

SECOND DIVISION

[G.R. NO. 158175, October 18, 2007]

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

DECISION

QUISUMBING, J.:

Before us is a petition for review on certiorari assailing the Decision^[1] dated May 12, 2003 of the Court of Appeals in CA-G.R. S.P. No. 58230, which had reversed both the Decision^[2] and Resolution^[3] dated January 26, 2000 and March 21, 2000, respectively, of the Court of Tax Appeals (CTA) in C.T.A. Case No. 5406, entitled *Philippine National Bank v. Commissioner of Internal Revenue* and, accordingly, denied petitioner's claim for tax refund.

The facts are undisputed.

For the eight taxable quarters for the period June 30, 1994 up to March 31, 1996, petitioner filed its Quarterly Percentage Tax Returns and paid the corresponding 5% gross receipts tax (GRT)^[4] on its gross receipts, inclusive of interest income derived from investments, deposits and loans which were already subjected to the 20% final withholding tax (FWT).

On July 19, 1996, petitioner filed amended Quarterly Percentage Tax Returns for the said taxable quarters excluding the 20% FWT, invoking CTA Case No. 4720, entitled *Asian Bank Corporation v. Commissioner of Internal Revenue*, promulgated on January 30, 1996, wherein the tax court ruled that the 20% FWT on interest income should not form part of the bank's taxable gross receipts for GRT purposes. Petitioner's amended Quarterly Percentage Tax Returns reflected a lesser amount of taxable gross receipts resulting to an overpayment of GRT of P17,504,775.48, to wit:

Period Covered (Quarter – End).	Tax Due Per <u>Original Return</u>	Tax Due Per <u>Amended Return</u>	Overpayment <u>For Refund</u>
June 30, 1994	[P]107,483,285.27	[P]105,127,122.33	[P][P] 2,356,162.94
September 30, 1994	114,292,729.36	111,817,191.57	2,475,537.79
December 31, 1994	118,443,383.42	116,573,108.77	1,870,274.65
March 31, 1995	127,781,909.47	125,733,423.93	2,048,485.54
June 30,	105,615,948.79	102,932,534.56	2,683,414.23

1995			
September 30, 1995	136,977,975.85	134,253,099.12	2,724,876.73
December 31, 1995	137,565,078.91	135,893,668.65	1,671,410.26
March 31, 1996	<u>133,260,982.62</u>	<u>131,586,369.28</u>	<u>1,674,613.34</u>
TOTAL	P <u>981,421,203.69</u> *	[P]	[P]
		<u>963,916,518.21</u>	<u>17,504,775.48</u> ^[5]

Simultaneous with the filing of the amended Quarterly Percentage Tax Returns, petitioner also filed a written claim for tax refund or credit of P17,504,775.48 with the Commissioner of Internal Revenue and a petition for review with the CTA in order to toll the running of the two-year prescriptive period to judicially claim for the refund of overpaid GRT for the taxable quarters ending June 30, 1994 and September 30, 1994.

On January 26, 2000, the CTA rendered a decision, the decretal portion of which reads,

WHEREFORE, in view of the foregoing, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, Respondent [Commissioner of Internal Revenue] is hereby **ORDERED** to **ISSUE a TAX CREDIT CERTIFICATE** in the amount of **P13,785,413.38** to the petitioner [Philippine National Bank] immediately.

SO ORDERED.^[6]

Respondent sought reconsideration, but it was denied. On May 12, 2003, the Court of Appeals reversed the CTA decision and resolution, and accordingly denied petitioner's claim for tax refund. The Court of Appeals held that the 20% FWT on interest income should be included in petitioner's taxable gross receipts for GRT purposes. The *fallo* of the decision reads,

WHEREFORE, the assailed [decision and resolution] of the Court of Tax Appeals dated...January 26, 2000...and March 21, 2000... [respectively,] in CTA Case No. 5406 (S.P. No. 58230), are hereby REVERSED and SET ASIDE and the claims for tax refund by... Philippine National Bank are hereby DENIED for lack of merit.

SO ORDERED.^[7]

Hence, this instant petition, raising the following as issues:

I.

WHETHER OR NOT [COMM.] OF INTERNAL REVENUE VS. MANILA JOCKEY CLUB, [INC.] (108 PHIL. 821) IS APPLICABLE IN RESOLVING THE ISSUE OF WHETHER OR NOT THE 20% FINAL WITHHOLDING TAX ON THE BANK'S INTEREST INCOME SHOULD FORM PART OF TAXABLE GROSS RECEIPTS.

II.

WHETHER OR NOT CTA RULINGS SHOULD BE DISTURBED[,] BEING A COURT OF SPECIAL JURISDICTION.^[8]

Simply stated, the issues are: (1) Does the 20% FWT on interest income form part of the taxable gross receipts in computing the 5% GRT on banks? (2) Is *Comm. of Internal Revenue v. Manila Jockey Club, Inc.*^[9] (*Manila Jockey Club, Inc.*) applicable in this case? (3) What is the weight of authority of CTA rulings?

According to petitioner, the 20% FWT on interest income should be excluded from petitioner's taxable gross receipts for GRT purposes because under Section 51(g)^[10] (now Section 58A) of the 1977 National Internal Revenue Code (Tax Code), as amended and Section 7(a)^[11] of Revenue Regulations No. 12-80,^[12] taxes withheld are merely held in trust for the government. Citing Section 4(e)^[13] of Revenue Regulations No. 12-80, petitioner likewise avers that the FWT never formed part of its income because it does not actually receive such amount. Petitioner also invokes *Manila Jockey Club, Inc.*, where we ruled that "gross receipts of the proprietor of the amusement place should not include any money which although delivered to the amusement place has been especially earmarked by law or regulation for some person other than the proprietor."^[14] Finally, petitioner avers that the CTA, being a court of special jurisdiction, its findings and conclusions should not be disturbed and must be respected.

On the other hand, respondent contends that *Manila Jockey Club, Inc.* is not applicable, but what should be applicable is *China Banking Corporation v. Court of Appeals*,^[15] where we ruled that the 20% FWT on interest income should form part of the bank's taxable gross receipts.

The issues raised herein are not novel. In a catena of cases,^[16] we categorically ruled that the 20% FWT on a bank's interest income forms part of the taxable gross receipts for purposes of computing the 5% GRT.^[17] The 5% GRT, as imposed by Section 119 (now Section 121)^[18] of the Tax Code, by its nature applies to all the receipts without any deduction, unless otherwise provided by law. Any deduction, exemption or exclusion from gross receipts is inconsistent with the policy of the law and is not normally allowed in a gross receipts tax, to maintain simplicity in tax collection, and to assure a steady source of state revenue even during periods of economic slowdown.^[19] It also changes the result and meaning of gross receipts to net receipts.^[20]

Petitioner asserts that under Section 51(g) of the Tax Code and Section 7(a) of Revenue Regulations No. 12-80, taxes withheld are merely held in trust for the government. This assertion, however, does not suffice. The fact that the FWT is a special trust fund for the government does not justify its exclusion from the computation of interest income subject to GRT.^[21] The concept of a withholding tax on income necessarily implies that the amount of tax withheld comes from the income earned by the taxpayer. Because the amount withheld belongs to him, he can transfer its ownership to the government in payment of its tax liability.^[22] This constitutes payment which would extinguish a bank's obligation to the government. The bank can only pay the money it owns, or the money it is authorized to pay.^[23]