REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SOUTHEAST ASIAN REGIONAL CENTER FOR GRADUATE STUDY AND RESEARCH IN AGRICULTURE (SEARCA),
Petitioner,

- versus -

C.T.A. CASE NO. 4982

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
OCT 06 1995

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D E C I S I O N

Petitioner seeks to enforce by way of this petition a claim for refund of the 20% final withholding tax on interest earned from savings and time deposit accounts in the sum of P2,136,171.60 for the period covering the years 1991 to 1992.

Petitioner, Southeast Asian Regional Center for Graduate Study and Research in Agriculture (SEARCA), is a non-stock, non-profit educational institution duly certified as such by the Department of Education, Culture and Sports. It is duly organized by virtue of an international agreement, entered into between and among the Southeast Asian member countries, namely: the Philippines, Indonesia, Malaysia, Laos, Singapore and Thailand. It was established pursuant to the Charter of the Southeast Asian Ministers of Education Organization (SEAMEO), an international organization formed on February 7, 1968 by the Ministers of Education of the above-mentioned member states. Its primary purpose is to provide high quality graduate education and training in agriculture in the region.

Petitioner maintains a savings and time deposit accounts with the Philippine National Bank (PNB), UP Los Baños Branch; Los Baños Rural Bank (LBRB), BPI Family Bank, Los Baños Branch and Citibank - Makati. For the years 1990 to 1992, these banks withheld from petitioner the corresponding 20% final tax on interest earned from these deposits in the sum of P2,761,627.75. Petitioner submits that it is exempt from the 20% final withholding tax on interest on savings and time deposits as provided for under the following:

a. Section 4(3), Article XIV of the 1987 Constitution;

b. Article X of its Charter, in relation to Article VIII of the Charter of SEAMEO, stating, among others, that it shall enjoy in the territory of each of its member states such privileges and immunities as are necessary for the fulfilment of its purpose;

c. Republic Act No. 6456, as amended by Presidential Decree No. 1171, granting tax exemption privileges to SEARCA without any period of limitation; and

d. BIR Rulings Nos. 130-90, 197-90, 180-89, 002-88, 125-88, 169-88, 173-88, 176-88, 178-88, 262-88, 324-88, 431-88, 471-88, 482-88, 495-88, 496-88, 515-88 and 539-88.

On April 6, 1993, petitioner filed a claim for refund with the Bureau of Internal Revenue in the total amount of P2,761,627.75, representing erroneously withheld 20% final tax on interests from Philippine currency savings and time deposits (Exh. W). On April 16, 1993, petitioner filed a petition with this Court to pursue by judicial action its claim for refund.

Respondent contended that the petition states no cause of action for failure on the part of petitioner to allege the dates when the taxes sought to be refunded were actually remitted and paid to the Bureau of Internal Revenue. Respondent also averred that "granting without admitting that petitioner is entitled to tax credit or refund, its right to claim the same with respect to prior tax payment has prescribed". Claims for refund are in the nature of a tax exemption and therefore are strictly construed against the taxpayer. In an action for tax refund, the burden is on the taxpayer to prove that the taxes were erroneously or illegally collected and paid. The presumption being that the taxes were properly collected in accordance with law.

After the issues have been joined, this case was set for hearing on September 8, 1993. On the same date, petitioner requested for an admission of facts for the purpose of limiting the issues to matters of fact alone, i.e., the amount to which it is entitled, pursuant to Section 1 of Rule 26 of the Revised Rules of Court. Petitioner added that the Court can take judicial notice of the following facts pursuant to Rule 129 of the Revised Rules of Court, considering that these are official acts of the Legislative and Executive Departments, to wit:

> "1. That pursuant to Article X of its enabling instrument (Annex "B" Petition for Review), SEARCA derived its juridical personality from the SEARCA Charter and shall enjoy in the territory of each of its member states such privileges and immunities as are necessary for the fulfilment of its purpose;
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> 2. That such privileges and immunities in the member-states is likewise provided in Article VIII of the Charter of SEAMEO (Annex "C" Petition for Review);
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> 3. That the Philippine Senate adopted on August 31, 1972 Resolution No. 56 (Annex "D" Petition for Review) concerning the acceptance of the President of the Philippines of the Charter of SEAMEO;
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> 4. That the Philippines, as a signatory to the said international agreement creating SEAMEO and SEARCA, passed and enacted a law (Republic Act [RA] No. 6456) (Annex "E" Petition for Review) granting tax exemption privileges to SEARCA for a period of five (5) years ending June 18, 1977, which was subsequently extended by Presidential Decree (PD) No. 1171 (Annex "F" Petition for Review) without any period of limitation; and
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> 5. That the Department of Education, Culture and Sports duly certified that SEARCA is an educational institution established by virtue of an international agreement signed by representatives of the Southeast Asian member countries, including the Philippines (Annex "G" Petition for Review)."

Respondent, in reply thereto, admits the existence of the documents attached in the Petition. However, she objects to the interpretation placed by petitioner that it is exempt from the 20% final tax on interest income from savings and time deposits and that petitioner failed to present any Certificate of Tax Exemption to that effect. Respondent further contended that the enabling instrument of SEARCA (Annex "B") is not an official act of the Philippine Legislature or the Executive Branch, rather it is an act of private individuals in their own individual capacity; that R.A. 6456 (Annex "E") merely granted petitioner exemption from the compensating tax; and that the Certification issued by the DECS (Annex "G") is not binding with the BIR.

Subsequently, an Amended Petition was filed, with leave of Court, reducing the claim for refund from P2,761,627.75 to P1,509,191.58. Thereafter, petitioner filed a motion trying to revive the original petition praying for the refund of the original amount of P2,761,627.75. The motion was denied. Instead, petitioner was instructed to file a second Amended Petition. Respondent adopted the original answer filed for the second Amended Petition.

The case was therefore set for hearing. However, before petitioner can present its evidence, respondent moved for the dismissal of the case on the ground that the Court has no jurisdiction to entertain the petition for failure on the part of petitioner to allege the dates when the taxes have been paid. In our Resolution, dated May 3, 1994, the Court ruled that the claim for refund for the 1990 final withholding tax is already barred.

Only the claim for calendar years 1991 to 1992 remain to be valid and subsisting. Accordingly, the dispositive portion of said Resolution reads:

> "**WHEREFORE,** respondent's motion to dismiss is hereby **GRANTED** insofar as the claim for refund of the 1990 final withholding tax is concerned in view of prescription while the motion to dismiss the claim for refund of the 1991 and 1992 final withholding tax is **DENIED** for lack of merit."

Petitioner presented evidence in support of its case. All the exhibits formally offered were admitted as evidence by the Court. Respondent for her part manifested that she has no evidence to present. The case was submitted for decision based on the pleadings and the evidence of petitioner. Petitioner in its memorandum agrees that the issue is now limited to its claim for refund for the years 1991 to 1992. Thus, it is only asking the Court to grant its claim for refund in the sum of P2,186,171.60 (Memorandum for Petitioner, p. 2; CTA record, p. 313).

The pivotal issue that confronts us is not only legal but also factual. Is petitioner (SEARCA) exempt from the 20% final withholding tax on interest from savings and time deposits? If so, how much is it entitled to be refunded?

We answer the first question in the affirmative.

We find the provision of Section 4(3) of Article XIV of the 1987 Constitution applicable in the case at bar. Said provision reads as follows:

> "(3) <u>All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties.</u> Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.
>
> Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment." (Emphasis added.)

It is clear from the above-quoted constitutional provision that "non-stock, non-profit educational institutions" are exempt from taxes and duties from all revenue and assets actually, directly and exclusively used for educational purposes. The reason is simple. "The relief given to schools by this provision is expected to be passed on to students in the form of lower tuition fees. This constitutional relief, however, is given only to non-stock, non-profit educational institutions. The specification of non-stock has been added as a safeguard, because the moment a stock corporation is formed, there is expectation of dividends or profits." (BERNAS, The Constitution of the Republic of the Philippines, Vol. II, 1988 Ed., p. 513.)

It has been established that petitioner is a non-stock non-profit educational institution duly organized pursuant to the Charter of SEAMEO. It is an international organization which has for its main purpose the promotion of cooperation among the Southeast Asian member nations through education, science and culture (Exh. B). In fact, it has been issued a certification by the then Secretary of Education, Isidro D. Cariño, that it is an educational institution based in College, Laguna (Exhs. D and D-1). Moreover, no other than then Secretary of Justice Franklin M. Drilon opined, in a query posed by the Chairman of the Securities and Exchange Commission on whether or not SEARCA is required to register with the SEC in order to obtain loans from private and government banks, that petitioner is an international organization, to wit: (Exhs. C, C-1 and C-2, DOJ Opinion No. 71; S. 1994)

> "There is basis in SEARCA's claim that it is an international organization. Its charter, (known as 'Enabling Instrument') was adopted by the Southeast Asian Ministers of Education Council in pursuit of the objective behind the establishment of the SEAMEO. It is noted that SEAMEO is a regional aggrupation of certain countries of Southeast Asia and Philippine acceptance of its charter was concurred in by the Senate. Since the SEAMEO charter is indubitably an international agreement, it should follow the SEARCA, which was organized in accordance therewith has likewise acquired an international character (See Article XIV of the Enabling Instrument). It has been said, in this connection, that generally, the ratification of an international agreement, provided it is self-executing, would suffice to put an entity created thereby beyond the interference of municipal law (O'Connell, International Law, Vol. I, 1905 Ed., p. 128).
>
> Moreover, SEARCA's Enabling Instrument provides that said document 'is the sole source of the authority and rights' of said organization (see Enacting Clause) that SEARCA 'derives its judicial personality from [its charter] and possesses 'full capacity' to 'contract', 'acquire, dispose of immovable and movable property', and 'institute legal proceedings' (see Art. XIV, *supra*), and that it shall

> be accorded 'such privileges and immunities as are normally accorded United Nations institutions' (Id.). Additionally, SEARCA was the subject of a Letter-Agreement on funding assistance between itself, SEAMEO and the Governments of the Philippines and the United States under which SEARCA was acknowledged to be 'distinctly international in character' (See 2d par., Sec. II of Letter-Agreement). Being a party-signatory to the foregoing documents, the Philippine Government, pursuant to the international law principle of *pacta sunt servanda*, is bound to honor its commitments and comply with its obligations thereunder."

We are in accord with the views and interpretations of the Secretary of Justice and the Secretary of Education that petitioner is both an international organization and an educational institution at the same time. In the case of ***Asturias Sugar Central, Inc. v. Commissioner of Customs*, 29 SCRA 617 (1969)**, the High Court stressed that executive officials are presumed to have formed an independent, conscientious and competent expert opinion thereon. The Courts give much weight to contemporaneous construction because of the respect due the government agency or officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they frequently are the drafters of the law they interpret. **[See also Ramos v. Court of Industrial Relations, 21 SCRA 1282 (1967); Cagayan Valley Enterprises v. Court of Appeals, 179 SCRA 218 (1989); Santiago v. Deputy Executive Secretary, 192 SCRA 199 (1990); Nestlé Philippines, Inc. v. Court of Appeals, 203 SCRA 504,511 (1991).**

The contention of respondent that petitioner is a private educational institution because it was formed by private individuals in their individual capacity, therefore not exempt from the final withholding tax on income derived from savings and time deposits, holds no water. It is definitely not a private school. As a matter of fact, respondent even admits in her answer to the allegations of petitioner in paragraph 1 of the petition that "[p]etitioner, SEARCA, is a non-stock, non-profit educational institution located at 4031 College, Laguna and duly established through an enabling instrument in accordance with the Charter of the Southeast Asian Ministers of Education Organization (SEAMEO), an international organization formed on February 7, 1968 by the Ministers of Education of the Philippines, Indonesia, Malaysia, Laos, Singapore and Thailand, in order to provide high quality graduate education and training in agriculture in the region". The Charter of SEAMEO was accepted by the President of the Philippines, when no less than the Secretary of Education, Carlos P. Romulo, signed as member on behalf of the Philippines, on February 7, 1968, in Singapore. The Senate even concurred with the President by accepting the Charter of SEAMEO pursuant to Senate Resolution No. 56.

Under the terms of the agreement, "[t]he Organization shall enjoy in the territory of each of its Member States such privileges and immunities as are necessary for the fulfilment of its purpose" (Exh. B-6). Similarly, it was provided in Section 2 of Article XIV on the Legal Status of the Center that "[t]he Center shall enjoy in the territory of each of its member states such privileges and immunities as are normally accorded United Nations institutions' (Exh. A-1).

Therefore, on the basis of the foregoing agreement and in accord with the enabling instrument of SEAMEO, SEARCA and following the constitutional provision that "all revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties" and in line with the various rulings of respondent with respect to non-stock, non-profit educational institution in relation with said constitutional provision, the case of petitioner falls squarely within this mandate. It is a well established rule in statutory construction that the language of the Constitution, as much as possible should be understood in the sense it has in common use and that the words used in constitutional provisions are to be given their ordinary meaning except where technical terms are employed, must then, be applied in this case. **(Ordillo v. Commission on Elections, 192 SCRA 100.)** The Court is left with no other alternative but to apply the constitutional provision exempting from taxes and duties non-stock, non-profit educational institutions on all its revenues and assets used actually, directly, and exclusively for educational purposes. Hence, since petitioner is a non-stock, non-profit educational institution whose assets (deposits) are actually, directly and exclusively used for educational purposes (i.e., giving quality education in the field of agriculture), petitioner qualifies to be exempt from the 20% final withholding tax on interest derived from savings and time deposits.

The reliance of petitioner to R.A. 6450 and PD1171 is misplaced, since these cover only exemption from the payment of compensating taxes, duties and fees on goods imported or exported on a non-commercial basis exclusively in its name and for its own use. In fact, petitioner abandoned this ground as its basis in claiming for the refund by not offering the same during the trial.

The only thing left for us to do is to determine the amount to which petitioner is entitled to be refunded. Petitioner, in its memorandum, reduced its claim for refund with respect to the time deposits in the amount of P2,186,171.60. A review of the evidence on record shows that the sum of P2,182,729.83, representing final withholding tax on interest derived from time deposits have been duly substantiated and proven by petitioner, computed as follows: (See Exhibits N-4, X-1, Y-1, Z-1,O-2, EE-2, FF-2, GG-2, FF-3, HH-2, R, NN-2, LL-2, MM-2, Q, PP-2 and QQ.)

Time Dep. No.	Tax Withheld by the Banks	Central Bank Confirmation Receipt No.	Exhs.
CITIBANK:	(Exh. N-4)		
6342	P20,366.67		
30548	17,025.11	B20211891	X-1
352757	35,812.50	B20211891	X-1
14932	20,168.51	B20213142	Y-1
36708	32,353.35	B20213142	Y-1
058172	35,410.82		
095974	33,318.60		

051118	36,271.21	B20210838	
54088	17,180.72	B21211891	X-1
56088	13,128.28	B20211891	X-1
55484	34,442.72	B20211891	X-1
19683	59,026.83	B20213142	Y-1
065501	34,473.11		
7020001245	30,455.03		
6343	26,866.67	B20210838	
350947	34,482.38	B20211891	X-1
354058	28,453.43	B20213142	Y-1
34913	24,130.89	B20214362	Z-1
053205	34,179.29		
6344	12,638.89	B20210838	
36961	20,830.76	B20214362	Z-1
059897	19,741.60		
095975	19,767.74		
	P640,525.11		

LOS BAÑOS
RURAL BANK (Exh. O-2)

27704	P 33,978.59		
23598	51,250.00	B21793413	EE-2
23857	61,429.17	B22966828	FF-2
24110	34,626.99	B22973374	GG-2
23653	150,580.08	B21793413	EE-2
24048	69,476.20	B22966828	FF-2
24252	55,555.01	B22973374	GG-2
24490	62,325.32	B22983285	HH-2
274600	66,012.82		
27872	55,394.52		
23714	30,102.51	B22966828	FF-2
23986	20,282.19	B22966828	FF-2
24177	17,713.41	B22973374	GG-2
23652	43,229.17	B22966828	FF-2
24047	19,923.97	B22966828	FF-2
24253	15,931.74	B22973374	GG-2
24489	17,873.29	B22389285	HH-2
27599	18,930.77		
27871	396.39		
23688	38,333.33	B21793413	EE-2
27739	24,066.47		

30517	6,610.11		
24148	40,000.00	B22973374	GG-2
24245	18,125.00	B22973374	GG-2
24485	20,336.41	B22389285	HH-2
27584	21,538.46		
27862	18,060.00		
30560	3,656.25		
30562	3,900.00		
	P1,019,638.17		

PNB-
LOS BAÑOS (Exh. K-4)

996891	P 19,740.74	B22982998	NN-2
997377	25,901.48	B22982998	NN-2
997992	25,145.29		
998742	37,271.61		
893238	18,431.70		
446-521025-2	12,340.45		
997714	12,577.67	B22982998	NN-2
998363	12,913.07		
999185	11,301.95		
893271	4,660.84		
995777	93,148.36		
996008	8,050.00	B21802174	LL-2
996359	6,673.57	B22973066	MM-2
996781	21,432.93		
998550	7,729.28		
999407	5,923.46		
997004	26,346.67	B22982998	NN-2
997525	31,350.59	B22982998	NN-2
998108	29,113.37		
998992	28,790.01		
893065	23,054.23		
446-521025	13,433.33	B22982998	NN-2
997715	13,691.56	B22982998	NN-2
998402	14,056.66		
999186	12,302.86		
893272	5,073.61		
	P520,455.29		

BPI FAMILY BANK
Los Baños Branch (Exh. K-4)

1803712-9	P	1,131.61	B24603786	PP-2
583-7-0105		979.65	MC*002969	QQ-2
	P	2,111.26		
TOTAL	P2,182,729.83			

WHEREFORE, in view of the foregoing, the petition for review is found to be meritorious and the same is hereby **GRANTED partially.** Respondent is hereby ordered to refund in favor of petitioner the sum of P2,182,729.83, representing erroneously and illegally collected final withholding tax on income derived from time deposits for the years 1991 to 1992.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

MANUEL K. GRUBA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation between the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Court of Tax Appeals
Presiding Judge