REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PHILAM SAVINGS BANK, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7241

Members:

Acosta, ***Chairperson,***
Bautista, and
Casanova, ***JJ.***

Promulgated:

OCT 08 2007; 1:00 PM

x - x

DECISION

ACOSTA, *P.J.*:

This is a Petition for Review praying that judgment be rendered reversing, annulling, and setting aside Final Assessment Notice dated July 5, 2004 issued by respondent Commissioner of Internal Revenue, finding petitioner Philam Savings Bank, Inc., liable for deficiency Documentary Stamp Tax (DST) on its Special Savings Accounts (SSA) amounting to P35,746,865.10, inclusive of surcharges and interest for the period October 1, 2000 to November 30, 2000.

The facts of the case as culled from the records are as follows:

Petitioner is a savings and mortgage bank duly organized and existing under Philippine laws, with principal office at the Salustiana D. Ty Tower, 104 Paseo de Roxas, Legaspi Village, Makati City.

One of the deposit products of petitioner is the Special Savings Account (SSA), a saving account that earns higher interest if maintained for a given period[1].

On December 8, 2000, then Bureau of Internal Revenue (BIR) Commissioner Dakila B. Fonacier issued a Letter of Authority authorizing the examination of petitioner's books of account and other accounting records for DST for the period October 1, 2000 to November 30, 2000.

On June 17, 2003, respondent issued a Preliminary Assessment Notice (PAN) assessing petitioner with deficiency DST on its SSA in the amount of P28,235,412.48, inclusive only of interest charges on the ground that its SSA has the essential features of a time deposit except that the depositors thereof are holders of a savings account passbook and that the issuance of a passbook is just a scheme to circumvent the provision of Section 180 of the 1997 National Internal Revenue Code (NIRC).

On July 7, 2004, petitioner received a copy of the Final Assessment Notice (FAN) for deficiency DST in the amount of P35,746,865.10, inclusive of interest and surcharges.

Petitioner protested the FAN on August 6, 2004 and submitted documents in support of its position that its SSA is not subject to DST on October 5, 2004.

Respondent's failure to decide the protest within the 180-day period which already expired on April 3, 2005 prompted petitioner to file the instant petition on May 3, 2005 in accordance with Section 228 of the 1997 NIRC.

Respondent filed his Answer on June 21, 2005, asserting the following Special and Affirmative Defenses:

> "5. He repleads the preceding paragraphs as part of the Special and Affirmative Defenses;

[1] Joint Stipulation of Facts and Issues pars, 1.2 and 1.9; *Rollo,* pages 158 and 159 respectively

Eln

6. For purposes of the prescriptive period to assess, the applicable provision here is not Section 203 but rather Section 222(a) of the NIRC, which provides:

> 'Section 222. Exceptions as to Period of Limitation of Assessment and Collection of Taxes. –
>
> (a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: xxx'

7. The decisions are unanimous that where the taxpayer failed to file any return, the ten-year prescriptive period applies *(Taligaman Lumber Co., Inc. vs. Collector of Internal Revenue, L-15716, March 31, 1962; Tan Guan vs. Nobel, L-18598, July 23, 1968; Republic vs. Tan, L-25483, May 23, 1969).*

8. In the instant case, there is nothing in the records that will show that petitioner filed the corresponding documentary stamp tax returns on its Special Savings Accounts (SSA). Although it alleges that it has not been remiss in the filing of its monthly documentary stamp tax returns during the period in question, so much so that the three-year prescriptive period under Section 203 of the NIRC applies, it must be emphasized that the returns alluded to are not for its SSAs but for other taxable transactions. Precisely, this is the underlying reason why the subject assessment was issued because petitioner failed to file and pay documentary stamp taxes on its SSAs.

9. Thus, in view of petitioner's evident failure to file the subject returns, the issuance of the documentary stamp assessment on 5 July 2004, which is well within the ten-year period from the discovery of the omission is valid and binding pursuant to Section 222(a) of the NIRC.

10. Petitioner's SSAs are considered time deposits and are subject to documentary stamp tax (DST) under Section 180 of the National Internal Revenue Code of 1997 *(United Overseas Bank Philippines vs. CIR, CTA Case No. 6421, April 21, 2004).*

11. In the case of *BPI-Family Savings Bank vs. CIR & CTA, CA-G.R. No. SP 29853, September 19, 1994*, the Court of Appeals, in interpreting the provision of Section 180 of the NIRC, named with particularity the instruments subject to DST. Said the Court:

> 'A perusal of Section 180 of the Tax Code will show that it covers the following instruments:
>
> 1. promissory note, whether negotiable or not;
> 2. bills of exchange;
> 3. drafts;

4. certificates of deposit; and
5. debt instrument used for deposit substitutes.'

12. A 'certificate of deposit' as defined in the BPI-Family Bank case is a written acknowledgment by a bank of the receipt of money on deposit which the bank promises to pay to the depositor, bearer or to some other person or order *(Olsons Estate 206, Iowa, 706, 219 N.W. 40, cited in Agbayani, op.cit., p.44).*

13. Fragmenting the essential elements of the aforestated definition, it can be inferred that a certificate of deposit presupposes:

1. That a bank receives money on deposit;
2. From someone who is considered a 'depositor';
3. That the bank acknowledges receipt of the deposit in writing; and
4. That the bank promises to pay to the depositor/bearer/or to some other person or order the deposit or any part thereof.

Having met all the above-mentioned technical requirement, the SSA of petitioner is unmistakably a "certificate of deposit" for which taxability to DST lie.

14. The 'certificate of deposit' stated in Section 180 does not prescribe any particular form. The fact that the SSA is allegedly evidenced by a passbook similar to those issued to the regular savings account, instead of a certificate of deposit, does not alter the substance of the SSA. What is controlling is the nature or meaning conveyed by the passbook and not the particular label or nomenclature attached to it, inasmuch as its substance is paramount than its form.

15. Assuming arguendo that the SSA is not a certificate of deposit, it is a loan agreement because the relationship between a depositor and a bank is that of creditor and debtor *(Gullas vs. PNB, 62 Phil. 519; Integrated Realty Corp. vs. PNB, 124 SCRA 295).* As such, it is subject to DST under Section 180 of the Tax Code.

16. All presumptions are in favor of the correctness of tax assessments. The good faith of tax assessors and the validity of their actions are presumed. They will be presumed to have taken into consideration all the facts to which their attention was called *(CIR vs. Construction Resources of Asia, Inc. 145 SCRA 671).* It is incumbent upon the taxpayer to prove the contrary *(Mindanao Bus Company vs. Cir, 1 SCRA 538; CIR vs. Tuazon, Inc., 173 SCRA 397)* and failure to do so shall vest legality to respondent's actions and assessments."

The case was submitted for decision in a Resolution promulgated on August 13, 2007 after the submission of the parties' Memoranda.

Ev

The parties jointly submitted the following issues for resolution:

1. Whether or not the assessment was issued within the prescriptive period provided under the NIRC;

2. Whether or not petitioner is liable for the amount of P35,746,865.10 representing deficiency DST for the period 1 October 2000 to 30 November 2000;

3. Whether Petitioner's SSA can be considered a time deposit subject to DST under Section 180 of the NIRC;

4. Whether respondent can raised for the "first time" before the CTA the additional issue that petitioner's SSA is a loan;

5. Assuming without conceding that this additional issue raised by respondent is permissible; whether petitioner's SSA can be considered a loan subject to DST under Section 180 of the NIRC; and

6. Whether the SSA was only made subject of DST with the passage of RA 9243 in February 2004.

Anent the first issue, petitioner posits in its Petition for Review that the assessment issued by respondent for deficiency DST had already prescribed for being issued beyond the three-year prescriptive period mandated under Section 203 of the 1997 NIRC. It claimed that it filed its monthly DST returns, the latest of which is on April 10, 2001. Thus, the three-year prescriptive period began to run on April 10, 2001, for taxable documents made during the period October 1, 2000 to November 30, 2000 and expired on **April 10, 2004**. Petitioner continues that it received the assessment only on July 7, 2004 which is already beyond **April 10, 2004.**

On the other hand, respondent argued in his Answer that while petitioner admittedly filed its monthly DST returns, nonetheless such returns pertain to petitioner's other taxable documents and not for the DST on its SSA. Considering so, the ten-year prescriptive period under Section 222(a) of the 1997 NIRC should apply.

Petitioner counter argued in its Memorandum that Section 222(a) of the NIRC applies when there is *"failure to file a return"* and not when there is a *"failure to include an item in the return"*. For having filed its monthly DST returns the applicable prescriptive period should be three years.

We disagree with petitioner. Such strained and restrictive interpretation of the provisions of the 1997 NIRC is clearly unwarranted.

Title VII of the 1997 NIRC deals with Documentary Stamp Tax. Each section of the said title covers the different documents subject to DST classified per group. Section 180 thereof covers stamp tax on all bonds, loan agreements, promissory notes, bills of exchange, drafts, instruments and securities issued by the Government or any of its instrumentalities, deposit substitute, substitute debt instrument, certificates of deposit bearing interest and other not payable on sight or demand. Section 200 of the same Title refers to the payment of documentary stamp tax, which pertinent portion reads:

> "(A) In General. – The provisions of Presidential Decree No. 1045 notwithstanding, **any person liable to pay documentary stamp tax upon any document subject to tax under Title VII of this Code shall file a tax return** and pay the tax in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.
>
> (B) Time for Filing and Payment of the Tax. – Except as provided by rules and regulations promulgated by the Secretary of Finanace, upon recommendation of the Commissioner, the tax return prescribed in this Section shall be filed within ten (10) days after the close of the month when the taxable document was made, signed, issued, accepted, or transferred, and the tax thereon shall be paid at the same time the aforementioned return is filed." *(Emphasis Supplied)*

A reading of the above section would indicate that any document subject to DST, a corresponding return should be filed.

In statutory construction, a rule stands that every section, provision, and clause of a statute must be expounded by a reference to every other; and, if possible, every clause and provision shall avail, and have the effect contemplated by the legislature.[2]

Applying the above rule in the case; Section 200, in correlation with the rest of the title, would explicitly show that for every class of document subject to DST under the title, a return must be filed. Nowhere can you find in Section 200 that if a taxpayer had several taxable documents, the filing of a return for some of the taxable document would mean compliance with its mandate of filing a return for the rest of the other taxable document. It follows that for every document subject to DST under Section 180, a taxpayer is required to file the necessary return.

Petitioner admitted that it failed to file a return for its SSA although it filed its monthly DST return for its other taxable documents. However, as mandated by Section 200 of the 1997 NIRC, petitioner is still required to file DST returns for its SSA which is the subject of respondent's assessment. For failing to file DST returns, respondent is correct in arguing that the ten-year prescriptive period should apply.

We agree with petitioner that pursuant to Section 203 of the 1997 NIRC, the government is given a period of three years only from the last day prescribed by law for the filing of the return or from the day the return was filed, whichever comes last, to assess the taxpayer. This prescriptive period is for the benefit of both the Government and the taxpayer. However, it admits exceptions and is found in Section 222 of the 1997 NIRC.

In accordance with Section 222, the three-year prescriptive period is not applicable if any of the circumstances mentioned therein is present. Instead, a ten-year period is given to the government to assess a taxpayer. The pertinent portion of the said section is hereby quoted for easy reference:

---

[2] Chartered Bank vs. Imperial, 48 Phil. 931; 947

> " (a) In the case of a false or fraudulent return with intent to evade tax or **of failure to file a return**, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission. xxx" *(Emphasis Supplied)*

Apparently, when a taxpayer fails to file a return, Section 222 applies. Considering that petitioner failed to file a return for its SSA, the ten year prescriptive period under Section 222 is applicable. Therefore, the assessment of respondent had not yet prescribed.

With respect to the second and third issues, the applicable law is Section 180 of the 1997 NIRC which reads:

> "Sec. 180. **Stamp Tax on All Bonds, Loan Agreements, Promissory Notes, Bills of Exchange, Drafts, Instruments and Securities Issued by the Government or Any of its Instrumentalities, Deposit Substitute Debt Instrument, Certificates of Deposit Bearing Interest and Others Not Payable on Sight or Demand.** — On all bonds, loan agreements, including those 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, deposit substitute debt instrument, or ***certificates of deposit drawing interest***, or orders for the payment of any sum of money otherwise than at 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 (P200), 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 notes 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." *(Emphasis supplied)*

A perusal of the above law clearly shows that a certificate of deposit drawing interest is subject to DST.

The Supreme Court in the case of *Far East Bank and Trust Company vs. Querimit*[3] defines a certificate of deposit as "any written acknowledgment by a bank or banker of the receipt of a sum of money on deposit which the bank or banker promises to pay to the depositor, to the order of the depositor, or some other person or his order, whereby the relation of debtor and creditor between the bank and the depositor is created".

On the other hand, a "time deposit" is defined as "one the payment of which cannot be legally required within such a specified number of days."[4] In practice, a time deposit is evidenced by a certificate of time deposit. Certificate of deposit or time deposits usually carry penalties for early withdrawal[5]. In short, a time deposit, which is a form or genus of a certificate of deposit, has the characteristics of having a **fixed term** and **penalty or pre-termination charges** in case of withdrawal of the deposit prior to the fixed term or period.

Petitioner avers that its SSA is not subject to DST for it has no maturity. If the depositor withdraws it anytime, he does so, not in breach of contract but as a matter of right, hence, incurs no penalty unlike in a time deposit. The adjustment of interest rate on account of the said withdrawal does not detract from the fact that the SSA has no fixed maturity.

We find no merit in petitioner's arguments

In the case at bar, petitioner's witness, Ms. Wilma Lim testified,[6] that petitioner's SSA earns a higher interest than a regular savings account. However, for an account to be classified as an SSA the depositor is required to maintain a minimum deposit of P20,000. Its interest rate varies depending on the offer of the bank and its arrangement with the depositor but for the minimum deposit of P20,000 the current interest rate is 3.5% which is higher than the 1% interest rate for a regular savings account. Likewise, the depositor must maintain the balance for a certain period called holding period, the number of days thereof depends on the

---

[3] 373 SCRA 671
[4] BPI Family Savings Bank vs. First Metro Investment Corp., G.R. No. 132390 (2004); 429 SCRA 30, 36
[5] Black's Law Dictionary, 6th ed.
[6] TSN taken during the December 1, 2005 hearing of the case

agreement between the depositor and the petitioner. If the depositor withdraws prior to the expiration of the holding period, it would not earn the higher interest rate.

A review of the features of petitioner's SSA would show that imposing a holding period for the SSA is similar to having a fixed term. And, failure to earn the higher interest rate offered in an SSA in case of early withdrawal is tantamount to imposing pre-termination charges. It bears stressing that having a fixed term and pre-termination charges are essential features of a time deposit. Petitioner's SSA may not be designated as a time deposit but this Court is mindful of the fact that, as correctly found by respondent, petitioner's SSA had features similar to a time deposit.

It must be emphasized that this Court cannot allow the practice of labeling an account as "savings account" or any other name in order to conceal its true nature and remove it from its subjectivity to tax. To permit the true nature of the transaction to be disguised by mere formalism, which exist solely to alter tax liabilities, would seriously impair the effective administration of the tax policies of Congress.[7]

Petitioner also argues that its SSA is not subject to DST for not being evidence by a certificate of deposit but by a passbook without a face value, thus it is not a time deposit subject to DST.

A time deposit is usually evidence by a certificate of deposit but in defining a certificate of deposit in the *Far East Bank* case, the Supreme Court neither referred to a particular form. It is immaterial whether an actual certificate is issued or not. As long as there is a written acknowledgement or some written memorandum of the fact that the bank accepted a sum of money from a depositor, the writing constitutes a certificate of deposit. Thus, a passbook representing an interest earning deposit account issued by a bank can be

---

[7] Commissioner of Internal Revenue vs. The Estate of Benigno P. Toda, Jr., Represented by Special Co-administrators Lorna Kapunan and Mario Luza Bautista; G.R. No. 147188, September 14, 2004; 438 SCRA 291, 301

considered a certificate of deposit. In other words, being evidenced by a passbook would not entail a substantial difference in the classification of a document as a certificate of deposit.

The issuance of a passbook is immaterial for the fact remains that petitioner's SSA has features similar to a time deposit. Long standing is the rule that substance prevail over form. What is important and controlling is the nature or meaning conveyed by the passbook and not the particular label or nomenclature attached to it, inasmuch as its substance is paramount than its form.[8]

For petitioner's argument that its SSA is withdrawable anytime unlike a time deposit, the withdrawable feature of an account is irrelevant in determining whether or not an account is subject to DST because even in the case of a time deposit, the deposit can be withdrawn earlier than the fixed term but subject only to "early withdrawal penalties".

Be that as it may, in a long line of cases, this Court had already resolved that an SSA having features akin to a certificate of deposit bearing interest specifically a time deposit is subject to DST. Such decision had already been favorably affirmed by the Supreme Court sitting *en banc* in the case of *International Exchange Bank vs. Commissioner of Internal Revenue,*[9] whereby it was ruled that:

> "**As correctly ruled by the CTA En Banc, a passbook representing an interest earning deposit account issued by a bank qualifies as a certificate of deposit drawing interest.**
>
> A document to be deemed a certificate of deposit requires no specific form as long as there is some written memorandum that the bank accepted a deposit of a sum of money from a depositor. What is important and controlling is the nature or meaning conveyed by the passbook and not the particular label or nomenclature attached to it, inasmuch as substance, not form, is paramount.
>
> xxx xxx xxx

[8] L.R. Heat Treating Co. 28 TC 874; BPI vs. CIR
[9] G.R. No. 171266, April 4, 2007

> As for petitioner's argument that its FSD is similar to a regular savings deposit because it is evidence by a passbook, and that based on the legislative deliberations on the bill which was to become R.A. 9243 which amended Section 180 of the NIRC (which is to a large extent the same as Section 180 of the Tax Code, as amended by R.A. 7660), Congress admitted that deposits evidenced by passbooks which have features akin to time deposits are not subject to DST, the same does not lie.
>
> The FSD, like a time deposit, provides for a higher interest rate when the deposit is not withdrawn within the required fixed period; otherwise, it earns interest pertaining to a regular savings deposit. Having a fixed term and the reduction of interest rates in case of pre-termination are essential features of a time deposit.
>
> xxx xxx xxx
>
> It bears emphasis that 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. It is an excise upon the privilege, opportunity or facility offered at exchanges for the transaction of the business.
>
> While tax avoidance schemes and arrangements are not prohibited, tax laws cannot be circumvented in order to evade payment of just taxes. To claim that time deposits evidenced by passbooks should not be subject to DST is a clear evasion of the rule on equality and uniformity in taxation that requires the imposition of DST on documents evidencing transactions of the same kind, in this particular case, on all certificates of deposits drawing interest. xxx" *(Emphasis Supplied)*

Finally, We delve on the issue of whether the SSA was only made subject of DST with the passage of RA 9243 on February 14, 2004.

The Supreme Court in the same case of *International Bank vs. Commissioner of Internal Revenue* had finally settled that time deposits evidenced by a passbook, like petitioner's SSA, is already subject to DST even prior to the enactment of RA 9243, the pertinent portion of the Decision reads:

> "The further amendment of Section 180 of the NIRC and its renumbering as Section 179 by R.A. 9243, which was approved on February 17, 2004, xxx does not mean that as proffered, prior to its further amendment on said date, Section 180 of the Tax Code and the NIRC time deposits for which passbooks were issued were exempted from payment of DST.

}a/01/

> If at all, the further amendment was intended to eliminate precisely the scheme used by banks of issuing passbooks to "cloak" its time deposits as regular savings deposits. xxx"

Nevertheless, for emphasis, this Court disagrees with petitioner's contention that the **legislative intent** in the enactment of Republic Act (RA) No. 9243 entitled *"An Act Rationalizing the Provisions on the Documentary Stamps Tax of the National Internal Revenue Code of 1997"* is to include special savings account within the ambit of Section 180 of the 1997 NIRC.

Petitioner based its argument on the sponsorship speech of Sen. Ralph G. Recto, sponsor of RA 9243, to the effect that "the amendment also captures a 'special savings account' into the tax net which is not within the ambit of the law right now." Also relied upon by petitioner is the letter of then Department of Finance (DOF) Secretary Jose Isidro N. Camacho to Senator Ralph G. Recto, proposing for the amendment of the definition of "debt instruments" arising from bank deposits, to ensure the DST taxation of "special savings account particularly those having no fixed term but enjoying interest rates higher than the regular savings account."

At this juncture, this Court wishes to stress that well-settled is the rule that the primary source of legislative intent is the statute itself. Where the words and phrases of a statute are not obscure or ambiguous, its meaning and the intention of the legislature must be determined from the language employed.[10] If the statute as a whole fails to indicate the legislative intent because the words are ambiguous, the court may look beyond the statute, such as legislative history, in order to ascertain what was in the legislative mind at the time the statute was enacted; what the circumstances were under which the action was taken; what

[10] Veroy vs. Layague, 210 SCRA 97; 104 (1992); Allarde vs. COA, 218 SCRA 227; 230 (1993);

Gm

evil, if any, was meant to be redressed.[11] In our case, RA 9243 is clear by itself and can be literally interpreted. There is no need to go back to its legislative history in order to determine the legislative intent.

The further amendment of Section 180 of the 1997 NIRC does not mean that prior to its amendment; time deposits evidenced by passbooks were exempted from the payment of DST. If at all, the enactment of RA 9243 means that the judicial interpretation placed by Us that time deposits evidenced by passbooks are subject to DST, received legislative affirmance.

Also, this Court's explanation in the case of **Banco de Oro Universal Bank vs. Commissioner of Internal Revenue**[12] is significant and hereunder quoted:

> "The finding of the First Division of this Court in its assailed Decision that time deposits evidenced by passbooks are subject to documentary stamp tax under Section 180 of the National Internal Revenue Code of 1997 received an affirmation with the passage of Republic Act No. 9243 ("An Act Rationalizing the Provisions on the Documentary Stamp Tax of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes") by Congress and signed into law by President Gloria Macapagal-Arroyo on February 17, 2004.
>
> **R.A. No. 9243 states that it is "rationalizing" the provisions of the documentary stamp tax of the present Tax Code. The lawmaking body unmistakably adopted this Court's interpretation of Section 180 of the National Internal Revenue Code of 1997, and made clearer the language used to include therein 'certificates and other evidences of deposits that are either drawing interest significantly higher than the regular savings deposit' or 'drawing interest and having a specific maturity date, orders for payment of any sum of money otherwise than at sight or on demand:' When a statute is re-enacted or revised after it has received judicial construction, it is presumed that the legislature intended that construction to continue.**" (*Emphasis supplied*)

[11] Molina vs. Rafferty; 38 Phil. 167 (1918)
[12] CTA EB 39, October 28, 2005, (CTA Case No. 6390)

For all the foregoing, this Court finds petitioner liable to pay the DST on its SSA under Section 180 of the 1997 NIRC as a certificate of deposit bearing interest. Having settled this issue, We deem it unnecessary to discuss the other issues raised by petitioner.

WHEREFORE, petitioner is hereby ordered to pay respondent the deficiency DST for the period October 1, 2000 to November 30, 2000 in the amount of P35,746,865.10 computed as follows

Basic Tax Due	P 18,079,539.30
Add: 25% surcharge	4,519,884.82
Interest up to 7-31-04	13,147,440.98
TOTAL	P 35,746,865.10

In addition, petitioner is hereby ordered to pay respondent the 20% delinquency interest on the amount of P35,746,865.10 computed from August 1, 2004 until full payment thereof pursuant to Section 249(C) of the 1997 NIRC.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

We concur:

LOVELL R. BAUTISTA
Associate Justice

ON LEAVE

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice