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FIRST DIVISION

[G.R. No. 171956. January 18, 2008]

STATE LAND INVESTMENT CORPORATION, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; SUPREME COURT IS NOT A TRIER OF FACTS; RULE; NOT APPLICABLE WHERE THE JUDGMENT IS PREMISED ON A MISAPPREHENSION OF FACTS, OR WHEN THE APPELLATE COURT FAILED TO NOTICE CERTAIN RELEVANT FACTS WHICH IF CONSIDERED WOULD JUSTIFY A DIFFERENT CONCLUSION. — Time and again, we have held that this Court is not a trier of facts and it is not its function to examine and evaluate the probative value of the evidence presented before the concerned tribunal upon which its impugned decision or resolution is based. However, this rule does not apply where the judgment is premised on a misapprehension of facts, or when the appellate court failed to notice certain relevant facts which if considered would justify a different conclusion. This case is one such exception

2. TAXATION; NATIONAL INTERNAL REVENUE CODE; QUARTERLY CORPORATE INCOME TAX; FINAL ADJUSTED RETURN; A CORPORATION ENTITLED TO A REFUND OF EXCESS CREDITABLE WITHHOLDING TAX MAY EITHER OBTAIN THE REFUND OR CREDIT THE AMOUNT TO THE SUCCEEDING TAXABLE YEAR. — Under Section 69 (now Section 76) of the Tax Code then in force, a corporation entitled to a refund of excess creditable withholding tax may either obtain the refund or credit the amount to the succeeding taxable year. It is well-defined from the said provision that if the total tax due is less than the quarterly tax payments made during the year, a taxpayer is entitled to a refund or credit for the excess amount paid. Petitioner's 1997 income tax due amounted to ₱9,703,165.54. After applying its tax excess credits for 1996 in the amount of ₱9,289,084.00, the net income tax payable for 1997 was only ₱414,081.54. However,

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based on the quarterly income tax payments of petitioner, the total creditable withholding tax for the year 1997 amounted to ₱14,343,875.05. Thus, the amount of overpayment of tax as of 1997 was ₱13,929,793.51 (after deducting ₱414,081.54 from ₱14,343,875.05). In the final adjustment return filed for the same taxable year, petitioner indicated its option to apply the said overpayment as tax credit **for the succeeding taxable year 1998, not 1999**. There still remains a considerable excess payment in the amount of ₱9,742,270.51 after petitioner's payment of tax due for the year 1998 in the sum of ₱4,187,523.00.

3. ID.; ID.; ID.; IF THE EXCESS INCOME TAXES PAID IN A GIVEN TAXABLE YEAR HAVE NOT BEEN ENTIRELY USED BY A TAXABLE CORPORATION AGAINST ITS QUARTERLY INCOME TAX LIABILITIES FOR THE NEXT YEAR, THE UNUSED AMOUNT OF THE EXCESS MAY STILL BE REFUNDED, PROVIDED THAT THE CLAIM FOR SUCH REFUND IS MADE WITHIN TWO YEARS AFTER PAYMENT OF TAX. — Section 69 clearly provides that a taxable corporation is entitled to a tax refund when the sum of the quarterly income taxes it paid during a taxable year exceeds its total income tax due also for that year. Consequently, the refundable amount that is shown on its final adjustment return may be credited, at its option, against its quarterly income tax liabilities for the next taxable year. Excess income taxes paid in a year that could not be applied to taxes due the following year may be refunded the next year. Thus, if the excess income taxes paid in a given taxable year have not been entirely used by a taxable corporation against its quarterly income tax liabilities for the next taxable year, the unused amount of the excess may still be refunded, provided that the claim for such a refund is made within two years after payment of the tax. This was done by the petitioner. After applying the excess credits for 1997 to its tax due for 1998, there still remained an unutilized tax credit in the amount of ₱9,742,270.51. Petitioner filed with the BIR its claim for the refund of this amount within the two-year statutory limitation.

4. ID.; ID.; ID.; THE TAX CODE MERELY REQUIRES THE FILING OF THE FINAL ADJUSTED RETURN FOR THE PRECEDING YEAR AND NOT THE SUCCEEDING TAXABLE YEAR; REQUIRING THAT THE INCOME TAX RETURN OR THE FINAL ADJUSTMENT RETURN OF

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THE SUCCEEDING YEAR BE PRESENTED TO THE BUREAU OF INTERNAL REVENUE IN REQUESTING A TAX REFUND HAS NO BASIS IN LAW AND JURISPRUDENCE. — Both the CTA and the Court of Appeals failed to consider that petitioner's intention was to apply the tax credit corresponding to taxable year 1997 to its income tax due in 1998. As previously mentioned, after paying ₱4,187,523.00 as income tax due in 1998, there remained an unutilized tax credit of ₱9,742, 270.51. It was not necessary on the part of petitioner to file with the BIR its income tax return for 1999. In *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*, we held that the Tax Code merely **requires the filing of the final adjustment return for the preceding — not the succeeding — taxable year**. Indeed, any refundable amount indicated therein corresponding to the preceding taxable year may be credited against the estimated income tax liabilities for the taxable quarters of the succeeding taxable year. Requiring that the income tax return or the final adjustment return of the succeeding year be presented to the BIR in requesting a tax refund has no basis in law and jurisprudence.

5. CIVIL LAW; EXTRA CONTRACTUAL OBLIGATIONS; QUASI-CONTRACTS; *SOLUTIO INDEBITI*; THE BUREAU OF INTERNAL REVENUE RECEIVED SOMETHING WHEN THERE IS NO RIGHT TO DEMAND IT, AND, THEREFORE, HAS THE OBLIGATION TO RETURN IT. — In order to show that it would have been impossible for petitioner to utilize the excess credit in taxable year 1999, it attached its 1999 and 2000 annual income tax returns its motion for reconsideration filed with the CTA. These show that petitioner incurred losses in 1999 in the amount of ₱33,610,028.00. Clearly, petitioner has no tax liability in 1999 to which the 1997 excess tax credits could be applied or utilized. This Court has held that if a taxpayer suffered a net loss in a subsequent year, incurring no tax liability to which a previous year's tax credit could be applied, there is no reason for the BIR to withhold the tax refund which rightfully belongs to the taxpayer. Substantial justice, equity and fair play are on the side of petitioner. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it, thereby enriching itself at the expense of its law-abiding citizens. Under the principle of *solution indebiti*

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provided in Art. 2154, Civil Code, the BIR received something "when there [was] no right to demand it," and thus, it has the obligation to return it. Heavily militating against respondent Commissioner is the ancient principle that no one, not even the state, shall enrich oneself at the expense of another. Indeed, simple justice requires the speedy refund of the wrongly held taxes.

APPEARANCES OF COUNSEL

Quiason Makalintal Barot Torres and Ibarra for petitioner.
The Solicitor General for respondent.

D E C I S I O N

SANDOVAL-GUTIERREZ, *J.*:

Before us is a Petition for Review on *Certiorari*[1] assailing the Decision[2] dated November 22, 2004 and Resolution dated March 14, 2006 of the Court of Appeals in CA-G.R. SP No. 72500.

State Land Investment Corporation, petitioner, is a corporation duly organized and existing under the laws of the Republic of the Philippines. It is a real estate developer engaged in the development and marketing of low, medium and high cost subdivision projects in the cities of Manila, Pasay and Quezon; and in Cavite and Bulacan.

On April 15, 1997, petitioner filed with the Bureau of Internal Revenue (BIR) its annual income tax return for the calendar year ending December 31, 1997. Its taxable income was ₱27,723,328.00 with tax due in the amount of ₱9,703,165.54. Its total tax credits for the same year amounted to ₱23,632,959.05, inclusive of its prior year's excess tax credits of ₱9,289,084.00. Thus, after applying its total tax credits of ₱23,632,959.05 against

[1] Under Rule 45 of the 1997 Revised Rules of Civil Procedure, as amended.

[2] Penned by Justice Marina L. Buzon and concurred in by Justices Mario L. Guariña III and Santiago Javier Ranada (retired).

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its income tax liability of ₱9,703,165.54, the amount of ₱13,929,793.51 remained unutilized. Petitioner opted to apply this amount as tax credit to the succeeding taxable year 1998.

On April 15, 1999, petitioner again filed with the BIR its **annual income tax return for the calendar year ending December 31, 1998**, declaring a minimum corporate income tax due in the amount of ₱4,187,523.00. Petitioner charged the said amount against its 1997 excess credit of ₱13,929,793.51, leaving a balance of **₱9,742,270.51**.

On April 7, 2000, petitioner filed with the BIR a claim for refund of its unutilized tax credit for the year 1997 in the amount ₱9,742,270.51.

On April 13, 2000, in order to toll the running of the two-year prescriptive period and there being no immediate action on the part of respondent Commissioner of Internal Revenue, petitioner filed a petition for review with the Court of Tax Appeals (CTA).

On April 4, 2002, the CTA denied petitioner's claim for refund of its unutilized tax credit for 1997. In its Decision dated April 4, 2002, the CTA held that petitioner's 1998 income tax return showed its intention of carrying over its 1997 excess tax credit to the following taxable year 1999 by marking an "x" on the box (appearing on its 1998 income tax return) indicating "to be carried as tax credit next year"; and that petitioner failed to present its 1999 income tax return to enable the CTA to determine with certainty that its 1997 tax credit was not charged against its tax liabilities for the said year (1999). Specifically, the CTA ruled that the failure of petitioner to present its 1999 corporate annual income tax return is fatal to its claim for refund. Well-settled is the rule that tax refunds, like tax exemptions, are construed strictly against the taxpayer.

Petitioner filed a motion for reconsideration and attached its 1999 and 2000 income tax returns. In its motion, petitioner alleged that the "x" mark in its 1998 income tax return indicating "to be carried as tax credit next year" was intended to show its intention to carry over as tax credit for 1999 only what it earned

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during the taxable year 1998 amounting to ₱6,228,288.00, as it was aware it could no longer utilize the 1997 excess tax credit for the year 1999. However, in a Resolution dated August 8, 2002, the CTA denied the motion.

Petitioner then filed with the Court of Appeals a petition for review.

In its Decision, the appellate court affirmed the CTA judgment, holding that:

> While we agree with petitioner that since the CTA, under its charter, is not governed strictly by technical rules of evidence so that additional evidence may be submitted by a party in the motion for reconsideration, nonetheless, we deny petitioner's claim for refund of its excess tax credit for the year 1997.
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> x x x x x x x x x
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> It bears reiterating that after signifying its option in its 1998 Annual Income Tax Return to apply the 1997 excess tax credit to the following year 1999, petitioner never submitted succeeding quarterly returns to negate the fact that said tax overpayment was applied to its 1999 Annual Income Tax Return, or beyond the one-year period limitation.

Petitioner filed a motion for reconsideration but the same was denied.

Hence, this petition.

The main issue for our resolution is whether petitioner is entitled to the refund of ₱9,742,270.51 representing the excess creditable withholding tax for taxable year 1997.

Petitioner contends that it has shown by sufficient and uncontested evidence that it did not utilize the 1997 excess withholding tax credits amounting to ₱9,742,270.51 against its income tax liability for taxable year 1999 and succeeding years. Petitioner pointed out that the CTA and the Court of Appeals misappreciated the "x" marking on its 1998 income tax return, thus concluding that petitioner intended to carry over its 1997 excess tax credit to taxable year 1999. Petitioner stressed that its 1999 annual income tax return clearly shows that it incurred

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a net loss that year in the amount of ₱33,610,028.00. Thus, it has no tax liability in 1999 to which the 1997 excess tax credits may be applied or utilized.

On the other hand, respondent maintains that despite petitioner's knowledge that it could carry over the excess tax credits only to the succeeding taxable year (1998), it still signified its intention to apply the 1997 excess tax credits to taxable year 1999 by marking an "x" on the box (printed on the 1998 income tax return form) stating "to be credited as tax credit next year," referring to taxable year 1999. Respondent also clarified that the two remedies of **refund** and **tax credit** are alternative and the choice of one precludes the other. Since the "x" mark shows that petitioner intended to carry over the questioned tax credit to taxable year 1999, it can no longer claim for refund.

We find for petitioner.

Time and again, we have held that this Court is not a trier of facts and it is not its function to examine and evaluate the probative value of the evidence presented before the concerned tribunal upon which its impugned decision or resolution is based.[3] However, this rule does not apply where the judgment is premised on a misapprehension of facts, or when the appellate court failed to notice certain relevant facts which if considered would justify a different conclusion.[4] This case is one such exception.

Under Section 69[5] (now Section 76) of the Tax Code then in force, a corporation entitled to a refund of excess creditable withholding tax may either obtain the refund or credit the amount to the succeeding taxable year, thus:

Section 69. Final Adjustment Return. — Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total net income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable

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[3] *Junson v. Martinez*, G.R. No. 141324, July 8, 2003, 405 SCRA 390.

[4] *Republic of the Philippines v. Spouses Enriquez*, G.R. No. 160990, September 11, 2006, 501 SCRA 436.

[5] The National Internal Revenue Code of 1986.

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year is not equal to the total tax due on the entire taxable net income of that year the corporation shall either:

(a) Pay the excess tax still due; or

(b) Be refunded the excess amount paid, as the case may be.

In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year.

It is well-defined from the said provision that if the total tax due is less than the quarterly tax payments made during the year, a taxpayer is entitled to a refund or credit for the excess amount paid. Petitioner's 1997 income tax due amounted to ₱9,703,165.54. After applying its tax excess credits for 1996 in the amount of ₱9,289,084.00, the net income tax payable for 1997 was only ₱414,081.54. However, based on the quarterly income tax payments of petitioner, the total creditable withholding tax for the year 1997 amounted to ₱14,343,875.05. Thus, the amount of overpayment of tax as of 1997 was ₱13,929,793.51 (after deducting ₱414,081.54 from ₱14,343,875.05). In the final adjustment return filed for the same taxable year, petitioner indicated its option to apply the said overpayment as tax credit **for the succeeding taxable year 1998, not 1999**. There still remains a considerable excess payment in the amount of ₱9,742,270.51 after petitioner's payment of tax due for the year 1998 in the sum of ₱4,187,523.00.

Section 69 clearly provides that a taxable corporation is entitled to a tax refund when the sum of the quarterly income taxes it paid during a taxable year exceeds its total income tax due also for that year. Consequently, the refundable amount that is shown on its final adjustment return may be credited, at its option, against its quarterly income tax liabilities for the next taxable year. Excess income taxes paid in a year that could not be applied to taxes due the following year may be refunded the next year. Thus, if the excess income taxes paid in a given taxable year have not been entirely used by a taxable corporation against its quarterly income tax liabilities for the next taxable

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year, the unused amount of the excess may still be refunded, provided that the claim for such a refund is made within two years after payment of the tax.[6]

This was done by the petitioner. After applying the excess credits for 1997 to its tax due for 1998, there still remained an unutilized tax credit in the amount of ₱9,742,270.51. Petitioner filed with the BIR its claim for the refund of this amount within the two-year statutory limitation.

Both the CTA and the Court of Appeals failed to consider that petitioner's intention was to apply the tax credit corresponding to taxable year 1997 to its income tax due in 1998. As previously mentioned, after paying ₱4,187,523.00 as income tax due in 1998, there remained an unutilized tax credit of ₱9,742,270.51. It was not necessary on the part of petitioner to file with the BIR its income tax return for 1999. In *Philam Asset Management, Inc. v. Commissioner of Internal Revenue*,[7] we held that the Tax Code merely **requires the filing of the final adjustment return for the *preceding* — not the succeeding — taxable year**. Indeed, any refundable amount indicated therein corresponding to the preceding taxable year may be credited against the estimated income tax liabilities for the taxable quarters of the succeeding taxable year. Requiring that the income tax return or the final adjustment return of the succeeding year be presented to the BIR in requesting a tax refund has no basis in law and jurisprudence.

In order to show that it would have been impossible for petitioner to utilize the excess credit in taxable year 1999, it attached its 1999 and 2000 annual income tax returns in its motion for reconsideration filed with the CTA. These show that petitioner incurred losses in 1999 in the amount of ₱33,610,028.00. Clearly, petitioner has no tax liability in 1999 to which the 1997 excess tax credits could be applied or utilized. This Court has held that if a taxpayer suffered a net loss in a

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[6] *Calamba Steel Center, Inc. v. Commissioner of Internal Revenue*, G.R. No. 151857, April 28, 2005, 457 SCRA 482.

[7] G.R. Nos. 156637 and 162004, December 14, 2005, 477 SCRA 761.

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subsequent year, incurring no tax liability to which a previous year's tax credit could be applied, there is no reason for the BIR to withhold the tax refund which rightfully belongs to the taxpayer.[8]

Substantial justice, equity and fair play are on the side of petitioner. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it, thereby enriching itself at the expense of its law-abiding citizens.[9] Under the principle of *solutio indebiti* provided in Art. 2154, Civil Code,[10] the BIR received something "when there [was] no right to demand it," and thus, it has the obligation to return it.[11] Heavily militating against respondent Commissioner is the ancient principle that no one, not even the state, shall enrich oneself at the expense of another. Indeed, simple justice requires the speedy refund of the wrongly held taxes.[12]

WHEREFORE, we *GRANT* the petition. The Decision dated November 22, 2004 and Resolution dated March 14, 2006 of the Court of Appeals in CA-G.R. SP No. 72500 are *REVERSED*. Respondent Commissioner of Internal Revenue is ordered to refund to petitioner the amount of ₱9,742,270.51 as excess creditable withholding taxes paid for taxable year 1997.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Azcuna, and *Leonardo-de Castro, JJ.*, concur.

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[8] *BPI-Family Savings Bank, Inc. v. Court of Appeals*, G.R. No. 122480, April 12, 2000, 330 SCRA 507.

[9] *Id.*

[10] "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."

[11] *Citibank, N. A. v. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 107434, October 10, 1997, 280 SCRA 459, citing *Ramie Textiles, Inc. v. Mathay, Sr.*, 89 SCRA 586 (1979).

[12] *Citibank, N. A. v. Court of Appeals and Commissioner of Internal Revenue, supra*.