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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FAR EAST BANK AND TRUST COMPANY,
Petitioner,

- versus -

C.T.A. CASE NO. 4832

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
FEB 06 1997

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D E C I S I O N

The case before Us involves an assessment against the petitioner for alleged unremitted withholding taxes on compensation covering the months of January, March, May and July of 1991 amounting to P4,350,327.60, inclusive of penalties incident to delinquency.

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Philippines.

In a letter, dated February 11, 1992 (Annex A, Petition for Review), respondent informed the petitioner, Far East Bank & Trust Co. (FEBTC), that upon verification it was confirmed that it has not remitted to the Bureau of Internal Revenue (BIR) the total amount of P1,854,515.60, exclusive of penalties, corresponding to the tax withheld on compensation from its employees covering the months of January, March and May of 1991. Likewise, the following receipts (Payments Order/Confirmation Receipts) submitted by L.C. Diaz & Co., its payroll agent, to wit:

Payment Order	Confirmation Receipts	Date	Amount
C9572126	B21052434	2-8-91	P617,480.85
C9986513	B21590124	4-8-91	617,226.03
C11002052	B22086398	6-7-91	617,808.83

were allegedly fake and not issued by the BIR and authorized agent bank, hence no payment was credited to its account. A demand for the full payment of the sum of P3,245,386.12, including surcharge and interest from the due date up to February 10, 1992, was served against the petitioner.

Thru a letter, dated February 26, 1992, petitioner replied that the subject withholding taxes were already paid directly to the BIR, Revenue District No. 25. (pp. 68-71, BIR rec.)

On March 23, 1992, petitioner received another letter, dated March 12, 1992, from the respondent informing it of the discovery of another fake receipt in the succeeding payments made by its payroll agent. The receipt for the amount of P616,184.54 representing payment of withholding tax for July 1991 was verified and confirmed as not issued by the Collection Agent of the BIR nor by its accredited bank, thereby increasing the alleged deficiency assessment for unremitted withholding taxes to P4,350,327.60, inclusive of penalties incident to delinquency.

A protest letter, dated April 2, 1992, was filed by the petitioner through its auditors, asserting the fact that it had paid all the said withholding taxes in accordance with the procedure prescribed by the respondent as evidenced by the documents issued or acknowledged by the respondent's duly authorized agents. It further maintained that all the receipts are in accountable forms, the safekeeping and distribution of which are strictly and completely under the control and supervision of the BIR. The petitioner also argued against the conclusion of the respondent that the receipts evidencing the payments of the taxes were fake or spurious and that the petitioner is still liable for the taxes due even before the official investigation being conducted by the National Bureau of Investigation (NBI) has reached its final conclusion.

Despite the aforesaid protest letter, the respondent proceeded with the issuance of a Warrant of Distraint and/or Levy on April 23, 1992 to enforce collection of the deficiency withholding tax assessment for the months of January, March, May and July 1991. A Warrant of Garnishment, dated April 1, 1992, was served on June 2, 1992 to the Governor of the Central Bank to garnish the bank reserve of the petitioner.

On April 27, 1992, the petitioner filed a request for reconsideration of the assessment and that the docket of the case be transmitted to the Appellate Division for the lifting of the Warrant of Distraint and/or Levy. Petitioner informed the BIR that it had posted a surety bond in the amount of P4,350,327.60, issued by the Makati Insurance Company, Inc. [Bond No. G(16)1241] on April 24, 1992.

In a letter, dated July 15, 1992, respondent denied the request for reconsideration of the lifting of the Warrant of Distraint/Levy and Warrant of Garnishment. Hence, on July 22, 1992, the petitioner filed the instant Petition for

Review with Urgent Petition for Issuance of Injunction to Restrain Tax Collection Pending Appeal.

In its Answer, the respondent alleged the following special and affirmative defenses:

> "6. In an investigation conducted by respondent's Special Projects Team, it was ascertained, discovered and confirmed that all the receipts (PO-CR) reflected in petitioner's Annual Return (W-3) submitted to respondent's Withholding Tax Division, representing petitioner's alleged payments of withholding taxes on compensations covering January, March, May and July 1991 were fake/spurious, not issued by respondent's bureau;
>
> 7. Contrary to petitioner's assertions, the Manager's Checks issued for the payment of the various withholding taxes on compensation were used in the purchase of loose stamps, as further verified and discovered by respondent's Special Project Team;
>
> 8. The withholding tax payments made by the petitioner were coursed through its payroll agent, L.C. Diaz & Co., and not through the authorized agent bank. It was duly verified and confirmed that the confirmation receipts were all fake/spurious; and
>
> 9. There being no valid payment of the withholding taxes on the various dates that they were supposed to be paid and remitted by the petitioner, as withholding agent, to the respondent, the assessments therefor which are embodied in the final withholding tax (self-assessing) filed by the petitioner with respondent's bureau is now final and unappealable thereby conferring no jurisdiction upon this Honorable Court to take cognizance of the case." (pp. 54-57, CTA records)

This Court, in a Resolution, dated November 4, 1992, granted the urgent petition for the issuance of injunction filed by herein petitioner, provided petitioner files within ten (10) days from receipt thereof a certification from the Supreme Court attesting to the acceptability of the bond offered by the petitioner's surety company in favor of the BIR. Moreover, the Insurance Commission should likewise, issue a certificate that said surety company is of good financial standing and is authorized to transact insurance business. The bond shall be for an indefinite term or period and shall remain enforceable until such time that this case shall have been finally resolved by this Court. (pp. 59-62, CTA rec.)

On November 20, 1992, petitioner filed its Compliance to the above-mentioned resolution by submitting Surety Bond No. G(16)1241 in the amount of P4,350,327.60. Consequently, this Court in a Resolution, dated January 13, 1993, (pp. 86-87, CTA rec.), ordered the respondent to lift the Warrant of Distraint and/or Levy and the Warrant of Garnishment issued against the petitioner and enjoined the respondent from proceeding with the collection of the alleged non-remittance of withholding tax on compensation pending the final adjudication of this case.

Prior to its presentation of evidence, petitioner filed a Request for Admission by the respondent under Rule 26 of the Revised Rules of Court on February 24, 1996, on the following matters:

> "1. That the BIR-Accountable Forms Division issued to BIR Region 4A, District 25, South Manila the following BIR Payment Orders (CB Form No. 82-02-02):
>
> 1. C11478877
> 2. C9986513
> 3. C9572126
> 4. C11002052
>
> 2. That from February 1991 to August 1991, Ms. Remedios C. Sandoval was the BIR Supervising Revenue Collection Officer at BIR Region 4A, District 25, South Manila;

3. That the BIR Accountable Forms Division issued to Philtrust Bank the following Confirmation Receipts (From CB 82-02-03), to wit:

1. B22086398
2. B22100983
3. B21590124
4. B21052434

4. That the BIR deposited in its account the following BPI checks drawn against the account of L.C. Diaz & Co., CPAs, to wit:

Check No.	Date	Amount
680442	1-10-91	P617,480.85
680744	3-11-91	619,226.03
681002	5-09-91	617,808.83
747380	7-10-91	616,684.54

Copies of the Manager's Checks are attached as Annexes "A" to "A-3";

5. That the total sum of P2,471,200.25 representing these BPI (L.C. Diaz & Co.) checks was credited to the account of the Bureau of Internal Revenue and/or National Treasury - Philippines; and

6. That annotated at the dorsal sides of these checks (Annexes "A" to "A-3") is any of the following entries:

a. for the account of Far East Bank & Trust Co.
c/o L.C. Diaz & Co. - 2nd flr. LCD & Co.
Union bldg.
A. Bonifacio Drive, Port Area, Manila
Tel # 86-43-25

b. For the account of Far East Bank & Trust Co.
c/o L.C. Diaz & Co. - 2nd flr. LCD & Co.
Union bldg.
Port Area, Manila
Tel # 86-43-25"

Petitioner also served upon the respondent the following Interrogatories under Rule 25 of the Revised Rules of Court to wit:

> "1. Is Ms. Remedios C. Sandoval still employed with the BIR? If yes, what capacity and in what BIR office and address?
>
> 2. Is Ms. Rosario S. Beltran still employed at BIR-RDO 31, Mandaluyong, Metro Manila? If no longer but still connected with the BIR, in what office and address? In what capacity?" (pp. 90-97, CTA rec.)

Respondent's Reply filed on March 30, 1993 stated that:

"1. He ADMITS the fact of issuance by respondent's Accountable Forms Division Office No. 4-A, Revenue District Office No. 25, South Manila, of the various Payment Orders (PO's) enumerated under paragraph 1 of the Request for Admission, but states in connection therewith that said Payment Orders although subsequently issued by said Revenue Districts for payment of unremitted withholding tax of the petitioner for the various amounts stated therein were thereafter verified by respondent's Special Projects Team to have been used by different taxpayers for the purchase of documentary stamps, the payments of which were effected elsewhere and for smaller amounts compared to those stated in the Payment Orders issued to the petitioner using the various [BPI] Manager's Checks issued for the account of the petitioner;

2. He ADMITS that Ms. Remedios C. Sandoval was a supervising Revenue Collection Officer at Revenue Region No. 4A, Revenue District No. 25, South Manila from June 1989 to July 1991 under paragraph 2;

3. He ADMITS that respondent's Accountable Forms Division issued to Philtrust Bank the various Confirmation Receipts enumerated under paragraph 3 of the Request for Admission but states in connection therewith that the same were subsequently issued by the said bank to different taxpayers other than the petitioner herein for various payments of documentary stamps, said payments having been effected outside Revenue Region No. 4A, Manila as verified by respondent's Special Projects Team;

4. He ADMITS that the total amount of P2,471,200.25 representing the various [BPI] Manager's Checks with the corresponding annotations at the dorsal sides thereof "For the account of Far East Bank & Trust Co., etc." (Annexes "A" to "A-3", Request

for Admission) stated in paragraphs 4, 5, and 6 respectively, of the Request for Admission, was credited to the account of respondent's bureau and/or the National Treasury of the Philippines but states in connection therewith that said checks were actually and ultimately used by various taxpayers other than the petitioner to purchase documentary stamps, the payment of which were effected outside Revenue Region No. 4A as subsequently verified by respondent's Special Project Team;

5. Respondent in answer to the interrogatories embodied in the Request for Admission states that the 201 Files of respondent's Personnel Division indicates the present position and assignment of Ms. Remedios C. Sandoval, Revenue Officer III, Collection Branch, Revenue Region 4A, Manila." (pp. 109-112, CTA rec.)

On April 2, 1993, Petitioner filed a Manifestation (p.113, CTA rec.) stating that the qualifying statements in paragraph 1, 3, and 5 of the respondent's reply to request for admission, dated March 23, 1993, are evidentiary matters and therefore not proper statements in the said reply.

This Court is tasked to resolve the vital issue of whether or not the petitioner actually paid the alleged unremitted withholding tax on compensation for the months of January, March, May and July of 1991, and, if so, then petitioners should no longer be held liable for the disputed withholding tax assessment.

Petitioner initially offered in evidence the Confirmation Receipts (CR's) and Payment Orders (PO's), to prove that it paid and remitted the questioned withholding taxes to the BIR. They claim that the PO's were duly issued by respondent's employees and the CR's by the employees of Philtrust Bank, an accredited collection agent of the respondent to accept payments for the government.

Respondent admitted in its Reply to Request for Admission (pp. 109-111, CTA rec.) the fact of issuance by respondent's Accountable Forms Division to Revenue Region No. 4-A, Revenue District Office No. 25, the PO's, and to Philtrust Bank, the CR's, but stated in connection therewith that said receipts were verified by the respondent's special project team to have been issued to different taxpayers other than the petitioner for various payments of documentary stamps.

In its Formal Offer of Additional (Rebuttal) Evidence, the petitioner presented the Monthly Remittance Returns of Income Taxes Withheld for the periods covered, duly stamped received by the BIR, and the returned Bank of Philippine Islands (BPI) checks drawn against the account of L.C. Diaz & Co., CPA's, payable to the BIR bearing the same amounts for the same tax liabilities as proof of payment of the disputed withholding taxes. In addition, petitioner asserted that the annotations on the dorsal side of the checks which states, "For the Account of Far East Bank & Trust Co.", proves that the payment to the BIR was made for the account of the petitioner and not for L.C. Diaz & Co., CPA's, as alleged by the respondent.

In her Comment to petitioner's formal offer of additional evidence, respondent argued that the filing of the Monthly Remittance Return of Income Taxes Withheld does not by itself prove the payment of the disputed withholding taxes and neither does the returned checks show that they were issued in payment for withholding taxes. According to respondent's witness, Ms. Rosario Beltran, District Collection Supervisor - Mandaluyong, Revenue District 41, the subject checks were presented to her by a representative of L.C. Diaz as payment for the <u>purchase of loose documentary stamps</u>. Remittance Advices and PNB receipts (Exhs. 10 to 13-C, inclusive) for the deposits made by Ms. Beltran to PNB-Mandaluyong included the checks in question.

The Comparative Data on Documents Gathered (Exh. 5, p. 148, BIR rec.) prepared by respondent's witness, Mr. Leodegario G. Tenorio, Overall Supervisor of the Special Project Team of the BIR, showed the following findings:

		Per Records of Acctg. Dept of FEBTC c/o L.C. Diaz			Per Records of BIR Collection Officers and BIR Offices		
P.O. No.	Exhs.	Date	Taxpayer	Amount	Exhs.	Taxpayer	Amount
C11478877		8/7/91	FEBTC c/o L.C. Diaz	P616,684.54	5	Job's Int'l Corp	P 550.00
C9986513	B-3	4/8/91	FEBTC c/o L.C. Diaz	619,226.03	5	House of Investment c/o L.C.Diaz	68,647.43
C9572126	A-3	2/8/91	FEBTC c/o L.C. Diaz	617,480.85	5	Rentel Brokerage Inc.	180.71
C11002052	C-3	6/7/91	FEBTC c/o L.C. Diaz	617,808.83	5	Islands Integrated Offshore Services, Inc.	5,837.50
C.R. No.	Exhs.	Date	Taxpayer	Amount	Exhs.	Taxpayer	Amount
B22100983		8/7/91	FEBTC c/o L.C. Diaz	P616.681.54	9	Security Bank	P 4,009.35
B21590124	B	4/8/91	FEBTC c/o L.C. Diaz	619,226.03	7; 3-b	Jimmy G. Sy	622.60
B21052434	A	2/8/91	FEBTC c/o L.C. Diaz	617,480.85	6, 3-c	Unified Res. Dev't. Inc.	150.00
B22086398	C	6/7/91	FEBTC c/o L.C. Diaz	617,808.83	8, 3-d	Queens Int'l. Placement Center, Inc.	656.63

Respondent's witnesses, namely:

1. Mr. Carmelino Pansacola, Senior Vice Pres. of Philtrust Bank;
2. Ms. Carmelita S. J. Pascual, Assistant Division Chief, Revenue Accounting Division of the BIR; and
3. Mr. Ceasario Rivera, Jr., Collection Chief Officer , Revenue District 33;

in their testimonies during the hearings conducted on February 22, 1994, March 22, 1994 and June 7, 1994, respectively, all testified before this Court as to the truthfulness and correctness of the recordings of the BIR with regard to the above-mentioned PO's and CR's. And even the witness for the petitioner, Ms. Remedios Sandoval, Revenue Collection Officer, Revenue District 33, attested in her "Salaysay" to the Anti-Graft

Division of the NBI on March 19, 1992 that she issued the subject P.O. No. 9986513 to the House of Investments c/o L. C. Diaz & Co. in the amount of P68,647.43 and P.O. No. 11002052 to Island Integrated Offshore Service Inc. (Bacolod) in the amount of P5,837.50 and not in favor of petitioner Far East Bank & Trust Co..

From the foregoing facts and evidence presented, this Court holds that there are two sets of Confirmation Receipts and Payment Orders, one of which was issued to petitioner and the other set to different taxpayers as listed on the Comparative Data on Documents Gathered (Exh. 5). Therefore, the corollary issue of which one is fake/spurious and which one is genuine should be determined first before We can resolve the issue on the alleged liability of the petitioner over the disputed withholding tax assessment for the months of January, March, May and July 1991.

Petitioner for its part, offered in evidence a Comparison Chart on the Enlarged Signatures of Remedios Sandoval appearing on the questioned Payment Orders (Exh. MM), the testimony and DAP Report (Exh. OO-1) of their expert witness, Mr. Desiderio A. Pagui, a former NBI Document Examiner, which Report states in part, the following conclusions:

> "In view of the foregoing findings, the scientific conclusions arrived at for each of the specified purpose of examinations are:
>
> 1. The questioned and standard signatures "Remedios C. Sandoval" were written by one and the same person.
>
> 2. The Teller's questioned and standard signatures/initials (in the appearance of capital letter "L") were written by one and the same person.

> 3. The three (3) questioned PAYMENT ORDERS and the three (3) questioned CONFIRMATION RECEIPTS contained characteristics and qualities of genuine printing impressions of the CB Forms similar with those appearing on their respective standard CB Forms used in these comparative examinations. This indicates that (a) the questioned and standard Payment Orders could have been printed from one printing machine, and (b) the questioned and standard Confirmation Receipts could have been printed from one printing machine." (Underscoring ours, p. 4, Exh. OO-1, Petitioner's Exhibit found in a separate folder)

On the other hand, the respondent offered the testimony and Questioned Documents Report No. 15-194 (Exh. 16, pp. 215-217, CTA rec.) of Ms. Carolyn Pitoy, Document Examiner II of the NBI, pertinent portion of said report read as follows:

"PURPOSE OF EXAMINATION:

1. To determine whether or not the questioned Central Bank Confirmation Receipts, questioned BIR Payment Orders and the standard/sample Central Bank Confirmation Receipts and BIR Payment Orders were printed from one and the same source/machine.

2. To determine whether or not the questioned Central Bank Confirmation Receipts and questioned BIR Payment Orders were altered.

FINDINGS:

Scientific comparative examinations of the specimens submitted under stereoscopic microscope, magnifying lens, ultra-violet light and with the aid of photographic enlargements reveal the following:

1. There exist significant fundamental differences in printing characteristics between the questioned and the standard/sample Central Bank Confirmation receipts, such as in:

--- quality of print;
--- absence of security watermark in the questioned Central Bank Confirmation receipts;

--- absence of fluorescence reaction of serial numbers under the ultra-violet light in the questioned CB confirmation receipts;

--- size and printing lay-out;
--- other printing defects.

2. There exist significant fundamental differences in printing characteristics between the questioned and the standard/sample BIR Payment Orders, such as in:

--- quality of print;
--- size and printing lay-out;
--- ink reaction under Ultra-violet light;
--- other printing defects.

3. There are no evidences of alterations on the three (3) questioned Central Bank Confirmation receipts and on the three (3) questioned BIR Payment Orders.

CONCLUSION:

1. The questioned and the standard/sample Central Bank Confirmation receipts were not printed from one and the same source/machine.

2. The questioned and the standard/sample BIR Payment Orders were not printed from one and the same source machine.

3. The questioned Central Bank Confirmation Receipts and BIR Payment Orders were not altered."

This Court is inclined to give more credence to the above-mentioned report submitted by the NBI. The conclusions made by the NBI Documents Examiner explicitly declared that the CR's and PO's they examined were not printed by the same source/machine in contrast with the findings of the expert witness for the petitioner that seemed dubious about their conclusions when it stated that the questioned documents "could have been" printed from one printing machine. In addition, contrary to the findings of Atty. Desiderio A. Pagui, the petitioner's expert witness, that the signature of Remedios Sandoval appearing in the questioned documents (Exh. MM), even from a layman's point of view, are noticeably different from the signatures of Remedios Sandoval appearing in the standard documents issued by the Central Bank (Exh. NN). Moreover, a careful scrutiny of the questioned documents as compared with the standard documents issued by the Central Bank would reveal that the type and texture of the paper used for printing are disturbingly different from the ordinary confirmation receipts and payment orders issued by the BIR, not to mention the obvious discrepancy in color and printing thereof. Noticeable too is the serial number appearing in the questioned CR's and PO's which are imprints from an electric typewriter and not printed altogether with the document itself similar to the standard documents. Thus, it is clear that the fake CR's and PO's were printed with blank serial numbers. The serial number of a genuine CR or PO was copied to make it appear that the same is the genuine one. Also, the font size of the serial number is bigger and thinner as compared with the standard CR's and PO's which is a little bit smaller and thicker. Likewise, the number four (4) in the questioned CR (#21590124) was printed as 4 compared with the number 4 appearing in the standard CR (#21590124). Lastly, the Payment Order and Bank Confirmation Receipts requested for verification, were issued as follows, to wit: (p. 35, BIR rec.)

Payment order:

Date Issued	To whom Issued	Serial Numbers
4/18/91	RR4A, Manila	C11002052
11/27/90	-do-	C9572126
1/23/91	-do-	C9986513

Bank Confirmation Receipt:

2-08-91	Philtrust	B22086398
10-11-90	-do-	B21052434
1-03-91	-do-	B21590124

This was certified to by Mr. Armando A. Duran, Chief, Accountable Forms Division, BIR, in his letter, dated February 7, 1992, addressed to Mr. Cecilio T. Marcelo, Director II, Asst. Overall Coordinator, Special Project Team. Thus, although the PO's were issued to Revenue Region 4A, Revenue District No. 25, and the CR's to Philtrust Bank, the same were verified to have been issued to various taxpayers other than the petitioner for the purchase of documentary stamp tax (Exh. 4, pp. 145-147, BIR rec.). Undoubtedly, the Confirmation Receipts and Payment Orders presented by the petitioner are fake and spurious.

On the argument raised by the petitioner that BPI checks of L.C. Diaz & Co. CPA's, itemized as follows:

LC Diaz's BPI Check No.	Date	Payee	Amount	QUESTIONED Confirmation Receipt No.	QUESTIONED Payment Order No.
680442	1/10/91	BIR	P617,480.85	B21052434	C9572126

680744	3/11/91	BIR	619,226.03	B21590124	C9986513
681002	5/09/91	BIR	617,808.83	B22086398	C11002052
747380	7/10/91	BIR	616,684.54	B22100983	C11478877

were used to pay petitioner's withholding tax liabilities for the period in question, the Court gives weight to the findings of the BIR stating that the checks drawn were used to pay for the purchase of loose documentary stamps tax (Exh. 4, supra.). The checks were cleared for the account of the BIR as evidenced by the mark at the dorsal side thereof which reads as follows: "Deposited to the account of the Bureau of Internal Revenue - RDO-31, Mandaluyong, Manila" at the Philippine National Bank (PNB), Mandaluyong Branch, RDO-31. It was ascertained by the BIR that it was PNB which cleared the said checks instead of Philtrust Bank, to which the receipts were issued. That being the case, no valid payments for withholding taxes were actually made by the petitioner. Hence, petitioner is still liable to pay the disputed tax assessment.

It is also important to note at this juncture that with respect to P.O. No. 9986513, dated April 8, 1991, L.C. Diaz's representative has on his hand on the same date (April 8, 1991) two (2) P.O's bearing the same serial number, one for Far East Bank and Trust Co., c/o L.C. Diaz & Co. in the amount of P619,226.03; and the other for House of Investments, c/o L.C. Diaz & Co. in the amount of P68,647.43, both of which are clients of L.C. Diaz & Co.. It is therefore clear that L.C. Diaz & Co. is aware of this scheme considering that they have in their possession the same payment order number for both of its clients. It would have put them on the hold seeing two P.O.'s with the same serial number for two different clients and for different amounts of taxes paid. It is our belief that L.C. Diaz & Co., CPA's, the accounting firm hired by the petitioner to prepare its payroll and remit to the BIR the withholding taxes on compensation, and from whom the fake or spurious receipts originated, is the best party to unmask the mystery behind this clandestine infringement of the law. However, this shall not be our main concern. But it is worth mentioning at this point that a report finding L.C. Diaz & Co. liable for falsification of official documents has already been transmitted to the Fiscal's Office in Manila for possible prosecution (see TSN, Hearing of March 15, 1995, pp. 17-18). This was corroborated by petitioner's witness, Ms. Eleanor Rachel Marfil, an agent of the NBI Anti-graft Division, when she testified that L.C. Diaz should be held liable for the falsification of documents, pertinent portion of her testimony read as follows:

> "**Judge Acosta**
>
> What did you do after that declaration? Upon receiving that declaration, what did you do with it? What action did you do with it?
>
> A. We required her to support her statement by means of the reports covering this payment order and also make a follow up to the BIR Office in Mandaluyong where th[ese] checks were used to purchase th[e] documentary stamps instead of having been paid for withholding tax.
>
> **Judge Acosta**
>
> What is the result of your action? What happened or what is the recommendation of the NBI?
>
> A. In this case, we recommend that L.C. Diaz be held liable for the falsification of the official documents.

Judge Acosta

All right. And that is on record?

A. Yes, Your Honors." (TSN, March 15, 1995, pp. 15-17)

Failure of L.C. Diaz & Co., CPA's, to remit to the BIR the withholding taxes on compensation, is imputable to the petitioner, as its principal. Petitioner therefore remains liable to pay the disputed withholding tax assessment.

WHEREFORE, in view of all the foregoing, this petition is hereby **DISMISSED**. The decision of the Respondent, dated July 15, 1992, denying the request for reconsideration and the lifting of the Warrant of Distraint/Levy and Warrant of Garnishment is hereby affirmed. The demand for payment as embodied in respondent's letters dated, February 11, 1992 and March 12, 1992 addressed to the petitioner are hereby upheld. The MICI Bond No. G (16) 1241 posted by petitioner, issued on April 24, 1992 by Makati Insurance Company, Inc., in the amount P4,350,327.60 representing unpaid withholding taxes on compensations for January, March, May and July 1991, inclusive of penalties and incident to delinquency is hereby declared forfeited in favor of the respondent, Commissioner of Internal Revenue. Petitioner and the Makati Insurance Company, Inc., as surety, are jointly and severally liable for the said amount and the additional delinquency interest at the rate of twenty *per cent* (20%) per annum from March 12, 1992, date of demand, until the total amount is fully paid should be collected from the petitioner.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

I CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals