The 1990s Tax Credit Scam: A Cautionary Tale

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A tax credit is an amount that may be subtracted from a taxpayer's liabilities to the government, arising from overpayment or an erroneous payment of a tax due. Such can be transferred and assigned through Tax Credit Certificates (TCC) issued by the proper government agency.

With the creation of the Department of Finance's One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, the Philippines' tax credit system is now centralized and more organized, as opposed to the mid-1990s when the Government found itself in the middle of a tax credit scam. The scam, perpetrated by a group of companies which sold illegally obtained TCCs, allegedly defrauded the government of billions in tax revenues.

As a cautionary tale, the Author looks into the case of *Pilipinas Shell Petroleum Corporation (PSPC) v. Commissioner of Internal Revenue* where, after PSPC acquired certain TCCs and used them to satisfy its outstanding tax liabilities, the Bureau of Internal Revenue dishonored the TCCs for being fraudulently obtained.

The Author traces the proceedings in the Court of Tax Appeals all the way up to the Supreme Court where PSPC was absolved of all liability. In fine, the Court ruled that a holder in good faith and for value of a TCC may not be prejudiced by the alleged fraudulent issue of the TCCs. Also, entities seeking to avail of their tax credits through a validly-issued TCC need not be subject to a post-audit by the BIR before they can use it. However, the Author urges purchasers of TCCs to be aware not only of the benefits, but also the risks involved in acquiring and transferring them.