REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

UNITED COCONUT PLANTERS BANK, Petitioner,	**C.T.A. CASE NO. 7164**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JUL 26 2006

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DECISION

CASTAÑEDA, JR., J.:

This is a Petition for Review of the final Decision of the respondent Commissioner of the Bureau of Internal Revenue dated January 24, 2005, denying petitioner's protest and thus affirming the deficiency assessments against petitioner for late payment of creditable withholding and documentary stamp taxes relative to the extrajudicial foreclosure sale of the real properties of Ever Gotesco Resources Holdings, Inc., in the aggregate amount of **TEN MILLION SEVEN HUNDRED NINETY THOUSAND TWO HUNDRED SIXTY**

ONE AND 75/100 PESOS (P10,790,261.75).

The facts as stipulated by the parties are as follows:

Petitioner United Coconut Planters Bank (UCPB) is a banking corporation duly organized and existing under Philippine laws, with principal address at UCPB Building, 7907 Makati Avenue, Makati City. It is a domestic banking corporation duly authorized to operate as an expanded commercial bank by the Bangko Sentral ng Pilipinas (BSP). Under its Articles of Incorporation, petitioner is authorized to "operate under an expanded commercial banking authority, and by virtue thereof, to exercise the powers authorized for commercial banks, the powers of investment houses as provided in pertinent laws, and the authority to invest in the equity of allied and non-allied undertakings in accordance with applicable laws, rules and regulations." It is likewise authorized by the BSP to extend loans, credit accommodations and guarantees to any person, partnership, association, corporation, or any other entity subject to such rules as the Monetary Board may promulgate.

On the other hand, respondent is the Commissioner of Internal Revenue who is the officer duly appointed and empowered by law to perform the duties of his office, including, among others, the duty to act on national internal revenue tax assessments, with office address at the Bureau of Internal Revenue, National Office Building, Diliman, Quezon City.

On December 16, 1999, petitioner granted peso-denominated loans to George C. Co, Go Tong Electrical Supply Co., Inc. (Go Tong), and Tesco Realty Co. (Tesco), both represented by their President, George C. Go, in the amounts of P68,840,000.00 and P335,000,000.00, as evidenced by Promissory Note (PN) Nos. 5735-99-01891-6 and 5735-99-01892-4, respectively, both dated December 16, 1999.

To guarantee the payment of the loans, the following real estate mortgages were executed:

Date of REM	Owner of Property	Types of Property
18 Aug 1992 as amended on 24 Jan 1994 and Dec 16, 1999	GMCC United Development Corporation	Condominium Unit in Gotesco Regency Twin Towers Residential Condo located at Ermita, Manila; CCT No. 11528
4 Nov 1994 as amended on 2 May 1996 and 16 Dec 1999	Spouses George C. Go & Lim Le Hua Go	Condominium Units in Gotesco Regency Twin Towers Residential Condo located at Ermita, Manila; CCT Nos. 20550, 20553 & 17005 Parking Slots including all improvements existing therein located in Gotesco Regency Twin Towers Residential Condominiums with CCT Nos. 20551, 20552, 20554, and 17025 Land with TCT No. 1009 located in Pasig, Metro Manila
14 Oct 1997 as amended on 16 Dec 1999	GMCC United Development Corporation and George C. Co	Properties, including all the improvements existing thereon, under TCT No. 1009, 9993, 9995, CCT Nos. 20550, 20553, 17005, 11528, 20554, 20552 and 17025
December 16, 1999	Ever Gotesco Resources Holdings, Inc. (EGRHI)	The 3-storey commercial building and other improvements covered by Tax Declaration No. 97-00257, built on Lot Nos. 8, 9 and 23, of the subdivision plan (LRC) Psd-280126, Block No. 2565 and covered by TCT Nos. 140790, 140791 and 140792, of the Registry of Deeds for the City of Manila, situated at 1958, C.M. Recto Avenue, Quiapo, Manila, containing an area of 13,279.695. All machineries, equipment[s] receptacles, instruments or the like found, implemented or placed on the parcels of land covered by TCT Nos. 140790, 140791 and 140792, of the Registry of Deeds for the City of Manila. All other properties of whatever kind and nature, used by the mortgagor in the industry or work carried over on the lands and/or in the buildings x x x covered by real estate mortgage dated December 16, 1999.

22 June 1995 as amended on 16 Dec 1999	Spouses George C. Go & Lim Le Hua Go	Parcels of land including all improvements existing on the land located at Mandaluyong, Metro Manila in the amount of P490,579;923 as of 15 October 2001 with TCT No. 9995 & 9994

For failure of George C. Co, Go Tong and Tesco to pay petitioner their outstanding obligations despite repeated demands, petitioner, on December 4, 2001, filed a petition for the extra-judicial foreclosure of the above-mentioned real estate mortgages including the real estate mortgage (REM) executed by Ever Gotesco Resources Holdings, Inc. (EGRHI), pursuant to the REM entered into by the parties.

On December 31, 2001, after the posting and publication of the Notice of Auction Sale, the Notary Public for the City of Manila, Edwin V. Patricio, conducted the public auction of the mortgaged properties. The highest bidder, which tendered the bid amount of P504,785,000.00, was herein petitioner. Of the total bid price, the amount of P477,345,000.00, which was the amount used by respondent in arriving at the assailed deficiency taxes, pertained to the three-storey commercial building built on the land covered under TCT Nos. 140790, 140791 and 140792 registered under the name of Gotesco Towers, Inc..

On January 4, 2002, Notary Public Edwin V. Patricio, transmitted to the Office of the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of the City of Manila, the Certificate of Sale dated December 31, 2001. However, on February 18, 2002, Executive Judge, Hon. Mario L. Guarina III, returned the said Certificate of Sale unsigned and unapproved for the reasons that:

1. the improvements mentioned in Tax Declaration No. 97-00257 were mortgaged by EGRHI when the said tax declaration mentions a different owner, Gotesco Properties, Inc.; and

2. petitioner should indicate in the Certificate of Sale the receipt showing payment of the Sheriff's percentage of the bid price.

After compliance with the order of the Executive Judge, the Certificate of Sale was signed and approved on March 1, 2002, which certificate was received by petitioner on March 11, 2002. Subsequently, on June 18, 2002, petitioner presented the Certificate of Sale to the Register of Deeds of the City of Manila for proper annotations on the Transfer Certificates of Titles covering the foreclosed properties and on July 5, 2002, petitioner filed the corresponding creditable withholding and documentary stamp taxes on the foreclosed properties in the amounts of ₱28,640,700.00 and ₱7,160,175.00, respectively.

On July 16, 2002, petitioner executed an Affidavit of Consolidation of Ownership and submitted the same to the office of the respondent, attaching therewith proofs of payment of the creditable withholding and documentary stamp taxes for the purpose of the issuance of the Tax Clearance Certificate and the corresponding Certificate Authorizing Registration.

On April 30, 2003, Revenue District Officer, Benito B. Wong, relying on the recommendations of the Chief of the Legal Division of the Bureau of Internal Revenue (BIR) Revenue Region No. 6 and Revenue Officer Torres, issued a Post Reporting Notice finding petitioner liable for deficiency assessment for late payment of creditable withholding and documentary stamp taxes in the amounts of ₱8,617,210.00 and ₱7,160.175.00 (should be

₱2,173,052.00), respectively. Consequently, petitioner disputed the findings of Revenue Officer Torres arguing that contrary to the opinion of the Chief of the Legal Division of the BIR Revenue Region No. 6, the period of redemption expired not three (3) months after the date of auction sale but three (3) months after the Certificate of Sale issued by the Sheriff or Notary Public was approved by the Executive Judge, as mandated by Supreme Court Resolution A.M. No. 99-10-05-0 dated December 14, 1999, as amended by Supreme Court Resolutions dated January 30, 2001 and August 7, 2001.

Nonetheless, on July 28, 2003, a Preliminary Assessment Notice dated July 1, 2003, was issued assessing petitioner of deficiency creditable withholding and documentary stamp taxes in the amounts of ₱8,617,210.00 and ₱2,173,051.75, respectively. The same was protested to by petitioner on August 7, 2003.

On August 3, 2004, petitioner received the Final Assessment Notices, all dated July 14, 2004, for deficiency creditable withholding and documentary stamp taxes pertaining to the extra-judicial foreclosure sale of real properties of EGRHI in the amounts of ₱8,617,210.00 and ₱2,173,051.75, respectively. Petitioner filed its protest thereon on August 27, 2004, contending that the "foreclosure" in the phrase "three months after foreclosure" under Section 47 of the General Banking Act of 2000 does not refer to the public auction sale; and that the "three (3) months after foreclosure" should be reckoned from the date of approval by the Honorable Executive Judge of the Regional Trial Court of Manila of the sale.

On February 2, 2005, petitioner received the denial of its protest, hence, this appeal to this Court on March 4, 2005.

On April 28, 2005, respondent filed his Answer, raising the following as his Special and Affirmative Defenses:

4. The assessment is valid and correct and the taxpayer has the burden of proof to impugn its validity (Behn Meyer & Co. vs. Collector of Internal Revenue, 27 Phil 647). Thus, similarly held, tax assessments by tax examiner are presumed correct and made in good faith. The taxpayer has the duty to prove otherwise (CIR vs. Construction Resources of Asia, Inc. 145 SCRA 671), and assessment duly made by the Bureau of Internal Revenue examiner and approved by his superior officers will not be disturbed (Gutierrez vs. Villegas, 8 SCRA 527);

5. The burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the Commissioner of Internal Revenue is wrong but that the taxpayer is right (Tan Guan vs. CTA et al., 19 SCRA 902), otherwise, the presumption in favor of the correctness of the assessments stand (Inter-provincial Bus Co. vs. Collector of Internal Revenue, 98 Phil 290; CIR vs. Bohol Land Transportation Co., 107 Phil 967);

6. Section 47 of Republic Act No. 8791 otherwise known as the General Banking Law of 2000, provides that juridical persons whose property is sold pursuant to extra-judicial foreclosure sale shall redeem the property until, but not after the registration of the certificate of foreclosure sale, which in no case shall be more than three (3) months after the **foreclosure**, whichever is earlier;

7. Being a juridical person, the mortgagor, Ever Gotesco, has only three (3) months from December 31, 2001, the **date of foreclosure auction/sale**, within which to redeem said property, or up to March 31, 2001 (should be 2002). Failing to redeem within the said period, the expanded withholding (CWT) and documentary stamp taxes are due and demandable on April 10, 2002 (RR No. 2-98) and April 5, 2002 (RR No. 4-99 and RR No. 6-2001), respectively, and since petitioner paid the tax dues only on July 5, 2002, the imposition of penalties and interest for late payment of taxes are valid and with legal basis; and

8. In a Memorandum dated October 14, 2002 concerning Collection Campaign on Mortgage Foreclosure Sales made by Banks, Quasi-banks and Trust Entities in relation to the General Banking Law of 2000, RR No. 4-99, RR No. 2-99, as amended and provisions of the NIRC of 1997, the

> Commissioner of Internal Revenue is of the position that the redemption period, where the mortgagor is a juridical person, expires 90 days from the date of the mortgage foreclosure sale.

In the hearing of August 4, 2005, counsel for the petitioner manifested that she would submit the case for decision after the filing of the parties' Joint Stipulation of Facts and Issues since the factual issues were already admitted by the respondent during the pre-trial conference. For his part, counsel for the respondent manifested on October 3, 2005 that he would not be presenting any evidence either. After the parties have filed their respective memorandum within the period given by the Court, this case was submitted for decision on December 2, 2005.

The parties have jointly stipulated that the following are the issues to be resolved by this Court:

1. Whether or not petitioner is liable for the payment of deficiency creditable withholding and documentary stamp taxes in the amounts of P8,617,210.00 and P2,173,051.75 respectively, from the extrajudicial foreclosure of the real estate mortgage executed by Ever Gotesco Resources Holdings, Inc. (EGRHI).

    a. Whether the foreclosure sale became effective on:

        1. date of foreclosure sales; or
        2. date of approval of the Certificate of Sales by the Executive Judge; or
        3. date of receipt by the petitioner of the Certificate of Sale duly approved by the Executive Judge.

    b. Whether the payment of creditable withholding and documentary stamp taxes should be reckoned from 1, 2, or 3 above.

2. Whether or not by paying the creditable withholding and

documentary stamp taxes on July 5, 2002, petitioner is liable to pay surcharges and interest for late payment of the taxes due; and

3. Whether or not the function of the Executive Judge is merely limited to the administrative supervision over the Sheriff in case of extrajudicial foreclosure.

A closer analysis of the issues raised by the parties reveals that the main controversy for consideration boils down to the correct interpretation of the phrase "three (3) months after foreclosure".

Petitioner's appeal is grounded on the following arguments, to wit:

1. Contrary to the claim of respondent, petitioner paid the creditable withholding and documentary stamp taxes due on the extra-judicial foreclosure sale of the properties of EGRHI within the period prescribed by law and hence, it is not liable for the penalties and surcharges for late payment being assessed on it by respondent Commissioner.

    a. Based on the Tax Code, BIR Revenue Regulations and well-established jurisprudence, the creditable withholding and documentary stamp taxes on the subject extra-judicial foreclosure sale accrued only upon the lapse of the redemption period which, based on Section 47 of the General Banking Law of 2000, was upon the registration of the Certificate of Sale on June 18, 2002 or three months from receipt of the approved Certificate of Sale by the Executive Judge.

    b. Considering that based on the Tax Code, the accrued creditable withholding and documentary stamp taxes on the transfer of real properties classified as ordinary assets were payable within ten (10) days and five (5) days, respectively, after the close of the following month and, hence, payment thereof by petitioner on July 5, 2002 was within the allowable period.

    c. Consequently, petitioner paid the required creditable withholding and documentary stamp taxes on time and, thus, is not liable to pay surcharges and interests for late payment of the taxes due.

2. The Executive Judge exercises administrative supervision over

> the Sheriff in extra-judicial foreclosures and it is by reason of this administrative supervision that the Certificate of Sale must be approved by the Executive Judge before the extra-judicial sale can be deemed effective.

It is undisputed that the extra-judicial foreclosure sale of the subject mortgaged real estate properties is subject to the payment of 6% creditable withholding taxes based on the bid price of the foreclosed property *(par 1.34.2, Joint Stipulation of Facts & Issues).* And as provided for under Section 196 of the National Internal Revenue Code of 1997, the transfer of real properties is likewise subject to the payment of documentary stamp taxes.

In the case at bar, for failure of EGRHI to pay its outstanding obligation with petitioner, the real estate properties subject of the real estate mortgage (REM) were extra-judicially foreclosed by petitioner and sold through public auction on December 31, 2001, for which herein petitioner came out as the highest bidder.

Pursuant to Section 47 of the applicable General Banking Law of 2000 (Republic Act No. 8791), it is provided that:

> **SEC. 47. Foreclosure of Real Estate Mortgage**. - In the event of foreclosure, whether judicially or extra-judicially, of any mortgage on real estate which is security for any loan or other credit accommodation granted, the mortgagor or debtor whose real property has been sold for the full or partial payment of his obligation shall have the right within one year after the sale of the real estate, to redeem the property by paying the amount due under the mortgage deed, with interest thereon at rate specified in the mortgage, and all the costs and expenses incurred by the bank or institution from the sale and custody of said property less the income derived therefrom. However, the purchaser at the auction sale concerned whether in a judicial or extra-judicial foreclosure shall have the right to enter upon and take possession of such property immediately after the date of the confirmation of the auction sale and administer the same in

> accordance with law. Any petition in court to enjoin or restrain the conduct of foreclosure proceedings instituted pursuant to this provision shall be given due course only upon filing by the petitioner of a bond in an amount fixed by the court conditioned that he will pay all the damages which the bank may suffer by the enjoining or the restraint of the foreclosure proceeding.
>
> Notwithstanding Act 3135, **juridical persons** whose property is being sold pursuant to an extrajudicial foreclosure, shall **have the right to redeem the property** in accordance with this provision **until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which in no case shall be more than three (3) months after foreclosure, whichever is earlier**. Owners of property that has been sold in a foreclosure sale prior to the effectivity of this Act shall retain their redemption rights until their expiration. *(Emphasis and underscoring supplied.)*

As pointed out by petitioner, in Land Registration Authority (LRA) Circular No. 11-2000 dated August 17, 2000, the Administrator of the LRA interpreted the second paragraph of the afore-mentioned Section 47 in this wise:

> "xxx However, where the mortgagor is a juridical entity whose property has been mortgaged in favor of a bank, quasi-bank or trust entity, the one-year redemption period is not available if the foreclosure is done extra-judicially. In such a case, the mortgagor 'shall have the right to redeem the property xxx until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which in no case shall be more than three months after foreclosure, whichever is earlier.' Otherwise state[d], the **maximum period of redemption under this new law in this particular situation is three (3) months** and no longer one year as provided for by Act No. 3135 and the General Banking Act. Consequently, considering that the period of redemption is reckoned after the date of foreclosure or until the registration of the certificate of sale, whichever is earlier, this **period may be shorter than three (3) months, as when the buyer, for instance, may cause the registration of the certificate of sale immediately after the foreclosure sale**. Hence, after the registration of the certificate of sale, the right to redeem the foreclosed property is no longer available, thus, cutting off all the interests of the mortgagor n the property and vests them in the purchaser at the auction sale. x x x" *(Emphasis supplied)*

The question now is, what does the law mean by "foreclosure": Is it to be interpreted as to mean "the actual date of the auction sale", or "upon the approval and signing of the Certificate of Sale by the Executive Judge"?

Petitioner argues that the "foreclosure sale" cannot be reckoned from the "date of auction sale" considering that "without the approval of the Certificate of Sale by the Executive Judge, the effectivity of the sale is still uncertain as it can still be nullified under any of the following grounds: a) no special power of attorney authorizing the extrajudicial foreclosure of the real property was inserted into or attached to the deed of real estate mortgage; b) the sale was made outside of the province in which the real property sold is situated; c) the public auction sale did not comply with the requirement of publication of the notice of sale by posting it for not less than twenty (20) days in at least three (3) public places in the municipality or city where the property is situated and if such property is worth more than four hundred pesos (P400.00), the notice of sale shall be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city (however, the publication requirement is dispensed with for real estate mortgages covering loans not exceeding P100,000.00 exclusive of interest due and paid, granted by rural banks or thrift banks); d) when the property sold in the foreclosure sale is not included in the real estate mortgage executed in favor of the mortgagee; e) the mortgage was [not] violated; f) when the public auction sale was held in a date other than the published date of sale; and g) non-payment of the required filing fees." Thus, it is only after the Executive Judge has approved the Certificate of Sale that the sale can be deemed effective.

This Court agrees.

In the present case, Section 47 of R.A. No. 8791 is specific. To quote:

> **SEC. 47. Foreclosure of Real Estate Mortgage**. - xxx
>
> Notwithstanding Act 3135, **juridical persons** whose property is being sold pursuant to an extrajudicial foreclosure, shall **have the right to redeem the property** in accordance with this provision **until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which in no case shall be more than three (3) months after foreclosure, whichever is *earlier***. Owners of property that has been sold in a foreclosure sale prior to the effectivity of this Act shall retain their redemption rights until their expiration. *(Emphasis and underlining Ours.)*

Evidently, the old period of one (1) year provided under Act No. 3135 has been amended to read as "until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which in no case shall be more than three (3) months after foreclosure, whichever is earlier" when involving mortgagors that are juridical persons. Under R.A. No. 8791, a mortgagor, who is a juridical person, is given the right to redeem or buy back its real estate property sold pursuant to an extrajudicial foreclosure sale, until the Certificate of Sale has been registered with the applicable Registry of Deeds. However, the right of the buyer to register the said property should not be more than three (3) months from the date of foreclosure. It must be emphasized that a Certificate of Sale is only issued and approved upon the findings of the Executive Judge that there has been substantial compliance with the necessary requirements as mandated by law and regulations. Failure to comply with statutory requirements constitutes a jurisdictional defect invalidating the sale. In fact, in this case, Executive Judge

Mario L. Guarina III returned the Certificate of Sale unapproved and unsigned to the Clerk of Court and Ex-Officio Sheriff, Atty. Jesusa P. Maningas, with certain instructions to the Notary Public who conducted the public auction of the subject mortgaged properties.

Under Sections 6 and 9 of Supreme Court Circular No. 7-2002, it is specifically provided that:

> Sec. 6. After the sale, the Clerk of Court **shall collect the appropriate fees** pursuant to Sec. 9 (l), Rule 141, as amended by A.M. No. 00-2-01-SC x x x
>
> Sec. 9. Upon presentation of the appropriate receipts, the Clerk of Court shall issue and sign the Certificate of Sale, **subject to the approval of the Executive Judge** or, in the latter's absence, the Vice-Executive Judge. x x x

Prescinding from the foregoing, the Certificate of Sale issued is still subject to the payment of the appropriate fees and the approval of the Executive Judge, and thus, no Certificate of Sale shall be issued in favor of the highest bidder until all fees as provided for in Rule 141 shall have been paid (A.M. No. 99-10-05-0, as amended).

The General Banking Law of 2000 (Republic Act No. 8791) is a newer law which amended certain provisions of Act 3135 pertaining to the redemption rights of juridical persons whose properties are being sold pursuant to an extra-judicial foreclosure proceedings. In this regard, the word "foreclosure" as used in the second paragraph of R.A. No. 8791 cannot be construed as to mean the date of auction sale, considering that prior to the approval of the Certificate of Sale, there is yet no certificate to speak of; or that prior to the issuance and approval of the Certificate of Sale, there is yet no valid and final sale. It follows that there is yet no Certificate of Sale subject to the registration with the Registry of Deeds.

By merely stating the word "foreclosure" instead of "foreclosure sale", the intent of the lawmakers was then not to make it appear that the reckoning period is the sale itself, but the process of foreclosing the real estate properties of juridical persons. As has been defined, foreclosure is the remedy available to the mortgagee by which he subjects the mortgaged property to the satisfaction of the obligation to secure which the mortgage was given *(Comments and Cases on Credit Transactions, Hector de Leon, p. 384, citing 59 C.J.S. 482)*. It presupposes something more than a mere demand to surrender possession of the object of mortgage *(Industrial Finance Corporation vs. Tobias, 78 SCRA 28)*. It denotes the procedure adopted by the mortgagee to terminate the rights of the mortgagor on the property and includes the sale itself *(Development Bank of Philippines vs. Zaragoza, 84 SCRA 668)*.

Given now the facts of the case, when the Executive Judge signed and approved the Certificate of Sale on March 1, 2002, petitioner had a maximum period of three (3) months within which to register the said certificate with the applicable Register of Deeds for the consolidation of titles. For failure of EGRHI to redeem the property pursuant to Section 47 of R.A. No. 8791, petitioner's registration of the Certificate of Sale with the Register of Deeds of the City of Manila on June 1, 2002, gave it until July 10, 2002 and July 5, 2002 within which to respectively pay the withholding and documentary stamp taxes for the transactions, pursuant to Sections 2.58 of Revenue Regulations No. 2-98, Section 5 of Revenue Regulations No. 06-01 amending Section 200 of the National Internal Revenue Code of 1997, which provide that:

Sec. 2.58. Returns and Payment of Taxes Withheld at Source.

A) Monthly return and payment of taxes

xxx xxx xxx

(2) When to file –

(a) For both large and non-large taxpayers, the withholding tax return, whether creditable or final (including final withholding taxes on interest from any currency bank deposit and yield xxx) shall be filed and payments made, **within ten (10) days after the end of each month**, except for taxes withheld for the month of December of each year, which shall be filed on or before January 15, of the following year.

SECTION 5. Time for Filing of Documentary Stamp Tax Returns and the Payment of Taxes Due Thereon. — The time for filing of the documentary stamp tax returns and the payment of the taxes due thereon shall be revised in accordance with the appropriate amendments to existing regulations, as presented below.

(1) Paragraph 19 of Revenue Memorandum Circular No. 1-98 is hereby amended to read as follows:

"(19) The documentary stamp tax return shall be filed within five (5) days after the close of the month when the taxable document was made, signed, accepted, or transferred, and the tax thereon shall be paid at the same time the aforesaid return is filed."

(2) For large taxpayers, Section 4(3.6) of Revenue Regulations No. 1-98 is hereby amended to read as follows:

"SECTION 4. Filing of Returns and Payment of Taxes. —

xxx xxx xxx

3. When to File and Pay

3.6 Documentary Stamp Taxes

Large taxpayers shall pay their documentary stamp taxes **within five (5) days after the close of the month when the taxable document was**

> **made, signed, issued, accepted or transferred** by the filing of the documentary stamp tax returns, through purchase or actual affixture or by imprinting the documentary stamps through a documentary stamp tax metering machine."

Clearly then when petitioner filed and paid the corresponding creditable withholding and documentary stamp taxes on July 5, 2002, the same was well within the period allowed by the law and rules.

IN VIEW OF THE FOREGOING, the instant Petition for Review is hereby **GRANTED**. Accordingly, respondent's Decision dated January 24, 2005 assessing petitioner of deficiency creditable withholding and documentary stamp taxes in the amounts of P8,617,210.00 and P2,173,051.75, respectively, is hereby **CANCELLED** and **SET ASIDE.**

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY.
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

I attest 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.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairman

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, 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