tax refund

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> and a tax credit since both are modes of recovering taxes erroneously or illegally paid to the government. Yet, there are unmistakable formal and practical differences between the two modes. Formally, a tax refund requires a physical return of the sum erroneously paid by the taxpayer, while a tax credit involves the application of the reimbursable amount against any sum that may be due and collectible from the taxpayer. On the practical side, the taxpayer to whom the tax is refunded would have the option, among others, to invest for profit the returned sum, an option not proximately available if the taxpayer chooses instead to receive a tax credit. . . . The CTA, as affirmed by the CA, ordered the issuance of a Tax Credit Certificate in favor of Philphos. No elaborations was made as to why the relief granted was a tax credit and not a refund, but we can deduce that such was the relief afforded as it was the relief prayed for by Philphos in its *Petition* before the tax court. However, a slight modification of the award is necessary so as not to render nugatory the proscription under Section 18(i) that a tax credit avails only if the supplies form part of the export product. Instead of awarding a Tax Credit Certificate to Philphos, a refund of the same amount is warranted under the circumstances.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
R.E. Cabote & Associates for respondent.

D E C I S I O N

TINGA, *J.*:

The financial planners of the State are often confounded by the precarious balance between the need to provide a conducive investment climate and the need to enhance revenue collections. In the present *Petition for Review*, the Court is called upon to interpret the provisions of a law designed to benefit investors with tax exemptions. Tax exemptions are generally construed strictly against the taxpayer; yet, when the purported ambiguities in the law are more imagined than real, there should be no hesitation to rule for the taxpayer.

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The factual backdrop of the case is uncomplicated.

Respondent Philippine Phosphate Fertilizer Corporation (Philphos) is a domestic corporation engaged in the manufacture and production of fertilizers for domestic and international distribution. Its base of operations is in the Leyte Industrial Development Estate, an export processing zone.[1] It is also registered with the Export Processing Zone Authority (EPZA), now known as the Philippine Export Zone Authority (PEZA).[2]

The manufacture of fertilizers required Philphos to purchase fuel and petroleum products for its machineries. These fuel supplies are considered indispensable by Philphos, as they are used to run the machines and equipment and in the transformation of raw materials into fertilizer.[3] The fuel supplies are secured domestically from local distributors, in this case, Petron Corporation (Petron), which imports the same and pays the corresponding customs duties to the Bureau of Customs; and, the *ad valorem* and specific taxes to the Bureau of Internal Revenue. When the fuel and petroleum products are delivered at Philphos's manufacturing plant inside the Leyte Industrial Development Estate, Philphos is billed by Petron the corresponding customs duties imposed on these products. Effectively thus, Philphos reimburses Petron for the customs duties on the purchased fuels and petroleum products which are passed on by the Petron as part of the selling price.[4]

Under this arrangement, Philphos made several purchases from Petron of fuels and other petroleum products used directly or indirectly in the manufacture of fertilizers for the period of October 1991 until June 1992.[5] During the period in question, Philphos indirectly paid as customs duties, the amount of Twenty

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[1] *Rollo*, p. 196.

[2] See Section 47, Rep. Act No. 7916 (1995).

[3] *Rollo*, p. 62.

[4] *Id*. at 196.

[5] *Ibid*.

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Million One Hundred Forty Nine Thousand Four Hundred Seventy Three Pesos and Seventy Seven Centavos (₱20,149,473.77).[6]

In a letter to the Bureau of Customs, dated 18 September 1992, Philphos sought the refund of customs duties it had paid for the period covering the months of October to December 1991, and January to June, 1992.[7] It pointed out that Philphos, being an enterprise registered with the export processing zone, is entitled to tax incentives under Presidential Decree No. 66 (EPZA Law), referring specifically to Section 17 thereof which exempts from customs and internal revenue laws, supplies brought into the export processing zone. Consequently, Philphos argued that the customs duties billed by Petron on Philphos should be refunded.

The Bureau of Customs denied the claim for refund in a letter dated 4 January 1993.[8] Hence, a *Petition for Review* was filed with the Court of Tax Appeals (CTA), assailing the denial of the refund. The CTA ruled for Philphos in a *Decision*[9] dated 5 October 1995, ordering the issuance of a Tax Credit Certificate in the amount of Twenty Million One Hundred Forty Nine Thousand Four Hundred Seventy Three Pesos and Seventy Seven Centavos (₱20,149,473.77) in favor of Philphos. The matter was elevated by the Commissioner of Customs (Commissioner) to the Court of Appeals (CA), which eventually affirmed the CTA's *Decision in toto*.[10]

Both the CTA and the CA relied upon Section 17(1) of the EPZA Law to justify the conclusion that Philphos is entitled

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[6] *Id*. at 30.

[7] *Rollo*, pp. 71-72.

[8] *Id*. at 73.

[9] *Rollo*, pp. 85-97. *Ponencia* by Presiding Judge (now CTA Presiding Justice) Ernesto D. Acosta, concurred in by Associate Judges Manuel K. Gruba and Ramon O. De Veyra.

[10] *Rollo*, pp. 29-41. In a Decision dated 4 August 2000, penned by Associate Justice O. Agcaoli, and concurred in by Associate Justices A. Sandoval-Guttierez and M. Gozo-Dadole.

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to the refund. Before this Court, the Commissioner argues that since the importation of the subject products, made by the seller Petron, had already been finally terminated, all future claims for refund are thus barred. It likewise insists that controlling in this case is Section 18(i) of the EPZA Law, under which claims for refunds similar to Philphos's are precluded. Finally, the Commissioner posits that since a refund on tax credit partakes the nature of an exemption, the grant thereof must be explicit.

There is no need to inquire into the factual basis for the amount sought to be refunded.[11] Petitioner does not dispute the amount, but only the legal basis for the exemption. Moreover, since the Court itself is not a trier of facts it will respect primarily the findings of the ultimate trier of facts, namely: the CA. In this case, however, there is coalescence in the findings of the two courts below.

The EPZA Law, promulgated in 1972, has since been superseded by Republic Act No. 7916, or "The Special Economic Zone Act of 1995." However, since the claim for exemption covers the years 1991 and 1992, or before the enactment of Republic Act No. 7916, the provisions of the EPZA Law are applicable in the present petition.

Consideration of the general philosophy and thrust of the EPZA Law cannot be evaded. The export processing zone is intended to be a viable commercial, industrial and investment area.[12] The enunciated policy of the EPZA Law is to encourage and promote foreign commerce as a means of making the Philippines a center of international trade; strengthening our export trade and foreign exchange position; hastening industrialization; reducing domestic unemployment; and

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[11] As the Court of Tax Appeals held in its assailed *Decision*, "[W]ith regard to the claim for tax credit, there appears to be no dispute with respect to the amount claimed. Petitioner had satisfied the Court with the evidence presented that it is entitled to be credited the amount of ₱20,149,473.77." *Rollo*, p. 96.

[12] *Estate of Salud Jimenez v. Philippine Export Processing Zone*, G.R. No. No. 137285, 16 January 2001, 349 SCRA 240, 262.

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accelerating the development of the country, by establishing export processing zones in strategic locations in the Philippines.[13]

As noted by the CTA, the basic policy in establishing export processing zones is to attract enterprises, especially foreign investors, who will be manufacturing products primarily for export and be able to do so without their supplies and raw materials entering, and the export products leaving, the Philippine territory within the context of customs and revenue regulations.[14] From a macro-perspective though, export processing zones are not intended to solely benefit investors. These zones are scattered throughout the country in remote areas and have the patent benefit of creating employment opportunities within their localities. It is the presence of tangible tax benefits attached to these zones which make them viable as investment locations, areas which ordinarily would be overlooked.

The incentives offered to enterprises duly registered with the PEZA consist, among others, of tax exemptions. These benefits may, at first blush, place the government at a disadvantage as they preclude the collection of revenue. Still, the expectation is that the tax breaks ultimately redound to the benefit of the national economy, enticing as they do more enterprises to invest and do business within the zones; thus creating more employment opportunities and infusing more dynamism to the vibrant interplay of market forces.

Section 17 of the EPZA Law particularizes the tax benefits accorded to duly registered enterprises. It states:

SEC. 17. *Tax Treatment of Merchandize in the Zone.* — (1) Except as otherwise provided in this Decree, foreign and domestic merchandise, raw materials, *supplies, articles, equipment, machineries, spare parts and wares of every description,* except those prohibited by law, brought into the Zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise *or used*

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[13] Section 1, P.D. No. 166, as amended (1972).

[14] *Rollo,* p. 93.

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whether directly or indirectly in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the following provisions of law to the contrary notwithstanding. (italics supplied)

The cited provision certainly covers petroleum supplies used, *directly or indirectly*, by Philphos to facilitate its production of fertilizers, subject to the minimal requirement that these supplies are brought into the zone. The supplies are not subject to customs and internal revenue laws and regulations, nor to local tax ordinances. It is clear that Section 17(1) considers such supplies exempt even if they are used *indirectly*, as they had been in this case.

Since Section 17(1) treats these supplies for tax purposes as beyond the ambit of customs laws and regulations, the arguments of the Commissioner invoking the provisions of the Tariff and Customs Code must fail. Particularly, his point that the importation of the petroleum products by Petron was deemed terminated under Section 1202[15] of the Tariff and Customs Code, and that the termination consequently barred any future claim for refund under Section 1603[16] of the same law is misplaced and inconsequential. Moreover, the cited provisions of the Tariff and Customs Code if related to Section 17(1) of the EPZA Law would significantly render the argument strained and, if upheld, obviate many of the benefits granted by Section 17(1), for the provision does not limit the tax exemption only to direct

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[15] *When Importation Begins and Deemed Terminated*. — Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein. Importation is deemed terminated upon payment of the duties, taxes and other charges due upon the articles, or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the customs.

[16] *Finality of Liquidation*. — When articles been entered and passed free of duty or final adjustments of duties made, with subsequent delivery, such entry and passage free of duty or settlements of duties will, after the expiration of one year, from the date of the final payment of duties, in the absence of fraud or protest, be final and conclusive upon all parties, unless the liquidation of the import entry was merely tentative.

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taxes. Following the Commissioner's interpretation, any duly registered enterprise sought to be held liable for the controverted custom's duty because the importer had shifted the duty to the buyer would forever be precluded from challenging the duty, which it is not in the first place obliged to pay under the law. Hand in hand with its patent noxiousness to the spirit of the EPZA Law, the approach calls for the unwarranted application of the Tariff and Customs Code to investors and players in the zones, which under the EPZA Law are beyond the reach of domestic customs and tax laws, as well as regulations.

Neither would the prescriptive periods or procedural requirements provided under the Tariff and Customs Code serve as a bar for the claim for refund. The holding of the CTA on this point is illuminating:

> Contrary to the allegation of the Respondent that Section 17(1) does not provide for duty and tax exemption privilege, this Court disagrees. That phrase shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the provisions of law to the contrary notwithstanding cannot be interpreted in any other manner than to mean that merchandise or supplies brought into the zone are exempt from customs duties and taxes. The incentive given under Section 17(1) is broader than a mere tax exemption. The phrase is so broad to include not only the exemption from customs duties and taxes but everything required in the enforcement of the customs and internal revenue laws save on the exceptions and conditions specified in the EPZA law itself. Considering that the customs and internal revenue laws are primarily enacted to impose duties and taxes, the phrase cannot be interpreted to exclude these impositions. More so, the phrase will also include exemption from other rules and regulations which are normally followed in the discharge of importation such as the filing of import entries, examinations and other requirements attendant to the importation of goods into the country.[17]

Even our recent ruling in *Nestle Philippines, Inc. v. Court of Appeals*,[18] to the effect that the claim for refund of customs

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[17] *Rollo*, p. 90.

[18] 413 Phil. 106 (2001).

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duties in protestable cases may be foreclosed by the failure to file a written protest, is not *apropos* in the case at bar because petitioner therein was not a duly registered enterprise under the EPZA Law and thus not entitled to the exemptions therein.[19]

This leads to another question well-worth resolving — what is the prescriptive period which a duly registered enterprise should observe in applying for a refund to which it is entitled under the EPZA Law? The EPZA Law itself is silent on the matter, and the prescriptive periods under the Tariff and Customs Code and other revenue laws are inapplicable, by specific mandate of Section 17(1) of the EPZA Law. This does not mean though that prescription will not lie, as the Civil Code provisions on *solutio indebiti*[20] may find application. The Civil Code is not a customs and internal revenue law. The Court has in the past sanctioned the application of the provisions *on solutio indebiti* in cases when taxes were collected thru error or mistake.[21] *Solutio indebiti* is a quasi-contract, thus the claim for refund must be commenced within six (6) years from date of payment pursuant to Article 1145(2) of the New Civil Code.[22] Clearly then, Philphos's right to refund has not yet prescribed.

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[19] *Id*. at 119.

[20] Articles 2154 and 2155 of the New Civil Code read:

"Art. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

Art. 2155. Payment by reason of a mistake in the construction or application of a doubtful or difficult question of law may come within the scope of the preceding article."

[21] "[I]t would seem clear that the taxes collected from appellee were paid, thru an error or mistake, which places said act of payment within the pale of the new Civil Code provisions on *Solutio Indebiti*." *Gonzalo Puyat & Sons, Inc. v. City of Manila, et al*., 117 Phil. 985, 989 (1963). See also *Citibank N.A. v. Court of Appeals*, 345 Phil. 695, 713 (2001).

[22] *Ramie Textiles, Inc. v. Hon. Mathay, Sr.*, G.R. No. L-32364, 30 April 1979, 89 SCRA 586, 592; *National Development Company v. Cebu City*, G.R. No. 51593, 5 November 1992, 215 SCRA 382, 396.

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Still, the Commissioner insists that it is Section 18(i) of the EPZA Law that is applicable, and precludes Philphos's claim for refund. The provision reads:

> SEC. 18. ***Additional Incentives. —*** *A zone registered enterprise shall also enjoy the following incentives:*
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> x x x x x x x x x
>
> (i) *Tax credit.* — Every registered zone enterprise shall enjoy a tax credit equivalent to the sales, compensating and specific taxes and duties on supplies, raw materials and semi-manufactured products used in the manufacture, processing or production of its export products and forming part thereof; x x x. (italics supplied)[23]

Indubitably, Section 18 does not exclude or otherwise limit the broad grant of benefits accorded by Section 17. These "additional incentives" under Section 18 are to be enjoyed in conjunction with the incentives under Section 17. This is indicated by the use of the words "additional" and "shall also" in the first paragraph of Section 18. Even the Commissioner admits the distinct character of Section 18.[24] The divergent natures of the benefits under Sections 17 and 18 become readily apparent upon examination of the additional incentives enumerated under Section 18. They include allowance of net-operating loss carry-over, accelerated depreciation, exemption from export tax, foreign exchange assistance, financial assistance, exemptions for local taxes and licenses, deductions for labor training services, and deductions for organizational and pre-operating expenses.[25] Section 18 does not serve the purpose of qualifying the benefits provided under Section 17. Instead, it enumerates another class of incentives also available to registered enterprises, in addition to, and apart from, the general benefits accorded under Section 17. There can be no doubt that the

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[23] Erroneously cited as Section 18(1) by petitioner Commissioner of Customs.

[24] See *Rollo*, p. 19.

[25] See Section 18, P.D. 66, as amended.

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additional incentives under Section 18 are separate and distinct from those under the preceding section.

Still, the Commissioner argues that Section 18(i) of the EPZA Law specifically controls the issuance of a tax credit equivalent to duties on supplies purchased, and that the provision clearly states that such supplies must form part of the export products, particularly fertilizer.

A plain reading of Section 18(i) unmistakably indicates that the tax credit as an additional incentive avails only if the supplies actually form part of the export products. There is an apparent distinction between this provision and Section 17(1) which exempts from taxation supplies used indirectly by the registered enterprise. It is apparent that the petroleum supplies in question, which physically do not form part of the exportable fertilizers, are exempt from taxation under Section 17(1), but no tax credit could be claimed on them under Section 18(i).

Still, this acknowledged distinction is not a cause for abject reversal of the assailed decisions, as it does not affect the key disposition. *For Section 17(1) is determinative of the fundamental question whether there is legal basis for the claim of exemption. On the other hand, Section 18(i) does not impose limitations on the exemptions granted in the preceding provisions, but would only affect, if at all, the modality by which the exemption takes form.*

Obviously, the relief sought for erroneously paid taxes would be a return to the taxpayer of the amount paid to the government. The Tax Reform Act of 1997 authorizes either a refund or credit as a means of recovery of tax erroneously or illegally collected.[26] It may be that there is no essential difference between a tax refund and a tax credit since both are modes of recovering taxes erroneously or illegally paid to the government.[27] Yet, there

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[26] See, *e.g.*, Section 229, Rep. Act No. 8424, "The Special Economic Zone Act of 1995."

[27] See B. Aban, *Law of Basic Taxation in the Philippines* (1994 ed.), at 208. A similar argument is urged by the Commissioner of Customs, who

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are unmistakable formal and practical differences between the two modes. Formally, a tax refund requires a physical return of the sum erroneously paid by the taxpayer, while a tax credit involves the application of the reimbursable amount against any sum that may be due and collectible from the taxpayer.[28] On the practical side, the taxpayer to whom the tax is refunded would have the option, among others, to invest for profit the returned sum, an option not proximately available if the taxpayer chooses instead to receive a tax credit.

It should be noted that in its initial letter to the Commissioner dated 18 September 1992, Philphos specifically requested the refund of Twenty Million One Hundred Forty Nine Thousand Four Hundred Seventy Three Pesos and Seventy Seven Centavos (₱20,149,473.77). However, in its *Petition for Review* before the CTA, Philphos prayed for the issuance of "corresponding tax credits" in the same amount. Still, there is no vehement insistence on the part of Philphos that the return of the amount paid should come in the form of a refund or a credit.[29]

The CTA, as affirmed by the CA, ordered the issuance of a Tax Credit Certificate in favor of Philphos. No elaboration was made as to why the relief granted was a tax credit and not a refund, but we can deduce that such was the relief afforded as it was the relief prayed for by Philphos in its *Petition* before the tax court. However, a slight modification of the award is necessary so as not to render nugatory the proscription under Section 18(i) that a tax credit avails only if the supplies form part of the export product. Instead of awarding a Tax Credit Certificate to Philphos, a refund of the same amount is warranted under the circumstances.

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argues that the issuance of tax credits under Section 18(i) are similar, if not identical to Philphos's claim for a refund in the form of a tax credit. *Rollo*, p. 19.

[28] *Ibid*.

[29] Indeed, in its *Memorandum* before this Court, Philphos argues that "it is entitled to the refund or tax credit of customs duties and taxes." *Rollo*, p. 202.

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The grant of exemption under Section 17(1) is clear and unambiguous. There is neither logic nor need to cast a speck of uncertainly on a doubt-free situation to resolve the resulting forced question in favor of the government. The disposition arises not out of a blind solicitude towards the concerns of business, but from the duty to affirm and enforce a crystal-clear legislative policy and initiative intent. Indeed, the revenue collectors of the government should be cautious before attempting to gut away at concessions the State itself has deemed worthy of award to deserving investors. It is unsound practice and uncouth behaviour to invite over guests to dinner at home, then charge them for the use of the silverware before allowing them to dine.

WHEREFORE, the *Petition for Review* is *DENIED*. The assailed *Decisions* of the Court of Appeals dated 4 August 2000 and of the Court of Tax Appeals dated 5 October 1995 are *AFFIRMED*, with modification that in lieu of the issuance of a Tax Credit Certificate, the amount of Twenty Million One Hundred Forty Nine Thousand Four Hundred Seventy Three Pesos and Seventy Seven Centavos (₱20,149,473.77) be refunded to respondent Philippine Phosphate Fertilizer Corporation. No costs.

SO ORDERED.

Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

Puno (Chairman), J., on official leave.

SECOND DIVISION

[G.R. No. 149224. September 1, 2004]

MILAGROS G. FLORES, *petitioner, vs.* **TERESITA BERCASIO and JOVITA CASTILLANO,** *respondents.*