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SECOND DIVISION

[G.R. No. 106611. July 21, 1994]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **COURT OF APPEALS, CITYTRUST BANKING CORPORATION and COURT OF TAX APPEALS,** *respondents.*

SYLLABUS

1. TAXATION; GENERAL PRINCIPLES; DOCTRINE THAT THE GOVERNMENT CANNOT BE ESTOPPED PARTICULARLY IN MATTERS INVOLVING TAXES, APPLIED. — It is axiomatic that the Government cannot and must not be estopped particularly in matters involving taxes. Taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of its constituents. The errors of certain administrative officers should never be allowed to jeopardize the Government's financial position, especially in the case at bar where the amount involves millions of pesos the collection whereof, if justified, stands to be prejudiced just because of bureaucratic lethargy.

2. ID.; REFUNDS; THE GRANT OF TAX REFUND IS FOUNDED ON THE ASSUMPTION THAT THE TAX RETURN IS VALID. — The grant of a refund is founded on the assumption that the tax return is valid, that is, the facts stated therein are true and correct. The deficiency assessment, although not yet final, created a doubt as to and constitutes a challenge against the truth and accuracy of the facts stated in said return which, by itself and without unquestionable evidence, cannot be the basis for the grant of the refund. x x x [T]o grant the refund without determination of the proper assessment and the tax due would inevitably result in multiplicity of proceedings or suits. If the deficiency assessment should subsequently be upheld, the Government will be forced to institute anew a proceeding for the recovery of erroneously refunded taxes which recourse must be filed within the prescriptive period of ten years after discovery of the falsity, fraud or omission in the false or fraudulent return involved. This would necessarily require and entail additional efforts and expenses on the part of the

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Government, impose a burden on a drain of government funds, and impede or delay the collection of much-needed revenue for governmental operations. Thus, to avoid multiplicity of suits and unnecessary difficulties or expenses, it is both logically necessary and legally appropriate that the issue of the deficiency tax assessment against Citytrust be resolved jointly with its claim for tax refund, to determine once and for all in a single proceeding the true and correct amount of tax due or refundable.

3. ID.; ID.; A DETERMINATION OF WHETHER OR NOT A PERSON IS ENTITLED TO A REFUND NECESSARILY INCLUDES THE DETERMINATION OF THE CORRECT LIABILITY OF THE SAID TAX PAYER. — It is important to note that in determining whether or not petitioner is entitled to determine how much the Government is entitled to collect as taxes. This would necessarily include the determination of the correct liability of the taxpayer and, certainly, a determination of this case would constitute *res judicata* on both parties as to all the matters subject thereof or necessarily involved therein.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Pelaez, Adriano & Gregorio for private respondent.

D E C I S I O N

REGALADO, *J.*:

The judicial proceedings over the present controversy commenced with CTA Case No. 4099, wherein the Court of Tax Appeals ordered herein petitioner Commissioner of Internal Revenue to grant a refund to herein private respondent Citytrust Banking Corporation (Citytrust) in the amount of ₱13,314,506.14, representing its overpaid income taxes for 1984 and 1985, but denied its claim for the alleged refundable amount reflected in its 1983 income tax return on the ground of prescription.[1] That

[1] Decision, *Citytrust Banking Corporation vs. Commissioner of Internal Revenue*, May 28, 1991, penned by Associate Judge Ernesto D. Acosta with

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judgment of the tax court was affirmed by respondent Court of Appeals in its judgment in CA-G.R. SP No. 26839.[2] The case was then elevated to us in the present petition for review on *certiorari* wherein the latter judgment is impugned and sought to be nullified and/or set aside.

It appears that in a letter dated August 26, 1986, herein private respondent corporation filed a claim for refund with the Bureau of Internal Revenue (BIR) in the amount of ₱19,971,745.00 representing the alleged aggregate of the excess of its carried-over total quarterly payments over the actual income tax due, plus carried-over withholding tax payments on government securities and rental income, as computed in its final income tax return for the calendar year ending December, 31, 1985.[3]

Two days later, or on August 28, 1986, in order to interrupt the running of the prescriptive period, Citytrust filed a petition with the Court of Tax Appeals, docketed therein as CTA Case No. 4099, claiming the refund of its income tax overpayments for the years 1983, 1984 and 1985 in the total amount of ₱19,971,745.00.[4]

In the answer filed by the Office of the Solicitor General, for and in behalf of therein respondent commissioner, it was asserted that the mere averment that Citytrust incurred a net loss in 1985 does not *ipso facto* merit a refund; that the amounts of ₱6,611,223.00, ₱1,959,514.00 and ₱28,238.00 claimed by Citytrust as 1983 income tax overpayment, taxes withheld on proceeds of government securities investments, as well as on rental income, respectively, are not properly documented; that assuming *arguendo* that petitioner is entitled to refund the right

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the concurrence of Presiding Judge Alex Z. Reyes and Associate Judge Constante C. Roaquim; *Rollo*, 26.

[2] Decision, *Commissioner of Internal Revenue vs. Citytrust Banking Corporation*, promulgated on July 31, 1992, with Associate Justice Manuel C. Herrera as *ponente* and Associate Justices Nicolas A. Lapena, Jr. and Maria Alicia M. Austria concurring; *Rollo*, 68.

[3] Original Record, CTA Case No. 4099, 11.

[4] *Ibid., id.*, 1-7.

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to claim the same has prescribed with respect to income tax payments prior to August 28, 1984, pursuant to Sections 292 and 295 of the National Internal Revenue Code of 1977, as amended, since the petition was filed only on August 28, 1986.[5]

On February 20, 1991, the case was submitted for decision based solely on the pleadings and evidence submitted by herein private respondent Citytrust. Herein petitioner could not present any evidence by reason of the repeated failure of the Tax Credit/ Refund Division of the BIR to transmit the records of the case, as well as the investigation report thereon, to the Solicitor General.[6]

However, on June 24, 1991, herein petitioner filed with the tax court a manifestation and motion praying for the suspension of the proceedings in the said case on the ground that the claim of Citytrust for tax refund in the amount of ₱19,971,745.00 was already being processed by the Tax Credit/Refund Division of the BIR, and that said bureau was only awaiting the submission of Citytrust of the required confirmation receipts which would show whether or not the aforestated amount was actually paid and remitted to the BIR.[7]

Citytrust filed an opposition thereto, contending that since the Court of Tax Appeals already acquired jurisdiction over the case, it could no longer be divested of the same; and, further, that the proceedings therein could not be suspended by the mere fact that the claim for refund was being administratively processed, especially where the case had already been submitted for decision. It also argued that the BIR had already conducted an audit, citing therefor Exhibits Y, Y-1, Y-2, and Y-3 adduced in the case, which clearly showed that there was an overpayment of income taxes and for which a tax credit or refund was due to Citytrust. The foregoing exhibits are allegedly conclusive proof of and an admission by herein petitioner that there had been an overpayment of income taxes.[8]

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[5] *Ibid., id.,* 43-46.

[6] *Ibid., id.,* 220.

[7] *Ibid., id.,* 221.

[8] *Ibid., id.,* 225.

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The tax court denied the motion to suspend proceedings on the ground that the case had already been submitted for decision since February 20, 1991.[9]

Thereafter, said court rendered its decision in the case, the decretal portion of which declares:

"WHEREFORE, in view of the foregoing, petitioner is entitled to a refund but only for the overpaid taxes incurred in 1984 and 1985. The refundable amount as shown in its 1983 income tax return is hereby denied on the ground of prescription. Respondent is hereby ordered to grant a refund to petitioner Citytrust Banking Corp. in the amount of ₱13,314,506.14 representing the overpaid income taxes for 1984 and 1985, recomputed as follows:

1984 Income tax due		₱ 4,715,533.00
Less: 1984 Quarterly payments	₱16,214,599.00*	
1984 Tax Credits — W/T on int. on gov't. sec.	1,921,245.37*	
W/T on rental inc.	26,604.30*	
		18,162,448.67
Tax Overpayment		₱ (13,446,915.67)
Less: FCDU payable		150,252.00
Amount refundable for 1984		₱ (13,296,663.67)
1985 Income Tax due (loss)		₱ – 0 –
Less: W/T on rentals		36,716.47*
Tax Overpayment		(36,716.47)*
Less: FCDU payable		18,874.00
Amount Refundable for 1985		₱ (17,842.47)

* *Note*:

These credits are smaller than the claimed amount because only the above figures are well supported by the various exhibits presented during the hearing.

[9] *Ibid., id.,* 228.

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No pronouncement as to costs.

SO ORDERED."[10]

The order for refund was based on the following findings of the Court of Tax Appeals: (1) the fact of withholding has been established by the statements and certificates of withholding taxes accompanied by herein private respondent's withholding agents, the authenticity of which were neither disputed nor controverted by herein petitioner; (2) no evidence was presented which could effectively dispute the correctness of the income tax return filed by herein respondent corporation and other material facts stated therein; (3) no deficiency assessment was issued by herein petitioner; and (4) there was an audit report submitted by the BIR Assessment Branch, recommending the refund of overpaid taxes for the years concerned (Exhibits Y to Y-3), which enjoys the presumption of regularity in the performance of official duty.[11]

A motion for the reconsideration of said decisions was initially filed by the Solicitor General on the sole ground that the statements and certificates of taxes allegedly withheld are not conclusive evidence of actual payment and remittance of the taxes withheld to the BIR.[12] A supplemental motion for reconsideration was thereafter filed, wherein it was contended for the first time that herein private respondent had outstanding unpaid deficiency income taxes. Petitioner alleged that through an inter-office memorandum of the Tax Credit/Refund Division, dated August 8, 1991, he came to know only lately that Citytrust had outstanding tax liabilities for 1984 in the amount of ₱56,588,740.91 representing deficiency income and business taxes covered by Demand/Assessment Notice No. FAS-1-84-003291-003296.[13]

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[10] *Rollo*, 41.

[11] *Ibid*., 28-40.

[12] *Ibid*., 43.

[13] Original Record, CTA Case No. 4099, 267.

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Oppositions to both the basic and supplemental motions for reconsideration were filed by private respondent Citytrust.[14] Thereafter, the Court of Tax Appeals issued a resolution denying both motions for the reason that Section 52 (b) of the Tax Code, as implemented by Revenue Regulation 6-85, only requires that the claim for tax credit or refund must show that the income received was declared as part of the gross income, and that the fact of withholding was duly established. Moreover, with regard to the argument raised in the supplemental motion for reconsideration anent the deficiency tax assessment against herein petitioner, the tax court ruled that since that matter was not raised in the pleadings, the same cannot be considered, invoking therefor the salutary purpose of the omnibus motion rule which is to obviate multiplicity of motions and to discourage dilatory pleadings.[15]

As indicated at the outset, a petition for review was filed by herein petitioner with respondent Court of Appeals which in due course promulgated its decision affirming the judgment of the Court of Tax Appeals. Petitioner eventually elevated the case to this Court, maintaining that said respondent court erred in affirming the grant of the claim for refund of Citytrust, considering that, firstly, said private respondent failed to prove and substantiate its claim for such refund; and, secondly, the bureau's findings of deficiency income and business tax liabilities against private respondent for the year 1984 bars such payment.[16]

After a careful review of the records, we find that under the peculiar circumstances of this case, the ends of substantial justice and public interest would be better subserved by the remand of this case to the Court of Tax Appeals for further proceedings.

It is the sense of this Court that the BIR, represented herein by petitioner Commissioner of Internal Revenue, was denied

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[14] *Ibid., id.*, 278.

[15] *Ibid., id.*, 352.

[16] *Rollo,* 13.

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its day in court by reason of the mistakes and/or negligence of its officials and employees. It can readily be gleaned from the records that when it was herein petitioner's turn to present evidence, several postponements were sought by its counsel, the Solicitor General, due to the unavailability of the necessary records which were not transmitted by the Refund Audit Division of the BIR to said counsel, as well as the investigation report made by the Banks/Financing and Insurance Division of the said bureau, despite repeated requests.[17] It was under such a predicament and in deference to the tax court that ultimately, said records being still unavailable, herein petitioner's counsel was constrained to submit the case for decision on February 20, 1991 without presenting any evidence.

For that matter, the BIR officials and/or employees concerned also failed to heed the order of the Court of Tax Appeals to remand the records to it pursuant to Section 2, Rule 7 of the Rules of the Court of Tax Appeals which provides that the Commissioner of Internal Revenue and the Commissioner of Customs shall certify and forward to the Court of Tax Appeals, within ten days after filing his answer, all the records of the case in his possession, with the pages duly numbered, and if the records are in separate folders, then the folders shall also be numbered.

The aforestated impasse came about due to the fact that, despite the filing of the aforementioned initiatory petition in CTA Case No. 4099 with the Court of Tax Appeals, the Tax Refund Division of the BIR still continued to act administratively on the claim for refund previously filed therein, instead of forwarding the records of the case to the Court of Tax Appeals as ordered.[18]

It is a long and firmly settled rule of law that the Government is not bound by the errors committed by its agents.[19] In the

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[17] Original Record, CTA Case No. 4099, 215-219.

[18] *Ibid., id.,* 20.

[19] *Republic vs. Intermediate Appellate Court, et al.,* G.R. No. 69138, May 19, 1992, 209 SCRA 90.

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performance of its governmental functions, the State cannot be estopped by the neglect of its agent and officers. Although the Government may generally be estopped through the affirmative acts of public officers acting within their authority, their neglect or omission of public duties as exemplified in this case will not and should not produce that effect.

Nowhere is the aforestated rule more true than in the field of taxation.[20] It is axiomatic that the Government cannot and must not be estopped particularly in matters involving taxes. Taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of its constituents.[21] The errors of certain administrative officers should never be allowed to jeopardize the Government's financial position,[22] especially in the case at bar where the amount involves millions of pesos the collection whereof, if justified, stands to be prejudiced just because of bureaucratic lethargy.

Further, it is also worth noting that the Court of Tax Appeals erred in denying petitioner's supplemental motion for reconsideration alleging and bringing to said court's attention the existence of the deficiency income and business tax assessment against Citytrust. The fact of such deficiency assessment is intimately related to and inextricably intertwined with the right of respondent bank to claim for a tax refund for the same year. To award such refund despite the existence of that deficiency assessment is an absurdity and a polarity in conceptual effects. Herein private respondent cannot be entitled to refund and at the same time be liable for a tax deficiency assessment for the same year.

The grant of a refund is founded on the assumption that the tax return is valid, that is, the facts stated therein are true and

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[20] *Luzon Stevedoring Corporation vs. Court of Tax Appeals, et al.*, L-21005, October 22, 1966, 18 SCRA 436; *Commissioner of Internal Revenue vs. Abad*, L-19627, June 27, 1968, 23 SCRA 1132.

[21] *Dayrit, et al. vs. Cruz*, L-39910, September 21, 1988, 165 SCRA 571.

[22] *Pineda vs. Court of First Instance of Tayabas*, 52 Phil. 803 (1929).

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correct. The deficiency assessment, although not yet final, created a doubt as to and constitutes a challenge against the truth and accuracy of the facts stated in said return which, by itself and without unquestionable evidence, cannot be the basis for the grant of the refund.

Section 82, Chapter IX of the National Internal Revenue Code of 1977, which was the applicable law when the claim of Citytrust was filed, provides that "(w)hen an assessment is made in case of any list, statement, or return, which in the opinion of the Commissioner of Internal Revenue was false or fraudulent or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suits unless it is proved that the said list, statement, or return was not false nor fraudulent and did not contain any understatement or undervaluation; but this provision shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines."

Moreover, to grant the refund without determination of the proper assessment and the tax due would inevitably result in multiplicity of proceedings or suits. If the deficiency assessment should subsequently be upheld, the Government will be forced to institute anew a proceeding for the recovery of erroneously refunded taxes which recourse must be filed within the prescriptive period of ten years after discovery of the falsity, fraud or omission in the false or fraudulent return involved.[23] This would necessarily require and entail additional efforts and expenses on the part of the Government, impose a burden on and a drain of government funds, and impede or delay the collection of much-needed revenue for governmental operations.

Thus, to avoid multiplicity of suits and unnecessary difficulties or expenses, it is both logically necessary and legally appropriate that the issue of the deficiency tax assessment against Citytrust be resolved jointly with its claim for tax refund, to determine once and for all in a single proceeding the true and correct amount of tax due or refundable.

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[23] Section 223, National Internal Revenue Code.

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In fact, as the Court of Tax Appeals itself has heretofore conceded,[24] it would be only just and fair that the taxpayer and the Government alike be given equal opportunities to avail of remedies under the law to defeat each other's claim and to determine all matters of dispute between them in one single case. It is important to note that in determining whether or not petitioner is entitled to determine how much the Government is entitled to collect as taxes. This would necessarily include the determination of the correct liability of the taxpayer and, certainly, a determination of this case would constitute *res judicata* on both parties as to all the matters subject thereof or necessarily involved therein.

The Court cannot end this adjudication without observing that what caused the Government to lose its case in the tax court may hopefully be ascribed merely to the ennui or ineptitude of officialdom, and not to syndicated intent or corruption. The evidential *cul-de-sac* in which the Solicitor General found himself once again gives substance to the public perception and suspicion that it is another proverbial tip in the iceberg of venality in a government bureau which is pejoratively rated over the years. What is so distressing, aside from the financial losses to the Government, is the erosion of trust in a vital institution wherein the reputations of so many honest and dedicated workers are besmirched by the acts or omissions of a few. Hence, the liberal view we have here taken *pro hac vice*, which may give some degree of assurance that this Court will unhesitatingly react to any bane in the government service, with a replication of such response being likewise expected by the people from the executive authorities.

WHEREFORE, the judgment of respondent Court of Appeals in CA-G.R. SP No. 26839 is hereby *SET ASIDE* and the case at bar is *REMANDED* to the Court of Tax Appeals for further proceedings and appropriate action, more particularly, the reception of evidence for petitioner and the corresponding

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[24] See *Pirovano vs. Collection of Internal Revenue*, CTA Case No. 375, September 29, 1958, as reported in Montejo, C.G., Court of Tax Appeals Act Annotated, 1960 ed., Sec. 11.22, 60.

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disposition of CTA Case No. 4099 not otherwise inconsistent with our adjudgment herein.

SO ORDERED.

Narvasa, C. J. (Chairman), Padilla, Puno, and *Mendoza, JJ.*, concur.

SECOND DIVISION

[G.R. No. 107069. July 21, 1994]

HEIRS OF LEANDRO OLIVER, represented by PURITA OLIVER and PEDRO REMOQUILLO, *petitioners, vs.* **THE HONORABLE COURT OF APPEALS, JOSE SERADILLA, and NATIONAL HOUSING AUTHORITY,** *respondents.*

SYLLABUS

1. CIVIL LAW; OBLIGATIONS AND CONTRACTS; VOID CONTRACTS; CANNOT BE RATIFIED; CASE AT BAR. — The petition at bench can succeed only by a showing that the Consolidation and Partition Agreement dated November 6, 1959 is valid. We uphold the respondent court in ruling that it is void on the ground that it was made within the five (5) year period prohibiting the sale, assignment, encumbrance, mortgage, or transfer of land acquired under free patent or homestead as mandated by C.A. 141, section 118, as amended by C.A. 496. Indeed, this legal prohibition is expressly recited in the Agreement to Sell dated July 21, 1955 between the government and the late Patricio Seradilla. As the Consolidation and Partition Agreement contravened Section 118, C.A. 141, as amended by C.A. 496, it is null and void pursuant to paragraph 7, Article 1409 of the Civil Code. In this light, the reliance of the petitioner on the sketch of July 9, 1961 signed by private