

THIRD DIVISION

[G.R. No. 205261, April 26, 2021]

PHILIPPINE VETERANS BANK, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

DECISION

LOPEZ, J., J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeks to set aside the Decision^[2] dated December 20, 2012 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 747, which affirmed the CTA Division's Decision dated October 8, 2010 in CTA Case No. 6563,^[3] affirming the assessment of a total amount of P55,282,658.72 as deficiency gross receipts tax (*GRT*) and documentary stamp tax (*DST*) for taxable years 1994, 1995, and 1996, plus interest that may have accrued thereon.

The Facts

The petitioner, Philippine Veterans Bank, is a commercial banking institution organized and existing under and by virtue of the laws of the Republic of the Philippines, organized through its special charters, Republic Act No. 3518 and Republic Act No. 7169.^[4]

In the years 1994-1996, petitioner offered the following financial products to its clients: (i) Special Savings Account, (ii) Special Savings Deposit (Government), and (iii) Golden V (Private) (collectively, the *Special Savings Accounts*).^[5] These accounts earned interest income in favor of the bank's clients.^[6] The Special Savings Accounts have the following features: (i) they are withdrawable by the depositor at any time through the presentation of a passbook;^[7] (ii) the amount of deposit usually runs into millions of pesos;^[8] (iii) the deposit is subject to a special rate of interest;^[9] (iv) the deposit allows posting of additional or multiple deposits;^[10] (v) the deposit allows partial or multiple withdrawals;^[11] (vi) the account has no fixed maturity;^[12] (vii) the deposit cannot be negotiated nor assigned;^[13] and (viii) the deposit cannot be pre-terminated, as there is no fixed maturity.^[14]

On December 9, 1999, respondent Commissioner of Internal Revenue (*respondent*), through Mr. Percival T. Salazar, BIR Assistant Commissioner for the Enforcement Service of the BIR, sent the petitioner a Final Notice of Assessment in the total amount of P22,092,035.21 as deficiency DST on the Special Savings Accounts for taxable years 1994 and 1995.^[15]

On December 13, 1999, Atty. Florencio Z. Sioson, the Executive Vice President and Chief Operating Officer of the petitioner, replied to the aforesaid Notice of

Assessment.^[16] In the reply, Atty. Sioson requested that the demand letter be held in abeyance pending the resolution of other issues involved in the case.^[17]

Subsequently, the Appellate Division of the BIR scheduled conference hearings, wherein the petitioner presented two witnesses and documentary evidence.^[18] After two conferences, the petitioner submitted its position paper.^[19]

Thereafter, the respondent issued a Formal Letter of Demand dated December 4, 2000 and Audit Results/Assessment Notices, requiring the petitioner to pay deficiency GRT for the year 1996 in the amount of P5,009,876.88 and deficiency DST for the year 1996 in the amount of P28,180,746.63.^[20] With respect to the deficiency GRT, the respondent included the amount of final withholding taxes on the gross interest income of the bank, for the purpose of determining the bank's GRT. With respect to the deficiency DST, the respondent, imposed DST on the Special Savings Account.^[21]

The said assessments were received by the petitioner, and were protested in a letter dated January 10, 2001, wherein the petitioner reiterated its request to hold in abeyance the enforcement of the assessments.^[22]

On August 8, 2002, the respondent rendered a decision entitled "*In the Matter of the Internal Revenue Tax Case of Philippine Veterans Bank involving the Total Amount of P55,282,658.72 as Deficiency Gross Receipts and Documentary Stamp Taxes for Taxable Years 1994, 1995 and 1996, Covered by Assessment Notice Nos. ST-DST-94-0114-99; ST-DST-95-0113-99; DST-96-000003; GRT-96-000005 dated December 9, 1999 and December 4, 2000, respectively* (August 8, 2002 CIR Decision).^[23] In the said decision, the respondent denied the request for deferment and protest of the petitioner, and, thus, ordered the petitioner to pay, within a period of 30 days from receipt thereof, the total amount of P55,282,658.72 as deficiency GRT and DST for taxable years 1994, 1995, and 1996, plus interest that may have accrued thereon.^[24]

Upon receipt of the August 8, 2002 CIR Decision, the petitioner filed a Petition for Review with the CTA Division.^[25]

The CTA Division issued its October 8, 2010 Decision,^[26] which ruled as follows:

WHEREFORE, the Petition for Review is hereby PARTIALLY GRANTED. The assessments for deficiency documentary stamp tax on the Increase in Capitalization issued by respondent against petitioner for taxable years 1995 and 1996 in the amounts of P12,337,500.00 and P5,209,066.80, respectively, are hereby CANCELLED and WITHDRAWN in view of the Termination Letter dated June 7, 2010 issued by respondent as regards petitioner's availment of the Abatement Program under Revenue Regulations No. 15-2006, as amended by Revenue Regulations No. 03-07, in relation to Sections 204 and 244 of the NIRC of 1997, as amended.

The assessments for deficiency documentary stamp tax on petitioner's Special Savings Accounts, Special Savings Deposits and Golden Vs for taxable years 1994, 1995, and 1996, are hereby AFFIRMED WITH

MODIFICATION. Petitioner is hereby ORDERED TO PAY respondent the amount of P25,707,090.66, computed as follows:

xxx xxx xxx

In addition, petitioner is likewise ORDERED TO PAY interest thereon at the rate of twenty percent (20%) *per annum* commencing on November 8, 2002 until full payment thereof, pursuant to Section 248(d), in relation to Section 249, both of the NIRC of 1977, as amended.

The assessments for deficiency Gross Receipts Tax for taxable year 1996 and deficiency gross receipts tax for taxable year 1996 [sic], is also AFFIRMED WITH MODIFICATION. Petitioner is hereby ORDERED TO PAY respondent the amount of P3,499,320.78, computed as follows:

xxx xxx xxx

In addition, petitioner is likewise ORDERED TO PAY interest thereon at the rate of twenty percent (20%) *per annum* commencing from January 20, 1997 until full payment thereof, pursuant to the above-quoted Section 249(a) of the NIRC of 1997; and delinquency interest at the rate of twenty percent (20%) *per annum* commencing from November 8, 2002 until full payment thereof, pursuant to the said Section 249(c) of the same law.^[27]

The petitioner filed a Petition for Review of the October 8, 2010 Decision of the CTA Division before the CTA *En Banc*.^[28] Affirming the October 8, 2010 Decision of the CTA Division, the dispositive portion of the December 20, 2012 Decision of the CTA *En Banc* provides:

WHEREFORE, premises considered, the instant Petition for Review is hereby DISMISSED for lack of merit.^[29]

The petitioner filed the instant petition, assailing the December 20, 2012 Decision of the CTA *En Banc*.

The Issues

- I. Whether or not the Special Savings Accounts of the Philippine Veterans Bank are subject to documentary stamp tax
- II. Whether or not final withholding taxes on the gross interest income of Philippine Veterans Bank are deductible from gross receipts for purpose of determining the bank's gross receipts tax^[30]

The Court's Ruling

The petition is denied for lack of merit.

On the first issue, We rule that the Special Savings Accounts of the Philippine Veterans Bank are subject to DST.

On the second issue, We rule that the final withholding taxes on the gross interest income of Philippine Veterans Bank are not deductible from gross receipts for the purpose of determining the bank's GRT.

I. Whether or Not the Special Savings Accounts of the Philippine veterans Bank are Subject to Documentary Stamp Tax

A. Petitioner's Arguments

The petitioner claims that its Special Savings Accounts are not subject to DST.^[31] Section 180 of the National Internal Revenue Code (NIRC) of 1997, prior to amendment by Republic Act No. 9243, only imposes DST on "certificates of deposits drawing interest, orders for the payment of any sum of money otherwise than at sight or on demand," and not on those that are payable at sight or on demand.^[32] The Special Savings Accounts of the petitioner are payable at sight or on demand, considering that they are withdrawable at any time through the presentation of a passbook.^[33] Hence, they are exempt from DST.

B. Respondent's Arguments

The respondent claims that the Special Savings Accounts are subject to DST.^[34] Section 180 of the NIRC of 1977, the prevailing law during the period covered by the assessment, provides that certificates of deposits drawing interest are subject to DST of P0.30 on each P200, or fractional part thereof, of the face value of such certificates of deposits.^[35] This is regardless of whether the deposits are withdrawable through the presentation of a passbook.^[36] Hence, the Special Savings Accounts are considered certificates of deposits drawing interest.^[37]

C. Special Savings Accounts Subject to Documentary Stamp Tax

The petitioner is mistaken. We uphold the respondent.

There is a long history of confusion about the imposable DST on bank deposit products. This confusion is rooted in the various classifications and variations of bank deposits in the Philippine banking system, and the attempt to distinguish between (i) certain types of bank deposits that are subject to DST and (ii) those types of bank deposits that are exempt from DST. We have ruled on the applicability (or non-applicability) of DST in regular savings deposits, time deposits, and special savings deposits, among other variations of bank deposits, in the cases of *Banco de Oro Universal Bank v. CIR*,^[38] *International Exchange Bank v. CIR*,^[39] *Philippine Banking Corp. v. CIR*,^[40] *Metropolitan Bank and Trust Co. v. CIR*,^[41] and *China Banking Corp. v. CIR*.^[42] And yet the confusion whether a particular bank deposit is subject to DST remains, as in the case at bar.

This case is an occasion for this Court to clarify and finally end this confusion.

The respondent bank offered the Special Savings Accounts subject of this case in the years 1994 to 1996.^[43] At the time of the offer and perfection of the said bank deposits, the prevailing tax code was the NIRC of 1977,^[44] as amended by Republic Act No. 7660,^[45] and not the NIRC of 1997. Hence, the applicable tax provision in respect of the imposable DST on the said Special Savings Accounts is Section 180 of

the NIRC of 1977, and not the current Section 179 (re-numbered from Section 180) of the NIRC of 1997.

Section 180 of the NIRC of 1977 provides:

Sec. 180. *Stamp tax on all loan agreements, promissory notes, bills of exchange, drafts, instruments and securities issued by the government or any of its instrumentalities, **certificates of deposit bearing interest and others not payable on sight or demand.*** — On all loan agreements signed abroad wherein the object of the contract is located or used in the Philippines; bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities or **certificates of deposits drawing interest, or orders for the payment of any sum of money otherwise than at the sight or on demand**, or on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each Two hundred pesos, or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: *Provided*, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory note issued to secure such loan, whichever will yield a higher tax: *Provided, however*, That loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this section.^[46]

DST is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale or transfer of an obligation, right or property incident thereto.^[47] A DST is levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments.^[48] In imposing the DST, the Court considers not only the document but also the nature and character of the transaction.^[49]

Pursuant to Section 180 of the NIRC of 1977, a DST is imposable on loan agreements, bills of exchange, drafts, and a number of other instruments, in the amount of P0.30 on each P200, or fractional part thereof, of the face value of such instruments. For clarity, and as held in *China Banking Corp. v. CIR*,^[50] the proper breakdown of the enumeration of these instruments subject to DST under Section 180 should read as follows:

1. Loan agreements signed abroad wherein the object of the contract is located or used in the Philippines;
2. Bills of exchange (between points within the Philippines);
3. Drafts;